2025

MOVING TO WORK
ANNUAL PLAN

Keene Housing

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Section I. Introduction

As we celebrate a quarter century in MTW, we look forward to the coming year being one of considerable growth for Keene Housing and the extended MTW family, which has finally reached 139 Public Housing Authorities. Our enthusiasm for our Silver MTW Anniversary is tempered, however, by our concerns about the stark differences between the MTW that the original 39 MTW agencies enjoy and the limited MTW flexibilities being provided to the 100 agencies that have been admitted since Congress expanded the program in 2016.

Despite the Department's pledges to the MTW Research Advisory Committee (RAC) that the expansion agencies would be provided the same flexibilities as the original 39, the Operations Notice and subsequent expansion rollout make clear that the Department is not living up to the assurances it made to the RAC. Limiting expansion agencies' fungibility, as the Operations Notice does, strikes at the very core of MTW, and leaves expansion agencies with a diminished MTW that can at best be described as, "MTW Lite". We are quite certain that this is not what Congress envisioned when it expanded the program, and we believe that the expansion agencies deserve the same assurances, protections and flexibilities the original MTW agencies are provided through our Moving to Agreements.

We are similarly concerned by the Department's continuing efforts to misrepresent the size and uses of MTW agencies' reserves. Our community, like countless rural and urban communities across the country, is struggling with a historic shortage of affordable housing. Thanks to MTW and the flexibility it allows us to build reserves, we are in the first phase of a multi-phase development project which is bringing the first new, deeply subsidized housing to our city in over a decade. This project is only possible because of our ability to build reserves in advance of acquiring and developing land that we otherwise would have little ability to secure. We know our story is not unique to MTW agencies. We know that MTW agencies ability to build reserves, and Congress protecting them in statute is critical to affordable housing development projects across the country.

MTW agencies' ability to save and redeploy MTW funds to further their missions is fundamental to the program's strength and usefulness. We consider any effort to undermine this important program element as a threat to our efforts to address our community's profound lack of affordable housing. Further, we view attempts to undermine MTW agencies' right to save and redeploy funds as contrary to Congress's goals for the program as articulated in the 1996 MTW statute

- Reducing cost and achieve greater cost effectiveness in Federal expenditures;
- Giving incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and
- Increasing housing choices for low-income families.

KH'S LONG TERM VISION

Every five years we solicit input from national, state, regional and local stakeholders to inform our 5 Year Strategic Plan. Our current Strategic Plan can be found in [XXX REF] of this Annual Plan. The current Strategic Plan, which is reviewed and updated with our staff and Board of Commissioners covers the period from 2020 – 2025.

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KH'S SHORT-TERM GOALS

In 2025 we will continue focusing our efforts on increasing the supply of affordable housing in the Monadnock Region and making progress towards our goal of being the first carbon neutral affordable housing provider in New Hampshire by 2035.

After breaking ground in late summer of 2024, 2025 will see the bulk of construction of Roosevelt School East taking place. The thirty-unit 9% Low Income Tax Credit (LIHTC) project is our first new housing development in almost a decade. Thanks to the Faircloth to RAD program and the flexibility MTW allows us to augment the RAD rents, the high quality, energy efficient units being developed at Roosevelt School East will be affordable to extremely and very low-income households who are ordinarily priced out of LIHTC units. Additionally, five of the thirty units are being set aside for unhoused families who will receive supportive services for as long as they live at the School.

While Roosevelt School East is under construction in 2025, we will be putting the funding together for the second phase of the Roosevelt School project, Roosevelt School West. Whereas Roosevelt School East is an adaptive reuse of the existing school, Roosevelt School West will be entirely new construction. Roosevelt School West is expected to be a thirty-unit 4% LIHTC development with six supportive housing units set aside for unhoused families. Roosevelt School West will also rely on the Faircloth to RAD program and MTW augmented rents to ensure that the development will be affordable to households who would not otherwise be able to afford LIHTC units.

2025 will also see us make significant strides towards reaching carbon neutrality by 2035. Thanks to a $775,000 Solar Investment Tax Credit Direct Pay award from the U.S. Department of Energy and IRS, along with a $400,000 grant from the state of New Hampshire's Department of Energy, we are installing solar arrays at seven properties and beginning work on a large ground mounted array. When all the arrays are complete, we will be generating almost 600,000 kWh of free, clean energy.

Although reducing our energy costs and carbon footprint as well as adding new units to the region's affordable housing supply are of utmost importance, we will continue using MTW to find other ways of supporting our most vulnerable neighbors. In 2025 we will be adding another school district and school to the Homes for School program [insert XREF]. After reading about the success of Homes for School for unhoused students in the Keene School District's Symonds and Franklin Elementary Schools, the Monadnock School District expressed interest in bringing Homes for School to their community as well. After discussion with district leadership, it was agreed that Keene Housing and the school district will pilot the program at the Mount Caesar Elementary School in 2025, with an understanding that if the initial partnership proves effective, we will consider adding additional schools in the future. Despite the enormous amount of time, resources and energy the program uses, there are few MTW activities we've undertaken during our quarter century of experimentation that are as impactful, rewarding and well received by our community as Homes for School.

We are looking forward to another busy and productive year!

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Section II. General Operating Information

HOUSING STOCK INFORMATION

Planned New Public Housing Units

New public housing units that the MTW PHA anticipates will be added during the Plan Year.

Asset Management Project (AMP) Fill In Name And Number	0/1 Bdm	2 Bdm	3 Bdm	4 Bdm	5 Bdm	6+ Bdm	Total Pop. Type General Occupancy	Section 504 Accessible Units* (Mobility)	Section 504 Units* (Hearing / Vision)
N/A	22	8	0	0	0	0	30	3	0
Housing Units to be Added in the Plan Year:						**30**			

** The federal accessibility standard under HUD's Section 504 regulation is the Uniform Federal Accessibility Standards (UFAS) for purposes of Section 504 compliance (24 CFR 8.32). HUD recipients may alternatively use the 2010 ADA Standards for Accessible Design under Title II of the ADA, except for certain specific identified provisions, as detailed in HUD's Notice on "Instructions for use of alternative accessibility standard," published in the Federal Register on May 23, 2014 ("Deeming Notice") for purposes of Section 504 compliance, https://www.govinfo.gov/content/pkg/FR-2014-05-23/pdf/2014-11844.pdf*

*** Select "Population Type" from: General, Elderly, Disabled, Elderly/Disabled, Other*

If "Population Type" is "Other" please describe:

KH does anticipate adding any new public housing units in 2025.

Planned Public Housing Units to be Removed

Public housing units that the MTW PHA anticipates will be removed during the Plan Year.

AMP Name and Number	Number Of Units To Be Removed	Explanation For Removal
N/A	0	N/A. KH does not own any public housing units.
Total: Public Housing Units to be Removed in the Plan Year	**0**	

Planned New Project Based Vouchers

Tenant-based vouchers that the MTW PHA anticipates project-basing for the first time during the Plan Year. These include only those in which at least an Agreement to enter into a Housing Assistance Payment (HAP) will be in place by the end of the Plan Year. Indicate whether the unit is included in the Rental Assistance Demonstration (RAD).

Property Name	Number Of Vouchers To Be Project-based	RAD?	Description Of Project
N/A	0	Yes	
Total: Planned new Project Based Units in Plan Year	**0**		

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Existing Project Based Vouchers

Tenant-based vouchers that the MTW PHA is currently project-basing in the Plan Year. These include only those in which at least an AHAP is already in place at the beginning of the Plan Year. Select one of the of the following to indicate the *"Planned Status by the end of the Plan Year: "Committed," "Leased," or "Issued." In column three, indicate whether the unit is included in RAD.

Property Name	Number Of Project-based Vouchers	Planned Status At End Of Plan Year*	RAD?	Description Of Project
Ash Brook Apartments	24	Leased	No	24 1-bedroom row/townhouse style units
Brookbend East	11	Leased	No	40 LIHTC/MF two and three bedroom townhouse style units with HAPC for 11 units
Brookbend West	10	Leased	No	35 LIHTC/MF two and three bedroom townhouse style units with HAPC for 10 units
Cottage Street	3	Leased	No	3 two- and three-bedroom units with a HAPC for all 3 units
Emerald Street	9	Leased		9 single room units with shared common areas. Housing for patients transitioning out of the state hospital.
Evergreen Knoll	3	Leased	No	32 LIHTC/RD two- and three bedroom townhouse style units with a HAPC for 3 units
Keene Affordable Housing Properties	212	Leased	No	212 former public housing units with a HAPC for 212 units
Riverbend	24	Leased	No	24 LIHTC two and three bedroom townhouse style units with a HAPC for 24 units
Scattered Sites 2	30	Leased		30 units of various size and style throughout Cheshire County with a HAPC for 30 units
Stone Arch Village Family	24	Leased	No	24 LIHTC two and three bedroom townhouse style units with a HAPC for 24 units
Stone Arch Village Senior	33	Leased	No	33 senior/disabled one and two bedroom units in mid-rise building with a HAPC for 33 units
Hampshire House	18	Leased	No	18 single room occupancy units
Total: Planned Existing Project-Based Vouchers	**401**			

Planned Other Changes to MTW Housing Stock Anticipated During the Plan Year

Examples of the types of other changes can include (but are not limited to): units held off-line due to relocation or substantial rehabilitation, local, non-traditional units to be acquired/developed, etc.

Planned Other Changes To MTW Housing Stock Anticipated In The Plan Year

General Description of All Planned Capital Expenditures During the Plan Year

Narrative general description of all planned capital expenditures of MTW funds during the Plan Year.

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General Description Of All Planned Capital Expenditures During The Plan Year
If funded in 2025, KH plans to begin construction on the second of a two-phase affordable housing development close to downtown Keene. The project, Roosevelt School West, will be KH's second using HUD's Faircloth to RAD program.

LEASING INFORMATION

Planned Number of Households Served

Snapshot and unit month information on the number of households the MTW PHA plans to serve at the end of the Plan Year.

Planned Number Of Households Served Through:	Planned Number Of Unit Months Occupied/Leased*	Planned Number Of Households To Be Served**
MTW Public Housing Units Leased	0	0
MTW Housing Choice Vouchers (HCV) Utilized	7104	592
Local, Non-Traditional: Tenant-Based^	0	0
Local, Non-Traditional: Property-Based^	936	81
Local, Non-Traditional: Homeownership^	48	4
Planned Total Households Served:	**8088**	**677**

* "Planned Number of Unit Months Occupied/Leased" is the total number of months the MTW PHA plans to have leased/occupied in each category throughout the full Plan Year.

**"Planned Number of Households to be Served" is calculated by dividing the "Planned Number of Unit Months Occupied/Leased" by the number of months in the Plan Year.

^ In instances when a local, non-traditional program provides a certain subsidy level but does not specify a number of units/households to be served, the MTW PHA should estimate the number of households to be served.

Local, Non-Traditional Category	MTW Activity Name/Number	Planned Number Of Unit Months Occupied/ Leased*	Planned Number Of Household To Be Served**
Tenant-Based	N/A	0	0
Property-Based	THASP 1999.06.HC	936	81
Homeownership	MTW Homeownership Flat Subsidy 2005.03. HC	48	4

* The sum of the figures provided should match the totals provided for each local, non-traditional categories in the previous table. Figures should be given by individual activity. Multiple entries may be made for each category, if applicable.

Discussion of Any Anticipated Issues/Possible Solutions Related to Leasing

Discussions of any anticipated issues and solutions in the MTW housing programs listed.

Housing Program	Description Of Anticipated Leasing Issues And Possible Solutions
MTW Public Housing	KH has no units of public housing
MTW Housing Choice Voucher	Competition for rental units and increasing rents continue to be anticipated issues to leasing in 2025. KH did create a landlord incentive program (2022.01.HC), in 2022 which appears to be helping attract and maintain landlords.

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Housing Program	Description Of Anticipated Leasing Issues And Possible Solutions
Local, Non-Traditional	The SCS shelters continue to operate at or near full capacity, a fact that demonstrates the need for maintaining housing support services. In Sullivan and Cheshire County, SCS served 388 unduplicated clients in 2023.

WAIT LIST INFORMATION

Waiting List Information Anticipated

Snapshot information of waiting list data as anticipated at the beginning of the Plan Year. The "Description" column shoulddetail the structure of the waiting list and the population(s) served.

Waiting List Name	Description	Number Of Households On Waiting List	Waiting List Status (Open, Partially Open Or Closed)	Plans to open the waiting list during the Plan year
MTW Project-Based Voucher	Site-based	836	Open	N/A
MTW Housing Choice Voucher	Community-based	2529	Open	N/A
PBV Mobility	Site-based	173	Partially Open	N/A

Duplication of applicants across waiting lists:
Eligible applicants may apply to both site-based and community-based waiting lists and be placed on both.

Planned Changes to Waiting List in the Plan Year

Please describe any anticipated changes to the organizational structure or policies of the waiting list(s), including any opening or closing of a waiting list, during the plan year.

Waiting List Name	Description Of Planned Changes To Waiting List
Project-Based Housing Choice Voucher	KH plans on adding Roosevelt School East to its site based waiting list.
Tenant-Based Housing Choice Voucher	KH does not plan to make any changes to this waitlist in the Plan year.
Project-Based Mobility Housing Choice Voucher	KH does not plan to make any changes to this waitlist in the Plan year.

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Section III. Proposed MTW Activities

Keene Housing is not proposing any new activities in 2025.

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Section IV. Approved MTW Activities

ACTIVITY NUMBERING SYSTEM

KH utilizes a numbering system to assist readers in finding specific activities or identifying an activity's purpose. The Plan approval year is the first section of the activity number. The second number refers to the activity number for that year. The final two letters indicate the statutory objective the activity relates to – Housing Choice (HC), Cost Effectiveness (CE), and Self-Sufficiency (SS). In cases where an activity falls under more than one objective, KH's primary goal in initiating the activity is used.

IMPLEMENTED ACTIVITIES

2014.02.CE MEDICAL DEDUCTION THRESHOLD

Plan Year Approved: 2014 Year Implemented: 2014

Using HUD's traditional medical deduction formula, elderly and disabled households may claim unreimbursed medical expenses over 3% of their annual income as a deduction when their income is being calculated for the purpose of rent determination. Prior to implementing this initiative KH found that most households did not need the deduction or were using it to offset costs not covered by Medicaid or Medicare. With the implementation of the Affordable Care Act (ACA), KH found that fewer households needed the lower medical deduction threshold for out-of-pocket medical expenses and were primarily using the deduction for optional private insurance coverage. KH decided to align its medical deduction threshold to that used by the Internal Revenue Service and increased the threshold to 7.5% for elderly and disabled households' unreimbursed medical expenses. This change created a buffer for households that suffer unusually high out-of-pocket medical expenses while ensuring that limited housing dollars were not being used to subsidize private insurance.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2014.03.SS ASSET EXCLUSION THRESHOLD

Plan Year Approved: 2014 Year Implemented: 2014

When a household's assets total $50,000 or less, KH does not include the imputed value of the household's assets as income when determining the household's total tenant payment. This allows voucher participants the opportunity to establish and increase assets without being penalized by a corresponding rent increase. KH continues calculating the imputed value for all assets in the income calculation when a household's total assets exceed $50,000.

