FY 2023 ANNUAL MTW PLAN





Public Comment Period:

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ANNUAL MTW PLAN SUBMITTED BY:

The Housing Authority of Columbus, Georgia

Leadership Team

Board of Commissioners

Mr. R. Larry Cardin, Chairman
Mr. John Greenman, Vice-Chairman
Mr. Edward Burdeshaw
Mr. John Sheftall
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Senior Management Team

Ms. Lisa Walters, Chief Executive Officer
Ms. Sheila Crisp, Chief Financial Officer
Ms. Sabrina Richards, Chief of Property Management
Mr. John Casteel, Chief Assisted Housing Officer
Ms. Laura Johnson, Chief Real Estate Officer
Ms. Carla Godwin, MTW and Resident Services Administrator

Glossary of Abbreviations and Acronyms

ACC Annual Contributions Contract

ACOP Admission and Continued Occupancy Plan (Public Housing)

Admin Plan Administrative Plan (Housing Choice Vouchers)

AFFH Affirmatively Furthering Fair Housing

AFH Assessment of Fair Housing

AHAB Affordable Housing Accreditation Board

CAPS Childcare and Parent Services (program under GA Department of Early Care and Learning

or DECAL)

CCG Columbus Consolidated Government (City of Columbus AND Muscogee County)

CHAP Commitment to enter into Housing Assistance Payment (subsidy fund change)

CoC Continuum of Care (City of Columbus, Muscogee, and Russell Counties)

Comp Plan Comprehensive Plan (prepared by CCG for long-term planning)

Con Plan Consolidated Plan (prepared by CCG for CDBG and HOME funds)

CoP Contract of Participation (element of the FSS Program)

CSU Columbus State University

DBHDD GA Department of Behavioral Health and Developmental Disabilities

DCA GA Department of Community Affairs

DFCS Division of Family and Children Services (under GA Department of Human Services or DHS)

EHV Emergency Housing Voucher

EOGY End-of-Grant Year

EOY End-of-Year

EVP Emergency Voucher Program

FMR Fair Market Rent (set by HUD annually)

FO Field Office (HACG falls under the Atlanta FO)

FSS Family Self-Sufficiency Program

FTE Fulltime Equivalent

FYE Fiscal Year End

HACG Housing Authority of Columbus, Georgia

HAP(P) Housing Assistance Payment (Program)

HCV Housing Choice Voucher

HFA Housing Finance Agency (DCA is the HFA for Columbus)

Glossary of Abbreviations and Acronyms - continued

HfG Home for Good

HQS Housing Quality Standards

HUD US Department of Housing and Urban Development

IRS Internal Revenue Service (US Department of Treasury)

ITSP Individual Training and Service Plan (element under the FSS Program)

LAMP Local Asset Management Plan

LIHTC Low-Income Housing Tax Credit (disbursed by GA DCA)

LURA Land Use Restrictive Agreement

LURC Land Use Restrictive Covenants

MOA/U Memorandum of Agreement/Understanding

MTW Moving-to-Work Demonstration Program (allows fungibility and flexibility)

NNC Neighborhood Network Center (computer lab or learning lab)

NSV Next Step Voucher

PBCA Performance-Based Contract Administrator

PBRA Project-Based Rental Assistance

PBV Project-Based Voucher

PCA/PNA Physical Condition Assessment/Physical Needs Assessment

PH Public Housing

PHA Public Housing Agency/Assistance Authority

PIC Public and Indian Housing Inventory Management System (formerly known as

Public and Indian Housing Information Center)

PIH Public and Indian Housing

PUC Per Unit Cost

QAP Qualified Allocation Plan (guidelines established by DCA for LIHTC funds)

RAB Resident Advisory Board

RAD Rental Assistance Demonstration Program (converts PH units to PBRA and PBV)

RAD PBV RAD Project-Based Voucher (designation for former PH units/participants)

ROSS Resident Opportunities and Self-Sufficiency

RRV Rapid Rehousing Voucher SCV Second Chance Vouchers

S8 Section Eight (Housing Choice Voucher Rental Assistance Program)

Glossary of Abbreviations and Acronyms - continued

SP Section Nine (Public Housing Rental Assistance Program)

SEMAP Section Eight Management Assessment Program

SRO Single-Room Occupancy Program (Moderate Rehabilitation Certificates)

TBV Tenant-Protection Voucher

TSO Tenant Selection Office

TTP Total Tenant Payment

UA Utility Allowance

UGROW Urban Garden Resources and Organic Wellness

URP Utility Reimbursement Payment

VASH Veterans Affairs Supportive Housing Voucher Program

VAWA Violence Against Women Act

VI-SPDAT Vulnerability Index – Services Prioritization Decision Assistance Tool

VMS Voucher Management System

I. INTRODUCTION

A. Table of Contents

I.	Introduction	
	a. Table of Content vi	
	b. Overview	
	Short-Term Goals and Objectives	
	Long-Term Goals and Objectives	
II.	General Housing Authority Operating Information	
	a. Housing Stock Information	
	b. Leasing Information	
	c. Wait List Information	
III.	Proposed MTW Activities: HUD Approval Requested	
	a. Proposed MTW Activities	
IV.	Approved MTW Activities: HUD Approval Previously Granted	
	a. Implemented Activities	
	b. Not Yet Implemented Activities	
	c. Activities on Hold	
	d. Closed Out Activities	
V.	Sources and Uses of MTW Funds	
	a. MTW Plan: Sources and Uses of MTW Funds	
	b. MTW Plan: Local Asset Management Plan (LAMP)	
	c. MTW Plan: Rental Assistance Demonstration Participation	
VI.	Administrative	
	a. Board Resolution and Certifications of Compliances	
	b. Documentation of Public Process	
	c. Planned and Ongoing Evaluations	
	d. Lobbying Disclosures (SF-LLL) and (HUD-50071)	
VII.	Appendix Section	
	a. Attachment A - Resolution Adopting the Annual MTW Plan and	
	Certifications of Compliance	
	b. Attachment B – Public Process & Comments	
	c. Attachment C – Planned & Ongoing Evaluations	
	d. Attachment D – Forms (SF-LLL) and (HUD-50071)48	
	e. Attachment E – RAD Significant Amendment50	
	1. Attachment 1 – Information on PIH Development to be Converted	
	2. Attachment 2 – Residents Rights, Participation, Waiting List, and Grievance	
	Procedure – PIH Notice 2019-23 Rev 4 Sec 1.6C, 1.6D, Table 1B and PIH Notice	ce
	2016-17 (entirely)	

B. Overview

The Housing Authority of Columbus, Georgia (HACG) was created in 1938 and is a public body, both corporate and politic, governed by a seven-member Board of Commissioners appointed to terms by the Mayor of the Columbus Consolidated Government. HACG is located on the west-central part of the State of Georgia in Muscogee County, approximately 90 minutes southwest of Atlanta and ranks as the third largest city in Georgia. Columbus is home to the U.S. Army Fort Benning and The Maneuver Center of Excellence, has the longest urban whitewater course in the world, and a zipline across the Chattahoochee River. The city has transformed the downtown with restaurants, retail, luxury apartments and hotels.

HACG's Mission Statement:

The mission of the Housing Authority of Columbus, Georgia, is to be the foremost provider of quality, affordable housing in the Columbus region by developing, revitalizing, and managing contemporary housing communities.



HACG is proud to be designated as 1 of the initial 39 MTW agencies. There are currently 80 housing authorities in the MTW program. HACG was designated as an MTW agency in December 2012 and entered into a 5-year MTW Agreement with the US Department of Housing and Urban Development (HUD), effective July 2, 2013. On April 14, 2016, the agreement was extended to the end of HACG's fiscal year 2028. HACG signed the Third Amendment to the Standard MTW Agreement on March 25, 2020. The MTW designation has propelled HACG to accomplish its mission by allowing for redevelopment and RAD conversion. HACG actively supports and encourages other PHAs to participate in the MTW Expansion efforts.

Prior to signing its MTW Agreement with HUD, HACG managed a diverse rental portfolio complete with market-rent units, PH units, Project-Based Rental Assistance (PBRA) units, Project-Based Voucher (PBV) units, Single-Room Occupancy (SRO) certificates, and Tenant-Based Vouchers (TBVs), that addressed various low-income family compositions. Since then, HACG has added Low-Income Housing Tax Credit (LIHTC) units, additional Tenant-Protection Vouchers (TPVs) and Veteran Affairs Supportive Housing (VASH) vouchers to its rental portfolio, which increases programming diversity and complexity.

HACG sponsors and/or supports a Family Self-Sufficiency (FSS) Program, a Section 8 Homeownership Program, multiple Neighborhood Network Centers (NNC), and provides local transportation services for program participants at HACG-owned sites. It also provides all maintenance, management, financial, and administrative services for three small housing authorities located within a 50-mile radius of Columbus, Georgia. These small authorities each have fewer than 80 dwelling units.

In December 2020, HACG was the eighth Public Housing Authority to be awarded the "National Affordable Housing Accreditation" from The Affordable Housing Accreditation Board (AHAB)" and

the fourth MTW agency to receive accreditation. The Accreditation is an award for a five-year period. Housing providers are evaluated on 8 standards and 47 guidelines; each one measuring how effectively the organization's board, leadership and staff meet their mission of providing high quality affordable housing and related services. AHAB accreditation encourages accredited organizations to continuously improve and excel in providing safe, well managed, high quality affordable housing in their communities.

MTW is a national demonstration program authorized by Congress which gives HACG the flexibility to waive certain statutes and HUD regulations pertaining to both housing assistance programs (housing choice vouchers and public housing). The MTW Program provides HACG opportunities to utilize the use of Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families by introducing new innovative ideas to HUD that address at least one of the three MTW statutory objectives.

The objectives are:

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

HACG MTW activities are all designed to promote one or more of the MTW statutory objectives. HACG believes its MTW designation is the result of many years of laying the foundation for innovation at HACG and through the successful management of its housing assistance programs, as well as being an industry innovator. The MTW activities allows HACG to learn if the introduced idea provides a positive or negative impact to the agency and/or to its residents.

HACG provides this document for public inspection/review for all interested parties to share their thoughts and comments. The annual document was available for review and comment from January 19, 2022 through February 18, 2022, at the following locations:

- ◆ The Columbus Public Library, 3000 Macon Road (2nd floor reference desk);
- ◆ HACG's Administrative Offices
 - o Central Office, 1000 Wynnton Road (front desk);
 - o Tenant Selection Office, 1146 Martin Luther King Jr. Boulevard (front desk)
 - o Site Rental Offices, various addresses citywide (front desk)
- ◆ HACG's Facebook: https://www.facebook.com/The-Housing-Authority-of-Columbus-Georgia-110059770673833
- ◆ HACG Website: http://www.columbushousing.org

In addition to the above means to comment on this document, HACG also held Public Hearings/meetings to receive comments on the FY 2023 Annual MTW Plan on the following dates and locations:

- ◆ January 19, 2022, Joint President Council Meeting via Zoom, at 2:00 p.m., Dial 1-646-876-9923 and use passcode 277604 to join the meeting or
 https://us06web.zoom.us/j/81710218820?pwd=K01LQnZvck0vTUQ5VzdVNG0xZzZ4Zz09, Meeting ID: 817 1021 8820 Passcode 277604
- ◆ February 3, 2022, via Zoom, at 11:00 a.m., Dial 1-646-876-9923 and use passcode 914248 to join the meeting or https://us06web.zoom.us/j/82887562335?pwd=blFFbnE5TFJMNG9GOS9MVHdYazNOUT09, Meeting ID: 828 8756 2335 Passcode 914248
- ♦ February 3, 2022, via Zoom at 3:00 p.m., Dial 1-646-876-9923 and use passcode 088630 to join the meeting or https://us06web.zoom.us/j/86042236727?pwd=Ylpmbmg0TTV6ekZoRi9LM3VUeFlNZz09, Meeting ID: 860 4223 6727 Passcode 088630

All comments received prior to February 18, 2022, will be incorporated into the FY 2023 Adopted Annual MTW Plan. During fiscal year 2023 (July 1, 2022 through December 31, 2023), HACG seeks to implement actionable techniques and appropriate strategies to meet stated management goals and objectives listed in its plan.

