

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Draft Significant Amendment to the Annual PHA Plan for Fiscal Year 2024



Lisa Bova-Hiatt
Chief Executive Officer

Date: Revised July 24, 2024

Public Hearing Notice (SAVE THE DATE)

NYCHA's Draft Significant Amendment to the Fiscal Year (FY) 2024 Annual Plan and FY 2025 Draft Annual Plan and Five-Year Plan will be available for public inspection starting June 14, 2024, on NYCHA's website: on.nyc.gov/nycha-annual-plan. The plans will also be available at every development's management office. The Executive Summaries will be available on NYCHA's website in English, Spanish, Chinese, and Russian. Please email annualplancomments@nychanyc.gov if you would like to review the supporting documents.

The public is invited to comment on these plans at a public hearing on **Tuesday, July 30, 2024, from 5:30 p.m. to 8:00 p.m. at Borough of Manhattan Community College (199 Chambers Street in Manhattan).**

The public hearing will be held as a hybrid meeting, so attendees can participate in person or virtually.

Attending the hearing virtually (Zoom or phone): Instructions on how to participate, as well as meeting materials, will be posted before the meeting.

Interpretation services will be available on Zoom in Spanish, Mandarin, Cantonese, Russian, and American Sign Language.

Attending the hearing in person: Anyone wishing to speak on the items related to the plans can fill out a speaker slip upon arrival at the venue. All speakers are asked to limit their remarks to three minutes.

The meeting can also be viewed live on NYCHA's website or after the meeting through a recording on NYCHA's website: on.nyc.gov/nycha-annual-plan.

You can also provide written comments about the plans. **Submissions must be received by August 2, 2024.** Comments can be faxed to 212-306-8888, mailed to the following address, or emailed to annualplancomments@nychanyc.gov.

**Public Housing Agency Plan Comments
Church Street Station
P.O. Box 3422
New York, New York 10008-3422**



Requests for reasonable accommodations should be made by July 23, 2024, by emailing annualplancomments@nychanyc.gov or calling 212-306-3335.

A translation of this document is available in your Property Management Office.
La traducción de este documento está disponible en su Oficina de Administración de Propiedades.
您所居住住宅區物業管理處辦公室提供本文件的譯本。
您所居住住宅區物業管理處辦公室提供本文件的譯本。
Перевод этого документа находится в Офисе управления вашего жилищного комплекса.

Convocatoria de audiencia pública (RESERVE LA FECHA)

El Borrador de Enmienda Significativa del Plan Anual del Año Fiscal (AF) 2024 de NYCHA y el Borrador del Plan Anual y el Plan de cinco años del AF 2025 estarán disponibles para inspección pública a partir del 14 de junio de 2024, en el sitio web de NYCHA: on.nyc.gov/nycha-annual-plan. Los planes también estarán disponibles en la oficina de administración de cada residencial. Los Resúmenes Ejecutivos estarán disponibles en el sitio web de NYCHA en inglés, español, chino y ruso. Por favor, envíe un correo electrónico a annualplancomments@nycha.nyc.gov si desea revisar los documentos complementarios.

El público está invitado a comentar sobre estos planes en una audiencia pública el **martes 30 de julio de 2024, de 5:30 p.m. a 8:00 p.m. en el Borough of Manhattan Community College (199 Chambers Street en Manhattan)**

La audiencia pública se llevará a cabo como una reunión híbrida, por lo que los asistentes pueden participar en persona o virtualmente.

Para asistir a la audiencia virtualmente (Zoom o teléfono): Las instrucciones sobre cómo participar, así como los materiales de la reunión, se publicarán antes de la reunión.

Los servicios de interpretación estarán disponibles en Zoom en español, mandarín, cantonés, ruso y lenguaje de señas estadounidense.

Asistir a la audiencia en persona: Cualquier persona que desee hablar sobre los temas relacionados con los planes puede completar una hoja de participación a su llegada al lugar. Se pide a todos los oradores que limiten sus observaciones a tres minutos.

La reunión también se puede ver en vivo en el sitio web de NYCHA o después de la reunión a través de una grabación en el sitio web de NYCHA: on.nyc.gov/nycha-annual-plan.

También puede proporcionar comentarios por escrito sobre los planes. **Las propuestas deberán recibirse antes del 2 de agosto de 2024.** Los comentarios pueden enviarse por fax al 212-306-8888, enviarse por correo a la siguiente dirección o enviarse por correo electrónico a annualplancomments@nycha.nyc.gov.

Public Housing Agency Plan Comments
Church Street Station
P.O. Box 3422
New York, New York 10008-3422



Las solicitudes de adaptaciones razonables deben hacerse antes del 23 de julio de 2024, enviando un correo electrónico a annualplancomments@nycha.nyc.gov o llamando al 212-306-3335.

Уведомление о публичном слушании (SAVE THE DATE)

Проект Значительной поправки (Draft Significant Amendment) NYCHA к Годовому плану на 2024 финансовый год (FY) и проект Годового плана на FY 2025, а также Пятилетнего плана будут доступны, начиная с 14 июня 2024 года, для публичного ознакомления на вебсайте NYCHA: op.nyc.gov/nycha-annual-plan. Эти планы будут также доступны в офисах управления каждого жилкомплекса. Краткие обзоры будут доступны на вебсайте NYCHA на английском, испанском, китайском и русском языках. Пожалуйста, отправьте имейл по адресу annualplancomments@nycha.nyc.gov, если вы хотите просмотреть сопутствующие документы.

Общественность приглашается предоставить комментарии по поводу планов на публичном слушании, которое состоится во вторник, 30 июля 2024 года, с 5:30 р.м. до 8:00 р.м. в Borough of Manhattan Community College (199 Chambers Street в Манхэттене).

Публичное слушание будет проводиться как гибридное собрание, поэтому участники могут участвовать очно или виртуально.

Виртуальное посещение слушания (Zoom или телефон): Инструкции по участию, а также материалы собрания будут опубликованы до его проведения.

Услуги устного перевода будут доступны в Zoom на испанский, русский, китайский (пекинский и кантонский диалекты) языки и американский язык жестов.

Очное посещение слушания: Любой, кто желает выступить по вопросам, связанным с планами, может заполнить регистрационный листок выступающего по прибытии на место проведения слушания. Всех выступающих просят ограничить свое выступление тремя минутами.

Собрание можно будет также посмотреть в прямом эфире на вебсайте NYCHA или после завершения слушания в записи на вебсайте: op.nyc.gov/nycha-annual-plan.

Вы также можете подать письменные комментарии по поводу планов. Комментарии должны быть получены до 2 августа 2024 г. Комментарии принимаются по факсу: 212 306-8888, по почте (адрес указан ниже) или имейлу: annualplancomments@nycha.nyc.gov.

Public Housing Agency Plan Comments
Church Street Station
P.O. Box 3422
New York, New York 10008-3422



Запросы на приемлемую модификацию (reasonable accommodation) должны быть отправлены до 23 июля 2024 г. по имейлу annualplancomments@nycha.nyc.gov или поданы по тел. 212-306-3335.

公開聽證會 (謹記日期)

紐約市房屋局 (NYCHA) 將於2024年6月14日開始在其網站 (on.nyc.gov/nycha-annual-plan) 公佈「2024財政年度機構計劃」重大修正案初稿、「2025財政年度機構計劃」及「五年計劃」初稿供公眾查閱。轄下各個住宅區管理處辦公室亦將備有計劃書的印刷版可供索取。NYCHA網站提供計劃行政概述的英文、西班牙文、中文和俄文版本。如需查看計劃書的附錄證明文件，請發送電郵至: annualplancomments@nycha.nyc.gov。

現誠邀各界人士參加於**2024年7月30日，星期二，傍晚5時30分至晚上8時**在紐約市曼哈頓區 Chamber街199號的紐約市立大學曼哈頓社區學院舉行的公開聽證會，對計劃書提出建議和意見。

公聽會將以混合模式進行，與會者可選擇親自到場或遠程參加會議。

遠程參加會議 (通過Zoom視訊或電話語音): 參加方法及會議信息材料將於會議前公佈。

通過Zoom軟件召開的網絡會議將提供西班牙語，普通話，廣東話，俄語和美國手語翻譯服務。

到場參加會議: 希望在公共聽證會上對機構計劃的相關事項發言的市民可在抵達會場時填寫發言人登記表。所有發言者的發言時間將被限制在三分鐘內。

公眾還可通過NYCHA網站觀看會議直播或在會議結束後觀看錄影，網址: on.nyc.gov/nycha-annual-plan。

您還可為機構計劃提供書面意見。意見書必須於**2024年8月2日或之前**送達。你可將意見書傳真至(212) 306-8888，郵寄至下列地址，或電郵至: annualplancomments@nycha.nyc.gov。

Public Housing Agency Plan Comments

Church Street Station

P.O. Box 3422

New York, New York 10008-3422



如果需要合理便利措施安排，請於2024年7月23日前通過電郵: annualplancomments@nycha.nyc.gov 或電話: 212-306-3335 提出申請。

公共听证会(谨记日期)

纽约市房屋局 (NYCHA) 将于2024年6月14日开始在其网站 (on.nyc.gov/nycha-annual-plan) 公布「2024财政年度机构计划」重大修正案初稿、「2025财政年度机构计划」及「五年计划」初稿供公众查阅。辖下各个住宅区管理处办公室亦将备有计划书的印刷版可供索取。NYCHA网站提供计划行政概述的英文、西班牙文、中文和俄文版本。如需查看计划书的附录证明文件, 请发送电邮至: annualplancomments@nychanyc.gov。

现诚邀各界人士参加于**2024年7月30日, 星期二, 傍晚5时30分至晚上8时**在**纽约市曼哈顿区 Chamber街199号的纽约市立大学曼哈顿社区学院**举行的公开听证会, 对计划书提出建议和意见。

公听会将以混合模式进行, 与会者可选择亲自到场或远程参加会议。

远程参加会议 (通过Zoom视频或电话语音): 参加方法及会议信息材料将于会议前公布。

通过Zoom软件召开的网络会议将提供西班牙语, 普通话, 广东话, 俄语和美国手语翻译服务。

到场参加会议: 希望在公共听证会上对机构计划的相关事项发言的市民可在抵达会场时填写发言人登记表。所有发言者的发言时间将被限制在三分钟内。

公众还可通过NYCHA网站观看会议直播或在会议结束后观看录像, 网址: on.nyc.gov/nycha-annual-plan。

您还可为机构计划提供书面意见。意见书必须于**2024年8月2日或之前送达**。你可将意见书传真至(212) 306-8888, 邮寄至下列地址, 或电邮至: annualplancomments@nychanyc.gov。

**Public Housing Agency Plan Comments
Church Street Station
P.O. Box 3422
New York, New York 10008-3422**



如果需要合理便利措施安排, 请于2024年7月23日前通过电邮:

annualplancomments@nychanyc.gov 或电话: 212-306-3335 提出申请。

Draft Significant Amendment to the FY 2024 Annual Plan

Table of Contents

EXECUTIVE SUMMARY	8
ATTACHMENT A: PHA PLAN UPDATE	11
ATTACHMENT B: HOTMA SECTIONS 102 AND 104	12
ATTACHMENT C: DEMOLITION AND/OR DISPOSITION, CONVERSION OF PUBLIC HOUSING, PROJECT-BASED VOUCHERS AND RENTAL ASSISTANCE DEMONSTRATION (RAD)	19
ATTACHMENT D: SIGNIFICANT AMENDMENT AND SUBSTANTIAL DEVIATION OR MODIFICATION OF THE AGENCY PLAN	39
ATTACHMENT E: PUBLIC HOUSING RESIDENT ADVISORY BOARD MEMBERS	40
ATTACHMENT F: AGENDAS OF MEETINGS HELD WITH NYCHA’S RESIDENT ADVISORY BOARD	41
ATTACHMENT G: CAPITAL IMPROVEMENTS – FY 2024 CAPITAL FUND ANNUAL STATEMENT/ PERFORMANCE AND EVALUATION REPORT AND 5-YEAR ACTION PLAN (FY2024-2028)	42
ATTACHMENT H: PIH NOTICE 2016-17-RENTAL ASSISTANCE DEMONSTRATION (RAD) NOTICE REGARDING FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS AND RELOCATION REQUIREMENTS APPLICABLE TO RAD FIRST COMPONENT – PUBLIC HOUSING CONVERSION	60

Executive Summary

NYCHA’s Draft Amendment to the Annual PHA Plan for FY 2024

Federal law allows a public housing authority to modify or amend its Annual PHA Plan or “Plan.” Significant amendments to the Plan are subject to the same requirements as the original plan.

NYCHA’s Draft Amendment to the Annual PHA Plan for FY 2024 is available for public review on NYCHA’s website: <http://www1.nyc.gov/site/nycha/about/annual-plan-financial-information.page>. NYCHA will also provide a copy of the Draft Significant Amendment to each development’s Resident Association President. The Draft Amendment will also be made available at the management office of every NYCHA public housing development during regular business hours.

NYCHA will hold a hybrid in-person and virtual public hearing on July 30, 2024, and accept written comments on the Draft Significant Amendment through August 2, 2024. Please see the Notice on page 2. NYCHA met with the Resident Advisory Board members for their comments in 12 meetings from April to June 2024.