Changes Proposed for FY2025

KH proposes no changes to this activity.

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2023.01.HC HOMES FOR SCHOOL

Plan Year Approved: 2023 Year Implemented: 2023

The program is a partnership between KH and the Keene School District (KSD). Homes for School is a housing first model predicated on the supposition that unhoused elementary school children will perform better in school when they are housed. Homes for School began as a pilot in two Keene elementary schools, Franklin and Symonds Schools. Homes for School provides unhoused students' households a deep housing subsidy, housing search and stabilization services. After two years of successful participation in Homes for School, households will be offered an MTW Housing Choice Voucher. Successful Homes for School households are those whose students attend school regularly, whose adult members actively participate in their students' educations while adhering to their lease and program obligations.

Changes Proposed for FY2025

Homes for School will expand to an additional school district, the Monadnock School District, in 2025. Specifically, the Mount Caesar Elementary School in Swanzey, New Hampshire will begin participating, with additional elementary schools potentially being added in subsequent years.

Metrics

Table 3: Mount Caesar Elementary School

HC #1: Additional Units of Housing Made Available

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Unit of measurement: number of new housing units made available for households – in this case homeless households - at or below 80% AMI as a result of this activity.	0	1	-	

KH Metric #2: Reduced Truancy

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Unit of measurement: median number of unexcused absences of unhoused Mount Caesar students	4	3	-	

KH Metric #3: Improved Academic Performance

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Unit of measurement: median scores on standardized tests of unhoused Mount Caesar students				
English Language Arts	458	503	-	
Math	377	414	-	
Science*	-	-		

*Data not available

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2022.01.SS DIGITAL BRIDGE PROGRAM

Plan Year Approved: 2022 Year Implemented: 2022

The Broadband Utility Allowance increases housing choices and voucher holders' quality of life by helping offset the cost of high-speed internet access. It is widely recognized that lack of access to high-speed internet prevents low-income households from employment, healthcare, and educational opportunities readily available to households with high-speed access. During the COVID-19 pandemic KH used CARES Act funds to subsidize internet access for families with children attending remote schooling and working households. In FY 2022 KH used its MTW flexibility to extend the subsidy to all households participating in the Resident Self Reliance program (1999.05.SS) who pay for broadband internet in their homes.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2022.02.HC OWNER RECRUITMENT & RETENTION PROGRAM

Plan Year Approved: 2022 Year Implemented: 2022

The Owner Recruitment and Retention Program increases voucher holders' housing choices by providing financial incentives for property owners to participate in KH's voucher programs. Owners agreeing to rent their units to a voucher holder after a voucher holder vacates the same unit is eligible for a $500 "Re-signing Bonus". Owners not currently renting to a voucher holder receive a $1000 "Signing Bonus" for joining or rejoining the voucher program. This program began in late 2021 with non-federal funds. MTW funds are used for this activity. KH's Finance Department will track the number of re-signing bonuses paid out each year.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2022.03.SS CHESHIRE COUNTY COURT PATHWAY HOME PROGRAM

Plan Year Approved: 2022 Year Implemented: 2022

The Pathways Home program is a partnership between KH and the Cheshire County Treatment Court (previously Cheshire County Drug Court). Treatment Court is an alternative sentencing program for low level drug offenders. Treatment Court provides participants with a set of goals and supportive services that, in aggregate, significantly reduce the likelihood of recidivism. However, a lack of stable, affordable housing contributes to some participants' failure to complete the program. By providing Treatment Court participants stable housing during their time in the program, and a clear path to a voucher upon program completion, this activity is intended to improve Treatment Court participants' success rates. Successful participants are those who move from substance abuse and potential incarceration to steady employment, stable housing, and a trajectory towards relative economic self-sufficiency.

Changes Proposed for FY2025

KH proposes no changes to this activity.

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1999.01.HC ELIGIBILITY ADMINISTRATION GUIDELINES

Plan Year Approved: 2000 Year Implemented: 2000

KH calculates a household's anticipated income by applying all applicable income sources as described at 24 C.F.R. 5.609. If the calculated income is 80% of Area Median Income (AMI) or less, and meets the other program eligibility requirements, the household is eligible for assistance.

Changes Proposed for FY2025

KH proposes no changes to this activity.

1999.08.HC 40% AFFORDABILITY DISCONTINUANCE

Plan Year Approved: 2000 Year Implemented: 2000

KH does not require participants to maintain a rent burden of less than 40% when leasing a unit or negotiating rents with an owner. Instead, we allow the participant to be the judge of his or her priorities in relation to housing choice and rent burden. Participants are counseled during the issuance briefing on acceptable rent burdens relative to rent reasonableness and the consequences of choosing a unit that creates a high rent burden. Once a unit is chosen, KH calculates the proposed rent burden and, if it exceeds 40%, KH allows the participant an opportunity to demonstrate how they will afford their rent without sacrificing other household necessities. Households whom KH permits to lease–up with a rent burden exceeding 40% are not eligible for Safety Net unless an unanticipated change in circumstances, such as income loss or change in household composition, causes a rent burden in excess of their rent burden at lease-up.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2005.03.HC MTW HOMEOWNERSHIP FLAT SUBSIDY

Plan Year Approved: 2005 Year Implemented: 2005

Keene Housing provides participants interested in homeownership the opportunity to purchase a home while keeping their MTW HCV through the MTW Homeownership Program. KH's program generally mirrors the traditional HUD homeownership program by requiring households to meet specific requirements in order to be eligible for the program, including homeownership counseling. Under the traditional HUD homeownership program, a non-elderly, non-disabled household may receive assistance for up to 15 years on a 20 year or longer mortgage (10 years for a shorter mortgage). This assistance continues regardless of income after the initial income eligibility determination.

In our experience, the lengthy approval process sometimes results in an eligible household finding themselves over the 80% AMI threshold by the time a home is located and a lender secured. Additionally, households sometimes increase their income above 80% AMI after obtaining a home.

While KH believes that supporting a household's homeownership goals and maintaining homeownership is important, we also believe that continuing to assist households after they no longer need assistance is contrary to our mission and an inefficient use of tax payer funds. To balance these two goals, in addition to HUD's standard term limits, KH initiated a flat subsidy for households in the program with incomes between 80% AMI and 140% AMI. By adopting

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both a flat subsidy and term limits, KH promotes participants' efforts to increase financial stability while holding them to a higher standard than HUD's traditional homeownership program.

With the economic and housing market instability in 2008, Keene Housing initiated a policy change that permitted homeownership families to request an interim recertification if their incomes changed. This policy change prevented at least two foreclosures and remains in place.

In 2017, the last year for which full data is available, no new Homeowner Vouchers were issued, although 5 households purchased a home without our assistance. Four households currently participate in the Homeownership program.

Changes Proposed for FY2025

KH proposes no changes to this activity.

1999.06.HC TRANSITIONAL HOUSING ASSISTANCE SUBSIDY PROGRAM (THASP)

Plan Year Approved: 2000 Year Implemented: 2000

KH's Transitional Housing Assistance Subsidy Program (THASP) helps homeless and hard-to-house individuals and families access stable housing through partnerships with local service providers. THASP partners receive fixed subsidies to offset the costs of maintaining shelters for the region's homeless, re-entry, and domestic violence populations. In exchange, partners agree that THASP participants do not pay more than 30% of their income for shelter and receive case management and counseling to help gain long-term housing.

THASP has become a critical component of Keene's homeless and domestic violence shelter system. KH provides fixed subsidies for 6 transitional housing programs which include several men's homeless shelters, a family homeless shelter, and the Monadnock Center for Violence Prevention (MCVP) shelter for individuals fleeing domestic violence and sexual assault. The men's shelters and the family shelter are managed by Southwestern Community Services (SCS), the local Tri-Cap agency.

Changes Proposed for FY2025

KH proposes adding the Hundred Nights shelter in Keene to the shelters being assisted with THASP funding. 100 Nights, which recently relocated to an expanded, newly constructed facility provides 48 beds to unhoused Keene individuals and families.

1999.04.CE STEPPED SUBSIDY RENT REFORM

Plan Year Approved: 2000 Year Implemented: 2000

In KH's experience, non-elderly, non-disabled households coming off the wait list are often in need of more support and financial assistance than those who have been receiving assistance for a longer period of time. The Stepped Subsidy Rent Reform responds to this need by providing a deep Housing Assistance Payment (HAP), with households only paying 20% of gross income towards rent for the first two years of housing assistance (see table below).

During this time participants are also enrolled in the Resident Self-Reliance (RSR) program (page 18) where they receive supportive services from KH's Resident Service Coordinators (RSCs). Households work with RSCs throughout their time with us to identify barriers to self-sufficiency and to develop a plan for moving towards financial security and, eventually, out of housing assistance.

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# BR	VPS	Step 1 HAP	Step 2 HAP (65% of VPS)	Step 3+ HAP (45% of VPS)
SRO	$750	VPS-20% Gross Income = Subsidy	$490	$340
0	$1000	VPS-20% Gross Income = Subsidy	$650	$450
1	$1200	VPS-20% Gross Income = Subsidy	$780	$540
2	$1500	VPS-20% Gross Income = Subsidy	$980	$680
3	$1860	VPS-20% Gross Income = Subsidy	$1210	$840
4	$1985	VPS-20% Gross Income = Subsidy	$1290	$890
5	$2247	VPS-20% Gross Income = Subsidy	$1460	$1010

We have found that calculating HAP based upon a household's earnings punishes them for increasing their income by responding to the increased income with an in-kind increase in tenant rent payment. This is a serious disincentive for a household to increase its income and has been found to result in employment instability and under reporting of income. It has also been found to negatively impact a household's ability to save or plan for the future, both of which are contrary to KH's mission.

To promote long-term employment and financial stability, after the first two years of assistance the amount of HAP a household receives is disconnected from their earnings and is instead calculated as a percentage of the voucher payment standard (VPS) the household for which the household is eligible. In Year 3 the household receives a monthly HAP equal to 65% of the VPS. The HAP is reduced again in Year 4 to 45% of VPS.

Stepped Subsidy is mandatory for all non-elderly, non-disabled households in the MTW HCV and PBV programs, although both elderly and disabled households may opt-in to the program. Currently 69 households have their subsidy calculated under the Stepped Subsidy Rent Reform.

HAP is paid directly to the household and it is the household's responsibility to pay the full rent to the owner; KH does not execute a HAP contract with the owner. In addition, all Stepped Subsidy participants are required to participate in the RSR program as long as they receive housing assistance.

For Step 1 and Step 2 households pursuing educational goals in the Resident Self – Reliance program, KH "freezes" a household's progression in the Stepped Subsidy program at their current level if the head of household, spouse, or co-head is:

- Employed at least part-time, and
- Enrolled full-time in a post-secondary program and maintaining a passing GPA, as defined by the institution.

A household's subsidy remains frozen until such time that the eligible participant has completed their educational program, are no longer employed at least part-time, their enrollment drops below full-time, or their GPA drops below passing. In addition, the household must remain in compliance with all other voucher program obligations, including all requirements of the Resident Self-Reliance (RSR) program. Ongoing compliance is reviewed at the household's quarterly RSR meeting. Should KH determine a participant is no longer eligible for the freeze, the household's Step Subsidy progress resumes on the first day of the month after a 30 day notification of non-compliance. There is no limitation on how long a household may remain at the frozen level.

KH monitors rent burden quarterly to ensure participation in Stepped Subsidy does not cause excessive burdens to participating households.

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Hardship Case Criteria

The Stepped Subsidy program does not calculate household subsidy based on a participant's income, therefore participants are not eligible for an interim recertification should they experience a decrease in income. As an alternative to the interim recertification process, if a Stepped Subisidy household experiences a temporary, unforeseen rent burden increase to 45% or higher of adjusted income, the household may apply to the Safety Net program Safety Net provides a short-term reduction in the tenant share of the rent while the household recovers from whatever event created the need for Safety Net. Typically, households are required to apply for Safety Net except for short term hardships due to a medical event and are required to meet additional criteria for applications beyond the first month.

Changes Proposed for FY2025

KH proposes no changes to this activity.

1999.05.SS RESIDENT SELF-RELIANCE PROGRAM

Plan Year Approved: 2000 Year Implemented: 2000

Participants in the Stepped Subsidy Program are required to participate in KH's Resident Self-Reliance (RSR) program. RSR's central premise is that to become financially stable and self-sufficient, households must achieve the following five Foundational Proficiencies: Household Stability, Wellness and Healthy Relationships, Education and Training, Financial Management, and Employment and Household Management.

Each household is assigned a Resident Service Coordinator (RSC) who provides service coordination and case management to help participants understand and remove the obstacles keeping them from building wealth and achieving self-sufficiency. The RSCs are funded through HUD's Housing Choice Voucher (HCV) Family Self – Sufficiency (FSS) Grant Program.

Individualized Goal Setting

New participants meet with their RSC to complete an initial Proficiencies Assessment. The assessment helps the household and RSC develop an individualized 3-year Career Plan. The plan includes actionable goals and milestones tailored to the assessment findings, with concrete dates for completion. Participants are encouraged to anticipate scheduled increases in rent, as described in the Stepped Subsidy activity (page 15), or other potential financial changes, such as changes in benefits due to increases in earnings, when developing their Career Plan. By anticipating and planning for these changes, participants avoid the so-called "cliff effects" that can often derail self-sufficiency progress as a household's personal income increases and public assistance declines. Upon completion of a 3-year Career Plan, the participant and RSC establish a new 3-year career plan. This process continues until the household leaves the MTW program.

Development Grants and Rent Credits

KH created the Development Grants and Rent Credit (DGRC) fund in 2014 to help offset the costs associated with attaining household goals and to provide RSR participants financial rewards for attaining them. The amount of DGRC funds available to each household is determined annually, based upon MTW funding availability. RSR participants can receive DGRC funds both as Development Grants and Rent Credits.

Development Grants help households pay the costs associated with achieving goals in their 3-year Career Plan. Examples of Development Grants include help with tuition, textbooks, exams, childcare, and even car repairs.

Rent Credits are designed to provide a financial reward to households that meet an established milestone or goal

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from their 3-Year Career Plan. Upon completing a goal, the household receives a credit towards the following month's rent. Rent credit amounts are based upon the difficulty of the goal and the amount of funding available. Households may receive a Rent Credit for meeting any goal, even if they utilized a Development Grant to achieve it.

Development Grants and Rent Credits are available to all RSR participants who are in compliance with the RSR program and the Obligations of the Family agreement, which outlines all the responsibilities a voucher household is required to fulfill, as well as all prohibited actions.

Participant Compliance

Once a household establishes a 3-Year Career Plan, the household and RSC meet quarterly to discuss the household's progress and any barriers that have arisen since the last meeting. Attending these meetings is mandatory. Participants who miss three (3) quarterly meetings are terminated from the RSR, Stepped Subsidy, and MTW HCV programs.

Changes Proposed for FY2025

The Resident Self-Reliance Program will be renamed THRIVE in 2025.

THRIVE

Transition: Emphasizes the program's focus on helping individuals transition to stable and self-reliant situations.

Holistic: Indicates a comprehensive approach that addresses various aspects of individuals' lives, including housing, health, and personal development.