The Amended 2023 Annual MTW Plan was available for review and comment from May 21, 2023 through June 20, 2023, at the following locations:

- ♦ The Columbus Public Library, 3000 Macon Road (2nd floor reference desk);
- ♦ HACG's Administrative Offices
 - o Central Office, 1000 Wynnton Road (front desk);
 - o Tenant Selection Office, 1146 Martin Luther King Jr. Boulevard (front desk)
 - o Site Rental Offices, various addresses citywide (front desk)
- ◆ HACG's Facebook: https://www.facebook.com/The-Housing-Authority-of-Columbus-Georgia-110059770673833
- ◆ HACG Website: http://www.columbushousing.org

In addition to the above means to comment on this document, HACG also held Public Hearings/meetings to receive comments on the Amendment to the FY 2023 Annual MTW Plan on the following dates and locations:

- ♦ Monday, June 5, 2023, at 11:00 am at Meeting ID: 865 2367 1285

 Dial 1-646-876-9923 to join the meeting or https://us06web.zoom.us/j/86523671285
- ♦ Monday, June 5, 2023, at 2:00 pm Meeting ID: 891 8316 1260 Dial 1-646-876-9923 to join the meeting or https://us06web.zoom.us/j/89183161260

All comments received through June 20, 2023, will be incorporated into the Amended FY 2023 Adopted Annual MTW Plan. During fiscal year 2023 (July 1, 2022 through December 31, 2023), HACG seeks to implement actionable techniques and appropriate strategies to meet stated management goals and objectives listed in its plan

2023 MTW SHORT-TERM GOALS AND OBJECTIVES

- ◆ Maximize use of MTW block-grant with full flexibility
 - Combine all PH operating subsidies, Section 8 HAP funds and capital funds
 - Use combined funds to meet HACG's Strategic Plan goals and MTW Statutory Objectives
- ◆ Collect and analyze data on Approved MTW Activities for external and internal purposes
 - Monitor and track MTW data to complete plans, reports, and surveys
 - Strengthen MTW Activity reviews and recommendations for non-compliant issues
 - Cross reference HUD-approved MTW Activities with published guidance documents to ensure approved MTW Authorizations are relevant and necessary
- ♦ Change Agency's fiscal year
 - HACG received HUD's approval to change the Agency's fiscal year to a calendar fiscal year beginning July 1, 2022.
 - Due to changing the fiscal year end to a calendar, the first year will be 18 months, July 1, 2022 thru December 31, 2023.

APPROVED MTW ACTIVITIES

Activity 2014.02	Innovations to Reduce Homelessness - 150 TBVs for chronically homeless families - MTW Authorization: D.2.a, D.2.b, D.2.c, D.4
Activity 2014.03	Administrative Reforms - Sets asset threshold at \$50k and sets income cap at 50% - MTW Authorization: D.3.a, D.3.b
Activity 2014.04	Administrative Efficiency - Places eligible families on triennial recertification cycle - MTW Authorizations: D.1.c
Activity 2015.02	Portability Restrictions - Limits ports in and out of HACG to employment related reasons - MTW Authorizations: D.1.g
Activity 2015.03	Simplify Utility Allowance Calculation - Creates 3 UA schedules based on rental assistance program - MTW Authorizations: D.2.a
Activity 2015.04	Cap Childcare Deductions - Denies childcare deductions that exceed GA CAPS maximum - MTW Authorizations: C.11, D.2.a
Activity 2016.01	Next Step Vouchers - 10 TBVs for youth aging out of Foster Care MTW Authorization: D.2.d, D.3.a, D.3.b, D.4

Activity 2016.02 Non-Competitive Project-Basing Process - Allows HACG to project-base

assistance without competition - MTW Authorization: D.7.a

Activity 2016.03 Project-Basing Flexibilities - Exceed project-base caps, determine rent

reasonableness, certify HQS on HACG units - MTW Authorization: D.1.e,

D.2.c, D.5

Activity 2018.01 Eliminate/Reduce Interim Certification Examinations - No interims for

Contribution Income only families, 1 interim for all other families - MTW

Authorization: C.11

Activity 2018.02 Site Based Housing Flexibility - Allows HACG to over-house smaller

families in larger units at all non-Public Housing site-based housing and all future TPV's. Allows HACG to provide gap payment assistance, up to the FMR, to the landlord on behalf of the over-housed family – MTW

Authorization: D.1.b, D.2.b

Activity 2019.01 Minimum Rent Increase/Utility Reimbursement Payments (URPs)

Decrease - Increases the minimum rent to \$150 over 2 years, Eliminates processing URPs over 2-year period – MTW Authorizations: C.11, D.2.a

Activity 2020.01 Sponsor-Based Emergency Voucher Program - 24 TBVs for emergency

housing for flooding, fire, natural disasters, and condemned housing – MTW Authorization: Attachment D of MTW Agreement "Use of MTW Funds"

HACG CLOSED MTW ACTIVITIES

Activity 2014.01 Community Choice – MTW Authorizations: D.2.a, D.2.b – Approved in

2015, Implemented in 2015, and Closed in 2019

Activity 2014.05 Streamline HQS Inspections – (Moved to 2016.03) - MTW Authorizations:

D.5 (moved to 2016.03) - Approved in 2014, Implemented in 2015, and

Closed in 2017

Activity 2014.06 Rent Reform (Farley) – MTW Authorizations: C.4, C.11 – Approved in

2014, Implemented in 2014, and Closed in 2018

Activity 2015.01 Eliminate Child Support Income from Rent Calculation – MTW

Authorizations: C.11 – Approved in 2015, Implemented in 2015, and Closed

in 2017

2023 NON-MTW SHORT-TERM GOALS AND OBJECTIVES

HACG submitted a demolition application to SAC on January 23, 2020, for our public housing community known as Chase Homes (GA004000407) and it was approved on May 4, 2020. This demolition is based on environmental issues related to a large power station located adjacent to the site, an active rail line running through the site, and the proximity of the existing residential buildings to a busy thoroughfare (2nd Avenue).

In November 2019, HACG was awarded Low-Income Housing Tax Credits (LIHTC) for the redevelopment of affordable housing at this site. The construction of the new development, The Banks at Mill Village has begun, which will mitigate environmental factors by placing the buildings further away from the power station and rail line. The new development consists of 102 units of mixed-income housing with 91 of those units being rented to low-income families whose incomes are at or below 60% AMI. HACG is working with The Mill District Board in the overall objectives and visions of the Mill District and the City of Columbus for this area of the City. The new development in that area will be the catalyst for additional development of commercial and residential sites. HACG and The Mill District Board were awarded and designated a member of Purpose-Built Communities.

HACG received De Minimis approval to demolish two units in Building C301 (Unit #702G and 702H) at Warren Williams/Rivers Homes (GA004000405). These units are considered obsolete due to substantial physical deterioration as a result of foundation issues that cannot be corrected. Previous attempts to resolve the foundation issues did not alleviate the severe settlement problems at this location. The remaining units will continue with RAD/Section 18 Blend conversion. The conversion will be a straight conversion and disposition with substantial renovations.

HACG received HUD approval on July 30, 2020, to demolish Building 704 consisting of 6 units at Elizabeth F. Canty Homes (GA004000408) due to the building being located in the floodway and could pose a safety risk to the residents and property. The demolition was completed on October 1, 2021. The remaining units will continue with the RAD conversion. The conversion will be a straight conversion and/or disposition with only critical repairs completed.

HACG has two mixed-financed properties with public housing units remaining. These properties were not included in the RAD Portfolio Award because they were constructed following the date of the RAD Portfolio Award. HACG submit RAD applications for Patriot Pointe (24 units) and Columbus Commons (31 units).

HACG signed agreement with In-Fill Housing, Inc., an affiliate of Macon Housing Authority as a General Partner in a Joint Venture to construct and manage a 72 unit elderly complex on Warm Springs Road, Columbus, GA. The new development, Warm Springs Senior Village will consist of the new construction of 72 units of mixed income housing with 64 of those units being rented to low-income families whose incomes are at or below 60% AMI. HACG has awarded 50 regular project-based Section 8 vouchers to the project. The housing will be a mixture project-based Section 8 voucher units (50 units at or below 50% AMI), Low-Income Housing Tax Credit (LIHTC) units (14 units at or below 60% AMI), and market rate units (8 units). The project will also provide supportive services including no cost preventative health care services to residents through a partnership with

Valley Healthcare Systems. Residents will also have access to a Community Garden Program through a partnership with UGROW, Inc. and Columbus Botanical Gardens which will offer nutritional and gardening classes. The construction is expected to be completed by Spring 2023.

The following are HACG plans for additional use of MTW Single Fund Flexibility:

- Expand HACG's affordable housing portfolio by acquisition of or development of affordable housing units
- Utilize MTW funds for extraordinary maintenance, enhanced security, and rehabilitation of HACG controlled existing affordable housing
- Strategically reduce debt at HACG controlled affordable housing in order to maintain financial viability
- Wireless Wi-Fi Infrastructure at all HACG developments
- Use MTW funds or charge the properties for Community Resource Coordinator

MTW LONG-TERM GOALS & OBJECTIVES

- ◆ Position HACG to become designated as a Regional MTW Agency
 - Continue to monitor guidance documents from HUD, Federal Register, PIH Notices etc.
- ◆ Support HUD's efforts in the MTW Expansion
 - Consult/Advise other PHAs of the advantages of the MTW program
- ◆ Introduce new MTW initiatives that meet MTW Statutory Objectives
 - Propose MTW Activities that meet local housing needs
 - Workforce Housing HACG may construct or acquire a development for this purpose
 - Evaluate the need for initiatives for targeted populations
 - o Design a re-entry program, in partnership for ex-offenders
 - o Create a different rent calculation for elderly, employed and similar families
 - o Provide an early childhood education program
 - o Develop incentive initiatives related to education and employment
 - Create incentive and/or preference program for non-traditional "custodial parents"
 - O Develop a program to "graduate" families off assistance to homeownership, affordable market units or workforce housing
 - o Establish an incentive for two parent households
 - o Establish a minimum earned income

NON-MTW LONG-TERM GOALS & OBJECTIVES

To complete the RAD/Section 18 Blend conversion of Warren Williams (GA004000405), HACG will submit a 4% tax credit application to DCA for the rehabilitation and construction of these units.

HACG worked with KB Advisory Group of Atlanta, Georgia as consultants to assist with the modernization of Warren William-Rivers Homes and for the development of the BTW South properties. The team worked with HACG to determine the project goals and objectives, hold stakeholder interviews and public visioning workshops. The team also conducted a site and context analysis, market analysis, preliminary design concepts, evaluate financial sources and uses, and determine financial feasibility. HACG received the final reports and design concepts and is moving forward with these plans. HACG plans to complete the RAD conversion of Canty Homes (GA004000408) at a later date.

The following are HACG plans for additional use of MTW Single Fund Flexibility:

 Expand HACG's affordable housing portfolio by developing affordable housing units on the property acquired.

(II.) GENERAL OPERATING INFORMATION

ANNUAL MTW PLAN

A. 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) NAME AND NUMBER	BEDROOM SIZE				POPULATION TYPE*	# of Uniform Federal Accessibility Standards (UFAS) Units				
	0/1	2	3	4	5	6+	CIVIIO		Fully Accessible	Adaptable
N/A	0	0	0	0	0	0	0	Type (below)	0	0
N/A	0	0	0	0	0	0	0	Type (below)	0	0
N/A	0	0	0	0	0	0	0	Type (below)	0	0

Total Public Housing Units to be Added in the Plan Year

0

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

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

N/A

ii. 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
GA004000405 Warren Williams	184	Public Housing (PH) units planned for removal from PH stock are planned to be converted to long-term Section 8 assisted Project-Based Voucher (PBV) units under the RAD/Section 18 Blend SAC Disposition Approval. 2 units were approved for De Minimis demolition by HUD
GA004000408 Elizabeth Canty	243	Public Housing (PH) units planned for removal from PH stock are planned to be converted to long-term Section 8 assisted Project-Based Voucher (PBV) units under the RAD Program and/or SAC Demolition Approval.
GA004000423 Patriot Pointe	24	Public Housing (PH) units planned for removal from PH stock are planned to be converted to long-term Section 8 assisted Project-Based Voucher (PBV) units under the RAD Program.
GA004000424 Columbus 31 Commons		Public Housing (PH) units planned for removal from PH stock are planned to be converted to long-term Section 8 assisted Project-Based Voucher (PBV) units under the RAD Program.

482

Total Public Housing Units to be Removed in the Plan Year

iii. 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 (AHAP) 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
Canty Homes	243	Yes	RAD conversion, Demolition
Warren Williams	184	Yes	182 units RAD/Section 18 Blend conversion; 2 units De Minimis
The Banks at Mill Village	76	No	HCV PBV
Warm Springs Senior Village	50	No	HCV PBV
Patriot Pointe	24	Yes	RAD conversion
Columbus Commons	31	Yes	RAD conversion

608

Planned Total Vouchers to be Newly Project-Based

iv. Planned 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. 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
(GA004000406) Luther Wilson	288	288	YES	RAD PBV Units
(GA004000410) E.E. Farley	102	102	YES	RAD PBV Units
(GA004000412) Brown Nicholson	100	100	YES	RAD PBV Units
(GA004000416) E.J. Knight - Senior	40	40	YES	RAD PBV Units
(GA004000417) E.J. Knight - Family	52	52	YES	RAD PBV Units
(GA004000418) Ashley Station – Phase I	73	73	YES	RAD PBV Units
(GA004000418) Ashley Station – Phase II	73	73	YES	RAD PBV Units
(GA004000420) Arbor Pointe I	93	93	YES/NO	18 RAD PBV Units. 75 HCV PBV Units
(GA004000421) Arbor Pointe II	93	93	YES/NO	18 RAD PBV Units, 75 HCV PBV Units
(GA004000422) Cottages @ Arbor Pointe	120	120	YES/NO	19 RAD PBV Units, 101 HCV PBV Units
(GA004000423) Patriot Pointe	71	71	NO	HCV PBV Units
(GA004000424) Columbus Commons	60	60	NO	HCV PBV Units
(GA004000630) Willow Glen	28	28	NO	HCV PBV Units
	1193	Planned Total Existing P	roject-Based	d Vouchers

Select "Planned Status at the End of Plan Year" from: Committed, Leased/Issued

v. 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

HACG received SAC approval for the Chase Homes demolition application and also received 108 tenant protection vouchers to relocate the residents. The demolition began in December 2020 and was completed in April 2021. The construction for the new development, The Banks at Mill Village, has begun on the original Chase site away from the power station, rail line, and 2nd Avenue. Chase residents will have a preference to return to The Banks at Mill Village. The expected completion date is October 2022. HACG is working with the Mill District Board in the overall objectives and visions of the Mill District and the City of Columbus for this area of the City. The new development in the area will be a catalyst for additional development of commercial and residential sites. HACG and The Mill District Board were awarded and designated a member of Purpose-Built Communities.