Housing Opportunity Through Modernization Act (HOTMA) Sections 102 and 104

The U.S. Department of Housing and Urban Development (HUD) published new regulations in February 2023 implementing changes under the Housing Opportunity Through Modernization Act (HOTMA). Sections 102 and 104 of HOTMA make changes to the United States Housing Act of 1937, particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants. Please see Attachment B on pages 12 to 18 for more information on the changes that will apply to the NYCHA’s Housing Choice Voucher (“HCV”) and Public Housing programs.

Real Estate Activities *(Revised)*

Demolition Disposition Activities

NYCHA will use every tool available to protect the affordability of New York City’s housing stock and strengthen public housing for this and future generations of New Yorkers. As part of this Significant Amendment to the FY 2024 Annual Plan, NYCHA is requesting HUD approval for demolition/ disposition activities at the following developments: Bronx River Addition, Nostrand, and Wagner.

New York City Public Housing Preservation Trust - In June 2022, the State legislature passed a bill establishing the New York City Public Housing Preservation Trust (the Trust), and it was signed into law by Governor Kathy Hochul.

To dramatically improve residents’ quality of life through comprehensive building renovations while preserving all their rights and protections (including permanently affordable rent) and providing economic opportunities, NYCHA plans to transfer an initial 25,000 apartments to the Trust. NYCHA will continue to own

and manage the properties, entering into a long-term ground lease with the Trust to secure project-based vouchers, which have a subsidy worth double NYCHA's current federal subsidy. Similar to how other government entities raise funding for capital improvements, the Trust will pursue conventional financing or bonds that fund comprehensive building renovations (with input and partnership from residents at the development), including the latest sustainable technologies. And the Trust can hire better vendors who can complete high-quality work, faster.

The Trust bill went into effect 60 days after the date that Governor Hochul signed it into law— after which, NYCHA was required to meet certain obligations, such as publishing the draft resident opt-in voting procedures for public comment and incorporating appropriate feedback from residents into the final version of the voting procedures. In accordance with these requirements, draft voting procedures were issued in October 2022 and finalized in December 2022. In May 2023, the first members of the Trust board, including NYCHA residents, were appointed; they will be critical to the Trust's governance and operations.

Transfers to the Trust will not happen without extensive resident engagement, including a vote by residents at properties proposed for transfer on whether they want the transfer to occur.

In late-2023 and early-2024, the first such resident votes began taking place at Nostrand Houses in the Sheepshead Bay neighborhood of Brooklyn and Bronx River Addition in the Bronx respectively. One-hundred days of public engagement at the developments were followed by 30 days of voting, during which time residents could choose from three ballot options: joining the Trust, entering the PACT program or remaining Section 9. Votes could be placed by mail, online or during the last 10 days of the voting period, in-person. Results were certified by an independent third-party voting administrator, with both developments selecting to convert to the Trust. It will take up to two years to transfer the properties into the Trust— after which time the first stages of the repair process may begin.

Subsequent votes will continue to be rolled out at additional developments in the months ahead.

MTA Easement at Wagner Houses- NYCHA plans for a disposition to the Metropolitan Transportation Authority ("MTA") of a permanent subsurface easement located within the NYCHA public housing development Wagner Houses. The proposed disposition of the approximately 19,314 square feet permanent subsurface easement appurtenant to the Development will facilitate the expansion of the MTA's Second Avenue Subway. The added capacity of the Second Avenue Subway will provide much needed transit access to residents of the Development as well to all residents of the community and improve service. Section 18 application materials will be submitted in 2024 with an anticipated construction start date in 2025.

Permanent Affordability Commitment Together (PACT) - In this Significant Amendment to the FY 2024 Annual Plan, NYCHA is requesting HUD approval to convert Glebe Avenue-Westchester Avenue through the Rental Assistance Demonstration (RAD) program. Through this action, all units in the development will be operated outside the federal public housing program. Households will be transitioned to Project-Based Section 8 assistance.

Capital Improvements – FY 2024 Capital Fund Annual Statement/Performance and Evaluation Report and 5-Year 2024-2028 Action Plan

On May 21 and May 23, 2024, NYCHA presented an overview of the Authority’s Capital Planning Program and the FY 2024 Capital Plan and 5-Year 2024-2028 Action Plan to the Resident Advisory Board (RAB).

NYCHA’s FY 2024 Capital Fund Annual Statement/Performance and Evaluation Report and 5-Year Capital Action Plan are included in the Amendment in Attachment G, on pages 42 through 58.

NYCHA’s FY 2024 Capital Plan and 5-Year Action Plan continues to focus investment to address the key issues outlined in the HUD Agreement: (1) investment in roofs, facades, and plumbing components to help address mold, (2) investment in heating and elevator systems to address boiler and elevators deficiencies, (3) investments in waste management plan to control pest issues, and (4) safety and security investments in fire alarms, new entrances and CCTV systems. In addition, to address sites with a (i) high incidence of mold complaints and/or (ii) potential lead paint risks, NYCHA will be undertaking comprehensive modernization efforts with a variety of funding sources including federal funds. The Five-Year Capital Action Plan reflects the estimated capital budget for the RAD pre-closing costs by development.

The Capital Fund Program Action Plan is complemented by similar investments, including roofs, heating plants, elevators, waste management and comprehensive modernization projects, that will be funded with City and State resources.

ATTACHMENT A
PHA PLAN UPDATE

A) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:

- HOTMA Sections 102 and 104
- Demolition and Disposition
- Rental Assistance Demonstration (RAD) Program
- Capital Improvements

B) Identify the specific locations where the public may obtain copies of the Draft Amendment to the FY 2024 Annual PHA Plan

- The *Draft Significant Amendment to the FY 2024 Annual Plan* is available for public inspection at NYCHA's principal office, located at 90 Church Street, New York, NY between the hours of 9:30 a.m. to 4:30 p.m. Please email annualplancomments@nycha.nyc.gov to schedule a time to review the Plan.

The Draft Significant Amendment to the FY 2024 Annual Plan is also available at the following locations:

- On NYCHA's webpage, which is located at: <https://www1.nyc.gov/site/nycha/about/annual-plan-financial-information.page>
- At the Management Office of *each* NYCHA public housing development during regular business hours.

ATTACHMENT B

HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT (HOTMA) SECTIONS 102 AND 104

The U.S. Department of Housing and Urban Development (HUD) published new regulations in February 2023 implementing changes under the Housing Opportunity Through Modernization Act (HOTMA). Sections 102 and 104 of HOTMA make changes to the United States Housing Act of 1937, particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Under HOTMA, the following changes will apply to the NYCHA's Housing Choice Voucher ("HCV") and Public Housing programs.

ASSET LIMITATION

Restriction on Assistance to Families Based on Assets - Compliance at Admission

At admission, ownership of net household assets that exceed \$100,000 (as adjusted for inflation) or ownership of disqualifying real property require denial of assistance. NYCHA does not have discretion to not enforce the asset limitation at admission. This real property restriction does not apply to:

- a. Any property for which the household is receiving assistance under 24 CFR 982.620 under the Homeownership Option;
- b. Any property that is jointly owned by a member of the household and at least one non-household member who does not live with the household, if the non-household member resides at the jointly owned property;
- c. Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in 24 CFR 5.203; or
- d. Any household that is offering such property for sale.

NYCHA has adopted a policy of non-enforcement of the asset limitation at annual and interim recertifications. NYCHA will not initiate termination or eviction proceedings for a household for non-compliance with the asset limitation.

CALCULATING INCOME

• New Admissions and Interim Recertifications

- When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, NYCHA must use anticipated income (the household's estimated income for the upcoming 12-month period).

• Annual Recertifications

- NYCHA has the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income.
- During annual recertifications, NYCHA will determine the household's income for the previous 12-month period and use this amount as the household income for annual recertifications; however, modifications to reflect current income will be made. NYCHA will consider any change of income since the household's last annual recertification.

- NYCHA is required to factor in the Cost of Living Adjustments (COLA) when determining Social Security (SS) and Social Security disability (SSI) income for all annual and interim recertifications of household income that have not yet been completed and will be effective January 1 or later of the upcoming year.
- If NYCHA becomes aware of an income calculation error, NYCHA will correct the error retroactively to the effective date of the error. NYCHA will not retroactively charge households for amounts that were undercharged because of a NYCHA error in income calculation.

DEDUCTIONS AND EXPENSES

Effective January 1, 2024, the dependent deduction amount is \$480, and the elderly/disabled household deduction is \$525 and applies to a household's next interim or annual reexamination, whichever is sooner. The amount of deduction will be adjusted for inflation annually by HUD.

- **Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses**
 - HUD established a new higher threshold for deducting health and medical care expenses and unreimbursed reasonable attendant care and auxiliary apparatus expenses. The sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the household's annual income can be deducted from annual income. The 10 percent threshold will be phased-in over two years, as explained below. Prior to December 1, 2024, the threshold was 3 percent of the household's annual income.
 - Health and medical care expenses include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. It also includes medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. To claim unreimbursed health and medical care expenses, the family must have a head of household, co-head, or spouse that is elderly or a person with a disability.
- **Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses**
 - To claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the household must include a person with a disability, and the expenses must enable any member of the household (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.
 - Auxiliary apparatus items include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

- **Phased In Relief**
 - All households who received a deduction for unreimbursed health and medical care or reasonable attendant care and auxiliary apparatus expenses based on their most recent income review prior to December 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first.
 - Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at these lower thresholds the threshold will be expenses exceeding 10 percent of annual income, unless the family qualifies for relief under the general hardship relief provision.
 - A household receiving phased-in relief may request to receive general hardship relief instead; once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.
- **General Relief**
 - To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, and the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.
 - Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.
 - If NYCHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. NYCHA will extend the relief for one additional 90-day period while the family's hardship condition continues.
- **Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction**
 - A family whose eligibility for the child-care expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.
 - The amount deducted must not exceed the amount of employment income that is included in annual income.
 - The hardship exemption and the new adjusted income calculation will remain in place for a period of up to 90 days, after which the annual income will change to the original amount before the hardship exemption was granted. NYCHA will extend the relief for one additional 90-day period while the family's hardship condition continues.

HOUSEHOLD COMPOSITION

The definition of family now includes a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
 - Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
 - Is homeless or is at risk of becoming homeless at age 16 or older
- **Definitions of Foster Adult and Foster Child**
 - A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under New York state law. A foster child is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.
 - The income of foster adults/children are included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered household members and must be included when determining unit size or subsidy standards based on established policies.
 - Foster children and foster adults are not considered dependents.

INCOME

- **Annual Income**
 - Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income also includes the income of a day laborer, independent contractor, and seasonal worker regardless of age, unless otherwise excluded by HUD.
 - Annual income also includes all actual anticipated income from assets. Imputed income on the net family assets is included in annual income only when net family assets exceed \$50,000 and actual income from the assets cannot be calculated.
 - Note: Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not actually receive.
- **Determining Net Family Assets**
 - Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded by HUD.
 - Necessary personal property is excluded from net family assets. Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Non-necessary personal property with a combined value greater than \$50,000, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, then all non-necessary personal property is excluded from net family assets.

- NYCHA’s HCV program requires a household with total net assets that are equal to or less than \$50,000 to submit third-party verification documents.
- NYCHA’s public housing program allows a household to self-certify total net assets equal to or less than \$50,000.
- **Trusts**
 - Whether distributions from the trust count as annual income to the family depends on the following three factors:
 - Whether the trust is under the control of the family
 - Whether distributions are made from the trust’s principal; and
 - The purpose of the distribution, if the distribution is made from income earned on the trust’s principal
 - The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.
 - If NYCHA determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family’s income.
- **Imputed Income**
 - Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:
 - The value of net family assets exceeds \$50,000 (as adjusted for inflation);
 - The specific asset is included in net family assets; and
 - Actual asset income cannot be calculated for the specific asset.
- **Federal Tax Refunds or Refundable Tax Credits**
 - All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family’s net family assets for a period of 12 months after receipt by the family.

INCOME EXCLUSIONS

- Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income, and is excluded from annual income. The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts). Examples of nonrecurring income include temporary U.S. Census Bureau Employment, economic stimulus or recovery payments, state tax refunds, federal tax refunds, in-kind donations, lump-sum additions to net family assets, settlements, earned income of dependent full-time students, etc.
- Income that has a distinct end date and will not be repeated beyond the coming year during the family’s upcoming annual reexamination period will be excluded from a family’s annual income as nonrecurring income.

Student Financial Assistance

Financial assistance for educational costs is generally excluded from income if the financial assistance is less than actual educational costs. Excess financial assistance received under 479B of the Higher Education Act (HEA) is excluded from income depending on the context, as explained below. Other excess financial assistance (non-HEA assistance) is never excluded from income.