Resilience: Suggests building resilience in individuals, helping them overcome challenges and thrive despite adversity.

Independence: Highlights the program's goal of fostering self-reliance and independence among its participants.

Vitality: Implies a focus on overall well-being and vitality, promoting a healthy and fulfilling lifestyle.

Empowerment: Reflects the program's commitment to empowering participants to take control of their lives and make positive choices.

THRIVE more accurately reflects our approach to our work. While helping program participants increase their economic mobility remains the program's focus, our work entails a more comprehensive and collaborative approach to helping participants' reach their goals than the term "Resident Self-Reliance" suggests. The job title of staff working with THRIVE participants will change too, from Resident Services Coordinator to Community Support Specialist.

2005.01.CE ELDERLY AND DISABLED HOUSEHOLD ALTERNATIVE RECERTIFICATION SCHEDULE

Plan Year Approved: 2005 Year Implemented: 2005

KH uses a streamlined recertification process for elderly and disabled households receiving 100% of their income from any fixed income source that do not have net assets exceeding $50,000. Instead of the traditional recertification, KH relies on the published Cost of Living Adjustment (COLA) and Enterprise Income Verification (EIV) system to calculate each household's income.

Households receive a notification via mail of their new tenant share and subsidy without attending a recertification appointment. Included with this notice is the standard Authorization for Release of Information/Privacy Act Notice (HUD form 9886). All elderly and disabled households may request an interim at any time.

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Changes Proposed for FY2025

KH proposes changing the percentage of income derived from fixed sources required to trigger streamlined recertifications from 100% to 90%.

2005.02.CE STEPPED SUBSIDY RECERTIFICATION SCHEDULE

Plan Year Approved: 2005 Year Implemented: 2005

Instead of the traditional annual recertification process, participants whose subsidies are calculated under the Stepped Subsidy Rent Reform are recertified at each Step change, typically Years 3 and 4.

Once a household reaches Step 3, KH replaces the recertification process with an Enterprise Income Verification (EIV) systems check to test if the family has met the $0 HAP threshold (page 20), and for processing recertifications.

All Stepped Subsidy households also participate in the Resident Self-Reliance Program (RSR) and are required to attend quarterly meetings with their Resident Service Coordinator (RSC). Participants and RSCs review income and employment data at these meetings. This data is used to ensure program eligibility and to measure each household's progress towards their 3-Year Career Plan.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2008.01.HC PROJECT-BASED VOUCHER PROGRAM

Plan Year Approved: 2008 Year Implemented: 2008

KH project-bases at least 75% of funding plus any funding received for units project based through the AHPP activity (page 21). In addition, KH waives the required public process for project-basing units within KH owned and managed properties and those project-based through the AHPP activity. KH also uses its MTW flexibility to project base up to 100% of the units within a property.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2008.02.CE RESTRICTIONS ON SECTION 8 PORTABILITY

Plan Year Approved: 2008 Year Implemented: 2008

KH restricts the ability of participants in the RSR program to port out of the Monadnock Region unless they have a verifiable need for a reasonable accommodation, are the victim of domestic violence, or can show that, consistent with the RSR program's intent, such a move would demonstrably increase their financial stability, such as new employment or enrollment in an educational program.

Changes Proposed for FY2025

KH proposes no changes to this activity.

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2013.01.SS $0 HAP RENT BURDEN TEST

Plan Year Approved: 2013 Year Implemented: 2013

KH encourages participants to increase their income and move towards self-sufficiency. However, we understand that the fear of a sudden loss of important safety nets, such as housing subsidy, may hold participants back from pursuing opportunities to change jobs and/or increase income. Even if a household increases their income so that they no longer need housing assistance, there are many obstacles that they may face in the first few months after the household loses housing assistance. However, as an agency dedicated to helping our low – income neighbors reach permanent financial independence, we recognize that we should not continue helping households that no longer need our assistance.

The $0 HAP Rent Burden Test provides us a way to meet that delicate balance. When a Stepped Subsidy household reaches economic independence, measured as having a gross rent or eligible VPS at or below 30% of gross income, KH reduces the HAP to $0 for 6 months. If the household does not experience an unanticipated change in income within the $0 HAP period, housing assistance is terminated. This provides households a period to adjust to life without housing assistance, while also ensuring we are being responsible stewards of the tax payers' investment.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2014.01.HC AFFORDABLE HOUSING PRESERVATION PROGRAM (AHPP)

Plan Year Approved: 2014 Year Implemented: 2015

AHPP provides property owners the ability to opt-out of an expiring Project Based Rental Assistance (PBRA) contract and execute to a AHPP PBV HAP contract with KH. As vouchers sometimes provide higher payments than older PBRA contracts, entering into a AHPP PBV HAP contract can provide owners access to additional rental revenue and new potential funding opportunities for capital improvements. In addition, the AHPP program is much easier and less expensive for owners to comply with than HUD's multifamily program. This results in reduced overhead for owners, which when combined with competitive PBV rents, makes the AHPP program very attractive to owners of expiring use properties as well as investors interested in purchasing and preserving them. At opt-out, KH provides residents the option of remaining in place and converting their Enhanced Vouchers to PBVs, staying in-place with their Enhanced Vouchers, or taking their vouchers to the private market.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2014.04.SS KEENE HOUSING KIDS COLLABORATIVE

Plan Year Approved: 2014 Year Implemented: 2015

Keene Housing Kids Collaborative (KHKC) is a 501(c) (3) non-profit organization KH created in 2015 to provide educational and other services to children living in KH owned or managed properties, as well as children living in privately owned housing with assistance from an MTW Housing Choice, Non-Elderly Disabled, or Mainstream voucher. No child for whom KH provides any sort of support is excluded from participating in KHKC programming or community partnerships.

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After many years of operating a small after school program with just a handful of children participating, KH, through its support for KHKC, is now fully engaged in the very difficult work of providing KH youth the educational, social and emotional tools and experiences they need to flourish in school and in the community so that, once they complete high school and move on to secondary or vocational school, they will be prepared to succeed. KHKC's task is to make sure that children growing-up in KH or KH assisted housing will not need housing assistance when they become adults.

To that end, KHKC has already forged important partnerships with various providers of educational, social, athletic, and other programming for children, with an initial focus on preschool to elementary-aged children. KHKC is engaging local academics with interest in issues of child development and generational poverty to study how KHKC's interventions with support from KH, can effect the economic outcomes of children living in KH-assisted housing. The hope is that much can be learned by exploring how, thanks to MTW, KH is combining its focus on adult self-sufficiency in the RSR program with the work KHKC is doing with the children of RSR families in particular, to effect multi-generational economic development.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2014.05.HC AFFORDABLE HOUSING PRESERVATION & MODERNIZATION PROGRAM

Program Year Approved: 2014 Year Implemented: 2014

The Affordable Housing Preservation and Modernization Program allows KH to use savings realized from MTW rent, programmatic, and administrative reforms to address KH, and KH-affiliate owned properties', growing capital needs. These funds allow KH to respond to the portfolio's needs in a rational way, with a predictable schedule, based on greatest need and economies of scale, rather than in reaction to unpredictable and uncertain grant opportunities. With planned capital expenditures for 2023 of 2.8 million, MTW is playing a critical role in preserving the lion's share of Keene's affordable units.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2015.01.CE AFFORDABLE HOUSING PRESERVATION PROGRAM RENT REFORM

Plan Year Approved: 2015 Year Implemented: 2015

The AHPP Rent Reform provides a streamlined methodology for calculating rent while providing households an opportunity to increase income and assets without immediate increases in rent. As in the traditional PBV program, subsidy is calculated based upon 30% of a household's adjusted annual income. However, the activity alters the current methodology for calculating rent and the recertification schedule with the following streamlined strategies:

- Triennial recertifications for all households.
- Interim recertifications are limited to household composition changes and cases where the total household income permanently drops by $50 per month or more, with access to Safety Net for short term financial hardship.
- The Utility Allowance in effect at the effective date of the last regular recertification is used to calculate rents at interim recertifications.

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- Household assets with a total net value of $50,000 or less are disregarded.
- Earned Income Disregard (EID) is eliminated.
- Utilizes the published Cost of Living Adjustment (COLA) and the Enterprise Income Verification (EIV) system to calculate household income for elderly and disabled households.

By simplifying the recertification and rent calculation process, the activity reduces KH's administrative burden by lowering administrative costs and staff time. In addition, this policy allows participant households the opportunity to increase earnings and assets without being discouraged by corresponding increases in rent. As evidenced by KH's successful Stepped Subsidy Activity, disconnecting a household's rent from increases in earnings or assets often leads to positive household outcomes.

Hardship Case Criteria

Households affected by this policy are provided two options when they experience a hardship that increases their rent burden. First, should a household experience a decrease in household income of $50 or more per month, it may request that KH, or the administering agency, perform an interim recertification to recalculate the household's share of the rent.

Second, if a household experiences a temporary, unforeseen rent burden increase to 45% or higher of adjusted income, the household may apply to the Safety Net program which provides a short-term reduction in the tenant share of the rent while the household recovers from whatever event created the need for Safety Net. KH has operated Safety Net since first joining MTW in 1999 as part of the Stepped Subsidy activity.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2015.02.CE AFFORDABLE HOUSING PRESERVATION PROGRAM ALTERNATIVE INSPECTION SCHEDULE

Plan Year Approved: 2015 Year Implemented: 2015

Properties participating in AHPP (page 21) use the following alternative schedule for Housing Quality Standards (HQS) inspections:

- All units converting to AHPP are inspected by the administering agency for HQS compliance no more than 90 days before initial conversion.
- If all units pass initial inspection, KH inspects 20% of the units biennially.
- Should any unit fail initial or biennial HQS inspection, the property is subject to an annual inspection of 100% of units until all pass HQS inspection, at which time the property returns to a 20% biennial inspection schedule.
- Properties subject to a higher inspection protocol than HQS may use that protocol in lieu of a biennial (not initial) HQS inspection.

Properties that fail an inspection based upon a higher standard protocol are subject to an annual HQS inspection of all (100%) units until all units pass HQS or a higher inspection protocol.

A household may, at any time, request a HQS inspection from the administering agency should the tenant believe that their unit does not meet HQS.

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Changes Proposed for FY2025

KH proposes no changes to this activity.

2015.03.CE EARNED INCOME DISREGARD DISCONTINUANCE

Plan Year Approved: 2015 Year Implemented: 2015

KH discontinued allowing new households to claim the Earned Income Disregard (EID) from the calculation of tenant rent. All households claiming EID as of January 1, 2015 were permitted to do so until the natural end of their EID allowance, as required by regulation.

Changes Proposed for FY2025

KH proposes no changes to this activity.

Hardship Case Criteria

All households are eligible for assistance under KH's Safety Net program. Safety Net permits households who experience unanticipated increases in rent burden due to a loss of income or increase in medical expenses to apply for a temporary reduction of their tenant share. In addition, the population eligible for the EID are generally not in the Stepped Subsidy program and can request an interim recertification for long-term income changes at any time.

2016.01.CE PROJECT-BASED UNIT AGENCY CONDUCTED INSPECTIONS

Keene Housing's Moving to Work Agreement C D.1.f and D.7.A, gives KH the authority to inspect all KH and KH affiliate owned PBV units.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2017.02.HC PBV MOBILITY WAIT LIST

Plan Year Approved: 2017 Plan Year Implemented: 2017

Keene Housing increased the tenancy requirement for PBV households from one to two years. In addition, we established a ratio whereby every sixth tenant-based voucher issued will go to an eligible PBV household that has requested a tenant-based voucher by opting in to our Mobility wait list.

The policies ensure equitable access to housing by households waiting for assistance as well as by assisted households looking to move to the private market. This initiative meets the Housing Choice statutory objective and increases the number of units available to all low-income households by ensuring that availability of PBV units are not a barrier to those needing assistance. And it reduces wait times by ensuring that those on the wait list are assisted before those already being assisted.

For administrative purposes, all PBV households who applied for our tenant-based wait list prior to the implementation of this policy were automatically moved to the Mobility Wait List in the order of their original application. At lease-up, all PBV households are informed of their right to a tenant-based voucher after two – years of tenancy and given the choice to opt-in to our Mobility Wait List. PBV households may request to be placed on the Mobility wait list at any time.

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PBV households are still eligible for transfers within the KH PBV portfolio during the two-year tenancy requirements if such a transfer is approved by the PBV owner. In addition, KH waives the PBV Mobility Wait List requirements for PBV households that meet the eligibility criteria for a tenant-based voucher under KH's Violence Against Women Act (VAWA), Reasonable Accommodation, or Government Displacement/Natural Disaster Preference policies.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2017.02.HC LOCAL PAYMENT STANDARD

Plan Year Approved: 2017 Plan Year Implemented: 2017

KH sets its own Local Payment Standards based on actual market data, rather than HUD's FMRs, using the same Rent Comparability Study methodology used for our HUD Multifamily properties. The Local Payment Standard activity increases the mandated Payment Standard cap to 175% of FMR, waives the requirement to utilize HUD's FMRs when determining the agency's Payment Standards, and allows KH to self-approve rents exceeding its Board-approved VPS, when necessary.

KH's current VPS does not exceed 120% of the HUD established FMR.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2020.02.CE 2017 MAINSTREAM RENT REFORM

Plan Year Approved: 2020 Plan Year Implemented: 2020

The 2017 Mainstream (2017 MS) Rent Reform activity provides a streamlined rent calculation methodology for households with 90% or more of their income coming from fixed sources. By simplifying the rent calculation process, the activity reduces KH's administrative burden by lowering administrative costs and staff time. The activity alters the current methodology for calculating rent with the following streamlined strategies:

- Initial year of assistance verification 90% of income is from fixed income sources.
- Years two (2) and three (3) households self-certify fixed income sources have not changed.
- Years two (2) and three (3), Cost of Living Adjustment (COLA) recertifications (see 2005.01.CE Elderly and Disabled Household Alternative Recertification activity).
- Interim recertification for fixed income changes in years two (2) or three (3) to determine continued eligibility for the streamlined recertification process.
- Annual recertifications required if the 90% from fixed sources threshold isn't met until such time as household income returns to 90% from fixed sources.
- Medical deduction threshold 7.5%.

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Changes Proposed for FY2025

Notwithstanding 9 e. in the MTW Operations Notice, prior to publishing Notice PIH 2024-30 HUD prohibited MTW agencies from applying MTW flexibilities to the Mainstream 5 program. This prohibition resulted in KH limiting this initiative to only the Mainstream 2017 program. With MTW flexibilities now applicable equally to the Mainstream 5 and 2017 programs, KH proposes modifying this activity to apply also to Mainstream 5 vouchers while integrating additional, long-established MTW administrative reforms, taken primarily from its Income Based program for elderly and disabled Housing Choice Voucher holders. This alignment will result in all KH voucher programs serving elderly and disabled households being administered under a single set of policies and procedures. Unifying program administration in this way will simplify and streamline administration for KH staff and will remove confusing programmatic distinctions for participants and their caregivers.