HACG received HUD approval on July 30, 2020, to demolish Building 704 consisting of 6 units at Elizabeth F.

Canty Homes due to the building being located in the floodway and could pose a safety risk to the residents and property. The demolition of the building was completed on October 1, 2021.

HACG received de minimis approval to demolish two units in Building C301 (Unit #702G and 702H) at Warren Williams/Rivers Homes (GA004000405). These units are considered obsolete due to substantial physical deterioration as a result of foundation issues that cannot be corrected. Previous attempts to resolve the foundation issues did not alleviate the severe settlement problems at this location.

HACG anticipates the possibility of acquiring property or building a workforce housing community focused on providing subsidized housing for "working poor" families.

vi. 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.

GENERAL DESCRIPTION OF ALL PLANNED CAPITAL EXPENDITURES DURING THE PLAN YEAR

HACG's Capital Fund (CFP) totals about \$2.1M, where the balance of the CFP total will be committed/obligated to RAD Projects II and III. Expenditures may include costs associated with the modernization of Williams and Canty necessary to rehabilitate the sites to meet RAD or RAD/Section 18 Blend requirements. Expenditure plans include Section 8 landlord payments and other expenditures related to converting PH units under RAD or RAD/Section 18 Blend and/or specialty consulting services, such as environmental testing, survey and legal work, code research, and other activities necessary to complete the RAD or RAD/Section 18 Blend portfolio conversion. Also, expenditures may include the purchase and renovation of a new Section 8 office. Finally, CFP planned expenditures may include physical improvements, enhanced security, management improvements, Agency-wide non-dwelling structures and equipment, administrative and operation fees, and costs, as well as preventative and routine maintenance to dwelling structures Agency-wide, minor pre- and post-construction costs for preliminary and completed project plans as well as Gap financing for new developments.

B. LEASING INFORMATION

i. 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	7,254	403
MTW Housing Choice Vouchers (HCV) Utilized	61,560	3,420
Local, Non-Traditional: Tenant-Based^	0	0
Local, Non-Traditional: Property-Based^	0	0
Local, Non-Traditional: Homeownership^	0	0

Planned Total Households Served 68,814 3,823

- * "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 HOUSEHOLDS TO BE SERVED*
Tenant-Based	N/A	0	0
Property-Based	N/A	0	0
Homeownership	N/A	0	0

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

ii. 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	Leasing issues due to COVID-19, eviction moratorium and past debts to landlords and utilities. Higher number of vacancies at one time and not enough maintenance staff to quickly turn the units. Also, long lead time to receive supplies and services from venders and contractors. Short-term solution for vacancy turnaround time will be to contract with an outside vendor for the necessary vacancy preparation.
MTW Housing Choice Voucher	The rental market is saturated partially due to eviction moratorium, therefore making it more difficult to find affordable housing. Landlords' unwillingness to show vacant units because of COVID risks of willingness to leave a unit vacant because of eviction moratorium. Repairs to units taking longer due to contractors obtaining supplies. Also, some landlords are selling property and no longer leasing. Short Term solution consist of: HACG has raised its payment standards to 110% and is granting extensions, as necessary. Hired two additional personnel to assist with decreasing the timeframe for the issuing and leasing of vouchers. Wait list will open in April 2022. Long term solution consists of: Advertising for new landlords as well as looking at the possibilities for landlord incentives.
Local, Non-Traditional	N/A

C. WAITING LIST INFORMATION

i. Waiting List Information Anticipated

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

WAITING LIST NAME	DESCRIPTION	NUMBER OF HOUSEHOLDS ON WAITING LIST	WAITING LIST OPEN, PARTIALLY OPEN OR CLOSED	PLANS TO OPEN THE WAITING LIST DURING THE PLAN YEAR
Federal MTW Housing Choice Vouchers	Community-wide	265	Closed	Yes
MTW Rapid Rehousing Vouchers; MTW Next Step Vouchers	Program Specific	0	Partially Open	Yes
Federal MTW Public Housing Units; Converted PH Units to RAD Project- Based Vouchers	Merged	6684	Open	Yes

Please describe any duplication of applicants across waiting lists:

Applications for Public Housing may also be included on the RAD Community wide PBV Waitlist.

ii. 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
MTW HCV Wait List	MTW HCV Wait List may open temporarily in fiscal year (2022 and 2023)
N/A	N/A

III. PROPOSED MTW ACTIVITIES: HUD APPROVAL REQUESTED

2023.01 - Second Chance Vouchers

A. Activity Description

i. Describe the Proposed Activity

HACG proposes this activity to avoid the possibilities of ex-offenders becoming homeless by providing them an opportunity to secure an affordable, decent place to live. Research shows that people who lack stable housing following incarceration face a higher likelihood of rearrest and reincarceration. Research also shows where former prison inmates are almost 10 times more likely to become homeless than the general population. On the other hand, a stable home can serve as the foundation upon which returning citizens can rebuild their lives, obtain employment, improve their health, and achieve recovery.

Secretary Fudge released a statement on June 23, 2021. She sent a letter to PHA's, Continuums of Care, multifamily owners, and HUD grantees stating that returning citizens who are at-risk of homelessness are among the eligible populations for the emergency housing vouchers (EHV) and encouraged PHA's and their Continuum of Care partners to ensure that eligible returning citizens are given consideration for these vouchers. HACG received 43 EHV's.

An excerpt from Secretary Fudge's letter.....

"The President and I believe that everyone deserves a second chance and a stable home from which to rebuild their lives. No person should exit a prison or jail only to wind up on the streets. To that end, HUD is committed to taking a comprehensive approach to addressing the housing needs of returning citizens and people with criminal records, and by doing so, increasing public safety within our communities. Addressing re-entry housing needs also furthers the Biden Administration's commitment to advance equity and reverse systemic racism, given the racial disparities evident in the criminal justice system."

The Columbus Sheriff's Office administers a Re-Entry Programming which prepares the releasing inmates for a successful exiting from the institution. They work with the Mayor's Commission on Re-Entry Sub Committee whose purpose is to coordinate local efforts to support the returning resident adults being released to a Muscogee County residency from an existing local and state incarceration facilities in Columbus and statewide. Currently the newly-released inmates are able to receive essential opportunities through existing local organizations like Safehouse Ministries, United Way of the Chattahoochee Valley, Continuum of Care, and 211, as well as countless housing and service providers. HACG proposes to set-aside funding based on a one bedroom payment standard for assistance in housing returning citizens who are actively engaged in services and programs in the community aimed at reducing recidivism and increasing economic and social upward mobility. HACG will also follow the terms of PIH Notice 2011-45. The housing vouchers will be sponsor based between HACG and Home for Good (HfG). HfG will obtain access and referral through their partnership with the Mayor's Commission on Re-Entry Sub Committee in collaboration with the Continuum of Care Coordinated Entry system.

The Second Chance Vouchers (SCV) will be based on low income limits and have a lease term expiration of two years with the waiver of no re-examination. The voucher will have a flat rate subsidy of up to \$724 (FY 2022 FMR for one bedroom) per month to be paid to HfG. HfG will in turn apply the funding to participants rent and/or utilities each month. By creating a partnership with HfG and providing subsidy dollars to assist otherwise eligible individuals, HACG helps the provider extend the reach of their service dollars thereby supporting the overall success of the participant that is housed.

Participants that receive a Second Chance Voucher are required to have active case management for the full 24 months. There is a minimum of 12 visits per year with 80% of the visits in the participant's home. In order for the participant to continue to receive assistance for the full 24-month term they must meet the following guidelines:

- 1. Comply with case management requirement for the minimum period established
- 2. Keep at least 80% of scheduled appointments with case manager
- 3. Keep all appointments with the medical/mental health doctor, as applicable
- 4. Keep the rental unit clean and in good condition
- 5. Report changes in income or family composition to the case manager and the Housing Authority within 10 business days
- 6. Actively seek and gain monthly income within the first 12 month period.

At the end of the two year term the voucher will expire. The participant shall undergo an assessment 90 to 120 days prior to the completion of the 24 months of rental assistance. The assessment is used to evaluate eligibility for ongoing rental assistance. Should the participant still meet income eligibility and other eligibility requirements, they may be referred to the Coordinated Entry for referral to other programs for those at imminent risk of homelessness.

ii. Describe How the Proposed Activity Will Achieve One or More of the three Statutory Objectives and the Specific Impacts on That Statutory Objective(s)

This activity will support the MTW statutory objective to increase housing choice for low-income individuals/families by providing housing opportunities for ex-offenders who would otherwise face challenges in finding affordable housing due to screening issues and other obstacles as a result of their prior history.

iii. Provide the Anticipated Schedule for Implementing the Proposed Activity

HACG anticipates the following implementation schedule:

- Between July 1, 2022 and December 31, 2023
 - o Sign Sponsor-Based MOU between HACG and HfG
 - o Issue vouchers as needed

B. Activity Metrics Information:

i. Provide the Metrics from the "Standard HUD Metrics"

SS #1: Increase in Household Income

SS #3: Increase in Positive Outcome in Employment Status

SS #8: Households Transitioned to Self Sufficiency

HC #5: Increase in Resident Mobility

HC #7: Households Assisted by Services that Increase Housing Choice

ii. Give the Baseline Performance Level for each Metric Prior to the Implementation of the Proposed Activity

SS #1: Increase in Household Income

Unit of	Baseline	Benchmark	Outcome	Benchmark Achieved?			
Measurement							
Average earned	Average earned	Expected average earned	Actual average earned	Whether the outcome			
income of	income of households	income of households	income of households	meets or exceeds the			
households affected	affected by this policy	affected by this policy	affected by this policy	benchmark.			
by this policy in	prior to	prior to implementation	prior to implementation				
dollars (increase).	implementation of the	of the activity (in dollars).	(in dollars).				
	activity (in dollars).						

SS#3: Increase in Positive Outcomes in Employment Status

55#5. Therease in 1 ostuve Outcomes in Employment Status					
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark	
				Achieved?	
Report the following	Head(s) of households	Expected head(s) of	Actual head(s) of	Whether the outcome	
information separately	in < <category name="">></category>	work-able households in	work-able households	meets or exceeds the	
for each category:	prior to implementation	< <category name="">></category>	in < <category< th=""><th>benchmark.</th></category<>	benchmark.	
	of the activity (number).	after implementation of	name>> after		
(1) Employed Full- Time	This number may be	the activity (number).	implementation of the		
(2) Employed Part- Time	zero.		activity (number).		
(3) Enrolled in an			, ,		
Educational Program					
(4) Enrolled in Job	Percentage of total	Expected percentage of	Actual percentage of	Whether the outcome	
Training Program	work-able households in	total work-able	total work-able	meets or exceeds the	
(5) Unemployed	< <category name="">></category>	households in	households in	benchmark.	
(6) Other	prior to implementation	< <category name="">></category>	< <category name="">></category>		
	of activity (percent).	after implementation of	after implementation		
	This number may be	the activity (percent).	of the activity		
	zero.		(percent).		

SS #8: Households Transitioned to Self Sufficiency

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households	Households	Expected households	Actual households	Whether the
transitioned to self-sufficiency	transitioned to self-	transitioned to self-	transitioned to self-	outcome meets or
(increase). The PHA may	sufficiency (< <pha< th=""><th>sufficiency (<<pha< th=""><th>sufficiency (<<pha< th=""><th>exceeds the</th></pha<></th></pha<></th></pha<>	sufficiency (< <pha< th=""><th>sufficiency (<<pha< th=""><th>exceeds the</th></pha<></th></pha<>	sufficiency (< <pha< th=""><th>exceeds the</th></pha<>	exceeds the
create one or more definitions	definition of self-	definition of self-	definition of self-	benchmark.
for "self-sufficiency" to use for	sufficiency>>) prior	sufficiency>>) after	sufficiency>>) after	
this metric. Each time the	to implementation of	implementation of the	implementation of the	
PHA uses this metric, the	the activity (number).	activity (number).	activity (number).	
"Outcome" number should	This number may be			
also be provided in Section (II)	zero.			
Operating Information in the				
space provided.				