- **For NYCHA’s Public Housing residents**, all HEA assistance is excluded from income, including any excess portion. Other student financial assistance (non-HEA assistance) received by the student that, either by itself or in combination with HEA assistance, are in excess of the actual educational costs will be included in income.
- **For NYCHA Section 8 residents**, if HUD’s congressional appropriation includes a Section 8 student financial assistance limitation (as it usually does), then the treatment of excess student financial assistance depends on who the student is.
 - If the student is the head of household, co-head, or spouse and is 23 or younger or does not have dependent children, then excess HEA assistance and excess non-HEA assistance will be included in income. If the student is over 23 with dependent children, then all HEA assistance is excluded from income, including any portion that is in excess and only the non-HEA excess assistance will be included in income.
 - If HUD’s congressional appropriation does not include a Section 8 student financial assistance limitation, then financial assistance for educational costs will be treated the same as assistance is treated for public housing residents.
 - The distinction between treatment of excess HEA assistance for Section 8 and public housing residents is required by HUD’s statutory interpretation. Other Types of Income Exclusions (Not All Inclusive)
 - Achieving a Better Life Experience (ABLE) Accounts, distributions from Coverdell Education Savings Accounts, 529 accounts and “Baby Bond” accounts, gross income from self-employment or operation of a business, civil rights judgements, settlements, etc.

Elimination of the Earned Income Disregard (EID)

- The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months. The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.
- Households who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family’s EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

INTERIM RECERTIFICATIONS

- **Enterprise Income Verification (EIV)**
NYCHA will eliminate the use of EIV requirement for interim reexaminations.
- **Decreases in Adjusted Income**
NYCHA will conduct an interim reexamination of family income when the family reports that there is a change in the family’s annual adjusted income.
- **Increases in Adjusted Income**
 - NYCHA will conduct an interim reexamination of family income when NYCHA becomes aware that the family’s adjusted income has changed and will result in an increase of 10 percent or more in annual adjusted income. NYCHA will conduct an interim if the household has zero income and is now reporting earned income.
 - NYCHA will not conduct an interim reexamination during the last three months of a certification period if the family reports an increase in income within three months of the next annual recertification effective date.

Authorization for the Release of Information

All applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income recertification. After an applicant or participant has signed and submitted a consent form on or after December 1, 2024, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income recertification except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or NYCHA in administrative instructions

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to NYCHA to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits NYCHA from providing assistance.

A family has the right to revoke consent by providing written notice to the NYCHA. However, revoking the consent will result in termination of assistance or denial of admission to program.

Determination of Income Using Other Means Tested Public Assistance (i.e., “Safe Harbor”)

NYCHA may determine a family’s annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low-Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice.

NYCHA must obtain the verification via third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family’s composition in the assisted unit, except for household members), and must state the amount of the family’s annual income.

If NYCHA uses a Safe Harbor determination to determine the family’s income for an income examination (New Admission/Move Ins, Interim Recertification, or Annual Recertification), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the action.

ATTACHMENT C

DEMOLITION AND/OR DISPOSITION, CONVERSION OF PUBLIC HOUSING, PROJECT-BASED VOUCHERS AND RENTAL ASSISTANCE DEMONSTRATION (RAD)

A) Demolition and/or Disposition Activities

NYCHA will use every tool available to protect the affordability of New York City's housing stock and strengthen public housing for this and future generations of New Yorkers. As part of this Significant Amendment to the FY 2024 Annual Plan, NYCHA is requesting HUD approval for demolition/disposition activities at the following developments: Bronx River Addition, Nostrand, and Wagner.

New York City Public Housing Preservation Trust - In June 2022, the State legislature passed a bill establishing the New York City Public Housing Preservation Trust (the Trust), and it was signed into law by Governor Kathy Hochul.

To dramatically improve residents' quality of life through comprehensive building renovations while preserving all their rights and protections (including permanently affordable rent) and providing economic opportunities, NYCHA plans to transfer an initial 25,000 apartments to the Trust. NYCHA will continue to own and manage the properties, entering into a long-term ground lease with the Trust to secure project-based vouchers, which have a subsidy worth double NYCHA's current federal subsidy. Similar to how other government entities raise funding for capital improvements, the Trust will pursue conventional financing or bonds that fund comprehensive building renovations (with input and partnership from residents at the development), including the latest sustainable technologies. And the Trust can hire better vendors who can complete high-quality work, faster.

The Trust bill went into effect 60 days after the date that Governor Hochul signed it into law— after which, NYCHA was required to meet certain obligations, such as publishing the draft resident opt-in voting procedures for public comment and incorporating appropriate feedback from residents into the final version of the voting procedures. In accordance with these requirements, draft voting procedures were issued in October 2022 and finalized in December 2022. In May 2023, the first members of the Trust board, including NYCHA residents, were appointed; they will be critical to the Trust's governance and operations.

Transfers to the Trust will not happen without extensive resident engagement, including a vote by residents at properties proposed for transfer on whether they want the transfer to occur.

In late-2023 and early-2024, the first such resident votes began taking place at Nostrand Houses in the Sheepshead Bay neighborhood of Brooklyn and Bronx River Addition in the Bronx respectively. One-hundred days of public engagement at the developments were followed by 30 days of voting, during which time residents could choose from three ballot options: joining the Trust, entering the PACT program or remaining Section 9. Votes could be placed by mail, online or during the last 10 days of the voting period, in-person. Results were certified by an independent third-party voting administrator, with both developments selecting to convert to the Trust. It will take up to two years to transfer the properties into the Trust— after which time the first stages of the repair process may begin.

Subsequent votes will continue to be rolled out at additional developments in the months ahead.

Demolition/Disposition Activity Description
1a. Development name: Bronx River Addition 1b. Development (project) number: NY005010320
2. Activity type: <input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Disposition <i>Through the Housing Preservation Trust, NYCHA plans to comprehensively renovate Bronx River Addition to address the 20-year needs of the development, with rehabilitation to start in 2026. The Trust will identify a Design-Build partner to complete the capital work and NYCHA will provide property management services to the development.</i>
3. Application status (select one) <input type="checkbox"/> Approved <input type="checkbox"/> Submitted, pending approval <input checked="" type="checkbox"/> Planned application
4. Date original application approved, submitted, or planned for submission: TBD
5. Number of units affected: 226 units
6. Coverage of action (select one) <input type="checkbox"/> Part of the development <input checked="" type="checkbox"/> Total development
7. Timeline for activity: a. Actual or projected start date of activity: 2024 b. Projected end date of activity: TBD

Demolition/Disposition Activity Description
1a. Development name: Nostrand 1b. Development (project) number: NY005010360
2. Activity type: <input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Disposition <i>Through the Housing Preservation Trust, NYCHA plans to comprehensively renovate Nostrand Houses to address the 20-year needs of the development, with rehabilitation work to start in 2026. The Trust will identify a Design-Build partner to complete the capital work and NYCHA will provide property management services to the development.</i>
3. Application status (select one) <input type="checkbox"/> Approved <input type="checkbox"/> Submitted, pending approval <input checked="" type="checkbox"/> Planned application
4. Date original application approved, submitted, or planned for submission: TBD
5. Number of units affected: 1,148
6. Coverage of action (select one) <input type="checkbox"/> Part of the development <input checked="" type="checkbox"/> Total development
7. Timeline for activity: a. Actual or projected start date of activity: 2023 b. Projected end date of activity: TBD

MTA Easement at Wagner Houses- NYCHA plans for a disposition to the Metropolitan Transportation Authority (“MTA”) of a permanent subsurface easement located within the NYCHA public housing development Wagner Houses. The proposed disposition of the approximately 19,314 square feet permanent subsurface easement appurtenant to the Development will facilitate the expansion of the MTA’s Second Avenue Subway. The added capacity of the Second Avenue Subway will provide much needed transit access to residents of the Development as well to all residents of the community and improve service. Section 18 application materials will be submitted in 2024 with an anticipated construction start date in 2025.

Demolition/Disposition Activity Description
<p>1a. Development name: Wagner Houses 1b. Development (project) number: NY005010740</p>
<p>2. Activity type: <input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Disposition <i>Disposition of a permanent subsurface easement located within Wagner Houses. The proposed disposition of the approximately 19,314 square feet permanent subsurface easement appurtenant to the development will facilitate the expansion of New York City’s subway system.</i></p>
<p>3. Application status (select one) <input type="checkbox"/> Approved <input type="checkbox"/> Submitted, pending approval <input checked="" type="checkbox"/> Planned application</p>
<p>4. Date application approved, submitted, or planned for submission: 2024</p>
<p>5. Number of units affected: 0</p>
<p>6. Coverage of action (select one) <input checked="" type="checkbox"/> Part of the development <input type="checkbox"/> Total development</p>
<p>7. Timeline for activity: a. Actual or projected start date of activity: 2024 b. Projected end date of activity: TDB</p>

B) Conversion of Public Housing under the Rental Assistance Demonstration (RAD) Program

The Rental Assistance Demonstration (“RAD”) is a voluntary program administered by the United States Department of Housing and Urban Development (“HUD”). The goals of RAD are to safeguard long-term housing assistance, improve and modernize properties, and stabilize developments by placing them on more solid financial footing by converting the federal subsidy stream for such developments from Section 9 to Section 8. On June 19, 2019, HUD approved NYCHA’s Significant Amendment to the FY 2019 Annual Plan which included a request to use the Section 18 disposition process for some or all units within the developments currently approved or being considered for RAD conversion, in order to improve the financial stability of the conversions.

Permanent Affordability Commitment Together (PACT) - Revised

NYCHA’s preservation work – called Permanent Affordability Commitment Together (PACT) – centers on converting public housing units to Section 8 with tenants-in-place via federal pathways such as HUD’s Rental Assistance Demonstration (RAD) and adjacent programs. PACT is NYCHA’s initiative to facilitate major improvements to developments while preserving long-term affordability and maintaining strong resident rights through effective public-private partnerships. By leveraging these federal programs and tools, NYCHA will help improve the quality of life for residents, ensuring their apartments and buildings receive much-needed repairs and upgrades while preserving affordability and tenant protections. Under PACT, NYCHA seeks to shift a public housing development’s funding source to Project-Based Section 8 to provide a more stable flow of federal subsidy and to allow NYCHA and its development partners to raise external financing to address the development’s capital repair needs.

As the subsidy for a PACT development transitions from public housing (Section 9) to the Project- Based Section 8 program, NYCHA retains ownership and continues to play a key role in decision making and oversight of the development, specifically as the beneficial owner and Section 8 contract administrator. Under PACT and Section 8 policies, all units in the converted development must remain permanently affordable. Residents will continue to have the same succession opportunities and grievance procedures under PACT that currently exist for NYCHA’s public housing tenants. Residents will retain the right to establish and operate a resident organization and receive funding for that group. Finally, development partners are required to train and hire NYCHA residents, and proactively engage residents on a regular basis as the project moves forward.

In this Significant Amendment to the FY 2024 Annual Plan, NYCHA is requesting HUD approval to convert Glebe Avenue-Westchester Avenue through the Rental Assistance Demonstration (RAD) program. Through this action, all units in the development will be operated outside the federal public housing program. Households will be transitioned to Project-Based Section 8 assistance. All RAD resident rights and protection will be in place for these conversions.

Name of Public Housing Development: GLEBE AVENUE-WESTCHESTER AVENUE	PIC Development ID: NY005010670	Conversion type (i.e., PBV or PBRA): PBV	Transfer of Assistance: (if yes, please put the location if known, and # of units transferring) No
Total Units: 132	Pre- RAD Unit Type (i.e., Family, Senior, etc.): Senior	Post-RAD Unit Type if different (i.e., Family, Senior, etc.): Senior	Capital Fund allocation of Development: (Annual Capital Fund Grant, divided by total number of public housing units in PHA, multiplied by total number of units in project) $\$754,241,166/156,865 \times 132 = \$634,685$
Bedroom Type	Number of Units Pre-Conversion: 132	Number of Units Post-Conversion: 132	Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)
Studio/Efficiency	25	25	0
One Bedroom	107	107	0
Three Bedroom	0	0	0
Four Bedroom	0	0	0
Five Bedroom	0	0	0
Six Bedroom	0	0	0
(If performing a Transfer of Assistance):	(Explain how transferring waiting list) N/A		

RAD Resident Rights, Participation, Waiting List and Grievance Procedures

Please note the resident rights listed below are from HUD Notice H-2019-09 PIH-2019-23 (HA), (September 5, 2019) Rental Assistance Demonstration REV-4 – Final Implementation, Section 1.6 C and Section 1.6 D) as amended by HUD Notice H-2023-08 PIH-2023 19 (HA) Rental Assistance Demonstration – Supplemental Notice 4B (July 27, 2023) (collectively, the “Notice”):

1.6.C. PBV Resident Rights and Participation.

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute¹, at conversion, current households cannot be excluded from occupancy at the Covered Project² based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project³ 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.⁴ 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 Act⁵ 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) of the Notice as set forth below and the RAD Fair Housing, Civil Rights, and Relocation Notice (as defined below) 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.
 - i. RAD Fair Housing, Civil Rights, and Relocation Notice.** The “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements Applicable to RAD First

¹ RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Pub. L. No. 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. No. 113-235, approved December 16, 2014), the Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Pub. L. No. 115-31, approved May 5, 2017), section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Pub. L. 115-141, approved March 23, 2018), and as amended by the Consolidated Appropriations Act, 2022 (Pub. L. No. 117-103, approved March 15, 2022) collectively, the “RAD Statute.”

² *Covered Project* - The post-conversion property with assistance converted from one form of rental assistance to another under the Demonstration.