Specifically, the Mainstream programs will include the following previously approved MTW reforms:

- 7.5% unreimbursed medical expenses trigger medical deduction
- Assets of $50,000 or less excluded from asset imputation calculation
- Program eligibility up to 80% of Area Median Income
- Streamlined recertification process for households with 90% of income from fixed income and assets less than $50,000
- No Housing Assistance Payment (HAP) Contracts
- No Utility Allowance reimbursements*
- $125 minimum rent*

**This is only a change for Mainstream 5 households. See impact analysis and hardship criteria below.*

Additionally, to be consistent with Notice PIH 2024-30 and subsequently published FAQ, tolling times for both Mainstream programs will be 120 days, and all Mainstream applicants will receive a residency preference regardless of whether they would ordinarily receive once pursuant to KH's MTW Administrative Plan. Lastly, this activity will be renamed Mainstream Program Rent Reform.

Impact Analysis

An analysis of current Mainstream 5 participants revealed that none of the forty-four households receive Utility Allowance reimbursements, and none would see an increase or decrease in Total Tenant Payment resulting from the proposed minimum rent change. In every case, 30% of the affected participants' adjusted monthly income exceeds $125.

Hardship Case Criteria

No hardship criteria are required, as no households will be affected by the change in the minimum rent or Utility Allowance reimbursement.

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2020.02.SS FOSTER YOUTH TO INDEPENDENCE TENANT PROTECTION VOUCHERS RENT REFORM

Plan Year Approved: 2020 Plan Year Implemented: 2020

The proposed Foster Youth to Independence Tenant Protection Voucher (FYI-TPV) rent reform activity provides a streamlined methodology for calculating rent while providing households an opportunity to increase earnings and assets without being discouraged by corresponding increases in rent.

By simplifying the rent calculation process, the activity reduces KH's administrative burden by lowering administrative costs and staff time. The activity alters the current methodology for calculating rent with the following streamlined strategies:

- Participants pay 20% of gross income towards rent for the duration of participation in the FYI-TPV program.
- Interim recertifications are limited to household composition changes and cases where the total household income permanently drops by $50 per month or more, with access to Safety Net for short term financial hardship.
- Households total net value of $50,000 or less are disregarded.
- Earned Income Disregard (EID) is eliminated (see activity 2015.03.CE Earned Income Disregard Discontinuance).
- Utilization of the Enterprise Income Verification system annually to determine continued eligibility of FYI-TPV participants.

Pursuant to Notice PIH 2019-20 (HA), issued July 26, 2019, and authorization from the Department of Housing and Urban Development's Foster Youth to Independence Team, MTW agencies may administer the FYI-TPV Program per their MTW Agreement as long as it is not inconsistent with Appropriations Act requirements (including the Authorizing Statute (section 8(x) of the United States Housing Act of 1937)), or the requirements of the Notice PIH 2019-20.

Changes Proposed for FY2025

KH proposes no changes to this activity.

2020.01.SS FOSTER YOUTH TO INDEPENDENCE TENANT PROTECTION VOUCHERS DEVELOPMENT GRANTS

Plan Year Approved: 2020 Plan Year Implemented: 2020

Learning from the success of the Development Grant and Rent Credit program (see 1999.05.SS Resident Self Reliance Program), KH makes Development Grants (DG) available to Foster Youth to Independence Tenant Protection Voucher (FYI-TPV) participants to help mitigate some of the financial barriers that may impede their self-sufficiency goals. These financial barriers may include transportation, tuition, textbooks, exams, childcare and employer required uniforms or special equipment.

KH maintains a Development Grant application and schedule of allowable expenses to ensure that DGs are used to further participants' long-term self-sufficiency goals. DG payments are made directly to the vendor providing goods or services to the participant, rather than directly to the participant. FYI-TPV participants are not required to participate in the Resident Self-Reliance Program.

The activity will be implemented upon HUD's approval of the Amended FY2020 MTW Plan.

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Changes Proposed for FY2025

KH proposes no changes to this activity.

NOT YET IMPLEMENTED ACTIVITIES

KH has implemented all MTW activities.

ACTIVITIES ON HOLD

KH has no activities on hold.

CLOSED OUT ACTIVITIES

1999.07.HC REASONABLE RENT DETERMINATION DISCONTINUANCE

Plan Year Approved: 2000 Year Implemented: 2000

KH believes that the determination of rent reasonableness for a unit is best left in participants' hands, as determined by each household's priorities, income, and needs. However, for many participants that are elderly, disabled, or newly leased up from the wait lists, finding appropriate housing can be more difficult.

To balance these needs, KH determines rent reasonability for MTW voucher holders participating in our Income Based and Non Elderly Disabled programs and Step 1 Stepped Subsidy participants. For these households, we utilize the Rent Reasonableness Determination protocol used by New Hampshire Housing Finance Authority (NHHFA) to determine rent reasonableness. NHHFA administers a statewide Housing Choice Voucher program and their Rent Reasonableness tool, which is updated annually using data collected through their statewide rent survey, includes Cheshire County-specific data. NHHFA allows us to use their protocol at no cost to KH. AffordableHousing.com

For households in Step 2 or Step 3 of the Stepped Subsidy Program, KH empowers participants to determine the reasonableness of the asking rent based on their own needs and priorities. KH staff educates Stepped Subsidy participants on how factors relating to rent reasonableness – such as location, unit size, unit type, accessibility, amenities, tenant paid utilities, and maintenance – contribute towards a reasonable rent, and provides support, if necessary, during the participant's negotiations with the owner.

KH does not execute Housing Assistance Payment (HAP) contracts or negotiate rents with owners on any participants' behalf, regardless of type of, or duration in, an HCV program. Instead, KH pays the HAP directly to the participant with the understanding that the participant is expected to pay full rent, not just their portion, to the owner. Participants who fail to pay their full rent are subject to eviction, removed from the HCV program, and any remedies available to KH for recovering misspent HAP.

1999.03.CE RENT REASONABLENESS NEIGHBORHOOD ANALYSIS DISCONTINUANCE

Plan Year Approved: 2000 Year Implemented: 2000

To comply with C.F.R. 24 902.507, Public Housing Authorities (PHAs) typically develop and maintain, or purchase, a database of rental units in the PHA's jurisdiction which they use to determine if an owner's proposed rent is reasonable compared to similar, unassisted units. Developing a reasonableness database often requires extensive administrative time or is accompanied by the high costs of hiring an outside contractor to provide the necessary data. KH found that the high annual administrative and financial costs of this task provided little value, as the region's rental market varies little from year to year and almost not at all across neighborhoods.

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Dictating to participants what is a reasonable rent is also contrary to KH's philosophy of empowering participants to make decisions based on their needs, rather than to comply with arbitrary requirements set by KH or HUD. It is KH's belief that the household, not KH, is the best judge of what an appropriate rent is (see 40% Affordability Discontinuance activity on page 13). To ensure HCV holders are not being charged unreasonable rents, KH compares our participants' rents against the Market Analysis released regularly by the New Hampshire Housing Finance Authority.

2016.02.HC PROJECT MARCH (MONADNOCK AREA RESOURCES CURING HOMELESSNESS)

Plan Year Approved: 2016 (Amended) Year Closed: 2019

Project MARCH uses a Housing First model that provides partner agencies fixed subsidies to secure and maintain private market housing for their homeless clients. The first Project MARCH Partner is Southwestern Community Services (SCS). SCS is our region's Community Action Agency, and our largest THASP partner. KH pledged up to twenty (20) Project MARCH subsidies to SCS in 2016. This commitment expands affordable housing options in the community and provides options beyond the shelters for those who may otherwise find it difficult to secure permanent, affordable housing.

Project MARCH utilizes preferences to prioritize homeless veterans, followed by chronic homeless households, then homeless households. Every household who receives housing through Project MARCH is also offered two months of supportive services from SCS. SCS continues working with households who request additional services after the mandatory two month services period ends.

The Project MARCH partner is responsible for creating and enforcing eligibility and continued occupancy policies. Such policies must, at minimum, meet the following requirements:

- Ensure that no policies or procedures violate any federal, state, or local regulation or statute.
- Certify that no Project MARCH participant has been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Require that at least one member of the participating household has established citizenship or eligible immigration status.
- Confirm that all units leased through Project MARCH meet Housing Quality Standards (HQS) protocols and are subject to KH's HQS quality control protocols.
- Ensure that a Project MARCH participant's rent burden will not exceed 45% of monthly income.
- Certify that no Project MARCH participant's annual income will exceed 80% of the Area Median Income (AMI) at eligibility.

Verify that the partner will not impose a time limit for participation, but will require Project MARCH participants to apply for housing assistance with KH as part f the Project MARCH eligibility process.

2006.01.CE STANDARD DEDUCTIONS

Plan Year Approved: 2006 Year Closed: 2013

In 2006, KH adopted a flat deduction for all elderly and/or disabled households. Households who believed their unreimbursed medical expenses were above the 3% medical deduction threshold could request that KH calculate their medical deduction instead of applying the standard deduction.

Since the process of verifying and calculating medical deductions can often be administratively burdensome, it was believed that using a flat deduction would provide administrative savings to offset any potential HAP loss. Delays in

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implementation and data collection resulted in KH being unable to determine the impact of this activity until 2012. A 2012 analysis showed that the loss in HAP funds due to households receiving medical deductions that they would not otherwise be eligible for far outweighed any administrative savings.

In 2013, KH discontinued application of the standard deduction for households with no unreimbursed medical expenses or expenses below the medical deduction threshold.

2011.01.CE HOUSING QUALITY STANDARDS BIENNIAL INSPECTION SCHEDULE

Plan Year Approved: 2011 Year Closed: 2017

KH uses a biennial schedule for units that have passed an initial or annual inspection for HQS compliance. Any property that fails an initial or biennial inspection is held to an annual inspection schedule until such time that all units pass an annual inspection.

Due to changes in 24 CFR 982.405, which now permit all public housing authorities to utilize a biennial inspection schedule, KH closed out this activity in FY2017.

2013.02.CE HOUSING QUALITY STANDARDS ALTERNATIVE INSPECTION PROTOCOL

Plan Year Approved: 2013 Year Closed: 2017

KH permits units that pass an inspection held to a stricter protocol than HQS – REAC, UPCS, State Finance Authority, etc. – to use the stricter protocol to demonstrate compliance with the property's biennial HQS inspection requirement.

Due to changes in 24 CFR 982.405, which now permits all public housing authorities to use a higher protocol to verify HQS compliance, KH closed out this activity in FY2017.

1999.02.CE HOUSING QUALITY STANDARDS LANDLORD SELF-CERTIFICATION INSPECTION PROTOCOL

Plan Year Approved: 2000 Year Closed: 2018

Property owners are permitted to self-certify HQS compliance of units that pass an initial KH HQS inspection in lieu of a KH administered biennial inspection. This self-certification is completed by the owner certifying a unit has been maintained to HQS standards or by providing evidence that a unit has passed a third party inspection with criteria that are equal to or at a higher standard than HQS, such as REAC or UPCS.

KH performs quality control inspections on a randomly selected number of owner certified units biennially. HCV participants receive information on HQS standards at lease-up and may request special inspections anytime they believe a unit violates HQS. Units that fail a biennial, quality control, or participant requested inspection return to a KH administered annual inspection schedule until the unit receives a 'Pass' status. Landlord self-certified units are held to the same schedule or standards as other units.

KH closed out this activity in FY2018 due to continued low landlord participation.

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Section V. Sources and Uses of Funding

This section describes the agency's projected revenue and expenditures for MTW funds for 2024 and reflects use of MTW Block Grant Single-fund Flexibility.

ESTIMATED SOURCES AND USES OF MTW FUNDS

The MTW PHA shall provide the estimated sources and amount of MTW funding by Financial Data Schedule (FDS)

PLANNED APPLICATION OF MTW FUNDS

Estimated Sources of MTW Funds

The MTW PHA shall provide the estimated sources and amount of MTW funding by Financial Data Schedule (FDS) line item.

> **Note:** the information collected in this section is to fulfill MTW programmatic reporting requirements and does not replace the MTW PHA's obligation to annually complete its audited financial statements through HUD's Financial Data Schedule (FDS).

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
70500 (70300+70400)	Total Tenant Revenue	$0
70600	HUD PHA Operating Grants	$7,542,000
70610	Capital Grants	$0
70700 (70710+70720+70730+70740+70750)	Total Fee Revenue	$0
71100+72000	Interest Income	$1,000
71600	Gain or Loss on Sale of Capital Assets	$0
71200+71300+71310+71400+71500	Other Income	$0
70000	**Total Revenue**	**$7,543,000**

Estimated Application of MTW Funds

The MTW PHA shall provide the estimated application of MTW funding in the plan year by Financial Data Schedule (FDS) line item. Only amounts estimated to be spent during the plan year should be identified here; unspent funds that the MTW PHA is not planning on expending during the plan year **should not be** included in this section.

> **Note:** the information collected in this section is to fulfill MTW programmatic reporting requirements and does not replace the MTW PHA's obligation to annually complete its audited financial statements through HUD's Financial Data Schedule.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
	Total Operating - Administrative	$0
FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
91000 (91100+91200+91400+91500+91600+91700+91800+91900)	Total Operating - Administrative	$560,000
91300+91310+92000	Management Fee Expense	$0

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FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
91810	Allocated Overhead	$0
92500 (92100+92200+92300+92400)	Total Tenant Services	$600,000
93000 (93100+93600+93200+93300+93400+93800)	Total Utilities	$0
93500+93700	Labor	$0
94000 (94100+94200+94300+94500)	Total Ordinary Maintenance	$0
95000 (95100+95200+95300+95500)	Total Protective Services	$0
96100 (96110+96120+96130+96140)	Total Insurance Premiums	$3,200
96000 (96200+96210+96300+96400+96500+96600+96800)	Total Other General Expenses	$0
96700 (96710+96720+96730)	Total Interest Expense & Amortization Cost	$0
97100+97200	Total Extraordinary Maintenance	$0
97300+97350	HAP + HAP Portability-In	$5,200,000
97400	**Depreciation Expense**	**$0**
97500+97600+97700+97800	**All Other Expense**	**$0**
90000	**Total Expenses**	**$6,363,200**

Please describe any variance between Estimated Total Revenue and Estimated Total Expenses:

In addition to the expenses listed above, KH expects to transfer approximately $1,179,800 out of the MTW fund to support our MTW activities such as 2014.05.HC Affordable Housing Preservation and Modernization Program and 2014.04.SS KH Kids Collaborative and resident services.

Description of Planned Application of MTW Funding Flexibility

MTW agencies have the flexibility to apply fungibility across three core funding programs' funding streams – public housing Operating Funds, public housing Capital Funds, and HCV assistance (to include both HAP and Administrative Fees) – hereinafter referred to as "MTW Funding." The MTW PHA shall provide a thorough narrative of planned activities it plans to undertake using its unspent MTW Funding. Where possible, the MTW PHA may provide metrics to track the outcomes of these programs and/or activities. Activities that use other MTW authorizations in Attachment C and/or D of the Standard MTW Agreement (or analogous section in a successor MTW Agreement) do not need to be described here, as they are already found in Section (III) or Section (IV) of the Annual MTW Plan. The MTW PHA shall also provide a thorough description of how it plans to use MTW funding flexibility to direct funding towards specific housing and/or service programs and/or other MTW activity, as included in an approved MTW Plan.