HC #5: Increase in Resident Mobility

Unit of	Baseline	Benchmark	Outcome	Benchmark Achieved?
Measurement				
Number of	Households able to	Expected households able	Actual increase in	Whether the outcome
households able to	move to a better unit	to move to a better unit	households able to move	meets or exceeds the
move to a better unit	and/or neighborhood	and/or neighborhood of	to a better unit and/or	benchmark.
and/or	of opportunity prior	opportunity after	neighborhood of	
neighborhood of	to implementation of	implementation of the	opportunity after	
opportunity as a	the activity (number).	activity (number).	implementation of the	
result of the activity	This number may be		activity (number).	
(increase).	zero.			

HC #7: Households Assisted by Services that Increase Housing Choice

11C #7. 11ouseholds Assisted by Services that Increase 11ousing Choice					
Unit of	Baseline	Benchmark	Outcome	Benchmark Achieved?	
Measurement					
Number of	Households receiving	Expected number of	Actual number of	Whether the outcome	
households receiving	this type of service	households receiving	households receiving	meets or exceeds the	
services aimed to	prior to	these services after	these services after	benchmark.	
increase housing	implementation of the	implementation of the	implementation of the		
choice (increase).	activity (number).	activity (number).	activity (number).		
	This number may be				
	zero.				

iii. Give the Annual Benchmark for Each Metric:

Annual Benchmark

Annual Denchmark					
Unit of Measurement	Baseline	FY2024	FY202 5	FY202 6	FY2027
Average earned income of households affected by this policy in dollars (increase).	TBD	TBD	TBD	TBD	TBD
Percentage of total work-able households in <i>Employed Full-Time</i> prior to implementation of activity (percent). This number may be zero.	TBD	TBD	TBD	TBD	TBD
Percentage of total work-able households in <i>Employed Part-Time</i> prior to implementation of activity (percent). This number may be zero.	TBD	TBD	TBD	TBD	TBD
Percentage of total work-able households in <i>Unemployed</i> prior to implementation of activity (percent). This number may be zero.	TBD	TBD	TBD	TBD	TBD
Number of households transitioned to self-sufficiency (increase). The PHA may create one or more definitions for "self-sufficiency" to use for this metric. Each time the PHA uses this metric, the "Outcome" number should also be provided in Section (II) Operating Information in the space provided.	TBD	TBD	TBD	TBD	TBD
Number of households able to move to a better unit and/or neighborhood of opportunity as a result of the activity increase	TBD	TBD	TBD	ТВО	TBD
Number of households receiving services aimed to increase housing choice (increase).	TBD	TBD	TBD	TBD	TBD

iv. If Applicable, Give the Overall and/or Long-Term Benchmark(s) for Each Metric:

The overall and/or long-term benchmarks will be determined after the first year of implementation of the activity.

v. Give the Data Source from which Metric Data will be Compiled:

HACG will use data collected from Yardi housing software as well as reports provided by Home for Good.

C. Cost Implication

i. State Whether the Proposed Activity Will Result in any Cost Implications (Positive and/or Negative) for the MTW PHA.

The cost of <u>each</u> voucher of this activity for a one-month period is \$724. The maximum amount if all 10 vouchers are utilized the entire twenty-four-month period, the cost will be \$173,760.

ii. If the Proposed Activity Does Result in Cost Implications, Provide an Estimate of the Amount and Discuss How the MTW PHA will Manage the Surplus or Deficit Anticipated:

The cost of <u>each</u> voucher of this activity for a one-month period is \$724. If the entire twenty-fourmonth period is utilized the cost will be \$17,376 per voucher. The maximum amount if all 10 vouchers set-aside for this activity are utilized for the entire twenty-four-month period, will cost HACG \$86,880 per year, giving total of \$173,760 for the full lease term. This represents only <1% of the HAP budget authority. HACG does not anticipate using all 10 vouchers the first year; but HACG desires to set-aside 10 in case of the need.

D. Need/Justification for MTW Flexibility

i. Cite the Authorization(s) that Gives the MTW PHA Flexibility to Conduct the Proposed Activity:

Attachment D of the MTW Agreement signed July 3rd, 2013, allows "Use of MTW Funds", which authorizes HACG to utilize funds to support the proposed Second Chance Voucher Activity.

"The Agency may use MTW Funds to provide housing assistance for low-income families, as defined in section 3(b)(2) of the 1937 Act, and services to facilitate the transition to work, whether or not any such use is authorized by Section 8 or i9 of the 1937 Act, ..." (Attachment D, Page 4)

ii.. Explain Why the Cited Authorization(s) is/are Needed to Engage in this Activity:

Requested authorizations are needed in order for HACG to extend vouchers to families requiring housing enrolled in the Re-Entry Programming Program through the Columbus Sheriff Office:

- Establish partnership with a sponsor
- Adopt a flat rate for the voucher;
- Set term limits of the vouchers;
- Verify family income and composition quickly;
- Modify the wait list in order to housing second chance vouchers quickly.

E. Additional Information for Rent Reform Activities:

This activity does not meet the rent reform definition.

IV. APPROVED MTW ACTIVITIES

A. Implemented MTW Activities

Activity 2014.02	Innovations to Reduce Homelessness - MTW Authorization: D.2.a, D.2.b, D.2.c, D.4 – Approved: 2014 – Implemented: 2014 – Amended: 2020
Activity 2014.03	Administrative Reforms - MTW Authorization: D.3.a, D.3.b – Approved: 2014 – Implemented: 2014 – Amended: N/A
Activity 2014.04	Administrative Efficiency - MTW Authorizations: D.1.c – Approved: 2014 – Implemented: 2014 – Amended: N/A
Activity 2015.02	Portability Restrictions - MTW Authorizations: D.1.g – Approved: 2015 – Implemented: 2016 – Amended: N/A
Activity 2015.03	Simplify Utility Allowance Calculation - MTW Authorizations: D.2.a – Approved: 2015 – Implemented: 2015/2016 – Amended: N/A
Activity 2015.04	Cap Childcare Deductions - MTW Authorizations: C.11, D.2.a – Approved: 2015 – Implemented: 2015 – Amended: N/A
Activity 2016.01	Next Step Vouchers - MTW Authorization: D.2.d, D.3.a, D.3.b, D.4 – Approved: 2016 – Implemented: 2018 – Amended: N/A
Activity 2016.02	Non-Competitive Project-Basing Process - MTW Authorization: D.7.a – Approved: 2016 – Implemented: 2018 – Amended: N/A

Activity 2016.03 Project-Basing Flexibilities - MTW Authorization: D.1.e, D.2.c, D.5 –

Approved: 2016 - Implemented: 2018 - Amended: 2019

Activity 2018.01 Eliminate/Re-duce Interim Certification Examinations - MTW

Authorization: C.11 – Approved: 2018 – Implemented: 2019 – Amended: N/A

Activity 2018.02 Site Based Housing Flexibility - MTW Authorization: D.1.b, D.2.b –

Approved: 2018 - Implemented 2019 - Amended: 2019, 2020, and 2021

Activity 2019.01 Minimum Rent Increase/Utility Reimbursement Payments (URPs)

Decrease - MTW Authorizations: C.11, D.2.a – Approved: 2019 –

Implemented: 2019 – Amended: 2019

Activity 2020.01 Sponsor-Based Emergency Voucher Program - MTW Authorization:

Attachment D of MTW Agreement "Use of MTW Funds" - Approved: 2020 -

Implemented: 2020 – Amended: N/A

2014.02 Innovations to Reduce Homelessness

This activity currently sets aside 150 tenant based vouchers (TBVs) that links permanent supportive housing to supportive services for chronically homeless families as a top preference. Secondary preference is homeless individuals or individuals who are living in a place not meant for human habitation or in an emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided up to 90 days. The activity includes a tiered rent schedule, minimum rent waiver and selection preference to the targeted group. Also, HACG is interested to learn if housing stability positively impacts household income, earned income and other socio-economic categories.

Order of preference:

- 1. Chronically homeless veterans
- 2. Chronically homeless individuals
- 3. Homeless veterans
- 4. Homeless individuals

In addition, the activity places a special emphasis on military veterans, where veterans are a priority preference and newly employed veterans are eligible for employment incentives.

Employment incentives for veterans include:

◆ Waiving the minimum rent to assist veterans in focusing on employment (first 12 months)

Employment incentives for "unemployed" veterans that gain employment while in the "program" include:

- ◆ Employment tiered rent calculation (Veterans only)
 - o 26% rent calculation for 12 months year 1
 - o 27% rent calculation for 12 months year 2

- o 28% rent calculation for 12 months year 3
- o 29% rent calculation for 12 months year 4
- o 30% rent calculation for 12 months year 5

HACG plans to reduce the number of TBVs available from 150 to 100 effective July 1, 2022. Currently there are an average of 75 leased; therefore, the need for this type of voucher has decreased. HACG anticipates the following for the Innovations to Reduce Homelessness Activity in FYE 2023:

- ◆ There were non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ♦ No significant changes to this activity

2014.03 Administrative Reforms (HCV Only)

This activity is designed to improve operational efficiencies and reduce operational costs by streamlining the rent calculation process and increase housing choices for program participants.

The activity supports the creation of forms necessary to self-certify assets at the local level. Self-certification of assets is permitted after the initial verification. Assets are subject to random verification. Additionally, this activity allows families to use more of their income (up to 50%) towards their rental amount.

HACG initiated procedures to close-out the PH elements in its 2017 Annual MTW Report due to RAD conversions using Low-Income Housing Tax Credit funds.

HACG anticipates the following for the Administrative Reforms Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2014.04 Administrative Efficiencies (HCV Only)

This activity is designed to improve operational efficiencies and reduce operational costs by introducing a triennial recertification cycle for elderly/disabled families. The opportunity to place elderly/disabled families on a triennial recertification cycle is determined on the head-of-household's (HOH) designation and the household income source(s).

Activity metrics are being tracked and reported in HACG's Annual MTW Report. Originally, this activity included public housing element, which has become functionally obsolete due to RAD conversion using Low-Income Housing Tax Credit funds.

Currently, HACG continues to conduct "mini-interims" on off-year program participants to reduce "sticker shock" related to rent changes 3-years later. HACG continues to conduct full certification examinations during participants scheduled triennial period.

HACG anticipates the following for the Administrative Efficiencies Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ♦ No modifications to the metrics during the period
- ♦ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2015.02 Portability Restrictions

This activity restricts the movement of vouchers into and out of HACG's service jurisdiction. Voucher portability is limited to verifiable employment related reasons. The combined actions of "porting" to higher cost-of-living jurisdictions and voucher holders' lower earnings, limited HACG's ability to issue more vouchers and assist families in its own jurisdiction.

Verifiable employment may include the following:

- ♦ A letter of intent to employ (job offer letter), reassign, transfer, and similar
- ◆ Permanent Change of Station (PCS) orders, transfer orders, and similar
- ◆ Document on company letterhead, which will assist HACG in deciding the acceptance of ports in or out of Columbus, GA

Families may lose their rental assistance if a loss of employment occurs at the new location within the first six-months or before agency absorption occurs.

Hardship requests are reviewed on a case-by-case basis in accordance with HACG's Hardship Policy. HACG will grant ports in cases of Violence Against Women Act (VAWA) and to meet reasonable accommodations.

HACG anticipates the following for the Portability Restrictions Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ♦ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2015.03 Simplify Utility Allowance Calculation

This activity streamlines the rental calculation process with a simplified Utility Allowance Schedule (UA) used throughout all the different rental assistance portfolio of HACG. The activity supports a UA schedule for 3 rental assistance programs in HACG portfolio:

- ◆ HCV (PBV and TBV)
- ◆ PH and RAD PBV
- ♦ Mixed Financed Sites (HUD UA Schedule)

Activity metrics are being tracked and reported in HACG's Annual MTW Report. The agency actively uses the UA Schedules and transitions schedules between programs due to the PH conversion to RAD PBVs.

HACG anticipates the following for the Simplify Utility Allowance Calculation Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2015.04 Cap Childcare Deduction

This activity modifies applicable rules and regulations necessary to limit the amount of childcare deduction able to be taken by program participants. The activity allows HACG to place a cap on childcare deductions in line with the Georgia Childcare and Parent Services (GA CAPS) reimbursement amounts. GA CAPS helps low-income families afford safe, and quality childcare by subsidizing childcare costs for children under the age of 13.

Childcare costs that exceed GA CAPS reimbursement amounts are reduced to categorical maximum amounts filtered by age. Hardship requests are addressed on a case-by-case basis in accordance with the Hardship Policy.

Families continue to furnish proof of their out-of-pocket childcare expenses and HACG staff simply verifies that provided costs are in-line with GA CAPS based on the child's age and service provider. HACG's rental assistance departments are charged with maintaining an updated GA CAPS chart.

HACG anticipates the following for the Cap Childcare Dependent Deduction Activity in FYE 2023:

- ♦ No non-significant changes to this activity
- ♦ No modifications to the metrics during the period
- ♦ No different authorizations are needed to implement this activity than originally proposed
- ♦ No significant changes to this activity

2016.01 Next Step Vouchers

This activity modifies applicable rules and regulations necessary to dedicate up to 10 TBVs for clients of the Georgia Department of Human Services (GA DHS), Division of Family and Children Services

(DFCS) office. The referrals and required verification are through Home for Good. The activity serves as a homelessness prevention tool for youth aging out of Foster Care.