³ *Converting Project* - The pre-conversion property whose assistance is converting from one form of rental assistance to another under the Demonstration.

⁴ 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.

⁵ The U.S. Housing Act of 1937 as may be amended.

Component – Public Housing Conversions,” Notice H 2016-17 (HA), PIH 2016-17 (HA), as may be amended. The RAD Fair Housing, Civil Rights, and Relocation Notice contains relocation requirements related to public housing conversions under RAD.⁶ The RAD Fair Housing, Civil Rights, and Relocation Notice provides PHAs and their development partners with information and resources on RAD program requirements, Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended (Section 104(d)) when planning for or implementing resident moves in connection with a RAD conversion under the First Component of RAD. Specifically, the RAD Fair Housing, Civil Rights, and Relocation Notice provides guidance on relocation planning, resident right to return, relocation assistance, resident notification, initiation of relocation, and the fair housing and civil rights requirements applicable to these activities.

The appendices to the RAD Fair Housing, Civil Rights, and Relocation Notice include recommended relocation plan contents. Sample relocation notices for issuance to residents depending on RAD project characteristics are available on the RAD website at www.hud.gov/rad. The primary source for First Component relocation requirements and guidance is the RAD Fair Housing, Civil Rights, and Relocation Notice and not the Notice. In the event of a conflict between the Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice, with regard to relocation requirements, the RAD Fair Housing, Civil Rights, and Relocation Notice controls.

ii. **Section 1.4.A.5(b) of the Notice.** Section 1.4.A.5(b) of the Notice states:

Right to Return. Any resident that may need to be temporarily relocated to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a project’s conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery. Where the transfer of assistance to a new site is warranted and approved (see Section 1.4.A.12 of the Notice), residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. For more information on how to implement these provisions see the RAD Fair Housing, Civil Rights, and Relocation Notice.

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 TTP⁷) 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

⁶ Please see Attachment P beginning on page 236 for the full text of the “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions” Notice H 2016-17; PIH 2016-17 (HA), as may be amended from time to time at https://www.hud.gov/sites/documents/16-17HSGN_16-17PIHN.PDF.

⁷ TTP means the total tenant payment as calculated pursuant to 24 CFR Part 5.

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 Owner⁸ 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 TTP⁹

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

⁸ The term Project Owner refers to the owner of the Covered Project, including but not limited to any owner pursuant to a HAP Contract. For purposes of HAP Contracts, an Owner is a private person, partnership, or entity (including a cooperative), a non-profit entity, a PHA, or other public entity, having the legal right to lease or sublease the dwelling units subject to the HAP Contract

⁹ For example, where a resident’s most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident’s occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident’s contribution would increase by 33% of \$100 to \$133. At the second AR, the resident’s contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident’s contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

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 78100.¹⁰ 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.¹¹

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, 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.

¹⁰ 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.

¹¹ 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.

5. Resident Participation and Funding. In accordance with Attachment 1B of the Notice, 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.

i. **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 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 :

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

ii. **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:

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual’s lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident’s rights, obligations, welfare, or status.
 - i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(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).
 - ii. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.

- c. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(v).
- d. The Project Owner provides opportunity for an informal hearing before an eviction.

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

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.

- 1. 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 of the Notice; 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.

- 2. 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. *(Updated as per HUD Notice H-2023-08 PIH-2023 19 (HA) Rental Assistance Demonstration – Supplemental Notice 4B)* 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 HAP 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 Gross Rent. (24 CFR § 983.258 and § 983.211).

Pre-Conversion Residents. Since the rent limitation under this Section of the Notice may result in current residents having TTPs that exceed the Gross Rent, 24 CFR §983.53(c) does not apply in order to provide RAD PBV assistance to residents who were living in the Converting Project prior to conversion. As necessary to further implement the alternative requirements described below, HUD is waiving 24 CFR §983.258 and §983.211, as well as 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.

HUD is establishing an alternative requirement that the unit for a family with a TTP that equals or exceeds Gross Rent must be placed on the PBV HAP Contract and the family shall be admitted to the PBV program. In such cases the resident is considered a participant under the PBV program and all the family obligations and protections under RAD and PBV apply to the resident.

During any period when the family's TTP is equal to or above the Gross Rent, the zero- HAP family will pay an alternate rent to owner that is the lower of:

- a. the family's TTP less the Utility Allowance¹², subject to any required phase-in pursuant to Section 1.6.C.3 of the Notice; or
- b. the Zero-HAP Rent Cap, which is the lower of either:
 - a. 110% of the applicable FMR less the Utility Allowance; or
 - b. In the event the units are subject to more restrictive rent setting requirements under the LIHTC or HOME programs, or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

During any period that the family's TTP falls below the Gross Rent, the normal PBV requirements apply and the family would pay 30% of adjusted income, less utility allowance.

After a family has paid the Zero-HAP Rent Cap as set by this Section for a period of 180 days, the PHA shall remove the unit from the HAP Contract and the family's participation in the PBV program ends.¹³

¹² *Utility Allowance:* As defined in 24 CFR Part 5, the amount that a Public Housing Authority or Project Owner determines is reasonable for tenant-paid utility costs.

¹³ 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 (Gross Rent = \$550). The FMR for the unit size in the area in which the project is located is \$800. Following conversion, the family is responsible for paying \$550 in tenant rent. If the resident's income rises or is subject to a rent increase phase-in and all other conditions remain the same, the family would pay TTP until the tenant rent reached the Zero-HAP Rent Cap of \$830 (\$880, which is 110% of the \$800 FMR, minus the \$50 utility allowance), at which point the family would continue paying \$830, and unless the family's income and TTP subsequently decreases, the unit would be removed from the contract after 180 days. Families paying less than TTP because of the phased in Tenant Rent Increase alternative requirement are not paying the Zero-HAP Rent Cap and are not subject to this 180-day requirement. However, if the family's Calculated PBV TTP under section 1.6.C.3 is more than the Gross Rent, the family is a zero-HAP family and the applicability of the phased in Tenant Rent

If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP Contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP Contract unless the PHA previously substituted a different 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.

Additionally, if the family continues to reside in the project after the family’s unit was removed from the HAP Contract, the family may request to return to the PBV program if the family’s income subsequently decreases to the extent that the family’s TTP is less than the Zero-HAP Rent Cap set by this section and the family is otherwise eligible for PBV assistance. The PHA shall, at the earliest opportunity¹⁴, reinstate the family’s unit back onto the HAP Contract to provide rental assistance to the family. All PBV requirements with respect to the unit, such as compliance with HQS, apply while the unit is under the HAP Contract or added back to the HAP Contract.

New Admission Families. Unless a PHA requests and receives the waiver described below, any new admission to the Covered Project must meet the eligibility requirements at 24 CFR § 982.201 and require a subsidy payment at admission to the PBV program, which means the family’s TTP may not equal or exceed the Gross Rent for the unit at that time. Furthermore, a PHA must remove a new admission family’s unit from the PBV HAP Contract when no assistance has been paid for 180 days because a new admission family’s TTP subsequently increased to equal or exceed the Gross Rent. However, HUD is imposing an alternative requirement in such cases. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit on the HAP Contract and admit an eligible family. 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.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver of 24 CFR §§983.53(c), 983.259, 983.211, and 983.301 from HUD for the Covered Project. The waiver will apply the alternative requirements applicable to the pre-conversion residents in this Section to new admission families.

The PHA may request the waiver during the RAD conversion process or may subsequently request the waiver any time after the effective date of the HAP Contract. In order for the waiver to be approved,

increase would end when the amount the family would pay under that alternative requirement meets or exceeds the Zero-HAP Rent Cap. At that point in time the family would pay the Zero-HAP Rent Cap and would be subject to all zero-HAP family requirements of this section, including the 180-day requirement.

¹⁴ If the project was partially assisted and the PHA previously substituted a different unit on the HAP Contract, the PHA shall substitute the family’s unit for a vacant unit on the HAP Contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP Contract becomes vacant if there are no vacant units on the HAP Contract at the time of the family request.

the PHA must demonstrate that based on the RAD rent calculated in accordance with Attachment 1C, the monthly two-bedroom RAD Gross Rent is less than: 30% of the monthly income of a family of four at the midpoint between the Very Low Income (VLI) HUD Income Limit and Extremely Low Income (ELI) HUD Income Limit for the area in which the Covered Project is located.

For waivers submitted during the conversion process, the Office of Recapitalization may grant the waiver after review of the Financing Plan and confirmation that the RAD rents meet the waiver rent threshold described above.¹⁵ The Office of Recapitalization shall document the waiver by adding an additional provision to the RCC before closing. For waivers submitted after the effective date of the HAP Contract, the waiver is submitted through the normal waiver process outlined in Notice PIH 2018-16 (or any successor notice). In both cases, the approved waiver will be for the initial term of the PBV HAP Contract.

If the waiver is approved, the new admission families covered under the waiver are participants under the PBV program, all the family obligations and protections under RAD and PBV apply to the family, the RAD PBV families shall be subject to the same alternative requirements applicable to the pre-conversion residents under this Section, and the unit is subject to all PBV program requirements, as modified by this Notice.

Further, Covered Projects that receive the waiver shall be subject to an alternative income targeting requirement that at least 75% of new admissions to the PBV units (both RAD and non-RAD PBV units) in the Covered Project in any PHA fiscal year are ELI families.¹⁶ If there are less than four new admissions to the Covered Project in a PHA fiscal year, the income targeting is determined by combining the new admissions for that fiscal year with the new admissions for the subsequent fiscal year (or years) until the combined total of new admissions equals or exceeds four for those consecutive fiscal years.¹⁷

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

¹⁵ An example of the waiver rent threshold calculation is as follows. Assume the applicable VLI limit is \$46,850 and the ELI limit is \$28,100. The midpoint income is \$37,475 ($\$46,850 + \$28,100 = \$74,950; \$74,950/2 = \$37,475$). To calculate the affordable monthly rent, the midpoint income is divided by 12 and multiplied by 0.30 ($\$37,475/12 = \$3,123; \$3,123*0.30 = \937). If the RAD Rent is less than \$937, the Covered Project is eligible for the waiver.

¹⁶ This alternative requirement for the Covered Project is in addition to the PHA's HCV/PBV program income targeting requirements at 24 CFR 982.201(b)(2). Admissions to the Covered Project continue to be taken into account when determining income targeting in accordance with 24 CFR 982.201(b)(2).

¹⁷ For example, assume in fiscal year in which the waiver was granted the Covered Project had one new admission and in following fiscal year had three new admissions. Compliance with the Covered Project income targeting requirement would be determined based on the combined total of the 4 new admissions over the two fiscal years (3 of the 4 new admissions to PBV units the Covered Project must have been ELI families).

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.

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 of the Notice 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.¹⁸

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.14 and 1.4.A.15 of the Notice.

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.
- 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.

¹⁸ 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.

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 communitywide 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).¹⁹

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.

¹⁹ 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

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

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

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

8. Choice-Mobility. One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance. If as a result of participation in RAD a significant percentage of the PHA’s HCV program becomes PBV assistance, it is possible for most or all of a PHA’s turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant based vouchers to address the specific housing needs and priorities of the community.

Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA’s authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA’s administrative plan. To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

9. Reserve for Replacement. The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions,

Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

10. Initial Certifications and Tenant Rent Calculations. The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site specific utility allowance, if applicable) to determine the PBV HAP and tenant rent.

This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).

I – Move Plans

If a resident must be temporarily moved due to personal medical reasons, health and safety reasons (for example, due to necessary environmental abatement), and/or reasonable accommodation, the temporary move will be performed at no expense to the resident and the resident will have the right to return after the rehabilitation to their original unit. The resident will be offered a temporary unit at a development within the same PACT project. Specific temporary move plans will be finalized after a PACT partner is selected for each affected development.

If a resident must be moved due to the demolition of their current building, the move will be performed at no expense to the resident and the resident will have the right to return after the rebuilding of the building is complete. Specific move plans for any household impacted by the demolition of the household's building and development will be developed by the PACT partner **in compliance with the RAD Fair Housing, Civil Rights, and Relocation Notice**.

NYCHA will submit the RAD Fair Housing, Civil Rights, and Relocation Checklist to HUD as required by *the Notice* and will comply with the fair housing, civil rights and relocation requirements under the RAD program as stated in the RAD Fair Housing, Civil Rights, and Relocation Notice. Please see Attachment H beginning on page 60 for the full text of this RAD Fair Housing, Civil Rights, and Relocation Notice.

II – Site Selection and Neighborhood Standards

NYCHA's RAD conversions comply with all applicable site selection and neighborhood review standards as required by the Notice.

III – Voluntary Compliance Agreement, Consent Order or Consent Decree

NYCHA certifies that it is under a Voluntary Compliance Agreement (“VCA”), Monitor Agreement by and between NYCHA, HUD and the City of New York dated January 31, 2019 (the “Agreement”), and assorted consent decrees. RAD conversion at the NYCHA developments listed on pages 22 – 23 will not have a negative impact on NYCHA’s compliance with such existing VCA, Agreement or consent decrees.