Planned Application of MTW Funding Flexibility
KH does not own any Public Housing and therefore does not combine Section 8 and Section 9 funds. KH relies solely on Section 8 funds and Administrative Fees to administer our programs.

PLANNED APPLICATION OF PHA UNSPENT OPERATING FUND AND HCV FUNDING

Original Funding Source	Beginning of FY - Unspent Balances	Planned Application of PHA Unspent Funds during FY
HCV HAP*	0	0
HCV Admin Fee	0	0
TOTAL:	**0**	**0**

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Original Funding Source	Beginning of FY - Unspent Balances	Planned Application of PHA Unspent Funds during FY
PH Operating Subsidy	0	0
TOTAL:	**0**	**0**

Description of Planned Expenditures of Unspent Operating Fund and HCV Funding

The MTW PHA shall provide a description of planned activities and/or use(s) for unexpended Operating Fund and HCV Funding. The original funding source is defined as the legacy MTW PHA's appropriated Section 8 and Section 9 funding source(s) (HCV HAP, HCV Admin Fee, and PH Operating Subsidy). The MTW agency receives this information in their Annual Renewal Allocation, which provides a breakdown of the annual obligations for HCV HAP. For HCV Admin Fee, the biannual cash management reconciliation includes the HCV Admin Fee that has been earned at two points during the year; midyear at June 30th and end-of-year at December 31st. For the public housing operating fund unspent balance, the MTW PHA may derive their unspent funds by subtracting current assets from current liabilities in the most recent FDS submission. Current assets are the sums of FDS lines 111, 114, 115, 120, 131, 135, 142, 144, and 145. Current liabilities are the sums of FDS line 310 and 343. Table below represents the applicable FDS lines with definitions that MTW PHA(s) should utilize to calculate public housing operating fund unspent funds. More information on FDS line items can be found at: https://www.hud.gov/sites/dfiles/PIH/documents/FDSLineDefinitionGuide_vJuly2020.pdf.

FDS Line Items Used to Calculate Public Housing Operating Fund Unspent Funds

FDS Line Number	FDS Line Item	Definition
Current Assets		
111	Cash-Unrestricted	This FDS line represents cash and cash equivalents in any form available for use to support any activity of the program or project.
114	Cash-Tenant Security Deposits	This FDS line represents cash in the Security Deposit Fund.
115	Cash-Restricted for Payment of Current Liabilities	This line represents restricted cash and cash equivalents that are only to be expended for specified purposes.
135	**Investments-Restricted for Payment of Current Liability**	This line represents the fair market value of all investments designated for specific purposes that will be used to liquidate a current liability in the next fiscal year or offset unearned revenue.
142	**Prepaid Expenses and Other Assets**	This line represents all prepaid expenses. These are not expected to be converted.
144	**Inter-program-Due From**	This line represents amounts due from other PHA projects, programs, and activities of a temporary nature.
145	**Assets Held for Sale**	This line item represents assets that the entity expects to sell to qualified applicants. This line item is typically used as part of the homeownership program.
Current Liabilities		
310	**Total Current Liabilities**	This FDS line is the sum of lines 311 through 348 and represents the total of all current liabilities.
343	**Current Portion of Long-Term Debt (Capital Projects/Bonds)**	This line includes the current portion of debts acquired and debts issued for capital purposes of the PHA/entity.

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FDS Line Number	FDS Line Item	Definition
120	Total Receivables	This line represents the total of all receivables less the amounts established as allowances for estimated uncollectible amounts.
131	Investments-Unrestricted	This line represents the fair market value of all investments which can be used to support any activity of a program, project, activity, COCC, or entities.
135	**Investments-Restricted for Payment of Current Liability**	This line represents the fair market value of all investments designated for specific purposes that will be used to liquidate a current liability in the next fiscal year or offset unearned revenue.
142	**Prepaid Expenses and Other Assets**	This line represents all prepaid expenses. These are not expected to be converted.
144	**Inter-program-Due From**	This line represents amounts due from other PHA projects, programs, and activities of a temporary nature.
145	**Assets Held for Sale**	This line item represents assets that the entity expects to sell to qualified applicants. This line item is typically used as part of the homeownership program.
Current Liabilities		
310	**Total Current Liabilities**	This FDS line is the sum of lines 311 through 348 and represents the total of all current liabilities.
343	**Current Portion of Long-Term Debt (Capital Projects/Bonds)**	This line includes the current portion of debts acquired and debts issued for capital purposes of the PHA/entity.

For HCV funding, the biannual cash management reconciliation for HUD-held reserves includes both HCV and SPV reserves. MTW PHA(s)' accounting records should include sufficient detail to report on the amount that are HCV versus SPV reserves. Where possible, please identify the planned use, the estimated amount, to which funding source the planned use(s) is attributable, as well as the projected timeline or timeline update.

Note: the information collected in this section is to fulfill MTW programmatic reporting requirements and does not replace the MTW PHA's obligation to annually complete its audited financial statements through HUD's Financial Data Schedule.

KH expects to transfer unspent HAP funding out of the MTW fund to support our MTW activities such as 2014.05 HC Affordable Housing Preservation and Modernization Program and 2014.04SS KH Kids Collaborative and resident services.

* Unspent HAP funding should not include amounts recognized as Special Purpose Vouchers reserves.

** HUD's approval of the MTW Plan does not extend to a PHA's planned usage of unspent funds amount entered as an agency's operating reserve. Such recording is to ensure agencies are actively monitoring unspent funding levels and usage(s) to ensure successful outcomes as per the short- and long-term goals detailed in the Plan.

LOCAL ASSET MANAGEMENT PLAN

i. Is the MTW PHA allocating costs within statute? Yes

ii. Is the MTW PHA implementing a local asset management plan (LAMP)? No

iii. Has the MTW PHA provide a LAMP in the appendix? No

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iv. If the MTW PHA has provided a LAMP in the appendix, please describe any proposed changes to the LAMP in the Plan Year or state that the MTW PHA does not plan to make any changes in the Plan Year.

Keene Housing does not own or manage any public housing units and is not required to implement or submit a Local Asset Management Plan.

RENTAL ASSISTANCE DEMONSTRATION (RAD) PARTICIPATION

v. Description of RAD Participation

The MTW PHA shall provide a brief description of its participation in RAD. This description must include the proposed and/or planned number of units to be converted under RAD, under which component the conversion(s) will occur, and approximate timing of major milestones. The MTW PHA should also give the planned/actual submission dates of all RAD Significant Amendments. Dates of any approved RAD Significant Amendments should also be provided.

Rental Assistance Demonstration (RAD) Participation
If funded in 2025, KH plans to begin construction on the second of a two-phased affordable housing development at the site of the Roosevelt School near downtown Keene. The project's second phase, Roosevelt School West, will consist of thirty (30) units with six (6) units set aside for unhoused families who will receive housing stabilization and supportive services. As with the first phase, Roosevelt School East, KH intends to use HUD's Faircloth to RAD program to help support the project.

vi. Has the MTW PHA submitted a RAD Significant Amendment in the appendix? A RAD Significant Amendment should only be included if it is a new or amended version that requires HUD approval.

Yes

vii. If the MTW PHA has provided a RAD Significant Amendment in the appendix, please state whether it is the first RAD Significant Amendment submitted or describe any proposed changes from the prior RAD Significant Amendment?

First

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Section VI. Administrative

Board Resolution and Certifications of Compliance

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Keene Housing

831 Court Street, Keene, NH 03431
Phone & TTD – 603.352.6161
FAX – 603.352.6845

Public Notice

Keene Housing (KH) invites the community-at-large to review and provide comments on its revised DRAFT Moving to Work (MTW) Annual Plan for Fiscal Year 2025. The public comment period is open from 8:30 am on Thursday, December 5, 2024, until 4:30 pm on Monday, January 6, 2025.

A Public Hearing is being held on:

Date: December 18th
Time: 5:30 pm
Location: Keene Housing Central Office, 831 Court St., Keene, NH 03431

The DRAFT 2025 MTW Plan is available for review on our website at www.keenehousing.org or can be emailed to or printed for interested members of the public by contacting info@keenehousing.org or by calling (603) 352-6161. KH welcomes written comments received during the public comment period by 4:30 pm on Monday, January 6, 2025.

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Take down 1/7/25

If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Keene Housing main office.

EQUAL HOUSING OPPORTUNITY

PLANNED AND ONGOING EVALUATIONS

Keene Housing has not engaged any outside evaluators to review our program as a whole. The agency does engage outside evaluators on an as-needed basis.

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LOBBYING DISCLOSURES

OMB Approval No. 2577-0157 (Exp. 1/31/2027)

Certification of Payments to Influence Federal Transactions

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

Public reporting burden for this information collection is estimated to average 30 minutes,including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information requested is required to obtain a benefit. This form is used to ensure federal funds are not used to influence members of Congress. There are no assurances of confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157.

Applicant Name

Keene Housing

Program/Activity Receiving Federal Grant Funding

Moving to Work Housing Choice Voucher Program

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

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

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

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

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

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

Name of Authorized Official	Title
Joshua Meehan	Executive Director
Signature	**Date (mm/dd/yyyy)**
	09/19/2024

Previous edition is obsolete

form HUD 50071 (01/14)

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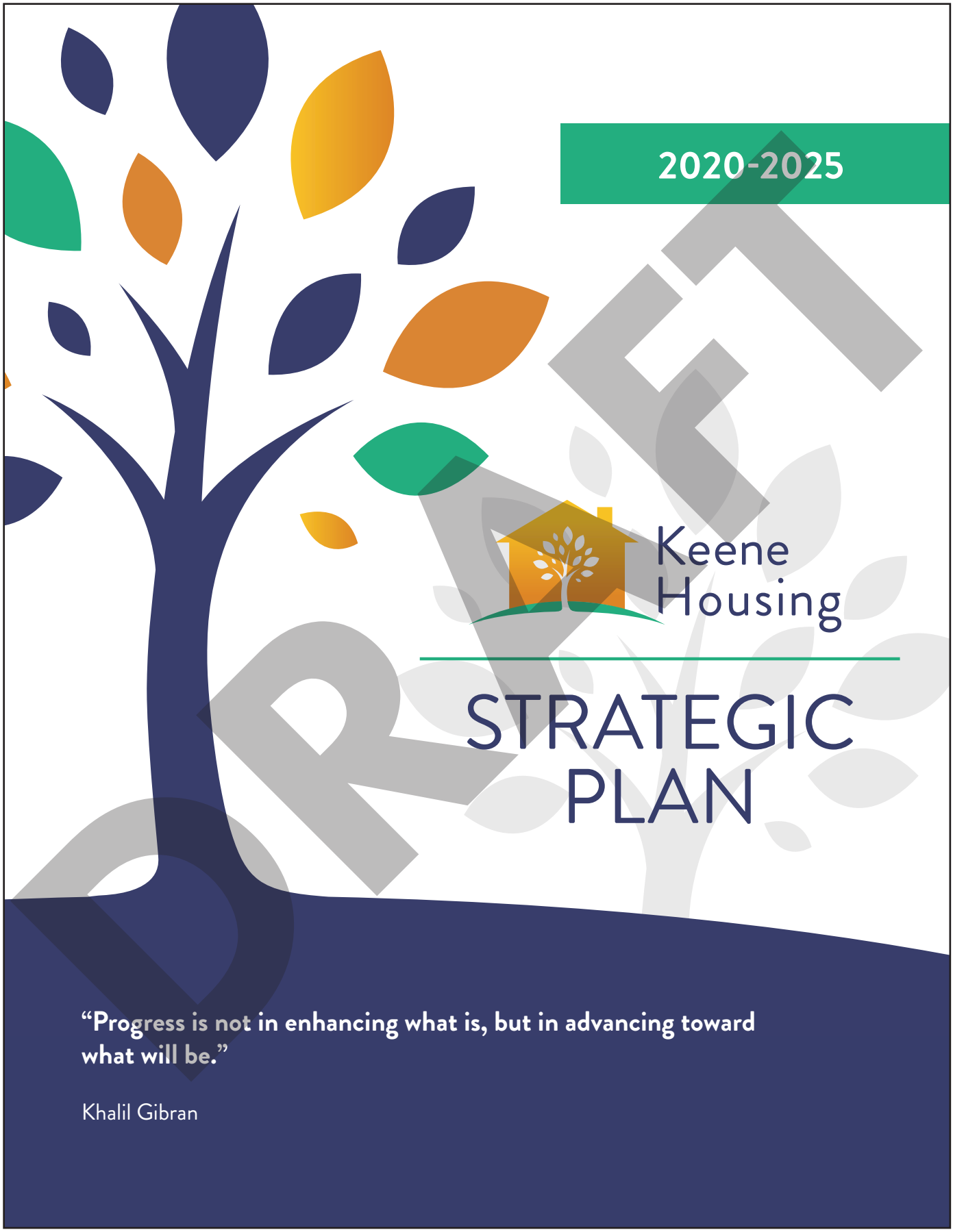
APPENDIX I. 2020 - 2025 Strategic Plan



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INTRODUCTION

This Strategic Plan provides Keene Housing's Board of Commissioners, our staff, the people we serve, and our partners – local, regional and national – with a road map that identifies the strategic goals Keene Housing will strive to achieve by 2025. This plan was developed with active engagement and feedback from our Board of Commissioners, staff, residents, voucher holders, landlords, and community partners from as nearby as City Hall and as far away as Washington, DC.

This strategic plan finds us at a very different place organizationally than we were at when the last strategic plan was developed, in 2015. In 2015 much of Keene Housing's senior staff and several Board Commissioners were relatively new to the organization, having only worked together for a few years. We were in the early stages of developing a strategy for addressing the portfolio's long-term capital needs, and we were just beginning to understand the portfolio's energy costs and opportunities for savings. Similarly, in 2015 we started to think differently about how we could better help the young people we house become successful adults, and about what more we could do to help the elderly and disabled neighbors we serve live healthier, happier, more independent lives.

By early 2019, when work on this Strategic Plan began, we were encouraged that we'd achieved many of the goals we'd set for ourselves in 2015. We'd spent the last five years aggressively addressing the portfolio's most pressing capital needs, including a massive rehabilitation project at Central Square Terrace, our 90-unit historic building in the heart of downtown Keene. Our understanding of the portfolio's energy performance and strategies for improvements had also come into focus. By 2019 we'd made significant strides towards decreasing our energy needs and had already made great progress towards reaching our goal of relying 100% on renewable energy by 2035.

Since providing it with seed funding in December 2014, the Keene Housing Kids Collaborative (KHKC) has grown from a small start-up nonprofit serving a few children, to one of the city's most recognized service organizations, serving hundreds of Keene Housing kids each year. We are also pleased that goals related to our elderly and disabled residents' quality of life were largely achieved, in great part due to the addition of a dedicated Elderly/Disabled Resident Service Coordinator in 2016. Thanks to her hard work, our elderly and disabled residents had many more opportunities to participate in activities that helped maintain their mental and physical health, social connections and sense of belonging. Similarly, our Community Garden program took off with over 35 dedicated Community Gardeners maintaining over 60 raised beds across our real estate portfolio.

Even with all of these accomplishments, there is still much work to be done, and this Strategic Plan is the guide we will use to identify and track our progress over the coming five years.