The following are requirements of the participants:

- ◆ Foster youth must begin, continue, and/or maintain appointments and case management visits with social service providers.
- ♦ Vouchers expire in 36 months or age 23, whichever comes first.
- ♦ Foster youth must meet 20-hour/week work requirement.
 - o Work an average of 20-hours per week; and/or
 - o Attend school an average of 20-hours per week; and/or
 - o Attend job training course an average of 20-hours per week.

Foster youth are required to exhaust DFCS resources first before being issued a Next Step Voucher (NSV). The primary intent is to ensure Foster youth are stabilized and ready to receive TBV.

HACG anticipates the following for the Next Step Vouchers (NSV) Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2016.02 Non-Competitive Project-Basing Process

This activity modifies applicable rules and regulations as necessary to project-base Section 8 rental assistance at HACG owned (direct & indirect ownership) properties without competition.

Under this activity, HACG implemented plans to project-base Section 8 rental assistance at properties it redeveloped which are Patriot Pointe and Columbus Commons. HACG will also use this activity for newly constructed housing and substantially rehabilitated properties to receive subsidy.

HACG will apply activity elements to convert the 55 PH units at Patriot Pointe and Columbus Commons after fiscal year 2021.

HACG anticipates the following for the Non-Competitive Project-Basing Process Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ♦ No significant changes to this activity

2016.03 Project-Basing Flexibilities

This activity allows HACG to modify its HCV Program guidelines. HACG can project-base more than 25% (or in the case of the RAD Program, more than 50%) of the building cap. Also, HACG is allowed to determine rent reasonableness at HACG-owned (direct and indirect ownership) and allows HACG to certify housing at HACG-owned units.

When PHAs exceed the 25% per building cap (or 50% cap on RAD buildings) on PBV units with Section 8 rental assistance in an existing building in multi-family communities, there is a supportive services requirement attached to the current PBV regulations for exceeding these caps. Under this activity HACG can project-base up to 100% of a building's units, as well as waive the participation requirement of families in the "excepted" units.

Currently, HACG offers limited Supportive Services at the RAD developments. HACG understands that supportive services must be available, and the families are aware of and strongly encouraged to participate in offered services; however, it is noted that participation by families living in "excepted" units is not mandatory, nor required.

HACG anticipates the following for the Project-Basing Flexibilities Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2018.01 Eliminate/Reduce Interim Certification Examinations

This activity allows HACG to modify its Housing Choice Voucher (HCV) and Public Housing (PH) Programs guidelines to increase staff productivity, assist program participants in the preparation for market-rate units, and to eliminate a growing concern of program participants reporting a loss of income shortly after completing and intake and/or annual certification examination.

To accomplish this activity, HACG has implemented the following:

- ♦ Eliminated interim certification examinations on Contribution Income
- ◆ Program participants that report contribution income cannot report a loss of contribution income for 12 months
- ◆ Limited program participants to 1 interim certification examination annually for all other income related adjustments (after 90 days or before 90 days of annual re-certification)

In March 2020, Centers for Disease Control and Prevention (CDC) responded to a pandemic of respiratory disease spreading from person-to-person caused by a new coronavirus which they named Coronavirus Disease 2019 (COVID-19) This situation poses a serious public health risk. The federal,

state, and local governments encouraged people to stay home and away from large gatherings of 10 or more. Several businesses are taking precaution and closed for two weeks and possibly longer in order to lessen the spread of the disease, which results in many of our residents without work. As of January 2021, COVID-19 still poses a serious risk to public health and continues to impact the employment.

HACG updated the Hardship Case Criteria to include language regarding any health/economic hardships associated with COVID-19, see item D. below. HACG continues to address hardship requests on a case-by-case basis according to the Hardship Policy.

HARDSHIP CASE CRITERIA

HACG will consider extenuating circumstances on a case-by-case basis in which households reporting Contribution Income may be exempted or temporarily waived from these new rent determination rules that include the following:

- A. HACG will consider temporarily waiving requirements from these new rent determination rules for program participants when program participants citing Contribution Income as their sole source of income produce evidence that the Contribution Income provider is medically incapacitated. The family's contributor's incapacities must be for an extended period (30+ consecutive days) that directly impacts the contributor's ability to maintain agreed upon monthly contribution. The loss of such contribution must directly impact a family's independent living needs, such as shelter, food, utilities, and/or similar expenses.
 - HACG reserves the right to analyze the impact of the contribution to social service benefits, subsidy level, and other circumstances in its calculation to determine length of time and/or reduction in family's fair share of rent.
- B. HACG will consider exemption of requirements from these new rent determination rules for program participants when program participants citing Contribution Income as their sole source of income produce evidence that the Contribution Income provider is deceased. The family has 15-days from contributors passing to provide HACG with the proper documents. HACG will consider retroactive changes when proper documentation within the timeframe is provided. When a family provides the documentation after 15-days, the family remains responsible for their fair share of the rent until changes are made. HACG will make rent changes effective within the standard 30-day timeframe.
 - HACG reserves the right to analyze the impact of the contribution to social service benefits, subsidy level, and other circumstances in its calculation to determine the length of time and/or reduction in the family's fair share of rent.
- C. HACG will not consider hardship cases under this activity when other income sources are included in the rent calculation as a result of the eligibility interview/certification process.
- D. HACG will consider temporarily waiving requirements from the rent determination rules for program participants experiencing a reduction in income or work hours as a result of any health/economic hardships associated with COVID-19.

HACG anticipates the following for the Eliminate/Reduce Interim Certification Examinations Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ♦ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2018.02 Site-Based Housing Flexibility

This activity allows HACG to over-house eligible, qualified low-income families at all non-Public Housing site-based housing developments as well as Tenant Protection Vouchers (TPV) awarded to HACG for Ralston Towers residents and provide rental payment assistance for over-housed families to the landlord for the difference between assigned unit size and the eligible family's income means and/or voucher amount up to 120% of the Fair Market Rent (FMR) of the assigned bedroom unit at defined sites until an appropriate sized family becomes available to occupy that assisted unit.

Under this activity, HACG significantly improves the use of federal dollars and reducing vacancies. HACG offers unoccupied, large unit to smaller eligible, qualified families with limited housing options and limited resources.

For all non-Public Housing site-based housing developments once an appropriately sized family and right-size unit becomes available that meets the accommodation needs of the incumbent family, HACG will issue a 30-day notice in accordance with the "transfer form" for the incumbent family to move/transfer to the appropriate unit. The Ralston Towers TPV holders are permitted to remain in their relocated unit for the duration of their voucher or until they move out of their unit to a new unit.

HACG amended this activity in FY 2021 to include all future TPV's to be eligible up to one size larger and provide the rental payment assistance for the families to the landlord for the difference between the assigned unit size and the eligible family's income means and/or voucher amount up to 120% of the Fair Market Rent (FMR) of the assigned bedroom unit.

HACG anticipates the following for the Site-Based Housing Flexibility Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2019.01 Eliminate/Reduce Utility Reimbursement Payments (URPs)

HACG seeks to improve its cost efficiency and promote self-sufficiency through the implementation of this activity. Elimination of this task achieves Cost Effectiveness of federal dollars.

Under this activity, HACG will increase the minimum rent to \$150 to eliminate URPs (or at the least significantly reduce the number of URPs processed) over the next two years. The increase in minimum rent across all rental assistance programs significantly reduces negative rent situation that require an URP check.

Further, HACG's schedule for increasing the minimum rent is as follows:

Year	Monthly Rent	Effective Date
2018	\$50	N/A
2019	\$100	January 1, 2019
2020	\$150	July 1, 2019

HACG provided significant lead time of notification to residents and does not anticipate any undue hardship because of the URP elimination. As needed, HACG will confer with its Hardship Policy on a case-by-case basis.

HACG anticipates the following for the Eliminate/Reduce Utility Reimbursement Payments (URPs) Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ♦ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

2020.01 Sponsor-Based Emergency Voucher Program (EVP)

This activity sets aside 24 TBV's for Emergency Housing for families affected by local natural disasters, fire, flooding or notice to condemn property prompted by local government action in Muscogee County. The TBV's is limited to a 6-month period which allows the individual or families to process insurance claims, contract family members and stabilize their finances. This activity is not intended to assist individual single families housing displaced by natural disasters but rather families residing in multifamily developments where six or more units are affected by natural disasters, fire, flooding, or government condemned properties. HACG offers a top preference for eligible families on our waiting list that experience these types of emergencies. However, all the families receiving these temporary emergency vouchers are currently not in HACG assisted housing. HACG will issue a flat-rate subsidy of \$600 per month per family to the Sponsor-Based Partner. HACG entered into a partnership agreement with Home for Good (HfG) on January 27, 2020. When emergency situation occurs, HfG will contact HACG to arrange for emergency housing provided with the EVP MTW Activity. To expediate the move-in-process, the family will have 30 days to income qualify. HfG will provide basic HQS inspections on the selected housing before move-in.

HACG anticipates the following for the Sponsor-Based Emergency Voucher Program (EVP) Activity in FYE 2023:

- ◆ No non-significant changes to this activity
- ◆ No modifications to the metrics during the period
- ◆ No different authorizations are needed to implement this activity than originally proposed
- ◆ No significant changes to this activity

B. NOT YET IMPLEMENTED ACTIVITIES

HACG does not have any activities that is not yet implemented.

C. ACTIVITIES ON HOLD

HACG does not have any activities on hold.

D. CLOSED OUT ACTIVITIES

Activity 2014.01	Community Choice – MTW Authorizations: D.2.a, D.2.b – Approved in
	2015, Implemented in 2015, and Closed in 2019 – HACG closed out this
	activity because the evaluation period was complete.

Activity 2014.05 Streamline HQS Inspections – (Moved to 2016.03) - MTW Authorizations: D.5 (moved to 2016.03) – Approved in 2014, Implemented in 2015, and Closed in 2017 – Authorizations for this activity is granted under Notice PIH 2016-05, therefore HACG closed this activity.

Activity 2014.06 Rent Reform (Farley) – MTW Authorizations: C.4, C.11 – Approved in 2014, Implemented in 2014, and Closed in 2018 – HACG closed out this activity because the evaluation period was complete.

Activity 2015.01 Eliminate Child Support Income from Rent Calculation – MTW

Authorizations: C.11 – Approved in 2015, Implemented in 2015, and Closed in 2017 – HACG used LIHTC funds to meet RAD requirements, which made this MTW Activity functionally obsolete.

Also closed out the Public Housing (PH) elements under MTW Activities 2014.03 and 2014.04. HACG used LIHTC funds to meet RAD requirements, which made PH elements functionally obsolete.

(V.) SOURCES AND USES OF MTW FUNDS

ANNUAL MTW PLAN

A. ESTIMATED SOURCES AND USES OF MTW FUNDS

i. 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.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
70500 (70300+70400)	Total Tenant Revenue	\$603,000
70600	HUD PHA Operating Grants	\$27,350,000
70610	Capital Grants	\$337,119
70700 (70710+70720+70730+70740+70750)	Total Fee Revenue	\$665,000
71100+72000	Interest Income	\$525,000
71600	Gain or Loss on Sale of Capital Assets	\$0
71200+71300+71310+71400+71500	Other Income	\$940,059
70000	Total Revenue	\$30,420,178

ii. Estimated Uses of MTW Funds

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

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
91000 (91100+91200+91400+91500+91600+91700+91800+91900)	Total Operating - Administrative	\$4,591,122
91300+91310+92000	Management Fee Expense	\$80,000
91810	Allocated Overhead	\$0
92500 (92100+92200+92300+92400)	Total Tenant Services	\$484,415
93000 (93100+93600+93200+93300+93400+93800)	Total Utilities	\$446,640
93500+93700	Labor	\$0
94000 (94100+94200+94300+94500)	Total Ordinary Maintenance	\$2,403,479
95000 (95100+95200+95300+95500)	Total Protective Services	\$21,380
96100 (96110+96120+96130+96140)	Total Insurance Premiums	\$461,613
96000 (96200+96210+96300+96400+96500+96600+96800)	Total Other General Expenses	\$2,619,432
96700 (96710+96720+96730)	Total Interest Expense & Amortization Cost	\$0
97100+97200	Total Extraordinary Maintenance	\$23,306
97300+97350	HAP + HAP Portability-In	\$17,953,955
97400	Depreciation Expense	\$1,334,836
97500+97600+97700+97800	All Other Expense	\$0
90000	Total Expenses	\$30,420,178

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

N/A

iii. Description of Planned Use of MTW Single Fund Flexibility

The MTW PHA shall provide a thorough narrative of planned activities that use only the MTW single fund flexibility. 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 single fund flexibility to direct funding towards specific housing and/or service programs in a way that responds to local needs (that is, at a higher or lower level than would be possible without MTW single fund flexibility).