ATTACHMENT D

SIGNIFICANT AMENDMENT AND SUBSTANTIAL DEVIATION OR MODIFICATION OF THE AGENCY PLAN

Criteria for Significant Amendment or Modification of the Agency Plan and/or Capital Fund Program Five-Year Action Plan:

NYCHA will amend or modify its agency plan and/or Capital Fund Program Five-Year Action Plan upon the occurrence of any of the following events during the term of an approved plan(s):

1. A change in federal law takes effect and, in the opinion of NYCHA, it creates substantial obligations or administrative burdens beyond the programs then under administration, excluding changes made necessary due to insufficient revenue, funding or appropriations, funding reallocations resulting from modifications made to the annual or five-year capital plan or due to the terms of a judicial decree.
2. Any proposed demolition, disposition, homeownership, Capital Fund financing, development or mixed-finance proposals.
3. Any Capital Fund project not already in the Five-Year Action Plan for an amount greater than \$500 million excluding projects arising out of federally declared major disasters.
4. Any other event that the Authority determines to be a significant amendment or modification of an approved annual plan and/or Capital Fund Program Five-Year Action Plan.
5. For purposes of any Rental Assistance Demonstration (“RAD”) project, a proposed conversion of public housing units to Project Based Rental Assistance or Project Based Voucher Assistance that has not been included in an Annual Plan shall be considered a substantial deviation.

ATTACHMENT E
RESIDENT ADVISORY BOARD MEMBERS

	Name	Development	District	Delegate /Alternate
1	Geraldine Hopper	Clason Point Gardens	Bronx North	Delegate
2	Keith Ramsey	Eastchester Gardens	Bronx North	Delegate
3	Lilith Lozano	Parkside	Bronx North	Delegate
4	Maurice Tony Edwards	Marble Hill	Bronx North	Delegate
5	Walter McNeil	Edenwald	Bronx North	Delegate
6	Dana Elden	St. Mary's Park	Bronx South	Delegate
7	Daniel Barber	Jackson	Bronx South	Delegate
8	Gloria Tull	Claremont Parkway	Bronx South	Delegate
9	Gwendolyn Primus	Webster/Morrisania	Bronx South	Delegate
10	Maria Forbes	Clay Avenue	Bronx South	Delegate
11	Princella Jamerson	Millbrook/Millbrook Extension	Bronx South	Delegate
12	Raymond Serrano	Stebbins Hewitt	Bronx South	Delegate
13	Carolyn Johnson	Albany	Brooklyn East	Delegate
14	Lisa Kenner	Van Dyke	Brooklyn East	Delegate
15	Naomi Johnson	Howard	Brooklyn East	Delegate
16	Reginald Bowman	Seth Low	Brooklyn East	Delegate
17	Amarilys Herrera	Marlboro	Brooklyn South	Delegate
18	Barbara McFadden	Nostrand	Brooklyn South	Delegate
19	Frances Brown	Red Hook East	Brooklyn South	Delegate
20	Julia Daniely	Carey Gardens	Brooklyn South	Delegate
21	Marie Navarro	Gravesend	Brooklyn South	Delegate
22	Sheryl Boyce	Bayview	Brooklyn South	Delegate
23	Adorn DuBose	Sumner	Brooklyn West	Delegate
24	Darold Burgess	Ingersoll	Brooklyn West	Delegate
25	Gloria Johnson	Tompkins	Brooklyn West	Delegate
26	Lohoma Shipman	Bushwick	Brooklyn West	Delegate
27	Naomi Colon	Marcy	Brooklyn West	Delegate
28	Tyree Stanback	Lafayette Gardens	Brooklyn West	Delegate
29	Bernadette McNear	Rangel	Manhattan North	Delegate
30	Ethel Velez	Johnson	Manhattan North	Delegate
31	Luis Torres	Clinton	Manhattan North	Delegate
32	Nathaniel Green	Dyckman	Manhattan North	Delegate
33	Aixa Torres	Smith	Manhattan South	Delegate
34	Claudia Perez	Washington Houses	Manhattan South	Delegate
35	Cynthia Tibbs	WSUR Brownstones	Manhattan South	Delegate
36	Kazi Islam	Lower Eastside II	Manhattan South	Delegate
37	Nina Saxon	Carver	Manhattan South	Delegate
38	Ramona Minor	DeHostos	Manhattan South	Delegate
39	Bridget Marachlian	Bland	Queens North	Delegate
40	Corinne Woods-Haynes	Queensbridge I & II	Queens North	Delegate
41	Tamika Williams	Pomonok	Queens North	Delegate
42	Vanessa Jones-Hall	Astoria	Queens North	Delegate
43	Belinda Davis	Hammel	Queens South	Delegate
44	Eugenia Gibson	Beach 41st Street	Queens South	Delegate
45	Joyce Hutton	Conlon-Lifhe Towers	Queens South	Delegate
46	Kimberly Comes	Redfern	Queens South	Delegate
47	Lawanda Gainey-Johnson	Carleton Manor	Queens South	Delegate
48	Manuel Martinez	South Jamaica I & II	Queens South	Delegate
49	Margareth Massac	Oceanside	Queens South	Delegate
50	Brenda "Kiko" Charles	Mariner's Harbor	Staten Island	Delegate
51	Clifton Creque	Berry	Staten Island	Delegate
52	Dr. Brenda Harris	Cassidy-Lafayette	Staten Island	Delegate
53	Geraldine Parker	Stapleton	Staten Island	Delegate
54	Shekina Butler	West Brighton I & II	Staten Island	Delegate

ATTACHMENT F

AGENDAS OF MEETINGS HELD WITH NYCHA'S RESIDENT ADVISORY BOARD (RAB)

APRIL 9 & 11, 2024

- Introductions
- Roll Call
- RAB Meetings Schedule & Topics
- Annual Plan & Amendment Schedule
- ACOP and Re-Entry Program Presentation
- Comments and Questions

APRIL 23 & 24, 2024

- Introductions
- Roll Call
- RAB Meetings Schedule & Topics
- The Housing Opportunity Through Modernization Act (HOTMA)
 - Section 102 Income Reviews
 - Section 103 Public Housing Income Limit
 - Section 104 Assets
 - Road to Implementation
- Comments and Questions

MAY 7 & 9, 2024

- Introductions
- Roll Call
- RAB Meetings Schedule & Topics
- PACT Overview & Updates
- Other REDD Project Updates

MAY 21 & 23, 2024

- Introductions
- Roll Call
- Asset and Capital Management / Capital Projects
- Comments and Questions

JUNE 4 & 6, 2024

- Introductions
- Roll Call
- 5-Year Goals for 2025 to 2029
- Comments and Questions

JUNE 11 & 13, 2024

- Introductions
- Roll Call
- Housing Preservation Trust
- Comments and Questions

ATTACHMENT G

CAPITAL IMPROVEMENTS FY 2024 CAPITAL FUND ANNUAL STATEMENT/PERFORMANCE AND EVALUATION REPORT AND 5-YEAR ACTION PLAN (2024 – 2028)

On May 21 and May 23, 2024, NYCHA presented an overview of the Authority's Capital Planning Program and the FY 2024 Capital Plan and 5-Year Action Plan (2024 – 2028) to the Resident Advisory Board (RAB).

NYCHA's FY 2024 Capital Fund Annual Statement/Performance and Evaluation Report and 5-Year Capital Plan (2024 – 2028) are included in the Amendment on pages 42 through 58.

Capital Fund Five - Year Action Plan*

Part I: Summary

PHA Name New York City Housing Authority	<input checked="" type="checkbox"/> Original 5-Year Plan Revision No:
---	--

Development Number and Name	Work Statement for Year 1	Work Statement for Year 2	Work Statement for Year 3	Work Statement for Year 4	Work Statement for Year 5
	FFY Grant: FY24	FFY Grant: FY25	FFY Grant: FY26	FFY Grant: FY27	FFY Grant: FY28
Physical Improvements	398,499,266	398,061,487	356,450,931	367,592,781	368,593,480
Management Improvements	14,171,062	11,760,239	14,308,095	14,308,095	14,298,933
PHA-Wide Non-dwelling Structures and Equipment	232,938	2,643,761	220,261	220,261	229,423
Administration	75,187,475	75,187,475	75,187,475	75,187,475	75,187,475
Other	16,588,836	37,788,729	79,277,639	68,134,367	67,134,368
Operations	187,968,686	187,968,686	187,968,686	187,968,686	187,968,686
Demolition	0	0	0	0	0
Development	0	0	0	0	0
Capital Fund Financing - Debt Service	59,226,482	38,464,368	38,461,658	38,463,080	38,462,381
Total CFP Funds	751,874,745	751,874,745	751,874,745	751,874,745	751,874,745
Total Non-CFP Funds	0	0	0	0	0
Grand Total	751,874,745	751,874,745	751,874,745	751,874,745	751,874,745

Part I: Summary		Part I: Summary			
PHA Name: New York City Housing Authority		Grant Type and Number Capital Fund Program Grant No: Date of CFFP:		Replacement Housing Factor Grant No:	FFY of Grant: FFY of Grant Approval:
Type of Grant	Original Annual Statement Performance and Evaluation for Period Ending:	Reserve for Disasters/ Emergencies		Revised Annual Statement (revision no:) Final Performance and Evaluation Report	
Line	Summary by Development Account	Total Estimated Cost	Total Estimated Cost	Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds	0.00	0.00	0.00	0.00
2	1406 Operations (may not exceed 20% of line 15)	187,968,686.25	0.00	0.00	0.00
3	1408 Management Improvements	14,171,062.08	0.00	0.00	0.00
4	1410 Administration (may not exceed 10% of line 15)	75,187,474.50	0.00	0.00	0.00
5	1480 General Capital Activity	415,321,040.17	0.00	0.00	0.00
6	1492 Moving to Work Demonstration	0.00	0.00	0.00	0.00
7	1501 Collateralization or Debt	0.00	0.00	0.00	0.00
8	1503 RAD	0.00	0.00	0.00	0.00
9	1504 RAD Investment Activity	0.00	0.00	0.00	0.00
10	1505 RAD-CPT	0.00	0.00	0.00	0.00
11	9000 Debt Reserves	0.00	0.00	0.00	0.00
12	9001 Bond Debt Obligation	59,226,482.00	0.00	0.00	0.00
13	9002 Loan Debt Obligation	0.00	0.00	0.00	0.00
14	9900 Post Audit Adjustment	0.00	0.00	0.00	0.00
15	Amount of Annual Grant: (sum of line 2-14)	751,874,745.00	0.00	0.00	0.00
16	Amount of line 15 Related to LBP Activities	60,000,000.00	0.00	0.00	0.00
17	Amount of line 15 Related to Section 504 Compliance	50,048.00	0.00	0.00	0.00
18	Amount of line 15 Related to Security - Soft Costs	0.00	0.00	0.00	0.00
19	Amount of line 15 Related to Security - Hard Costs	0.00	0.00	0.00	0.00

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part I: Summary		Part I: Summary			
PHA Name: New York City Housing Authority		Grant Type and Number Capital Fund Program Grant No:		Replacement Housing Factor Grant No:	FFY of Grant:
		Date of CFFP:		FFY of Grant Approval:	
Type of Grant	Original Annual Statement Performance and Evaluation for Period Ending:	Reserve for Disasters/ Emergencies		Revised Annual Statement (revision no:) Final Performance and Evaluation Report	
Line	Summary by Development Account	Total Estimated Cost Original	Total Estimated Cost Revised	Total Actual Cost Obligated Expended	
20	Amount of line 20 Related to Energy Conservation Measures	2,000,000.00	0.00	0.00	0.00
Signature of Executive Director		Date	Signature of Public Housing Director		Date

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages		Grant Type and Number	Billable Awards			Federal FFY of Grant:		
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:	CFFP (Yes/No):					
		Replacement Housing Factor Grant No:	No					
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original Budget	Original	Revised	Funds Obligated	
1010 EAST 178TH ST (NY005011330P)			220					Planned
	WT_RAD Funds Pre Closing	PR_013941						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
104-14 TAPSCOTT ST (NY005011670P)			804					Planned
	WT_RAD Funds Pre Closing	PR_014054						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
131 SAINT NICHOLAS AVE (NY005010970P)			1,650					Planned
	WT_RAD Funds Pre Closing	PR_014055						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
ATLANTIC TERMINAL SITE 4B (NY005011630P)			1,029					Planned
	WT_Brickwork_Roofs	PR_014194						
		1480 GENERAL CAPITAL ACTIVITY		20,000,000	0	0	0	
BAILEY AVE - WEST 193rd ST (NY005012020P)			577					Planned
	WT_RAD Funds Pre Closing	PR_014056						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
BOSTON ROAD PLAZA (NY005010390P)			1,501					Planned
	WT_RAD Funds Pre Closing	PR_013933						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
BOSTON SECOR (NY005011380P)			538					Planned
	WT_RAD Funds Pre Closing	PR_013943						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
BRONX RIVER (NY005010320P)			1,554					Planned
	WT_Boilers	PR_010399						
		1480 GENERAL CAPITAL ACTIVITY		5,000,000	0	0	0	
CARVER (NY005000580P)			1,246					Planned
	WT_Boilers	PR_009958						
		1480 GENERAL CAPITAL ACTIVITY		4,000,000	0	0	0	
CORSI HOUSES (NY005010640P)			1,730					Planned
	WT_RAD Funds Pre Closing	PR_014057						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
CROWN HEIGHTS (NY005013510P)			894					Planned
	WT_RAD Funds Pre Closing	PR_014058						
		1480 GENERAL CAPITAL ACTIVITY		75.000	0	0	0	
CYPRESS HILLS (NY005010700P)			1,510					Planned
	WT_Fire Alarm	PR_011299						
		1480 GENERAL CAPITAL ACTIVITY		510,458	0	0	0	
DYCKMAN (NY005000410P)			1,167					Planned
	WT_Foundations	PR_009720						
		1480 GENERAL CAPITAL ACTIVITY		1,000,000	0	0	0	
	WT_Boilers	PR_010464						Planned
		1480 GENERAL CAPITAL ACTIVITY		4,000,000	0	0	0	