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2023 Progress Report

Goal 1: Preserve, Improve and Expand Affordable Housing Stock

- Preventive maintenance plan, with focus on reducing energy consumption ◎
- Landscape and grounds improvement and maintenance plan ◎
- Implement annual and five year Capital Plans ◎
- Update Capital Needs Assessments on a five-year cycle ◎
- Rehabilitation of Bennett Block ✓
- Recapitalization plans for Stone Arch Village and Evergreen Knoll ✓
- Rehabilitation of 105 Castle Street ✓
- Identify and undertake at least one additional development project ✓

Goal 2: Promote Energy Conservation and Sustainability

- Implement Energy Strategic Plan in coordination with Capital Plan ◎
- Maintain and update Energy Strategic Plan ◎
- Replace Electric Thermal Storage units with high efficiency HVAC systems ◎
- Water conservation plan for community gardens ◎
- Monitor utility consumption ◎
- Educate residents about energy conservation benefits ◎

Goal 3: Prudently Manage and Oversee Agency Finances

- Annual update of the agency-wide Financial Management Plan ◎
- ~~Opportunities for residents to contribute to curb appeals~~ (REMOVED 2022)
- Annual review of rent and management fees ◎
- Monitor vacancy loss ◎
- Regularly renew and update cost allocation methodology ◎
- Conduct analysis of benefits and health insurance costs ◎
- Conduct analysis of property insurance costs ◎
- Identify and secure additional revenue ◎
- ~~Revenue opportunities for community rooms~~ (REMOVED 2022)

Goal 4: Achieve Excellence in Management

- Achieve annual voucher program utilization goals ◎
- Achieve annual property management and maintenance goals ◎
- Annual update of TSOP and MTW Administrative Plan ◎
- Software platform conversion for voucher, property management and finace operations ◎
- Identify areas of risk and implement quality controls where needed ◎
- Streamline housing and voucher administrative processes and systems ◎
- Receive accreditation from the Affordable Housing Accreditation Board ✓

Completed ✓ Underway ◎ Not Started ○

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Goal 5: Promote Wellness and Independence Among Seniors and Residents with Disabilities

- Opportunities for additional resident services through recurring federal and state resources ◎
- Implement strategies to ensure successful housing search and tenancy ◎
- Expand partnerships providing on-site quality of life programs and services ◎

Goal 6: Support Resident Economic Development

- Develop, implement and evaluate Rent Reform RCT Study ◎
- Look for additional THASP partners and other sponsor-based subsidy programs ◎
- Increase the use of FACs by local service providers and residents ✓

Goal 7: Support Youth Development Through Collaboration with KHKC

- Improve communications between KHKC and KH BOC ◎
- Reduce MTW contribution toward KHKC operating costs ◎
- Introduce KHKC leadership to additional affordable housing partners ✓

Goal 8: Build Board and Staff Capacity and Skills

- Continue bonus program that recognizes extraordinary performance ◎
- Continue conducting employee satisfaction/feedback surveys ◎
- Annually update Board training materials and schedule ◎
- Increase training opportunities for Board members and to engage with KH staff ✓
- Continue developing strategies to attract and retain quality staff ◎
- ~~Implement interdepartmental cross training initiatives~~ (REMOVED 2022)
- Implement interdepartmental "Shadow Days" ✓

Goal 9: Enhance Customer Service and Operational Efficiency

- Develop and implement a plan to improve the website ✓
- Develop and implement a security plan ◎
- Assess and implement enhancements to KH's hardware, software and IT network ◎
- Use technology to improve communications ◎
- Solicit input from residents and stakeholders on KH programs and initiatives ◎
- Develop a disaster response plan to recover quickly from a natural disaster ◎
- Evaluate and deploy technological tools to assist residents and applicants ◎

Goal 10: Be a Strong and Effective Advocate for Innovation in Affordable Housing and Supportive Service Programs

- Actively participate in and support the MTW Collaborative ✓
- ~~Actively participate in and support AHAB~~ (REMOVED 2022)
- Actively participate in and support the New Hampshire Housing Authority Corp. ✓
- Actively participate in and support PHADA ✓
- Actively support the advocacy efforts of Housing Action New Hampshire ✓
- Staff hold leadership positions with local, state and federal organizations ✓
- Continue advocating for low and moderate-income people to elected officials ✓

Completed ✓ Underway ◎ Not Started ○

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A ROADMAP TO 2025

As was the case with our previous five-year strategic plan, this plan is organized by goal, with each goal broken down into a series of related objectives and projects that will help ensure that we stay grounded and focused on our way to 2025. We will also continue the practice of reviewing and when needed, revising, the Strategic Plan each year.

These annual reviews give the Board of Commissioners and staff opportunities to check on our progress towards the goals, objectives and projects articulated in this plan. These check-ins also give us opportunities to make revisions when circumstances "on the ground" change. If it is to be a useful tool, the strategic plan must be a living document; we must be able to adjust and revise it in response to emerging opportunities and threats.

As we look ahead to 2025, we are excited by what is to come. We look forward to completing the portfolio's remaining rehabilitation projects and turning our attention to creating new affordable housing for our neighbors who need it. We look forward to continuing to be leaders in the areas of energy efficiency and solar energy production. We are excited to find new ways to support the health and well-being of our frailest residents and helping our working families achieve greater economic independence. And, as always, we are grateful that, thanks to our designation as a U.S. Department of Housing and Urban Development Moving to Work (MTW) Agency, we have the flexibility to respond to emerging opportunities and threats in ways that most other Public Housing Authorities cannot. Much of what we have accomplished, and what we hope to achieve in the years ahead is largely possible because of our MTW designation.

Finally, we look forward to working with all of our partners; as we try to meet our shared challenges over the next five years. This Strategic Plan is being printed at a time when business leaders, politicians and policy makers of all political and philosophical stripes are beginning to recognize the effect the affordable housing shortage is having on our communities' social, physical and economic health. While we wish it didn't take as long as it has for the housing crisis to be recognized for what it is, we are grateful that from Keene to Concord to Washington, decision makers are starting to work on solutions. We look forward to doing our part to help.

MISSION STATEMENT

"Keene Housing provides and advocates for affordable housing and supportive services that strengthen and empower low and moderate-income households in the Monadnock region."

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GOAL 1:

Preserve, Improve and Expand Affordable Housing Stock

KH's existing real estate portfolio is a critical component of the region's affordable housing stock. Maintaining and improving the portfolio for future generations is amongst KH's primary responsibilities. This goal captures a broad range of initiatives that help ensure the portfolio's long-term viability including capital improvements, landscaping and other activities to improve "curb appeal", preventive maintenance and, when appropriate, recapitalization.

We also recognize that our current portfolio will never be large enough to meet the growing demand for high quality affordable housing in the Monadnock region. Therefore, this goal also encompasses efforts to address broader regional affordable housing needs through a combination of preservation and development activities.

OBJECTIVES:

- **Address the portfolio's capital needs**
- **Restructure/recapitalize portfolio financing where needed to ensure viability and long-term affordability**
- **Identify and secure new funding to support capital needs including continuing use of MTW funds**
- **Maintain exceptional "curb appeal"**
- **Leverage Project Based Vouchers and the Transitional Housing Assistance Subsidy Program as regional affordable housing preservation and expansion tools**
- **Pursue development opportunities that respond to identified, quantifiable regional housing needs**

PRIORITY PROJECTS:

- **Update annually and implement portfolio-wide preventive maintenance plan, with a focus on activities that reduce energy consumption** Underway
- **Update annually and implement portfolio-wide landscape/grounds improvement and maintenance plan** Underway
- **Implement annual and five-year Capital Plans with a focus on priority needs such as life safety improvements, energy efficiency and accessibility projects (including those that support "aging in place"), in a manner that keeps residents informed, and minimizes disruption to their lives** Underway
- **Update Capital Needs Assessments on a five-year cycle** Underway
- **Develop and implement plan for the rehabilitation of Bennett Block** Completed
- **Develop and implement recapitalization strategy, and related capital improvements, for projects nearing the end of the Low-Income Housing Tax Credit initial compliance period including Stone Arch Village and Evergreen Knoll** Completed

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GOAL 1:

Preserve, Improve and Expand Affordable Housing Stock

PRIORITY PROJECTS, CONTINUED:

- **Develop a plan for the rehabilitation of 105 Castle Street, preserving its role as a community space for Harper Acres residents** **Completed**
- **Identify and undertake at least one additional development project by 2025** **Completed**

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GOAL 2:

Promote Energy Conservation and Sustainability

With the exception of personnel expenses, energy is Keene Housing's largest operating cost. Recognizing the overriding importance of reducing energy consumption and costs, KH is an active participant in the Better Buildings Challenge established by the US Departments of Energy and Housing and Urban Development. Focusing on reducing utility consumption and incorporating energy efficient, sustainable materials into capital projects is the focus of the Better Buildings Challenge and this Strategic Plan goal.

OBJECTIVES:

- **Achieve carbon neutrality by 2035 (REVISED 2022)**
- **Achieve Better Buildings Challenge goals by 2025**
- **Continue executing energy conservation and investment strategies to lower costs and reduce carbon footprint**
- **Integrate conservation and sustainability into modernization and development planning**
- **Continue accessing available energy efficiency rebate and incentive programs**
- **Stay informed about and take advantage of emerging public policies that incentivize energy efficiency and generation projects**
- **Promote KH's energy efficiency achievements to partners, stakeholders and the general public**

PRIORITY PROJECTS:

- **Implement Energy Strategic Plan in coordination with execution of Capital Plan Underway**
- **Maintain and update Energy Strategic Plan Underway**
- **Replace all Electric Thermal Storage (ETS) units with air source heat pumps or similar high efficiency HVAC system Underway**
- **Develop and implement a water conservation plan for community gardens Underway**
- **Continue monitoring utility consumption to inform choices and quantify savings from energy-related retrofits, improvements, and solar projects Underway**
- **Inform and educate residents about energy conservation benefits at lease up and periodically during tenancy Underway**

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GOAL 3:

Prudently Manage and Oversee Agency Finances

Scarce federal and state support for affordable housing severely constrains Keene Housing's ability to fully address capital, supportive service and other needs. Keene Housing must work diligently to maximize the resource leveraging impact of its available funds and seek new income sources, while simultaneously reducing operating costs by pursuing creative management and energy conservation strategies. KH's objectives in this area include diversifying funding sources, increasing non-federal financial reserves and containing operating costs.

OBJECTIVES:

- **Strengthen and expand financial analysis and reporting capabilities**
- **Contain and, whenever possible, reduce operating costs**
- **Expand and diversify funding sources to reduce reliance on HUD and USDA**
- **Increase non-federal operating reserves**
- **Maximize rent and management fee potential**
- **Minimize vacancy loss across the portfolio**
- **Maximize occupancy and rent potential for commercial spaces**

PRIORITY PROJECTS:

- **Annually update and implement the agency-wide Financial Management Plan Underway**
- ~~Explore opportunities for residents to contribute to curb appeal~~ **(REMOVED 2022)**
- **Conduct annual review of rent and management fees Underway**
- **Continually monitor vacancy loss Underway**
- **Regularly renew and update cost allocation methodology Underway**
- **Conduct annual review of benefits and health insurance costs, pursuing cost effective but equitable opportunities where feasible Underway**
- **Conduct annual review of property and casualty insurance costs, pursuing cost effective opportunities whenever feasible Underway**
- **Identify and secure additional revenue through grants, increased management fees, and other initiatives Underway**
- ~~Where permissible, repurpose and identify new revenue opportunities for underutilized community rooms in consultation with residents~~ **(REMOVED 2022)**

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GOAL 4:

Achieve Excellence in Management

Providing high quality property management and maintenance services to all residents is a core value that is deeply ingrained into Keene Housing's organizational culture. This strategic goal focuses on achieving industry-leading performance outcomes in key performance indicators including occupancy, vacancy, unit turnaround time, rent collection and work order completion. In achieving its occupancy goals, KH is committed to fair and consistent lease enforcement, and to working closely with residents to minimize the need for evictions.

OBJECTIVES:

- **Maximize utilization of available voucher and housing resources**
- **Meet or exceed performance goals related to voucher utilization, property management and maintenance indicators**
- **Document, maintain, and implement best practices that meet or exceed applicable regulatory requirements**
- **Maximize operational efficiencies created by 2019 reorganization of voucher and property management functions**

PRIORITY PROJECTS:

- **Achieve annual voucher program utilization goals** Underway
- **Achieve annual property management and maintenance goals** Underway
- **Annually update and implement Tenant Selection and Occupancy Plan and MTW Administrative Plan** Underway
- **Convert to a single enterprise software platform for voucher, property management and finance operations** Underway
- **Identify areas of risk, develop and implement quality control protocols where needed** Underway
- **Streamline and wherever possible consolidate housing and voucher administrative processes and systems to maximize efficiencies and improve operational outcomes** Underway
- **Receive accreditation from the Affordable Housing Accreditation Board** Completed

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GOAL 5:

Promote Wellness and Independence Among Seniors and Residents with Disabilities

Almost half of the households Keene Housing serves includes at least one member who is elderly or disabled. State and regional demographic data suggest that this trend will continue well into the future. This strategic goal recognizes this trend, and commits Keene Housing to facilitating aging in place, and to pursuing initiatives that enhance elderly and disabled residents' quality of life. Keene Housing will accomplish this goal by partnering with agencies that have the resources and expertise to help, and by integrating residents' physical needs into our capital planning process.

OBJECTIVES:

- **Leverage resources to secure new funding and services**
- **Integrate accessibility features and resident comfort into new and retrofit project designs**

PRIORITY PROJECTS:

- **Explore opportunities for additional resident services through recurring federal and state sources (REVISED 2022) Underway**
- **Implement strategies to ensure successful housing search and long-term tenancies for disabled residents and voucher holders, including educating residents on reasonable accommodations Underway**
- **Expand partnerships providing on-site quality of life programs and services Underway**

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GOAL 6:

Support Resident Economic Development

As evidenced by our resident-centric approach to property management and robust resident services programming, helping residents and voucher holders seek well-paying jobs, improve their educations and increase their assets are important KH goals. This strategic goal takes full advantage of Keene Housing's MTW flexibility to develop rent reform and resident service initiatives specifically designed to help working families achieve greater economic independence.

OBJECTIVES:

- **Use MTW flexibility to explore resident service and rent models that provide incentives for employment and asset building**
- **Leverage internal and external resources to help residents and voucher holders build social connections and sense of community**
- **Focus on measurable outcomes and program evaluation**

PRIORITY PROJECTS:

- **Develop, implement and evaluate rent reform and services demonstration project, with support from third party private or academic researchers Underway**
- **Look for additional Transitional Housing Assistance Subsidy Program (THASP) partners and other sponsor-based subsidy programs (REVISED 2021) Underway**
- **Increase the use of the Family Activity Centers by local service providers and residents Completed**

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GOAL 7:

Support Youth Development Through Collaboration with the Keene Housing Kids Collaborative

Keene Housing has been the driving force and primary financial supporter of the Keene Housing Kids Collaborative (KHKC), a non-profit organization established in 2014 to support the healthy development and educational success of KH youth. Working in collaboration with KH, the Keene School District and more than 30 partner agencies, KHKC is implementing an ambitious array of after school and summer programs that promote healthy youth development and support parents and children living in Keene Housing owned or assisted homes. During the Strategic Plan term, KH will support and collaborate with KHKC to increase its fund-raising capacity, and to help KHKC become a self-sustaining non-profit organization.