PLANNED USE OF MTW SINGLE FUND FLEXIBILITY

HACG uses the MTW Single-Fund flexibility to combine its funding sources to form the MTW Block Grant that will be used to administer current and future MTW Activities, rehabilitation associated with RAD or RAD/Section 18 Blend Disposition, construction and/or Gap/Debt Financing of new developments, and to purchase and renovate a new Section 8 office. Additional Use of MTW Single Fund Flexibility is the following: Expand HACG's affordable housing portfolio by acquisition of or development of affordable housing units; utilize MTW funds for extraordinary maintenance, enhanced security, and rehabilitation of HACG controlled existing affordable housing; assist with providing Wi-Fi Infrastructure for all HACG properties; fund Community Resource Coordinator personnel; and strategically reduce debt at HACG controlled affordable housing in order to maintain financial viability. The MTW Single-Fund Flexibility will be used to continue operations during any current and future government shutdown.

В.	LOCAL ASSET MANGEMENT PLAN	
	i. Is the MTW PHA allocating costs within statute?	Yes
ii. Is the MTW PHA implementing a local asset management plan (LAMP)? No No No 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.		gement plan (LAMP)?
		No No
	N/A	

C. RENTAL ASSISTANCE DEMONSTRATION (RAD) PARTICIPATION

i. 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

HACG received a Portfolio Award January 7, 2014 to convert 1,321 to Project-Based Vouchers under RAD Component One.

As of this Plan date, HACG has converted 783 units to RAD PBV as well as 410 units to HCV PBV. Chase Homes (GA004000407) consisting of 108 units are removed from the RAD conversion due to SAC Section 18 demolition approval. The CHAP for Chase Homes was returned on May 14, 2020. Elizabeth F. Canty Homes (GA004000408) Building 704 consisting of 6 units are removed from the RAD conversion due to the building being located in the floodway and could pose a safety risk to the residents and property. HACG has received CHAP awards for the remaining 427 units. HACG has two mixed-financed properties with public housing units remaining. These properties were not included in the RAD Portfolio Award because they were constructed following the date of the RAD applications for Patriot Pointe (31 units) and Columbus Commons (24 units). Including these properties, HACG will have a total of 482 units to convert to RAD, as well as 126 HCV PBV included in the new development of Chase Homes (The Banks at Mill Village) and Warm Springs Senior Village.

ii. 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

iii. 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?

In HACG's Second Amendment to the 2016 MTW Annual Plan, the original RAD Significant Amendment was approved for the conversion of HACG's entire public housing portfolio. We are required to submit an additional Significant Amendment to the MTW Annual Plan that incorporates required information on HACG's RAD/Section 18 Blend conversion plans. HACG is changing Warren Williams (GA004000405) from a RAD conversion to a RAD/Section 18 Blend conversion.

VI. ADMINISTRATIVE

A. RESOLUTION ADOPTING THE ANNUAL MTW PLAN

The Board resolution adopting the FY 2023 Annual MTW Plan is located in the Appendix Section. HACG Board of Commissioners adopted Resolution #3408 at its March 16, 2022, board meeting.

B. DOCUMENTATION OF PUBLIC PROCESS

The Annual MTW Plan was available for public review from January 19, 2022 through February 18, 2022, at the following locations:

- ♦ The Columbus Public Library, 3000 Macon Road (2nd floor reference desk);
- ◆ HACG's Administrative Offices
 - o Central Office, 1000 Wynnton Road (front desk);
 - o Tenant Selection Office, 1146 Martin Luther King Jr. Boulevard (front desk)

- o Site Rental Offices, various addresses citywide (front desk)
- ◆ HACG's Facebook: https://www.facebook.com/The-Housing-Authority-of-Columbus-Georgia-110059770673833
- ♦ HACG Website: http://www.columbushousing.org
- ◆ HACG advertised all Public Hearings and Public Meetings in accordance with the Annual MTW Plan guidelines.

In addition to the above means to comment on this document, HACG also held Public Hearings/meetings to receive comments on the Annual MTW Plan on the following dates and locations:

- ◆ January 19, 2022, Joint President Council Meeting via Zoom, at 2:00 p.m., Dial 1-646-876-9923 and use passcode 277604 to join the meeting or https://us06web.zoom.us/j/81710218820?pwd=K01LQnZvck0vTUQ5VzdVNG0xZzZ4Zz09, Meeting ID: 817 1021 8820 Passcode 277604
- ◆ February 3, 2022, via Zoom, at 11:00 a.m., Dial 1-646-876-9923 and use passcode 914248 to join the meeting or https://us06web.zoom.us/j/82887562335?pwd=blFFbnE5TFJMNG9GOS9MVHdYazNOUT09, Meeting ID: 828 8756 2335 Passcode 914248
- ◆ February 3, 2022, via Zoom at 3:00 p.m., Dial 1-646-876-9923 and use passcode 088630 to join the meeting or https://us06web.zoom.us/j/86042236727?pwd=Ylpmbmg0TTV6ekZoRi9LM3VUeFlNZz09, Meeting ID: 860 4223 6727 Passcode 088630

All comments received prior to February 18, 2021, were incorporated into the Annual MTW Plan. Comments are located in the Appendix Section.

The Amended Annual MTW Plan was available for public review from May 21, 2023 through June 20, 2023, at the following locations:

- ♦ The Columbus Public Library, 3000 Macon Road (2nd floor reference desk);
- ◆ HACG's Administrative Offices
 - o Central Office, 1000 Wynnton Road (front desk);
 - o Tenant Selection Office, 1146 Martin Luther King Jr. Boulevard (front desk)
 - o Site Rental Offices, various addresses citywide (front desk)
- ◆ HACG's Facebook: https://www.facebook.com/The-Housing-Authority-of-Columbus-Georgia-110059770673833
- ♦ HACG Website: http://www.columbushousing.org
- ◆ HACG advertised all Public Hearings and Public Meetings in accordance with the Annual MTW Plan guidelines.

In addition to the above means to comment on this document, HACG also held Public Hearings/meetings to receive comments on the Amended Annual MTW Plan on the following dates and locations:

- ♦ Monday, June 5, 2023, at 11:00 am at Meeting ID: 865 2367 1285

 Dial 1-646-876-9923 to join the meeting or https://us06web.zoom.us/j/86523671285
- ♦ Monday, June 5, 2023, at 2:00 pm Meeting ID: 891 8316 1260 Dial 1-646-876-9923 to join the meeting or https://us06web.zoom.us/j/89183161260

All comments received through June 20, 2023, were incorporated into the Amended Annual MTW Plan. Comments are located in the Appendix Section.

C. PLANNED AND ONGOING EVALUATIONS

HACG's does not have any planned and ongoing evaluations.

D. LOBBYING DISCLOSURES

HUD Forms SF-LLL and HUD-50071 are located in the Appendix Section.

APPENDIX SECTION

RESOLUTION NO: 3408

A RESOLUTION APPROVING THE MOVING TO WORK (MTW) DEMONSTRATION PROGRAM'S FISCAL YEAR 2023 ANNUAL PLAN AND SUBMISSION OF SAID PLAN AND PLAN'S CERTIFICATIONS OF COMPLIANCE TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

WHEREAS, the Board of Commissioners of The Housing Authority of Columbus, Georgia (HACG) by Resolution No. 3166 originally approved submission of a Moving-to-Work (MTW) Demonstration Program Application, Annual Plan, and Certification of Compliance to the Department of Housing and Urban Development (HUD); and

WHEREAS, HACG's MTW Application was approved and HACG entered into a Standard MTW Agreement with HUD on July 3, 2013; and,

WHEREAS, HACG's Standard MTW Agreement with HUD was extended through 2028 on April 14, 2016; and,

WHEREAS, as part of the Standard MTW Agreement between HACG and HUD, a Plan and Certifications of Compliance must be submitted annually to HUD for approval; and,

WHEREAS, HACG has prepared such a plan in accordance with HUD's rules, regulations and guidance; and

WHEREAS, the proposed FY 2023 Annual MTW Plan was made available for public review and comment from January 19, 2022 to February 18, 2022, and public hearings/meetings were held on the proposed FY 2023 Plan on February 3, 2022: and,

WHEREAS, HACG considered all comments received regarding said FY 2023 MTW Plan:

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners:

- The HACG's FY 2023 Annual MTW Plan is approved.
- The Chairman or Secretary/Chief Executive Officer is authorized to execute the Certifications of Compliance; and,
- Submission of said Certifications and FY 2023 Annual MTW Plan to HUD is authorized.

R. Larry Cardin	March 16, 2022	
Name of Authorized Official	Date	
R. Lang Cardi		
Signature		

MTW CERTIFICATIONS OF COMPLIANCE

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

Certifications of Compliance with Regulations: Board Resolution to Accompany the MTW Supplement to the Annual PHA Plan

Acting on behalf of the Board of Commissioners of the Moving to Work Public Housing Agency (MTW PHA) listed below, as its Chairperson or other authorized MTW PHA official if there is no Board of Commissioners, I approve the submission of the MTW Supplement to the Annual PHA Plan for the MTW PHA Fiscal Year beginning (07/01/2022), hereinafter referred to as "the MTW Supplement", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the MTW Supplement and implementation thereof:

- (1) The PHA made the proposed MTW Supplement and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the MTW Supplement and invited public comment.
- (2) The MTW PHA took into consideration public and resident comments (including those of its Resident Advisory Board(s) or tenant associations, as applicable) before approval of the MTW Supplement by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the annual MTW Supplement.
- (3) The MTW PHA certifies that the Board of Directors has reviewed and approved the budget for the Capital Fund Program grants contained in the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1 (or successor form as required by HUD).
- (4) The MTW PHA will carry out the MTW Supplement in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) all regulations implementing these authorities; and other applicable Federal, State, and local civil rights laws.
- (5) The MTW Supplement is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
- (6) The MTW Supplement contains a certification by the appropriate state or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the MTW PHA's jurisdiction and a description of the manner in which the MTW Supplement is consistent with the applicable Consolidated Plan.
- (7) The MTW PHA will affirmatively further fair housing, which means that it will: (i) take meaningful actions to further the goals identified by the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR 5.150-5.180 and 903.15; (ii) take no action that is materially inconsistent with its obligation to affirmatively further fair housing; and (iii) address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3) and 903.15(d). Note: Until the PHA is required to submit an AFH, and that AFH has been accepted by HUD, the PHA must follow the certification requirements of 24 CFR 903.7(o) in effect prior to August 17, 2015. Under these requirements, the PHA will be considered in compliance with the certification requirements of 24 CFR 903.7(o)(1)-(3) and 903.15(d) if it: (i) examines its programs or proposed programs; (ii) identifies any impediments to fair housing choice within those programs; (iii) addresses those impediments in a reasonable fashion in view of the resources available; (iv) works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and (v) maintains records reflecting these analyses and actions.
- (8) The MTW PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 and HUD's implementing regulations at 24 C.F.R. Part 146.
- (9) In accordance with 24 CFR 5.105(a)(2), HUD's Equal Access Rule, the MTW PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
- (10) The MTW PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
- (11) The MTW PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low- or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
- (12) The MTW PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
- (13) The MTW PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment.
- (14) The MTW PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.

- (15) The MTW PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
- (16) The MTW PHA will provide HUD or the responsible entity any documentation needed to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58. Regardless of who acts as the responsible entity, the MTW PHA will maintain documentation that verifies compliance with environmental requirements pursuant to 24 Part 58 and 24 CFR Part 50 and will make this documentation available to HUD upon its request.
- (17) With respect to public housing and applicable local, non-traditional development the MTW PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
- (18) The MTW PHA will keep records in accordance with 2 CFR 200.333-200.337 and facilitate an effective audit to determine compliance with program requirements.
- (19) The MTW PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
- (20) The MTW PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 200.
- (21) The MTW PHA must fulfill its responsibilities to comply with and ensure enforcement of housing quality standards as required in PIH Notice 2011-45, or successor notice, for any local, non-traditional program units. The MTW PHA must fulfill its responsibilities to comply with and ensure enforcement of Housing Quality Standards, as defined in 24 CFR Part 982, for any Housing Choice Voucher units under administration.
- (22) The MTW PHA will undertake only activities and programs covered by the Moving to Work Operations Notice in a manner consistent with its MTW Supplement and will utilize covered grant funds only for activities that are approvable under the Moving to Work Operations Notice and included in its MTW Supplement. MTW Waivers activities being implemented by the agency must fall within the safe harbors outlined in Appendix I of the Moving to Work Operations Notice and/or HUD approved Agency-Specific or Safe Harbor Waivers.
- (23) All attachments to the MTW Supplement have been and will continue to be available at all times and all locations that the MTW Supplement is available for public inspection. All required supporting documents have been made available for public inspection along with the MTW Supplement and additional requirements at the primary business office of the PHA and at all other times and locations identified by the MTW PHA in its MTW Supplement and will continue to be made available at least at the primary business office of the MTW PHA.

he Housing Authority of Columbus, Georgia	GA004
MTW PHA NAME	MTW PHA NUMBER/HA CODE
	s well as any information provided in the accompaniment osecute false claims and statements. Conviction may result in 1012-31 U.S.C. 3729-3802).
,	1012, 31 Cline, 3727, 3002).
	Chief Executive Officer
Lisa L. Walters NAME OF AUTHORIZED OFFICIAL	
Lisa L. Walters	Chief Executive Officer

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

HOUSING AUTHORITY OF COLUMBUS, GEORGIA'S

PUBLIC COMMENT PROCESS

Date	Action / Event	Attendance Count
Wednesday, January 19, 2022, Friday, January 21, 2022, and Sunday, January 23, 2022	Public Hearing announcement, dates published in the Ledger-Enquirer (Columbus' local newspaper), HACG's Facebook, and on HACG's website, www.columbushousing.org	Not Applicable
Wednesday, January 19, 2022	2 p.m. Public Meeting: HACG staff presented 2023 Annual MTW Plan at the Joint President Council Meeting via Zoom.	25
Wednesday, January 19, 2022	Sent email to HACG staff/affiliates announcing public hearing. Included flyer for recipients to print/post in conspicuous areas for clients, employees, landlords, residents, and visitors to see.	46
Thursday, February 3, 2022	11 a.m. Public Hearing: HACG staff presented FY 2023 Annual MTW Plan at the Public Meeting via Zoom	4
Thursday, February 3, 2022	3 p.m. Public Hearing: HACG staff presented FY 2023 Annual MTW Plan at the Public Meeting via Zoom	3

PUBLIC HEARING – WEDNESDAY, JANUARY 19, 2022 AT 2:00 P.M. FY 2023 ANNUAL MTW PLAN

PUBLIC COMMENTS AND RESPONSES

Line	Public Comment	HACG's Response	
1	What kind of offenders would be able to receive the vouchers?	The types of crime would be determined through Home for Good's criteria, but for sure no sec offenders would be allowed.	
2	How much would the vouchers pay?	The maximum of FMR is \$724 monthly for utilities and rent together for a 2 year term.	
3	Are these vouchers for private homes?	Yes, this would be for private homes with landlords. The voucher would be sponsored based through HfG and HfG would contract with the Landlord.	