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages		Grant Type and Number	Billable Awards	CFFP (Yes/No): No		Federal FFY of Grant:		Status of Work
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:	Replacement Housing Factor Grant No:					
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
			Original Budget	Original	Revised	Funds Obligated	Funds Expended	
EAST 152ND ST - COURTLAND AVE (NY005010280P)			1,244					
	WT_RAD Funds Pre Closing	PR_014059						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
EAST 180TH ST - MONTEREY AVE (NY005012270P)			770					
	WT_General Construction	PR_010443						Planned
			1480 GENERAL CAPITAL ACTIVITY	50,048	0	0	0	
	WT_RAD Funds Pre Closing	PR_014060						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
EASTCHESTER GARDENS (NY005010340P)			1,056					
	WT_RAD Funds Pre Closing	PR_013932						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
FENIMORE - LEFFERTS (NY005011670P)			804					
	WT_RAD Funds Pre Closing	PR_014061						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
FT INDEPENDENCE ST - HEATH AVE (NY005012020P)			577					
	WT_RAD Funds Pre Closing	PR_013945						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
GRANT (NY005000870P)			1,940					
	WT_Boilers	PR_010407						Planned
			1480 GENERAL CAPITAL ACTIVITY	5,486,079	0	0	0	
GUN HILL (NY005010470P)			1,612					
	WT_Fire Alarm	PR_009566						Planned
			1480 GENERAL CAPITAL ACTIVITY	197,333	0	0	0	
HARRISON AVE REHAB (GROUP A) (NY005013410P)			877					
	WT_RAD Funds Pre Closing	PR_014062						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
HARRISON AVE REHAB (GROUP B) (NY005013410P)			877					
	WT_RAD Funds Pre Closing	PR_014063						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
HOWARD AVE - PARK RLACE (NY005013510P)			894					
	WT_RAD Funds Pre Closing	PR_013954						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
INTERNATIONAL TOWER (NY005010910P)			1,216					
	WT_Fire Alarm	PR_011298						Planned
			1480 GENERAL CAPITAL ACTIVITY	1,003,275	0	0	0	
	WT_Entrances_Exits	PR_011307						Planned
			1480 GENERAL CAPITAL ACTIVITY	1,241,000	0	0	0	
JACKIE ROBINSON (NY005012410P)			726					
	WT_RAD Funds Pre Closing	PR_014064						Planned
			1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	
LEAVITT ST - 34TH AVE (NY005011860P)			919					

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages		Grant Type and Number	Billable Awards	CFFP (Yes/No): No		Federal FFY of Grant:		Status of Work
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:	Replacement Housing Factor Grant No:					
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
				Original Budget	Original	Revised	Funds Obligated	
WT_Section 504	PR_010377	1480 GENERAL CAPITAL ACTIVITY	25,024	0	0	0	0	Planned
LEHMAN (NY005001010P)		1480 GENERAL CAPITAL ACTIVITY	622					Planned
WT_Plumbing	PR_009526	1480 GENERAL CAPITAL ACTIVITY	2,450,000	0	0	0	0	Planned
LINOX RD - ROCKAWAY PARKWAY (NY005011670P)		1480 GENERAL CAPITAL ACTIVITY	804					Planned
WT_RAD Funds Pre Closing	PR_014065	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MANHATTANVILLE (NY005020810P)		1480 GENERAL CAPITAL ACTIVITY	1,272					Planned
WT_RAD Funds Pre Closing	PR_013957	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MARKHAM GARDENS (NY005010130P)		1480 GENERAL CAPITAL ACTIVITY	634					Planned
WT_RAD Funds Pre Closing	PR_013930	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
METRO NORTH PLAZA (NY005010090P)		1480 GENERAL CAPITAL ACTIVITY	2,091					Planned
WT_RAD Funds Pre Closing	PR_014066	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MIDDLETOWN PLAZA (NY005010340P)		1480 GENERAL CAPITAL ACTIVITY	1,056					Planned
WT_RAD Funds Pre Closing	PR_014067	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MITCHEL (NY005011450P)		1480 GENERAL CAPITAL ACTIVITY	1,829					Planned
WT_Boilers	PR_010409	1480 GENERAL CAPITAL ACTIVITY	5,316,242	0	0	0	0	Planned
MONROE (NY005000880P)		1480 GENERAL CAPITAL ACTIVITY	1,102					Planned
WT_Fire Alarm	PR_011312	1480 GENERAL CAPITAL ACTIVITY	512,497	0	0	0	0	Planned
MOORE (NY005010930P)		1480 GENERAL CAPITAL ACTIVITY	671					Planned
WT_RAD Funds Pre Closing	PR_013937	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MORRIS PARK SENIOR CITIZENS' HOME (NY005012410P)		1480 GENERAL CAPITAL ACTIVITY	726					Planned
WT_RAD Funds Pre Closing	PR_014068	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned
MORRISANIA AIR RIGHTS (NY005012670P)		1480 GENERAL CAPITAL ACTIVITY	1,711					Planned
WT_General Construction	PR_013092	1480 GENERAL CAPITAL ACTIVITY	130,117	0	0	0	0	Planned
O'DWYER GARDENS (NY005011720P)		1480 GENERAL CAPITAL ACTIVITY	1,332					Planned
WT_CCTV Layered Access	PR_010589	1480 GENERAL CAPITAL ACTIVITY	7,642,800	0	0	0	0	Planned
OCEAN HILL - BROWNSVILLE (NY005013510P)		1480 GENERAL CAPITAL ACTIVITY	894					Planned
WT_RAD Funds Pre Closing	PR_013944	1480 GENERAL CAPITAL ACTIVITY	75,000	0	0	0	0	Planned

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages PHA Name: New York City Housing Authority		Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No: Development Account No.	Billable Awards Quantity	CFPP (Yes/No): No	Total Estimated Cost		Total Actual Cost		Status of Work
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories		Original Budget	Original	Revised	Funds Obligated	Funds Expended		
PARK ROCK REHAB (NY005013510P)			894					Planned	
	WT_RAD Funds Pre Closing PR_014069	1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0		
PARKSIDE (NY005010470P)			1,612					Planned	
	WT_Fire Alarm PR_009569	1480 GENERAL CAPITAL ACTIVITY		105,840	0	0	0		
PATTERSON (NY005000240P)			1,791					Planned	
	WT_Brickwork_Roofs PR_008786	1480 GENERAL CAPITAL ACTIVITY		27,000,000	0	0	0		
	WT_A and E PR_013364	1480 GENERAL CAPITAL ACTIVITY		3,000,000	0	0	0		
PINK (NY005000890P)			1,500					Planned	
	WT_Fire Alarm PR_009610	1480 GENERAL CAPITAL ACTIVITY		706,217	0	0	0		
POLO GROUNDS TOWER (NY005001490P)			1,614					Planned	
	WT_Brickwork PR_010085	1480 GENERAL CAPITAL ACTIVITY		37,522,347	0	0	0		
	WT_A and E PR_011495	1480 GENERAL CAPITAL ACTIVITY		41,892,000	0	0	0		
POMONOK (NY005000530P)			2,071					Planned	
	WT_Bollers PR_012304	1480 GENERAL CAPITAL ACTIVITY		6,014,017	0	0	0		
	WT_Heating PR_013094	1480 GENERAL CAPITAL ACTIVITY		7,200,000	0	0	0		
RALPH AVE REHAB (NY005011670P)			804					Planned	
	WT_RAD Funds Pre Closing PR_014070	1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0		
RANGEL (NY005000370P)			984					Planned	
	WT_RAD Funds Pre Closing PR_014071	1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0		
RAVENSWOOD (NY005000480P)			2,166					Planned	
	WT_Bollers PR_010333	1480 GENERAL CAPITAL ACTIVITY		12,023,548	0	0	0		
REHAB PROGRAM (TAFT) (NY005013170P)			608					Planned	
	WT_RAD Funds Pre Closing PR_013952	1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0		
RUTLAND TOWERS (NY005011670P)			804					Planned	
	WT_RAD Funds Pre Closing PR_014072	1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0		
SACK WERN (NY005012800P)			814					Planned	
	WT_RAD Funds Pre Closing PR_013951								

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages PHA Name: New York City Housing Authority		Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No:	Billable Awards	CFFP (Yes/No): No		Federal FFY of Grant:		Status of Work
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
				Original Budget	Original	Revised	Funds Obligated	
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
SAINT NICHOLAS (NY005000380P)			1,526					
WT_Major Renovation	PR_012254							Planned
		1480 GENERAL CAPITAL ACTIVITY		7,524,654	0	0	0	
SEDGWICK (NY005010450P)			934					
WT_Fire Alarm	PR_009636							Planned
		1480 GENERAL CAPITAL ACTIVITY		400,354	0	0	0	
WT_General Construction	PR_013093							Planned
		1480 GENERAL CAPITAL ACTIVITY		180,000	0	0	0	
SOUNDVIEW (NY005000710P)			1,259					
WT_Heating	PR_012367							Planned
		1480 GENERAL CAPITAL ACTIVITY		7,630,164	0	0	0	
WT_General Construction	PR_013303							Planned
		1480 GENERAL CAPITAL ACTIVITY		700,000	0	0	0	
WT_A and E	PR_014196							Planned
		1480 GENERAL CAPITAL ACTIVITY		3,280,000	0	0	0	
STERLING PLACE REHABS (ST. JOHN'S - STERLING) (NY005013510P)			894					
WT_RAD Funds Pre Closing	PR_014073							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
STERLING PLACE REHABS (STERLING - BUFFALO) (NY005013510P)			894					
WT_RAD Funds Pre Closing	PR_014074							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
SUMNER (NY005010730P)			1,418					
WT_Boilers	PR_010413							Planned
		1480 GENERAL CAPITAL ACTIVITY		2,300,000	0	0	0	
SUTTER AVE - UNION ST (NY005011670P)			804					
WT_RAD Funds Pre Closing	PR_014075							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
TAPSCOTT ST REHAB (NY005011670P)			804					
WT_RAD Funds Pre Closing	PR_014076							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
THROGGS NECK (NY005010630P)			1,724					
WT_Fire Alarm	PR_009635							Planned
		1480 GENERAL CAPITAL ACTIVITY		1,007,299	0	0	0	
TODT HILL (NY005000520P)			1,008					
WT_Major Renovation	PR_010115							Planned
		1480 GENERAL CAPITAL ACTIVITY		2,475,345	0	0	0	
TWIN PARKS EAST (SITE 9) (NY005012270P)			770					
WT_RAD Funds Pre Closing	PR_013947							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
UNIVERSITY AVE REHAB (NY005013410P)			877					

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages		Grant Type and Number	Billable Awards	CFFP (Yes/No):		Federal FFY of Grant:		Status of Work
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:	Replacement Housing Factor Grant No:	No				
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
				Original Budget	Original	Revised	Funds Obligated	
	WT_RAD Funds Pre Closing PR_013953							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
UPACA URBAN RENEWAL (SITE 5) (NY005012410P)			726					
	WT_RAD Funds Pre Closing PR_013948							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
UPACA URBAN RENEWAL (SITE 6) (NY005012410P)			726					
	WT_RAD Funds Pre Closing PR_014077							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
WAGNER (NY005010740P)			2,204					
	WT_Energy PR_010368							Planned
		1480 GENERAL CAPITAL ACTIVITY		1,000,000	0	0	0	
WEST TREMONT AVE - SEDGEWICK AVENUE AREA (NY005010450P)			934					
	WT_RAD Funds Pre Closing PR_014078							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
WHITE (NY005010090P)			2,091					
	WT_RAD Funds Pre Closing PR_014079							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
WILSON (NY005010090P)			2,091					
	WT_RAD Funds Pre Closing PR_014080							Planned
		1480 GENERAL CAPITAL ACTIVITY		75,000	0	0	0	
WOODSIDE (NY005000330P)			1,357					
	WT_Heating PR_012303							Planned
		1480 GENERAL CAPITAL ACTIVITY		6,000,000	0	0	0	