OBJECTIVES:

- **Continue supporting and collaborating with KHKC to expand and strengthen programs that focus on youth development from preschool through high school**
- **Help KHKC become a self-sustaining organization**

PRIORITY PROJECTS:

- **Improve communications between KHKC and KH BOC Underway**
- **Continue reducing MTW contribution towards KHKC operating costs Underway**
- **Introduce KHKC leadership to additional potential affordable housing partners Completed**

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GOAL 8:

Build Board and Staff Capacity and Skills

An engaged, well-trained Board and staff are essential for Keene Housing to continue achieving excellence, fostering innovation and most importantly, addressing community needs. This goal incorporates ongoing efforts to increase the Board of Commissioner's engagement in, and advocacy on behalf of KH's strategic goals. It also encompasses supporting and building Board and staff capacity through continuing education, and initiatives that periodically solicit feedback from staff and the Board, especially when major organizational transitions are under consideration.

OBJECTIVES:

- **Recruit and retain a qualified, motivated workforce**
- **Provide staff with the training, including cross training, needed to excel at their jobs and grow within the organization**
- **Ensure that new and current Board members are fully informed of their roles and responsibilities, appropriately engaged in governance and policy matters, and fulfilling their obligation to advocate for KH and the households we serve**
- **Provide opportunities for local stakeholders, including students, to learn about KH's work**

PRIORITY PROJECTS:

- **Continue bonus program to recognize extraordinary performance Underway**
- **Continue conducting employee satisfaction/feedback surveys Underway**
- **Annually update Board training materials and schedule, including on-boarding packet, using the AHAB accreditation standards for Governance as a source for best practices Underway**
- **Increase opportunities for Board members to participate in relevant trainings and to engage with KH staff Completed**
- **Continue developing strategies that attract and retain quality staff at all organizational levels Underway**
- ~~Implement intradepartmental cross training initiatives~~ **(REMOVED 2022)**
- **Implement interdepartmenental "Shadow Days" Completed**

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GOAL 9:

Enhance Customer Service and Operational Efficiency

Keene Housing is a service organization. Applicants, residents and voucher holders are our customers. KH is always focused on ways to streamline operations and improve customer service for applicants, residents and voucher holders. This strategic goal incorporates activities that leverage emerging technology, provide increasingly helpful and timely information to our customers and community, and minimize disruption to residents and operations in the event of a natural disaster or other unforeseen event.

OBJECTIVES:

- **Integrate new technologies that streamline work processing and improves public/ resident access to information**
- **Ensure that the providing high quality customer service, based in empathy and fairness, is a fundamental organizational principal**
- **Provide additional opportunities to easily receive and respond to public feedback**
- **Implement a disaster response and recovery plan**

PRIORITY PROJECTS:

- **Develop and implement a plan to improve the website** Completed
- **Develop and implement a security plan** Underway
- **Periodically assess and implement required enhancements to KH's hardware, software and telecommunications network** Underway
- **Use technology to improve the timeliness, accuracy and accessibility of information about KH plans and strategies for applicants, residents, voucher holders, community stakeholders and other target audiences (REVISED 2022)** Underway
- **Regularly solicit input from residents and stakeholders on KH programs and initiatives** Underway
- **Develop a disaster response plan that accounts for the safety of residents and staff as well as the need to recover quickly from a natural disaster** Underway
- **Evaluate and, where cost effective, deploy technological tools such as video updates, kiosks, computers and publicly available printers to assist residents and applicants** Underway

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GOAL 10:

Be a Strong and Effective Advocate for Innovation in Affordable Housing and Supportive Service Programs

Keene Housing's organizational culture values and actively supports innovation and excellence in the administration of housing and supportive service programs for low- and moderate-income people. KH strongly believes that we achieve excellence by learning from, and sharing with others engaged in activities that benefit our customers. To that end, KH strives to play a prominent role in local, state and federal efforts to improve, promote and expand affordable housing programs and supportive services. Central to this effort is KH's leadership in the Moving to Work (MTW) program.

OBJECTIVES:

- **Support and participate in the growth of the MTW Collaborative and advocate for the permanent extension of current MTW Agreements**
- **Participate in local, state and national efforts to improve public policy affecting affordable housing development, management and administration**
- **Contribute to efforts to improve local, state and national renewable energy incentive programs and related public policies**
- **Contribute to efforts to improve local, state and national supportive service programs and policies**

PRIORITY PROJECTS:

- **Actively participate in and support the MTW Collaborative** **Completed**
- ~~Actively participate in and support the Affordable Housing Accreditation Board~~ **(REMOVED 2022)**
- **Actively participate in and support the New Hampshire Housing Authority Corporation** **Completed**
- **Actively participate in and support the Public Housing Authorities Directors Association** **Completed**
- **Actively support the advocacy efforts of Housing Action New Hampshire** **Completed**
- **Ensure that members of staff hold leadership positions with local, state and federal organizations, committees and councils (REVISED 2022)** **Completed**
- **Continue advocating for low- and moderate-income people to local, state and federally elected officials** **Completed**

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APPENDIX II. Safety Net

Safety Net

The Safety Net (SN) program provides temporary relief to participating households experiencing significant, unexpected increases in rent burden. Safety Net is not meant to take the place of full-time employment for participants who are able to work. Work-able participants are encouraged to find employment rather than use the Safety Net program. Safety Net is meant to be temporary assistance during times of economic hardship. Applications for Safety Net must be submitted monthly unless KH approves a longer term.

Safety Net applications are reviewed by the SN Committee which consists of Resident Service Coordinators (RSC), Tenant Assistance Specialist, Voucher Program Specialist and the Director of Programs and Services. Applicants do not have to attend a SN Committee meeting, however applicants are encouraged to attend Review Board meetings to explain their need for Safety Net.

Eligibility Guidelines

1. Applicants must complete a Safety Net application and provide supporting documentation by the 20th of the month the hardship occurs.
2. KH may consider applications after the 20th in cases of unanticipated income loss for Stepped Subsidy households.
3. Applicants must meet all three of the following criteria to be eligible for Safety Net.
4. In compliance with the MTW Housing Contract
5. If the applicant lives in a PBV unit, the applicant must be in compliance with their lease and not owe money to KH.
6. If the applicant owes KH money, they must execute a Payment Agreement (PA) and not be in default of the Payment Agreement.
7. In compliance with the Resident Self-Reliance program (if applicable)
8. An Income Based (IB) participant pays more than 45% of their adjusted income towards rent and allowable utilities.
9. A Stepped Subsidy participant pays more than 45% of their gross income toward rent and allowable utilities.
10. A change in the Stepped Subsidy does not qualify a household for Safety Net.
11. For mixed households, safety net determination is based solely upon eligible household members.
12. Households within the 180-day $0 HAP period (Chapter 13) with verified unforeseen changes in household composition or decreases in income may complete a Safety Net (SN) application to request consideration to recalculate housing assistance.

Consistent with KH interim policies in Chapter 13 subsidy will be calculated based upon the household's current circumstances.

Households participating in the Stepped Subsidy Program prior to the HAP decreasing to $0 will have their subsidy reinstated at their previous step level.

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Safety Net Committee

The Safety Net Committee is comprised of KH staff.

Applications are presented by a Resident Services Coordinator (RSC) to the Safety Net Committee.

The Safety Net committee may require an applicant to complete a Career Plan as part of accepting the additional housing assistance. This Career Plan may include, but is not limited to:

- Training program participation
- Proof of an active job search
- Updated financial plan
- Proof of volunteer activities
- Additional meetings with the RSC
- Other activities deemed appropriate

Setting Safety Net Tenant Payment

The Safety Net Committee has several options to help eligible households depending on the household's individual circumstances. The Committee can choose any combination of the following:

Set the household's tenant payment temporarily to the greater of:

- Minimum rent
- 30% of gross income (for Stepped Subsidy)
- 30% of adjusted income (for Income Based Subsidy)
- Extend the period of Safety Net for which the household was previously approved.
- Transfer a household from Stepped Subsidy to Income Based subsidy, if applicable.
- Recommend an Income Based Subsidy household for an interim recertification.

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APPENDIX III. RAD Significant Amendment

Keene Housing
Fiscal Year 2025 Moving to Work Annual Plan
Rental Assistance Demonstration Significant Amendment

Keene Housing (KH) is incorporating this Rental Assistance Demonstration (RAD) Significant Amendment into its FY 2025 Moving to Work (MTW) Annual Plan as required by the US Department of Housing and Urban Development (HUD). The amendment provides information on KH's planned activities under the RAD Program.

Background

KH is required to submit a Significant Amendment to the MTW Annual Plan that provides information on its RAD conversion plans. This document incorporates the required information and serves as KH's RAD Significant Amendment for the subject units. As part of the MTW Annual Plan process, KH will provide a thirty-day public comment period and conduct a Public Hearing to allow residents and the general public an opportunity to review and comment on the MTW Annual Plan including this RAD Significant Amendment.

Subject to HUD approval, KH intends to proceed with Faircloth to RAD conversions for the Roosevelt School East and Roosevelt School West projects described below, pursuant to the guidelines of PIH Notice 2019-23, Revision 4 dated September 5, 2019 and PIH Notice 2016-17 dated November 10, 2016 (HUD RAD Notices) and any successor Notices and other relevant requirements issued by HUD.

Under the Faircloth to RAD initiative, KH can tap into unused public housing Annual Contributions Contract (ACC) authority, develop new public housing units using that authority and then convert the public housing to Project Based Voucher (PBV) assistance under the RAD program.

Projects Proposed for Conversion

KH plans to undertake two RAD conversion projects as summarized below. Each will be owned by Monadnock Affordable Housing Corporation, a 501(c)3 affiliate of Keene Housing, and involve either 9% or 4% Low Income Housing Tax Credits and other funding sources:

Development	Building Type	Conversion Type	# of RAD Units	Bedroom Mix	Accessible Unites
Roosevelt School East	Rehab and New Construction	Faircloth to RAD	30	22-1BR 8-2BR	3
Roosevelt School West	New Construction	Faircloth to RAD	30	22-1BR 8-2BR	3

Projects Proposed for Conversion

KH intends to convert the subject projects to the Project Based Voucher (PBV) program. KH will adopt all required RAD PBV rules except where MTW or other waivers are approved by HUD and will modify its existing Housing Choice Voucher Program Administrative Plan as needed to incorporate those rules related to resident rights, resident participation, waiting list, lease, waiting list, grievance processes and other areas.

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Attachment 1 provides information required by HUD on the RAD PBV program related to resident rights and participation, waiting list and grievance procedures. Note, however, that the subject projects will be converted using the Faircloth to RAD method. Both projects are new and, as such, do not have existing residents or existing waiting lists.

Capital Fund Budget

KH does not currently receive HUD Capital Funds for the subject projects. Therefore, the conversions will have no impact on the level or availability of Capital Funds.

Site and Neighborhood Standards

The proposed RAD conversions comply with all applicable site selection and neighborhood review standards. With respect to both sites covered under this RAD Significant Amendment, KH certifies that:

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

Relocation Plan

No resident relocation is required.

Waiting Lists

Both projects are new and do not have existing waiting lists. KH will establish site-based waiting lists for each project. The tenant selection plans will establish a preference and provide supportive housing services for households experiencing homelessness or those at immediate risk of homelessness: 5 units at Roosevelt School East and 6 units at Roosevelt School West.

Compliance

KH 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 conversions.

Moving To Work

KH may utilize MTW funding fungibility and programmatic flexibility to support the RAD conversion effort subject to any necessary Board and HUD approvals.

Significant Amendment Definition

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

- Decisions to apply MTW funding or programmatic flexibility to post-conversion RAD developments;

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- Decisions or changes related to the ownership and/or financing structures for each approved RAD conversion including decisions to allocate KH financial resources as a source of funds to support the RAD conversion initiatives;
- Changes to the construction and rehabilitation plans and schedules for each approved RAD conversion;
- Changes to the project names or sponsor entity names;
- With respect to Faircloth to RAD conversions, decisions to reduce or increase the number of subsidized units;
- Changes in the post-conversion bedroom size distribution and/or the number of de minimis unit reductions up to the 5% permitted under RAD program rules; and,
- Decisions to convert to either Project Based Vouchers or Project Based Rental Assistance.

Keene Housing
Fiscal Year 2025 Moving to Work Annual Plan
Rental Assistance Demonstration Significant Amendment

Information on resident rights and participation, waiting list and grievance procedures for RAD program conversions to the PBV program is included in this attachment:

- HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019, Sections 1.6.C and 1.6.D and Table 1B.
- HUD Joint Housing Notice H-2016-17, PIH-2016-17 dated November 10, 2016 in its entirety.

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C. PBV Resident Rights and Participation.

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

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

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

2. **Right to Return.** See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or $25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

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

   Three Year Phase-in:

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

Five Year Phase in:

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

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

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

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

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

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

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

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

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

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

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

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

6. **Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

    a. **Termination Notification**. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
        i. A reasonable period of time, but not to exceed 30 days:
            1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
            2. In the event of any drug-related or violent criminal activity or any felony conviction;
        ii. Not less than 14 days in the case of nonpayment of rent; and
        iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. PBV: Other Miscellaneous Provisions

1. **Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.

2. **Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.[42]

3. **Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to 1.4.A.13 and 1.4.A.14.

4. **Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

    a. Transferring an existing site-based waiting list to a new site-based waiting list.

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

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

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

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

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

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

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

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

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

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

5. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.

6. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.

7. **Administrative Fees for Public Housing Conversions During the Year of Conversion**. For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded

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

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

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

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

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

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

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

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

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

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

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

This Attachment contains two sections, describing:

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

1B.1 Summary of Resident Provisions

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

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

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

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

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

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

1B.2 Resident Participation and Funding[98]

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

A. PBRA: Resident Participation and Funding

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

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

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

B. PBV: Resident Participation and Funding

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

[98] For the purposes of this Attachment, HUD uses the term "Project Owner" to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

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

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

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

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

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vi. Prepayment of loans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBJECT: Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.[1]

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

1.1. Purpose

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

[1] While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.
[2] Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the "RAD Notice"), this Notice uses the term "PHA" to refer to the owner of the project prior to the RAD conversion and "Project Owner" to refer to the owner of the project after the RAD conversion.

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

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

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

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

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

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

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

1.2. PHA and Project Owner Responsibilities

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

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

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

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

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

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

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

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

1.3. Applicability

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

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

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

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

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

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

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

1.4. Explanation of Major Provisions

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

Fair Housing & Civil Rights

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

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

Relocation

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

1.5. Request for Public Comment

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

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1.6. Paperwork Reduction Act

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

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SECTION 3. Background

3.1. RAD Authority

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

3.2. Definitions

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

3.3. Applicable Legal Authorities

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

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

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

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

3.4. Further Information

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

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

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

[8] *See* Pub. L. No. 112-55, as amended.