PUBLIC HEARING - THURSDAY, FEBRUARY 3, 2022 AT 11:00 P.M.

FY 2023 ANNUAL MTW PLAN

PUBLIC COMMENTS AND RESPONSES

Line	Public Comment	HACG's Response
1	No Comments	N/A

PUBLIC HEARING - THURSDAY, FEBRUARY 3, 2022 AT 3:00 P.M.

FY 2023 ANNUAL MTW PLAN

PUBLIC COMMENTS AND RESPONSES

Line	Public Comment	HACG's Response
1	No Comments	N/A

PLANNED AND ONGOING EVALUATIONS

Appendix C

HACG's does not have any planned and ongoing evaluations.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

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

(See reverse for public burden disclosure.) 2. Status of Federal Action: 3. Report Type: 1. Type of Federal Action: a. initial filing a. contract a. bid/offer/application b. material change b. initial award b. grant c. cooperative agreement c. post-award For Material Change Only: quarter d. loan year ____ date of last report e. loan guarantee f. loan insurance 4. Name and Address of Reporting Entity: 5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Subawardee z Prime The Housing Authority of Columbus, Georgia Tier _____, if known: 1000 Wynnton Road P.O. Box 630 Columbus, Georgia 31902-0630 Congressional District, if known: 4c Congressional District, if known: 7. Federal Program Name/Description: 6. Federal Department/Agency: CFDA Number, if applicable: 8. Federal Action Number, if known: Award Amount, if known: 10. a. Name and Address of Lobbying Registrant b. Individuals Performing Services (including address if (if individual, last name, first name, MI): different from No. 10a) (last name, first name, MI):

Signature:

Print Name: Lisa L. Walters

Title: Chief Executive Officer

Telephone No.: 706-571-2800

Information requested through this form is authorized by title 31 U.S.C. section.
 1362. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made.

not more than \$100,000 for each such failure

Federal Use Only:

or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and

03/16/2022

Date: Authorized for Local Reproduction

Standard Form LLL (Rev. 7-97)

OMB Approval No. 2577-0157 (Exp. 11/30/2023)

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. This includes the time for collecting, reviewing, and reporting data. 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.

Applicant Name	
The Housing Authority of Columbus, Georgia	
Program/Activity Receiving Federal Grant Funding	
Moving to Work (MTW) Demonstration 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.
hereby certify that all the information stated herein, as well as any int Narning: HUD will prosecute false claims and statements. Conviction 1012; 31 U.S.C. 3729, 3802)	formation provided in the accompaniment herewith, is true and accurate. In may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010,
Name of Authorized Official	Tite
Lisa L. Walters	Chief Executive Officer
Signature	Date (mm/dd/yyyy)
Liga L. Walte	03/16/2022

Previous edition is obsolete

form HUD 50071 (01/14)

The Housing Authority of Columbus, Georgia Fiscal Year 2023 Moving to Work Annual Plan Rental Assistance Demonstration (RAD) Significant Amendment

The Housing Authority of Columbus, Georgia (HACG) is incorporating this Rental Assistance Demonstration (RAD) Significant Amendment into its FY 2023 Moving to Work (MTW) Annual Plan as required by the U.S. Department of Housing and Urban Development (HUD). The amendment provides information on HACG's planned activities under the RAD Program.

Pursuant to this Amendment, HACG will:

Rehabilitate 182 units at Warren Williams + Rivers Homes and use RAD/Section 18 Blend to convert units from the HUD public housing program to the Section 8 PBV Program in order to leverage funds obtained from public and private debt and equity markets to finance capital improvements to renovate the property.

Background

Subject to HUD approval, HACG intends to proceed with RAD/Section 18 Blend conversion pursuant to the guidelines of PIH Notice 2019-23, Revision 4 dated September 5, 2019, and PIH Notice 2016-17 dated November 10, 2016 ("HUD RAD Notices") and any other successor Notices issued by HUD.

HACG submitted in 2012 for a Portfolio RAD conversion. HACG has successfully converted 838 units within its portfolio to date. Warren Williams is the next in its pipeline of conversions. In the Second Amendment to the 2016 MTW Annual Plan, the original RAD Significant Amendment was approved for the conversion of HACG's entire public housing portfolio. We are required to submit an additional Significant Amendment to the MTW Annual Plan that incorporates required information on HACG's RAD/Section 18 Blend conversion plans. This document provides the required information and serves as HACG's RAD/Section 18 Blend Significant Amendment for the subject units. HACG may propose additional Significant Amendment(s) for additional HUD-approved RAD, Section 18 or RAD/Section 18 blend conversions, including transfers of assistance, at future dates. HACG will provide a thirty-day public comment period and conduct a Public Hearing to allow residents and the general public an opportunity to review and comment on the RAD/Section 18 Significant Amendment. The HACG Board of Commissioners will conduct a vote on the RAD/Section 18 Blend Significant Amendment at a future public meeting.

RAD Conversion Plan

This Significant Amendment provides information on HACG's plans to convert public housing units to project-based assistance under RAD/Section 18 Blend at the subject site, as further described in Attachment 1. Attachment 1 includes the following information:

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

Post-Conversion Units: If applicable, any changes proposed to the current number of units,

the bedroom size distribution or the unit type including de minimis

reductions.

Transfer of Assistance: Whether HACG intends to transfer assistance to another

development as part of the RAD conversion and, if so, the

location, number of units, bedroom size distribution, and unit type

where known.

PBV or PBRA: Whether HACG intends to convert the development to the Project

Based Voucher (PBV) program or to the Project Based Rental Assistance (PBRA) program, along with information on resident rights, resident participation, waiting list and grievance procedures applicable to each program. HACG intends to convert assistance

to the PBV program.

Capital Fund Impact: The current amount of Capital Fund dollars received prior to RAD

conversion. Developments converted through the r RAD/Section 18 Blend program are not eligible for Public Housing Capital

Funds after conversion.

Transfer of Waiting List: How existing waiting lists will be addressed as part of the

conversion where applicable.

Conversion to Project Based Vouchers or Project Based Rental Assistance

Public housing developments that are converted to project-based assistance will no longer be subject to HUD rules and regulations pertaining to the public housing program. Upon conversion to RAD/Section 18 Blend, the former public housing units will be subject to the rules and regulations pertaining to either the PBV or PBRA programs, depending on which program option is selected by PHA. HUD has modified the PBV and PBRA program rules and regulations to incorporate additional provisions that apply solely to units converted under RAD/Section 18 Blend. These additional provisions provide important protections to current residents of public housing that are impacted by a RAD/Section 18 Blend conversion.

As part of the RAD/Section 18 Blend conversion initiative, HACG will adopt all required RAD/Section 18 Blend 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, grievance processes and other areas.

Attachment 2 provides information on the RAD/Section 18 Blend PBV program as required by the HUD RAD Notices related to resident rights and participation, waiting list and grievance procedures.

Capital Fund Budget

Conversion of existing public housing developments under the RAD/Section 18 program enables HACG to leverage existing funds to secure additional private and other funding to undertake long-deferred capital improvements or, in instances where transfer of assistance or Faircloth to RAD is involved, to construct or rehabilitate new or existing affordable housing units.

HACG currently receives HUD Capital Funds on an annual basis, subject to Congressional appropriations for the majority of its public housing units. Attachment 1 includes the most recent Capital Fund allocation for each RAD/Section 18 Blend conversion site where applicable. Upon

conversion to RAD/Section 18 Blend, HACG will no longer receive a Capital Fund allocation for units that have been converted, and the annual Capital Fund grant will be decreased.

The total estimated reduction in HACG Capital Funds on an annual basis for the subject units covered under this Significant Amendment is approximately \$787,969 based on FY2022 funding levels. Over a five-year period, the estimated Capital Fund reduction is approximately \$3,939,845 based on FY2022 funding levels. The actual amount of the reduction may vary depending on Congressional appropriations. As RAD/Section 18 Blend conversions are completed, HACG will modify its existing capital plans to reflect the reduction in funding and change in work scopes.

HACG currently projects that it may utilize MTW Block Grant funds for capital improvements and to establish a RAD/Section 18 Blend reserve for the subject developments. Actual amounts will be incorporated into the final financing plan.

Site and Neighborhood Standards

The RAD/Section 18 Blend conversion described herein complies with all applicable site selection and neighborhood review standards. HACG has included a certification for the proposed project in Attachment 1. HACG certifies that:

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

Relocation Plan

Resident relocation related to RAD/Section 18 Blend conversion will be performed in accordance with the HUD RAD Notices.

Compliance

HACG 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/Section 18 Blend conversion.

Moving To Work

HACG may utilize MTW Block Grant fungibility and programmatic flexibility to support the RAD/Section 18 conversion effort subject to any necessary Board and HUD approvals. HACG certifies that regardless of any funding changes that may occur as a result of conversion under RAD/Section 18 Blend, HACG will continue to administer and maintain service levels for its remaining portfolio of public housing units subject to funding availability. HACG will do this by utilizing available funding including Public Housing Operating Fund, Capital Fund, and Tenant Rental Income.

Significant Amendment Definition

As part of the RAD/Section 18 Blend conversion initiative, a further Significant Amendment to the MTW Plan will <u>not</u> be required for the following RAD-specific actions:

- Changes to the Capital Fund budget produced as a result of each approved RAD/Section 18 Blend conversion regardless of whether the proposed conversion will include use of additional Capital Funds;
- Decisions to apply MTW funding or programmatic flexibility to post-conversion RAD/Section 18 Blend developments;
- Decisions or changes related to the ownership and/or financing structures for each approved RAD/Section 18 Blend conversion including decisions to allocate HACG financial resources as a source of funds to support the RAD or RAD/Section 18 Blend conversion initiatives;
- Changes to the construction and rehabilitation plans and scheduled for each approved RAD/Section 18 Blend 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/Section 18 Blend program rules;
- Changes to the pre-conversion bedroom size distribution and/or the project or AMP from which transfer of assistance units will be converted; and,
- Decisions to convert to either Project Based Vouchers or Project Based Rental Assistance.

Housing Authority of Columbus, Georgia Moving to Work Annual Plan Amendment Rental Assistance Demonstration/Section 18 Blend Significant Amendment Attachment 1 – Information on Public Housing Developments to be Converted

The following pages provide required information on the development and/or Asset Management Project (AMP) to be converted from public housing assistance to Project Based Voucher (PBV) assistance under the Rental Assistance Demonstration (RAD)/Section 18 Blend program.

RAD Significant Amendment Attachment 1

Development Name
PIC Development ID #

Warren Williams GA004000405

Conversion Type (PBV or PBRA): PBV
Capital Fund Grant (FFY22): \$787,969
Pre-Conversion Total Units: 182
Pre-Conversion Unit Type: Family

Pre-Conversion Bedroom Size

	Total # of Units
0 BR	0
1 BR	39
2 BR	103
3 BR	40
4 BR	0
5 BR	0
6 BR	0

Post-Conversion Total Units 182
Post-Conversion RAD Units 182
Post-Conversion Unit Type Family

Post- Conversion Development

Name and Address

Warren Williams Homes, 1200 Warren Williams Road, Columbus, GA 31906, 1050 Adair Avenue, Columbus, GA 31906; 1000 Wynnton Road, Columbus, GA 31906; 1101 Webster Avenue, Columbus, GA 31906; and 1100 12th Street, Columbus, GA 31906

N/A

Post - Conversion Sponsor Project Description HACG plans to rehabilitate the Project and to use RAD/Section 18 Blend to convert units from the HUD public housing program to the Section 8 PBV Program in order to leverage funds obtained from public and private debt and equity markets to finance capital improvements to renovate the property. The rehabilitation will involve exterior and interior upgrades to include but not limited to the following: roof replacement, exterior siding enhancements, new HVAC units, upgrades to bathrooms and kitchens, replace floor coverings and interior lighting, replacement of interior plumbing and accessibility improvements.