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II: Supporting Pages		Grant Type and Number		Billable Awards		Federal FFY of Grant:		Status of Work
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:		CFFP (Yes/No):				
		Replacement Housing Factor Grant No:		No				
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
				Original	Revised	Funds Obligated	Funds Expended	
PHA WIDE ITEM (PR_003482)	WT_Management Fees							Planned
		1410 ADMINISTRATIVE SALARIES		75,187,475	0	0	0	Planned
PHA WIDE ITEM (PR_003921)	WT_Contingency							Planned
		1480 GENERAL CAPITAL ACTIVITY		719,262	0	0	0	Planned
PHA WIDE ITEM (PR_005060)	WT_Contingency							Planned
		1480 GENERAL CAPITAL ACTIVITY		15,869,574	0	0	0	Planned
PHA WIDE ITEM (PR_006460)	WT_Debt Service							Planned
		9001 BOND DEBT OBLIGATION		59,226,482	0	0	0	Planned
PHA WIDE ITEM (PR_006859)	WT_Reimb To Operate							Planned
		1406 OPERATIONS		187,968,686	0	0	0	Planned
PHA WIDE ITEM (PR_010239)	WT_IT Hardware and Software							Planned
		1408 MGMT IMPROVEMENT PROGRAMS		1,667,062	0	0	0	Planned
		1480 GENERAL CAPITAL ACTIVITY		232,938	0	0	0	Planned
PHA WIDE ITEM (PR_010243)	WT_IT Hardware and Software							Planned
		1408 MGMT IMPROVEMENT PROGRAMS		100,560	0	0	0	Planned
PHA WIDE ITEM (PR_010248)	WT_IT Hardware and Software							Planned
		1408 MGMT IMPROVEMENT PROGRAMS		6,913,330	0	0	0	Planned
PHA WIDE ITEM (PR_010538)	WT_General Construction							Planned
		1480 GENERAL CAPITAL ACTIVITY		1,500,000	0	0	0	Planned
PHA WIDE ITEM (PR_010605)	WT_Elevators							Planned
		1480 GENERAL CAPITAL ACTIVITY		3,479,968	0	0	0	Planned
PHA WIDE ITEM (PR_010672)	WT_A and E							Planned
		1480 GENERAL CAPITAL ACTIVITY		4,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_011309)	WT_A and E							Planned
		1480 GENERAL CAPITAL ACTIVITY		1,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_012398)	WT_IT Hardware and Software							Planned
		1408 MGMT IMPROVEMENT PROGRAMS		203,500	0	0	0	Planned
PHA WIDE ITEM (PR_012399)	WT_Relocation							Planned
		1480 GENERAL CAPITAL ACTIVITY		1,750,000	0	0	0	Planned
PHA WIDE ITEM (PR_012400)	WT_Mold							Planned
		1480 GENERAL CAPITAL ACTIVITY		2,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_012410)	WT_Asbestos							Planned
		1480 GENERAL CAPITAL ACTIVITY		2,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_012474)	WT_Painting							Planned
		1480 GENERAL CAPITAL ACTIVITY		6,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_012756)	WT_A and E							Planned
		1480 GENERAL CAPITAL ACTIVITY		10,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_012760)	WT_IT Hardware and Software							Planned
		1408 MGMT IMPROVEMENT PROGRAMS		200,000	0	0	0	Planned
PHA WIDE ITEM (PR_013091)	WT_A and E							Planned
		1480 GENERAL CAPITAL ACTIVITY		10,000,000	0	0	0	Planned

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part II. Supporting Pages		Grant Type and Number		Billable Awards		Federal FFY of Grant:		Status of Work
PHA Name: New York City Housing Authority		Capital Fund Program Grant No:		CFFP (Yes/No):				
Development Number Name / PHA-Wide Activities		Replacement Housing Factor Grant No:		No				
Development Number Name / PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		
				Original	Revised	Funds Obligated	Funds Expended	
PHA WIDE ITEM (PR_013173)	WT_Lead Based Paint	1480 GENERAL CAPITAL ACTIVITY		20,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_013175)	WT_Consulting Costs	1480 GENERAL CAPITAL ACTIVITY		2,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_013231)	WT_IT Hardware and Software	1408 MGMT IMPROVEMENT PROGRAMS		4,778,400	0	0	0	Planned
PHA WIDE ITEM (PR_013417)	WT_General Construction	1480 GENERAL CAPITAL ACTIVITY		1,500,000	0	0	0	Planned
PHA WIDE ITEM (PR_013889)	WT_IT Hardware and Software	1408 MGMT IMPROVEMENT PROGRAMS		308,210	0	0	0	Planned
PHA WIDE ITEM (PR_014096)	WT_General Construction	1480 GENERAL CAPITAL ACTIVITY		27,403,028	0	0	0	Planned
PHA WIDE ITEM (PR_014214)	WT_A and E	1480 GENERAL CAPITAL ACTIVITY		6,500,000	0	0	0	Planned
PHA WIDE ITEM (PR_014228)	WT_Boilers	1480 GENERAL CAPITAL ACTIVITY		26,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_014229)	WT_Lead Based Paint	1480 GENERAL CAPITAL ACTIVITY		10,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_014231)	WT_Brickwork	1480 GENERAL CAPITAL ACTIVITY		15,000,000	0	0	0	Planned
PHA WIDE ITEM (PR_014232)	WT_General Construction	1480 GENERAL CAPITAL ACTIVITY		18,689,612	0	0	0	Planned
PHA WIDE ITEM (Project Codes)								Planned
		1406 OPERATIONS		187,968,686	0	0	0	
		1408 MGMT IMPROVEMENT PROGRAMS		14,171,062	0	0	0	
		1410 ADMINISTRATIVE SALARIES		75,187,475	0	0	0	
		9001 BOND DEBT OBLIGATION		59,226,482	0	0	0	
		1480 GENERAL CAPITAL ACTIVITY		185,644,382	0	0	0	
		Award Total:		751,874,745	0	0	0	

Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Capital Fund Five - Year Action Plan*

Part I: Summary

PHA Name New York City Housing Authority	<input checked="" type="checkbox"/> Original 5-Year Plan Revision No:
---	--

Development Number / Name / HA-Wide	Work Statement for Year 1 (See Annual Statement)	Work Statement for Year 2 FFY Grant: FY25 PHA FY: FY25	Work Statement for Year 3 FFY Grant: FY26 PHA FY: FY26	Work Statement for Year 4 FFY Grant: FY27 PHA FY: FY27	Work Statement for Year 5 FFY Grant: FY28 PHA FY: FY28
ATLANTIC TERMINAL SITE 4B (NY005011630P)		20,000,000	0	0	0
BARUCH (NY005010600P)		102,076	0	0	0
BREUKELLEN (NY005000560P)		6,120,826	5,687,920	4,000,000	45,186,991
BRONX RIVER (NY005010320P)		5,000,000	0	0	0
BUTLER (NY005001130P)		24,402,883	15,000,000	0	0
CASSIDY - LAFAYETTE (NY005011170P)		0	3,240,860	3,000,000	32,494,294
DOUGLASS ADDITION (NY005010820P)		0	1,442,092	0	0
DYCKMAN (NY005000410P)		217,736	0	0	0
FARRAGUT (NY005000290P)		1,400,000	0	0	0
GLENMORE PLAZA (NY005011690P)		0	3,256,236	3,000,000	44,343,200
GOWANUS (NY005000250P)		5,342,563	0	0	0
GRANT (NY005000870P)		5,302,883	12,000,000	9,271,500	20,443,500
HARBORVIEW TERRACE (NY005010220P)		8,648,990	0	0	0
INGERSOLL (NY005000140P)		0	8,082,060	16,164,120	16,164,120
KINGSBOROUGH (NY005010100P)		0	0	0	14,707,300
KINGSBOROUGH EXT (NY005010100P)		0	0	0	932,000
LAFAYETTE (NY005001220P)		58,800	0	1,644,000	14,796,000
MARCY (NY005000210P)		286,815	0	0	0

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2019 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

Capital Fund Five - Year Action Plan*

Part I: Summary

PHA Name

Original 5-Year Plan

New York City Housing Authority

Revision No:

Development Number / Name / HA-Wide	Work Statement for Year 1 (See Annual Statement)	Work Statement for Year 2 FFY Grant: FY25 PHA FY: FY25	Work Statement for Year 3 FFY Grant: FY26 PHA FY: FY26	Work Statement for Year 4 FFY Grant: FY27 PHA FY: FY27	Work Statement for Year 5 FFY Grant: FY28 PHA FY: FY28
MITCHEL (NY005011450P)		12,903,843	21,139,415	0	0
PATTERSON (NY005000240P)		23,343,200	5,000,000	0	0
PELHAM PARKWAY (NY005010390P)		5,000,000	5,795,142	4,000,000	34,133,709
POLO GROUNDS TOWER (NY005001490P)		72,829,585	53,605,200	24,796,051	34,979,527
RIIS I (NY005010180P)		5,000,000	0	0	0
RIIS II (NY005010180P)		5,000,000	0	0	0
ROOSEVELT I (NY005011350P)		0	7,446,000	0	0
ROOSEVELT II (NY005011350P)		0	3,723,000	0	0
SAINT NICHOLAS (NY005000380P)		3,602,842	0	94,058,185	0
SMITH (NY005000270P)		0	2,602,657	23,423,915	0
SOUTH BEACH (NY005010350P)		4,651,441	8,770,000	9,147,491	0
SURFSIDE GARDENS (NY005011700P)		2,400,000	0	0	0
TAFT (NY005010970P)		0	1,000,000	0	0
TODT HILL (NY005000520P)		497,158	0	30,941,815	0
TOMPKINS (NY005011310P)		117,600	0	0	0
WAGNER (NY005010740P)		8,378,737	14,757,474	14,757,474	0
WALD (NY005000230P)		1,314,900	11,834,101	0	0
WHITMAN (NY005005140P)		10,000,000	0	0	0

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2016 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

Capital Fund Five - Year Action Plan*

Part I: Summary

PHA Name New York City Housing Authority	<input checked="" type="checkbox"/> Original 5-Year Plan Revision No:
---	--

Development Number / Name / HA-Wide	Work Statement for Year 1 (See Annual Statement)	Work Statement for Year 2 FFY Grant: FY25 PHA FY: FY25	Work Statement for Year 3 FFY Grant: FY26 PHA FY: FY26	Work Statement for Year 4 FFY Grant: FY27 PHA FY: FY27	Work Statement for Year 5 FFY Grant: FY28 PHA FY: FY28
WOODSIDE (NY005000330P)		17,659,751	55,135,848	12,476,090	0
WYCKOFF GARDENS (NY005011630P)		2,349,489	0	0	0
PHA WIDE ITEM - WT_A and E		31,500,000	31,500,000	31,500,000	25,000,000
PHA WIDE ITEM - WT_IT Hardware and Software		14,404,000	14,528,356	14,528,356	14,528,356
PHA WIDE ITEM - WT_Elevators		3,479,968	3,479,968	3,479,968	3,479,968
PHA WIDE ITEM - WT_Relocation		1,000,000	1,000,000	1,000,000	1,000,000
PHA WIDE ITEM - WT_Contingency		37,788,729	79,277,639	68,134,367	67,134,368
PHA WIDE ITEM - WT_Debt Service		38,464,368	38,461,658	38,463,080	38,462,381
PHA WIDE ITEM - WT_Management Fees		75,187,475	75,187,475	75,187,475	75,187,475
PHA WIDE ITEM - WT_Management Improvements		58,246,373	48,049,930	48,029,144	48,029,843
PHA WIDE ITEM - WT_Reimb To Operate		187,968,686	187,968,686	187,968,686	187,968,686
PHA WIDE ITEM - WT_Asbestos		2,000,000	2,000,000	2,000,000	2,000,000
PHA WIDE ITEM - WT_Mold		2,000,000	2,000,000	2,000,000	2,000,000
PHA WIDE ITEM - WT_Brickwork		17,500,000	0	0	0
PHA WIDE ITEM - WT_General Construction		30,403,028	28,903,028	28,903,028	28,903,028
TOTALS		751,874,745	751,874,745	751,874,745	751,874,745

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2016 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

Capital Fund Program Five-Year Action Plan*
Part II: Supporting Pages -- Work Activities

Development Number/Name/HA-Wide	Activities for Year 1 (See Annual Statement)	Activities for Year 2 FFY Grant: FY25 PHA FY: FY25	Activities for Year 3 FFY Grant: FY26 PHA FY: FY26	Activities for Year 4 FFY Grant: FY27 PHA FY: FY27	Activities for Year 5 FFY Grant: FY28 PHA FY: FY28
ATLANTIC TERMINAL SITE 4B (NY005011630P) WT_Brickwork_Roofs		20,000,000	0	0	0
BARUCH (NY005010600P) WT_Fire Alarm		102,076	0	0	0
BREUKELLEN (NY005000560P) WT_Heating		6,120,826	5,687,920	4,000,000	45,186,991
BRONX RIVER (NY005010320P) WT_Boilers		5,000,000	0	0	0
BUTLER (NY005001130P) WT_Boilers		22,002,883	15,000,000	0	0
WT_Plumbing		2,400,000	0	0	0
CASSIDY - LAFAYETTE (NY005011170P) WT_Heating		0	3,240,860	3,000,000	32,494,294
DOUGLASS ADDITION (NY005010820P) WT_Fire Alarm		0	1,442,092	0	0
DYCKMAN (NY005000410P) WT_Fire Alarm		217,736	0	0	0
FARRAGUT (NY005000290P) WT_Roofs		1,400,000	0	0	0
GLENMORE PLAZA (NY005011690P) WT_Heating		0	3,256,236	3,000,000	44,343,200
GOWANUS (NY005000250P) WT_Fire Alarm		292,052	0	0	0
WT_Major Renovation		5,050,511	0	0	0
GRANT (NY005000870P) WT_Boilers		5,302,883	12,000,000	7,000,000	0
WT_Elevators		0	0	2,271,500	20,443,500
HARBORVIEW TERRACE (NY005010220P) WT_Roofs		8,648,990	0	0	0
INGERSOLL (NY005000140P) WT_Roofs		0	8,082,060	16,164,120	16,164,120
KINGSBOROUGH (NY005010100P) WT_Entrances_Exits		0	0	0	14,707,300
KINGSBOROUGH EXT (NY005010100P) WT_Entrances_Exits		0	0	0	932,000
LAFAYETTE (NY005001220P) WT_Fire Alarm		58,800	0	0	0
WT_Elevators		0	0	1,644,000	14,796,000
MARCY (NY005000210P) WT_Fire Alarm		286,815	0	0	0
MITCHEL (NY005011450P) WT_Boilers		12,903,843	21,139,415	0	0
PATTERSON (NY005000240P) WT_Brickwork_Roofs		23,343,200	5,000,000	0	0
PELHAM PARKWAY (NY005010390P) WT_Heating		5,000,000	5,795,142	4,000,000	34,133,709