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

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

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

[9] *See* 24 C.F.R. § 5.105.
[10] *See, e.g.,* 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.
[11] *See* 42 U.S.C. §§ 3601 *et seq*., and HUD regulations in 24 C.F.R. part 100
[12] 42 U.S.C. § 3608(d) and (e).
[13] *See* 42 U.S.C. §§ 2000d *et. seq*., and HUD regulations in 24 C.F.R. part 1.
[14] *See* 29 U.S.C. §§ 701 *et seq*., and HUD regulations in 24 C.F.R. part 8.
[15] *See* 24 C.F.R. part 1 and part 100 subpart G.

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

- **Nondiscriminatory Site Selection:** HUD's site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD's Title VI regulation specifically prohibits site selection that has the "purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination" on the basis of race, color, or national origin.[18] The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.[19] In addition, HUD's Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.[20] ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.[21] Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.

- **Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

[16] 24 C.F.R. § 5.150 *et seq*.
[17] *See* 24 C.F.R. § 5.150 *et seq*. and 24 C.F.R. §§ 91.225, 91.325, or 91.425.
[18] *See* 24 C.F.R. § 1.4(b)(3).
[19] *See* 24 C.F.R. § 1.4(b)(6).
[20] *See* 24 C.F.R. § 8.4(b)(5).
[21] *See* 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

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

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.

- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.[23] Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.[24]

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[22] For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26.

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

[24] *See* 28 C.F.R. part 35, Appendix B.

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

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

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

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

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

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- **Reasonable Accommodations in Rules, Policies, Practices and Services**: Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.[26] Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.[27]

- **Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility**: Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

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

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

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

SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

5.1. RAD Eligibility Review

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

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HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

5.2. PHA's Proposed Site Selection and Certification

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).[28] Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.[29] PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."[30] Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with <u>all</u> applicable site and neighborhood standards.[31]

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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[28] *See* the provisions of Section 1.6.A.4 of the RAD Notice.
[29] 42 U.S.C. § 1437f(bb).
[30] For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." *See* Appendix III of the RAD Notice, paragraph (a).
[31] *See* 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

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requirements described in 24 C.F.R. § 8.4(b)(5).[32] The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires "covered multifamily dwellings" built for first occupancy after March 13, 1991, to contain accessible design features. HUD's Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.[33] Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in "covered multifamily dwellings" under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.[34]

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[32] *See* 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also,* Appendix III (a) of the RAD Notice (PBRA conversions).
[33] *See* 28 C.F.R. § 35.130(b)(4).
[34] In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

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While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

5.3. RAD Front-End Civil Rights Transaction Review

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

A) Activities Subject to Front-End Civil Rights Review

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

(1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

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certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

(2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.

(3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.

(4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.

(5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.

(6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).

(7) Conversions of assistance involving new construction or substantial alteration,[35] as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).

(8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

[35] Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

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(9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

B) Fair Housing, Civil Rights, and Relocation Checklist

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.[36] HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

[36] The Checklist is available at www.hud.gov/rad. As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at www.hud.gov/rad, HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

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part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.[37]

C) Timing of Front-End Review Submissions

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

D) Completion of HUD's Front-End Review

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

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[37] The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

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protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction

A) Conditions Triggering Review

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.[38]

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

i. The PHA self-identifies the area of the site as an area of minority concentration,

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[38] 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

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ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

B) Analysis of Areas of Minority Concentration

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

(1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.[39]

(2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

[39] The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt. However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.

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understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.[40] HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

(3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.[41] The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

C) The Sufficient Comparable Opportunities Exception

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

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[40] For further explanation, *see, e.g., King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

[41] Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

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serve the same income group, are located in the same housing market area, and are in standard condition.[42]

It is important to note that the sufficient comparable housing opportunities exception "does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population."[43]

HUD will assess "the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice."[44] Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- "A significant number of assisted housing units are available outside areas of minority concentration."[45] While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD's consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.[46]
- "There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population."[47] To facilitate HUD's consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA's jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- "There are racially integrated neighborhoods in the locality."[48] To facilitate HUD's consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

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[42] *See* 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).
[43] 24 C.F.R. § 983.57(e)(3)(iii); *see also* Appendix III of the RAD Notice, paragraph (e)(1).
[44] 24 C.F.R. § 983.57(e)(3)(v); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B).
[45] 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).
[46] Note that this factor is in reference to comparable assisted units that may or may not be in the PHA's portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration) is focused on units within the PHA's portfolio.
[47] 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).
[48] 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

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- "Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration."[49] Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD's consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- "Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration."[50] To facilitate HUD's consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- "A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs" (e.g., the Housing Choice Voucher programs).[51] To facilitate HUD's consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD's analysis would be a significant proportion.
- "Comparable housing opportunities have been made available outside areas of minority concentration through other programs."[52] To facilitate HUD's consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA's portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

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[49] 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).
[50] 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).
[51] 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).
[52] 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

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determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.[53] The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.[54] Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

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[53] When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

[54] For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

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minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

D) The Overriding Housing Needs Exception

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD[55] outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is "an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;" or (2) when the site is "located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a "revitalizing area")."[56]

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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[55] *See* 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.
[56] 24 C.F.R. § 983.57(e)(3)(vi); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the "neighborhood" is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The "immediate neighborhood" is generally a smaller geographic area than the "neighborhood."

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In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.[57]
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a "Revitalizing Area"

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a "revitalizing area" but in particular will consider whether:

i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

[57] Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

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household income, high or increasing homeownership rates and/or high or increased employment; and

ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
- Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
- Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
- Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

(3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.[58] For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance

A) Applicable Standards

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

[58] 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase "on the basis of race, color, creed, sex or national origin." See Appendix III of the RAD Notice.

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will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

B) Analysis of Transfers of Assistance

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.[59] This review shall consider:

(1) The accessibility of the proposed site for persons with disabilities;

(2) The ability of the RAD conversion to remediate accessibility concerns;

(3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.[60] For purposes of this analysis, HUD will examine the minority concentration of:

(a) the census tract of the original public housing site compared to the census tract of the proposed site; and
(b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.

(4) Whether the site selection has the purpose or effect of:

(a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
(b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
(c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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[59] 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).
[60] While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.

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(d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.[61] However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.[62]

A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

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[61] *See* Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

[62] Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

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Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.[63] In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

[63] *See* Section 1.4.A.4 of the RAD Notice.

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units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

B) Review of Changes in Occupancy Type

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

5.7. Other Front-End Civil Rights Review for RAD Transactions

A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

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need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

C) Remedial Agreements and Orders.

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.[64] Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.[65] They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

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[64] The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

[65] *See* 24 C.F.R. § 200.610.

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activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity ("FHEO") review the AFHMP. FHEO issues HUD's official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

SECTION 6. RELOCATION REQUIREMENTS

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner[66] should plan such activities to reasonably minimize any disruption to residents' lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

[66] Under the URA, the term "displacing agency" refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

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housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.[67]

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.[68]

6.1. Planning

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.[69] All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

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[67] 42 U.S.C. § 4601 *et seq*., 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

[68] A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

[69] The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

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The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	• Determine potential need for relocation in connection with proposed conversion plans. • Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback. • Provide the *RAD Information Notice* (RIN) to residents as described in Section 6.6(A) of this Notice.
2. After submission of RAD application	• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements. • Survey residents to inform relocation planning and relocation process. • Develop a relocation plan (see Appendix II for recommended content). • Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.[70]
3. Following issuance of the CHAP, or earlier if warranted	• Provide the *General Information Notice* (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.
4. While preparing Financing Plan	• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager. • Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities. • Identify relocation housing options . • Budget for relocation expenses and for compliance with accessibility requirements. • Submit the Checklist and, where applicable, the relocation plan. • If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA). • If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as

[70] Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

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Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	• Meet with residents to describe approved conversion plans and discuss required relocation. • The effective date of the RCC marks the date of "Initiation of Negotiations" (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)). • If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice. • Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.
6. Post-Closing	• Ongoing implementation of relocation • Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice • Implementation of the residents' right to return

6.2. Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.[71] Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project's conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident's unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;[72]

[71] The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.
[72] See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.

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- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;[73] and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.[74]

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

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[73] In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

[74] Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

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Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

6.3. Admissions and Continued Occupancy Requirements

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

6.4. Types of Moves and Relocation

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.[75] In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

A) Moves within the same building or complex of buildings[76]

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.[77] The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

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[75] PHAs should note that the definitions of "permanent" vary between the URA and RAD. For example, "permanent displacement" under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers "permanent relocation" to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

[76] An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

[77] Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

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B) Temporary relocation lasting one year or less

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.[78]

C) Temporary relocation initially expected to last one year or less, but which extends beyond one year

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

D) Temporary relocation anticipated to last more than one year

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

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[78] HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

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which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a "displaced person" would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

E) Permanent moves in connection with a transfer of assistance

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

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with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

F) Voluntary permanent relocation

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

6.5. Initiation of Negotiations (ION) Date

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

6.6. Resident Relocation Notification (Notices)

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.[79] PHAs and Project Owners are also encouraged to provide

[79] The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

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additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at www.hud.gov/rad.

A) RAD Information Notice

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

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- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

B) General Information Notice (49 C.F.R. § 24.203(a))

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, "as soon as feasible" may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, "as soon as feasible" shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

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For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).[80] The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

D) RAD Notice of Relocation

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

[80] Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.

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Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.[81]

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.[82]

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.[83] The RAD Notice of Relocation must conform to the following requirements:

(1) The notice must state the anticipated duration of the resident's relocation.

(2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).

(3) For residents who will be relocated for twelve months or less:

- The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.[84] PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

[81] PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. *See* Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

[82] The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

[83] The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

[84] Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

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for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.[85]
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).[86]
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

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[85] Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

[86] PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

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E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements ("URA Notice of Relocation Eligibility"). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.[87]

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident's original unit. The URA further requires that the resident receive 90 days' advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

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[87] To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

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F) Notification of Return to the Covered Project

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.[88]

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

6.7. Relocation Advisory Services

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

[88] If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

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a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).[89] Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at http://www.hud.gov.

6.8. Initiation of Relocation

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC, unless moves are authorized under Section 7, below ("Applicability of HCV and Public Housing Requirements") or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident's request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

6.9. Records and Documentation; Resident Log

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA's and/or Project Owner's compliance, as applicable, with this Notice and the URA.[90] HUD may request to review some or all of such records in the event of compliance

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[89] For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

[90] Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

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concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
    - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
    - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
    - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
    - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
    - Date of the RAD Information Notice

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- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation[91]
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.[92]

- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

6.10. Alternative Housing Options

Under the RAD Notice, "involuntary permanent relocation" is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

A) Requirements for Any Offer of Alternative Housing Options

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

[91] The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).
[92] In the case of voluntary permanent relocation, the date of "return" may be the same as the date of relocation away from the Converting Project.

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offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.[93]

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

B) Assisted Housing Options as Alternatives

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

[93] For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.

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PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.
- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

C) Monetary Elements Associated With Alternative Housing Options

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.[94]
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

D) Disclosure and Agreement to Alternative Housing Options

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;[95] b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

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[94] Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

[95] In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

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The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after

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the earlier of issuance of the NOIA or the effective date of the RCC.[96] If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

6.11. Lump Sum Payments

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS

7.1. HCV Waiting List Administration Unrelated to the RAD Transaction

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

[96] The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

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administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

7.2. HCV Waiting List Administration Related to the RAD Transaction

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.[97]

7.3. Public Housing Transfers Unrelated to the RAD Transaction

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)[98] or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.[99] Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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[97] PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

[98] Title IV, section 40001-40703.

[99] Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

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subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a "demolition, disposition, revitalization or rehabilitation transfer" as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA's admissions and occupancy policy and may occur at any time pursuant to the PHA's admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident's transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

7.5. Public Housing as a Temporary Relocation Resource

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA's portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA's Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA's public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD's Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

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as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

7.7. Right-Sizing

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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APPENDIX I: Applicable Legal Authorities

APPENDIX II: Recommended Relocation Plan Contents

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APPENDIX I: Applicable Legal Authorities

Part 1

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires "covered multifamily dwellings," designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act's design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act's design and construction requirements.[100] In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5). HUD's affirmatively furthering fair housing ("AFFH") rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA's fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA's fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.[101]

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[100] *See* 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

[101] For purposes of the AFFH rule, "[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address

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Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons**"** (LEP Guidance), available at: http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf.[102]

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significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

[102] *See also* Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

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Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: "No otherwise qualified individual with a disability in the United States … shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance."[103]

Among other things, HUD's regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.[104] These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD's implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient's facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

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their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

[103] 29 U.S.C. § 794. HUD's Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

[104] 24 C.F.R. § 8.4(b)(5).

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providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

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funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low-and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.[105] The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

[105] For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378.

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Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

Part 2 – Accessibility Requirements

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.[106] All three laws may also require reasonable accommodations or modifications.

Accessibility Requirements for New Construction

The Fair Housing Act requires all "covered multifamily dwellings" designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act's design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act's design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

[106] *See* 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). *See also* 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

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of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.[107] These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.[108]

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a "project" includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.[109] The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).[110] HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD's Notice on "Instructions for use of alternative accessibility standard," published in the Federal Register on May 23, 2014 ("Deeming Notice"). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD's Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.[111] HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.[112]

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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[107] *See* 24 C.F.R. § 100.205.
[108] For more information about the design and construction provisions of the Fair Housing Act, see www.fairhousingfirst.org. See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: www.hud.gov/offices/fheo/library/hudjointstatement.pdf.
[109] *See* 24 C.F.R. § 8.3.
[110] The UFAS are available at https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas). *See also* 24 C.F.R. § 8.32.
[111] *See* 24 C.F.R. § 8.22.
[112] *See* HUD regulation at 24 C.F.R. § 8.22(c).

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comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), http://www.ada.gov/revised_effective_dates-2010.htm.

Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.[113]

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.[114] If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.[115]

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

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[113] *See* 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.
[114] HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).
[115] 24 C.F.R. § 8.23(b).

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regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.[116]

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.[117] This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.[118] Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.[119]

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[116] *See* http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm.
[117] *See* 24 C.F.R. §§ 8.26 and 8.27.
[118] *See* 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.
[119] For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.

APPENDIX II: Recommended Relocation Plan Contents

While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

I. Project Summary

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

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The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

II. Project Occupancy

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

III. Resident Return and Re-occupancy Policies

The Plan should address how the project will honor the RAD right to return requirements and the "no re-screening upon conversion" policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

IV. Temporary Relocation Assistance

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

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residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
    - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
    - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
    - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
    - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
        - Undertake the moves itself, using employees of the PHA or Project Owner or "force account labor"[120]
        - Use a contractor or moving company
        - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA's or Project Owner's plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

[120] Defined at 24 C.F.R. 905.108.

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- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

V. Transfer of Assistance

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

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- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
    - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
    - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
    - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
    - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm.
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

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increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).[121]

VII. Relocation Budget

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

1) The cost of administering the plan and providing assistance and counseling.

2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).

3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

   For temporary relocation moves:
   - Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
   - Number and cost of two-way moves to a unit not in the same building/complex

   For permanent moves:
   - Number and cost of one-time moves into another unit in the same building/complex.
   - Number and cost of one permanent move to a unit not within the same building/complex
   - Any required dislocation allowance

4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).

5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).

6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

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[121] *See also,* CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21st Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

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VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

IX. Appeal Process

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

X. Certification

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

Technical Assistance

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email rad@hud.gov.

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