Post-Conversion Bedroom Size

OBR 1BR 2BR 3BR 4BR 5BR6 BR

Total # of Units	# of RAD Units
0	0
39	39
103	103
40	40
0	0
0	0
0	0

Transfer of Assistance N/A

De Minimis Reduction N/A

Transfer of Waiting List App

Applicants that are currently on the public housing waitlist will be transferred to a new site-based waitlist for the Warren Williams + Rivers Homes development prior to the initial lease up. The owner will manage and maintain the site-based waiting list, including any HACG-approved selection preferences, in accordance with HACG's Housing Choice Voucher Program Administrative Plan. HACG will post information on how to apply for the PBV site-based waiting list on the HACG website.

Certification

For the Warren Williams + Rivers Homes Rental Assistance Demonstration (RAD)/Section 18 Blend project located in Columbus, Georgia, the Housing Authority of Columbus, Georgia (HACG) certifies that the site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

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

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

Information on resident rights and participation, waiting list and grievance procedures for Rental Assistance Demonstration (RAD) /Section 18 Blend program conversion to the Project Based Voucher (PBV) program are included in this attachment:

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

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

Section 1.6.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 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.

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.

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

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

Three Year Phase-in:

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

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.

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.

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.

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

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

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

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

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v), 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.

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

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

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

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

9. When Total Tenant Payment Exceeds Gross Rent. Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice. 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.

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

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

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

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

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

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

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

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

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

Section 1.6.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.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 9. Reserve for Replacement. The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.
- 10. Initial Certifications and Tenant Rent Calculations. The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV sitespecific 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).

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

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 <u>Section 1.6.C.1</u> of this Notice for conversions to PBV and <u>Section 1.7.B.1</u>. 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 <u>Section 1.6.C.3.</u> of this Notice for conversions to PBV and <u>Section 1.7.B.3</u>. for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See <u>Section 1.4.A.5</u> of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see <u>Sections 1.6.C.5 and 1.6.C.9</u> of this Notice, for conversions to PBV and <u>Section 1.7.B.4</u> for conversions to PBRA);
- Continued Earned Income Disregard (see <u>Section 1.6.C.8</u> of this Notice, for conversions to PBV and <u>Section 1.7.B.7</u> for conversions to PBRA);

- Continued recognition of and funding for legitimate residents organizations (see <u>Section 1.6.C.6</u> of this Notice for conversions to PBV, <u>Section 1.7.B.5</u> 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 <u>Section 1.6.C.7.</u> of this Notice for conversions to PBV and <u>Section 1.7.B.6.</u> 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).

1B.2 Resident Participation and Funding⁹⁸

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.

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

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.

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. 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.

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:

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 **Notice** H 2016-17

PIH 2016-17 (HA)

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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.

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),

2

of RAD without any change until further notice.

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

(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.

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 <u>already</u> 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-

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.

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

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

1.4. Explanation of Major Provisions

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

Fair Housing & Civil Rights

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

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

Relocation

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

1.5. Request for Public Comment

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

1.6. Paperwork Reduction Act

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

SECTION 2. Table of Contents

The contents of this Notice are divided into the following parts:

SECTIO	ON 1. Purpose, Applicability and Major Provisions of this Notice	1		
1.1.	Purpose			
1.2.	PHA and Project Owner Responsibilities			
1.3.	Applicability			
1.4.	Explanation of Major Provisions	5		
1.5.	Request for Public Comment	6		
1.6.	Paperwork Reduction Act	7		
SECTIO	ON 2. Table of Contents	8		
SECTIO	ON 3. Background	10		
3.1.	RAD Authority	10		
3.2.	Definitions			
3.3.	Applicable Legal Authorities	10		
3.4.	Further Information	11		
SECTIO	ON 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant			
	Throughout the RAD Conversion Process	11		
SECTIO	ON 5. Application of Key Fair Housing and Civil Rights Requirements to RAD			
	Transactions	17		
5.1.	RAD Eligibility Review			
5.2.	PHA's Proposed Site Selection and Certification			
5.3.	RAD Front-End Civil Rights Transaction Review			
	A) Activities Subject to Front-End Civil Rights Review			
	B) Fair Housing, Civil Rights, and Relocation Checklist			
	C) Timing of Front-End Review Submissions			
	D) Completion of HUD's Front-End Review			
5.4.	Front-End Civil Rights Review for RAD Transactions Involving New Construction			
	A) Conditions Triggering Review			
	B) Analysis of Areas of Minority Concentration			
	C) The Sufficient Comparable Opportunities Exception			
	D) The Overriding Housing Needs Exception	30		
5.5.	Front-End Civil Rights Review for RAD Transactions Involving Transfer of			
	Assistance			
	A) Applicable Standards			
	B) Analysis of Transfers of Assistance	33		
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	34		
	A) Review of Reductions in the Number of Units, Reductions or Increases in the			
	Number of UFAS Accessible Units or Changes in Bedroom Distribution			
	B) Review of Changes in Occupancy Type			
5.7.	Other Front-End Civil Rights Review for RAD Transactions	36		
	A) Conversions of Assistance in Which the Construction Schedule Indicates that			
	Relocation is Likely to Exceed 12 Months	36		

	B)	Conversions of Assistance Involving New Construction or Substantial		
		Alteration, as those terms are defined by Section 504.	36	
	C)		37	
5.8.	Aff	irmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects		
	Cor	overting to PBRA Assistance	37	
SECTIO		RELOCATION REQUIREMENTS		
6.1.		nning		
6.2.	Resident Right to Return			
6.3.	Admissions and Continued Occupancy Requirements			
6.4.	Typ	bes of Moves and Relocation		
	A)			
	B)	Temporary relocation lasting one year or less	44	
	C)	Temporary relocation initially expected to last one year or less, but which		
		extends beyond one year		
	D)	Temporary relocation anticipated to last more than one year		
	E)	Permanent moves in connection with a transfer of assistance		
	F)	Voluntary permanent relocation		
6.5.		iation of Negotiations (ION) Date		
6.6.	Res	ident Relocation Notification (Notices)		
	A)			
	B)	General Information Notice (49 C.F.R. § 24.203(a))		
	C)	Notice of Intent to Acquire (49 C.F.R. § 24.203(d))		
	D)	RAD Notice of Relocation	49	
	E)	URA Notice of Relocation Eligibility – for residents whose temporary		
		relocation exceeds one year (49 C.F.R. § 24.203(b))		
	F)	Notification of Return to the Covered Project		
6.7.		ocation Advisory Services		
6.8.	Initiation of Relocation			
6.9.	Records and Documentation; Resident Log			
6.10.		ernative Housing Options		
	_ :	Requirements for Any Offer of Alternative Housing Options		
	B)	Assisted Housing Options as Alternatives		
		Monetary Elements Associated With Alternative Housing Options		
		Disclosure and Agreement to Alternative Housing Options		
6.11.		np Sum Payments		
		APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS		
7.1.		V Waiting List Administration Unrelated to the RAD Transaction		
7.2.		V Waiting List Administration Related to the RAD Transaction		
7.3.	Public Housing Transfers Unrelated to the RAD Transaction			
7.4.		ident Initiated Public Housing Transfers Related to the RAD Transaction		
7.5.		blic Housing as a Temporary Relocation Resource	62	
7.6.		minations (Including Evictions) and End of Participation Unrelated to the	<i>(</i> 2	
		D Transaction		
7.7.	K19	ht-Sizing	63	

Appendix I – Applicable Legal Authorities Appendix II – Recommended Relocation Plan Contents

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 longterm 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. 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,

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.

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. 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.

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. 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 housing¹¹ 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 origin¹³ 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.

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 seg. 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.

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. 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

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.

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;
- O 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;
- o 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.

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.

- 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."

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

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

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

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

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

5.1. RAD Eligibility Review

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

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

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

5.2. PHA's Proposed Site Selection and Certification

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). 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. 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." 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

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).

²⁸ See the provisions of Section 1.6.A.4 of the RAD Notice.

²⁹ 42 U.S.C. § 1437f(bb).

³¹ See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

requirements described in 24 C.F.R. § 8.4(b)(5).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

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

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

- certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.
- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,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).

(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. 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

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.

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

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

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.

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,

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

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

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

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

B) Analysis of Areas of Minority Concentration

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

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

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. 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. 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,

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.

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." 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." 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." 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." 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.

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).

- "Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration." 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." 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). 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." 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

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).

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. 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 similarlyaffordable 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 onsite, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

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

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

D) The Overriding Housing Needs Exception

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD⁵⁵ 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.

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."

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.

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, quasipublic 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.

- 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. 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

32

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.

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

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.

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).

(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. 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.

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).

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

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⁶³ See Section 1.4.A.4 of the RAD Notice.

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

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

B) Review of Changes in Occupancy Type

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

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

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

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

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

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

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

C) Remedial Agreements and Orders.

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

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

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.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

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.

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 Owner⁶⁶ should plan such activities to reasonably minimize any disruption to residents' lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

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

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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.

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.

39

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.

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 <i>RAD Information Notice</i> (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 <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.
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 offsite 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.

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. 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.

- 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,

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.

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 buildings⁷⁶

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.

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.

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

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.

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

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

E) Permanent moves in connection with a transfer of assistance

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

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

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

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

F) Voluntary permanent relocation

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

6.5. Initiation of Negotiations (ION) Date

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

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

6.6. Resident Relocation Notification (Notices)

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

46

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

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:

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

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion:
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.
 - B) General Information Notice (49 C.F.R. § 24.203(a))

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

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

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

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

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

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

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA). 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.

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

50

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.

- 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)).

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.

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 <u>permanent</u> relocation, the URA Notice of Relocation Eligibility is not required.

[•] Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

F) Notification of Return to the Covered Project

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

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

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.

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,

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)). 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

54

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.

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:
 - o The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
 - o The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
 - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
 - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
 - Date of the RAD Information Notice

- Date of the GIN
- o Date of the CHAP
- o Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- o Date of most recent consent to voluntary permanent relocation⁹¹
- o Date of relocation away from the Converting Project or Covered Project
- o Dates of any intermediate relocation moves
- O 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:
 - o 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
 - o Any material terms of any selected alternative housing options
 - o 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.

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 <u>all</u> residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.

PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner
 - C) Monetary Elements Associated With Alternative Housing Options

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

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

58

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).

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

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

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

the earlier of issuance of the NOIA or the effective date of the RCC. 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.

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

⁹⁸ Title IV, section 40001-40703.

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.

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.

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 PHAinitiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident's transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

7.5. Public Housing as a Temporary Relocation Resource

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

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

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

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

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

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

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

7.7. Right-Sizing

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

Lourdes Castro-Ramirez Principal Deputy Assistant Secretary for Public and Indian Housing

Edward L. Golding
Principal Deputy Assistant Secretary for
Housing

APPENDIX I: Applicable Legal Authorities

APPENDIX II: Recommended Relocation Plan Contents

APPENDIX I: Applicable Legal Authorities

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

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

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

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

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).

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

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

Titles II and III of the Americans with Disabilities Act

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

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

Section 109

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

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

Equal Access to HUD-assisted or HUD-insured Housing

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

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

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

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

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition. 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.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378.

¹⁰⁵ For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at:

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. 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

¹⁰⁶See 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).

70

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. The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS). 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. 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

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).

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).

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. 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. 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

¹¹⁸ See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

¹¹⁶ See http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm.

¹¹⁷ See 24 C.F.R. §§ 8.26 and 8.27.

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).

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:

- <u>Temporary Housing Resources</u>. 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.
- <u>Allocation of Temporary Relocation Resources</u>. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- <u>Duration of Temporary Relocation</u>. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- <u>Packing and Moving Assistance</u>. 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:
 - o 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;
 - O 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.
- <u>Storage</u>. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage.
- <u>Damage or Loss</u>. 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.
- <u>Out-of-Pocket Expenses</u>. 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.
- <u>Leasing Arrangements</u>. 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.
- <u>Utility Costs</u>. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

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¹²⁰ Defined at 24 C.F.R. 905.108.

• Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

V. Transfer of Assistance

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

- 1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
- 2. The general area or location of unit(s);
- 3. Where applicable, the accessibility of such units for individuals with disabilities;
- 4. Criteria for receiving relocation assistance; and
- 5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

• Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
 - o 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;
 - o Guidance on how residents request to pack their own possessions or to receive packing assistance; and
 - o 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).
- <u>Damage or Loss</u>. 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.
- <u>Dislocation Allowance</u>. 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.
- <u>Appliances</u>. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- <u>Security Deposits and Utility Costs</u>. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d). 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.

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."

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.