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2016 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

Capital Fund Program Five-Year Action Plan*
Part II: Supporting Pages -- Work Activities

Development Number/Name/HA-Wide		Activities for Year 1 (See Annual Statement)	Activities for Year 2 FFY Grant: FY25 PHA FY: FY25	Activities for Year 3 FFY Grant: FY26 PHA FY: FY26	Activities for Year 4 FFY Grant: FY27 PHA FY: FY27	Activities for Year 5 FFY Grant: FY28 PHA FY: FY28
POLO GROUNDS TOWER (NY005001490P)	WT_A and E		41,108,000	0	0	0
	WT_Brickwork		28,561,242	25,162,114	24,796,051	34,979,527
	WT_Roofs		3,160,343	28,443,086	0	0
RIIS I (NY005010180P)	WT_General Construction		5,000,000	0	0	0
RIIS II (NY005010180P)	WT_General Construction		5,000,000	0	0	0
ROOSEVELT I (NY005011350P)	WT_Entrances_Exits		0	7,446,000	0	0
ROOSEVELT II (NY005011350P)	WT_Entrances_Exits		0	3,723,000	0	0
SAINT NICHOLAS (NY005000380P)	WT_Major Renovation		3,602,842	0	94,058,185	0
SMITH (NY005000270P)	WT_Elevators		0	2,602,657	23,423,915	0
SOUTH BEACH (NY005010350P)	WT_Boilers		4,651,441	8,770,000	9,147,491	0
SURFSIDE GARDENS (NY005011700P)	WT_Plumbing		2,400,000	0	0	0
TAFT (NY005010970P)	WT_Foundations		0	1,000,000	0	0
TODT HILL (NY005000520P)	WT_Major Renovation		497,158	0	30,941,815	0
TOMPKINS (NY005011310P)	WT_Fire Alarm		117,600	0	0	0
WAGNER (NY005010740P)	WT_Energy		1,000,000	0	0	0
	WT_Roofs		7,378,737	14,757,474	14,757,474	0
WALD (NY005000230P)	WT_Roofs		1,314,900	11,834,101	0	0
WHITMAN (NY005005140P)	WT_Plumbing		10,000,000	0	0	0
WOODSIDE (NY005000330P)	WT_Heating		17,659,751	55,135,848	12,476,090	0
WYCKOFF GARDENS (NY005011630P)	WT_Major Renovation		2,349,489	0	0	0
PHA WIDE ITEM	WT_A and E		31,500,000	31,500,000	31,500,000	25,000,000
	WT_IT Hardware and Software		14,404,000	14,528,356	14,528,356	14,528,356
	WT_Elevators		3,479,968	3,479,968	3,479,968	3,479,968
	WT_Relocation		1,000,000	1,000,000	1,000,000	1,000,000
	WT_Contingency		37,788,729	79,277,639	68,134,367	67,134,368

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2016 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

Capital Fund Program Five-Year Action Plan*
Part II: Supporting Pages -- Work Activities

Development Number/Name/HA-Wide	Activities for Year 1 (See Annual Statement)	Activities for Year 2 FFY Grant: FY25 PHA FY: FY25	Activities for Year 3 FFY Grant: FY26 PHA FY: FY26	Activities for Year 4 FFY Grant: FY27 PHA FY: FY27	Activities for Year 5 FFY Grant: FY28 PHA FY: FY28
WT_Debt Service		38,464,368	38,461,658	38,463,080	38,462,381
WT_Management Fees		75,187,475	75,187,475	75,187,475	75,187,475
WT_Management Improvements		58,246,373	48,049,930	48,029,144	48,029,843
WT_Reimb To Operate		187,968,686	187,968,686	187,968,686	187,968,686
WT_Asbestos		2,000,000	2,000,000	2,000,000	2,000,000
WT_Mold		2,000,000	2,000,000	2,000,000	2,000,000
WT_Brickwork		17,500,000	0	0	0
WT_General Construction		30,403,028	28,903,028	28,903,028	28,903,028
TOTAL		751,874,745	751,874,745	751,874,745	751,874,745

*Year five of this Five Year Plan submission is based on the last year of NYCHA's current Board Approved FY2016 Five Year Capital Plan. Subsequent Board Approved Capital Plans will provide updated information on planned projects.

ATTACHMENT H

PIH NOTICE 2016-17-RENTAL ASSISTANCE DEMONSTRATION (RAD) NOTICE REGARDING FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS AND RELOCATION REQUIREMENTS APPLICABLE TO RAD FIRST COMPONENT – PUBLIC HOUSING CONVERSION



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

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

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),

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

(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 already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

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 Federal Register.

SECTION 2. Table of Contents

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

SECTION 1. Purpose, Applicability and Major Provisions of this Notice	1
1.1. Purpose.....	1
1.2. PHA and Project Owner Responsibilities	3
1.3. Applicability	4
1.4. Explanation of Major Provisions	5
1.5. Request for Public Comment.....	6
1.6. Paperwork Reduction Act.....	7
SECTION 2. Table of Contents.....	8
SECTION 3. Background.....	10
3.1. RAD Authority.....	10
3.2. Definitions.....	10
3.3. Applicable Legal Authorities.....	10
3.4. Further Information.....	11
SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process.....	11
SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions	17
5.1. RAD Eligibility Review.....	17
5.2. PHA’s Proposed Site Selection and Certification.....	18
5.3. RAD Front-End Civil Rights Transaction Review	20
A) Activities Subject to Front-End Civil Rights Review	20
B) Fair Housing, Civil Rights, and Relocation Checklist	22
C) Timing of Front-End Review Submissions	23
D) Completion of HUD’s Front-End Review.....	23
5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction ..	24
A) Conditions Triggering Review	24
B) Analysis of Areas of Minority Concentration	25
C) The Sufficient Comparable Opportunities Exception	26
D) The Overriding Housing Needs Exception	30
5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance	32
A) Applicable Standards.....	32
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	34
B) Review of Changes in Occupancy Type	36
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)	Remedial Agreements and Orders.....	37
5.8.	Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance.....	37
SECTION 6. RELOCATION REQUIREMENTS		38
6.1.	Planning	39
6.2.	Resident Right to Return.....	41
6.3.	Admissions and Continued Occupancy Requirements	43
6.4.	Types of Moves and Relocation	43
A)	Moves within the same building or complex of buildings	43
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	44
D)	Temporary relocation anticipated to last more than one year	44
E)	Permanent moves in connection with a transfer of assistance	45
F)	Voluntary permanent relocation.....	46
6.5.	Initiation of Negotiations (ION) Date.....	46
6.6.	Resident Relocation Notification (Notices).....	46
A)	RAD Information Notice.....	47
B)	General Information Notice (49 C.F.R. § 24.203(a)).....	48
C)	Notice of Intent to Acquire (49 C.F.R. § 24.203(d)).....	49
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)).....	52
F)	Notification of Return to the Covered Project.....	53
6.7.	Relocation Advisory Services.....	53
6.8.	Initiation of Relocation	54
6.9.	Records and Documentation; Resident Log	54
6.10.	Alternative Housing Options	56
A)	Requirements for Any Offer of Alternative Housing Options	56
B)	Assisted Housing Options as Alternatives	57
C)	Monetary Elements Associated With Alternative Housing Options.....	58
D)	Disclosure and Agreement to Alternative Housing Options	58
6.11.	Lump Sum Payments	60
SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS		60
7.1.	HCV Waiting List Administration Unrelated to the RAD Transaction.....	60
7.2.	HCV Waiting List Administration Related to the RAD Transaction	61
7.3.	Public Housing Transfers Unrelated to the RAD Transaction.....	61
7.4.	Resident Initiated Public Housing Transfers Related to the RAD Transaction.....	62
7.5.	Public Housing as a Temporary Relocation Resource.....	62
7.6.	Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction	63
7.7.	Right-Sizing.....	63

SECTION 3. Background

3.1. RAD Authority

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

3.2. Definitions

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

3.3. Applicable Legal Authorities

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

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.⁸ In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

3.4. Further Information

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

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

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

⁸ See Pub. L. No. 112-55, as amended.

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

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.⁹ Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.¹⁰ As described further below, the Fair Housing Act prohibits discrimination in 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 seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

¹⁸ *See* 24 C.F.R. § 1.4(b)(3).

¹⁹ *See* 24 C.F.R. § 1.4(b)(6).

²⁰ *See* 24 C.F.R. § 8.4(b)(5).

²¹ *See* 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

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

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

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;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

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

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

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).²⁸ Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.²⁹ PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

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

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

²⁹ 42 U.S.C. § 1437f(bb).

³⁰ For RAD conversions to PBRA, the RAD Notice uses the term “the site and neighborhood is suitable,” rather than “the site is suitable.” See Appendix III of the RAD Notice, paragraph (a).

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

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

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.³⁶ HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

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

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

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.⁴⁰ HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

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

C) *The Sufficient Comparable Opportunities Exception*

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

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

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.”⁴⁴ Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

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

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

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

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

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

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

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

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.

⁵⁵ See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

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

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

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

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

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

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

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

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

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

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

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

A) Applicable Standards

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

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

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

⁵⁹ 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

⁶⁰ While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.

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

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

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

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

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

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

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

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

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.

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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager. • Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities. • Identify relocation housing options . • Budget for relocation expenses and for compliance with accessibility requirements. • Submit the Checklist and, where applicable, the relocation plan. • If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA). • If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as

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

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Ongoing implementation of relocation • Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice • Implementation of the residents’ right to return

6.2. Resident Right to Return

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

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

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

⁷¹ The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

⁷² See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.

- 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

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

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).

⁸⁷ To illustrate, consider the following examples.

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

F) Notification of Return to the Covered Project

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

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

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

6.7. Relocation Advisory Services

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

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

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

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

6.8. Initiation of Relocation

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

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

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

6.9. Records and Documentation; Resident Log

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

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

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation⁹¹
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.⁹²
- The following information for each resident household, as applicable:
 - The type of move (e.g., the types identified in Section 6.4, above)
 - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
 - The address and unit size of any temporary relocation housing
 - Whether alternative housing options were offered consistent with Section 6.10, below
 - Any material terms of any selected alternative housing options
 - The type and amount of any payments for
 - Moving expenses to residents and to third parties
 - Residents' out-of-pocket expenses
 - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
 - Any other relocation-related compensation or assistance

6.10. Alternative Housing Options

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

A) Requirements for Any Offer of Alternative Housing Options

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

⁹¹ The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

⁹² In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

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

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

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

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

B) Assisted Housing Options as Alternatives

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

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

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

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.

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

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

⁹⁸ Title IV, section 40001-40703.

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

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

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

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

7.5. Public Housing as a Temporary Relocation Resource

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

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

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

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

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

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

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

7.7. Right-Sizing

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

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

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.¹⁰⁵ The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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

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

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

Part 2 – Accessibility Requirements

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.¹⁰⁶ All three laws may also require reasonable accommodations or modifications.

Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

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).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.¹⁰⁷ These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.¹⁰⁸

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.¹⁰⁹ The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).¹¹⁰ HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.¹¹¹ HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.¹¹²

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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

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.¹¹⁷ This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.¹¹⁸ Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.¹¹⁹

¹¹⁶ See <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

¹¹⁷ See 24 C.F.R. §§ 8.26 and 8.27.

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

¹¹⁹ For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.

APPENDIX II: Recommended Relocation Plan Contents

While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

I. Project Summary

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

II. Project Occupancy

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

III. Resident Return and Re-occupancy Policies

The Plan should address how the project will honor the RAD right to return requirements and the "no re-screening upon conversion" policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

IV. Temporary Relocation Assistance

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

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

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
 - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
 - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
 - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
 - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
 - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”¹²⁰
 - Use a contractor or moving company
 - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

¹²⁰ Defined at 24 C.F.R. 905.108.

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

V. Transfer of Assistance

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

VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance

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

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

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

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

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
 - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
 - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
 - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
 - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm.
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

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