



Rental Assistance Demonstration (RAD)

Policy Quick Reference Guide  
To  
Multifamily Housing (PBRA) Requirements

Department of Housing and Urban Development (HUD)

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## SECTION ONE – INTRODUCTION

### 1.1 Purpose of this Guide

This guide provides guidance for occupancy related policy to owners (including Public Housing Agencies) converting their projects to Section 8 Project-Based Rental Assistance (PBRA) authorized under the Rental Assistance Demonstration (RAD). The purpose of this guide is not to be all-inclusive or overly descriptive of HUD Multifamily Housing program requirements but rather to highlight certain requirements owners converting under RAD should be aware of. The guide is a starting point for owners converting under RAD to become familiar with HUD Multifamily Housing program requirements. This guide applies only to conversions of public housing, Section 8 Moderate Rehabilitation (Mod Rehab), Rent Supplement, Rental Assistance Payment (RAP), and Section 202 PRAC assistance to PBRA. It does not apply to RAD conversions of assistance to Project Based Voucher (PBV) assistance.

A separate RAD Systems Procedures Guide provides guidance for Multifamily Housing tasks owners must undertake in advance of, and immediately after, closing including implementation of new data systems and Project Funding. The RAD Systems Procedure Guide will be posted on the [RAD Resource webpage](#).

This Policy Quick Reference Guide should be used alongside both the RAD Systems Procedure Guide and the Rental Assistance Demonstration – Final Implementation, Revision 4 [Notice H 2019-09, PIH 2019-23 \(HA\)](#). This notice is referred to as the “RAD Notice” throughout this guide.

The topics identified in this guide represent a starting point for conversion into Multifamily Housing and is to be used as a complement to the RAD Notice. It identifies the requirements using a brief summary and reference to the location to where the detailed requirements are found. Owners converting under RAD must become familiar and comply with the requirements of [HUD Handbook 4350.3 REV-1, \*Occupancy Requirements of Subsidized Multifamily Housing Programs\*](#) and [HUD Handbook 4350.1, \*Multifamily Asset Management and Project Servicing\*](#). Other useful documents and publications for Multifamily Housing owners are listed and linked in the Resources section of this document.

For purposes of this guide, entities converting assistance to PBRA HAP Contracts are referred to as owners.

### 1.2 Background

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), and 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) collectively, the “[RAD Statute](#).” RAD has two separate components:

- **First Component.** 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 forms of Section 8 Housing Assistance Payment (HAP) Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). No incremental funds are authorized for this component. PHAs will convert their assistance at current subsidy levels. The FY 2018 Appropriations Act authorizes up to 455,000 units to convert assistance under this component.
- **Second Component.** The Second Component allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), Moderate Rehabilitation (Mod Rehab), McKinney Vento Moderate Rehabilitation Single Room Occupancy (SRO), and Section 202 Project Rental Assistance Contract (Section 202 PRAC) programs to convert to PBV or PBRA contracts.

Additional demonstration history, along with instructions for RAD and including eligibility and selection criteria, can be found in the RAD Notice.

## **SECTION TWO – OCCUPANCY REQUIREMENTS AT CONVERSION**

In addition to the numbered requirements found in this section, there are six occupancy requirements identified in the RAD Notice that are only applicable to First Component conversions under RAD. These six requirements are listed below and can be found in Section I of the RAD Notice.

- Phase-in of Tenant Rent Increases (See Section 2.16.2 and Attachment 3)
- Resident Participation and Funding
- Resident Procedural Rights
- Earned Income Disregard (See Section 2.15.2)
- Jobs Plus
- When Total Tenant Payment Exceeds Gross Rent (See Section 2.16.1)

The below requirements are applicable to all RAD Conversions (i.e. both First Component and Second Component conversions).

### **2.1 Affirmative Fair Housing Marketing Plan**

Each owner converting under RAD must develop and provide a description of the Affirmative Fair Housing Marketing Plan (AFHMP) for the property to comply with the

requirements of Subpart M of 24 CFR, part 200. The AFHMP must be attached to the RAD PBRA HAP Contract as Exhibit 2 to both the RAD PBRA HAP Contract for conversions from Public Housing and the RAD PBRA HAP Contract for conversions from Moderate Rehabilitation. The AFHMP is to be completed using Form HUD-935.2A. Evidence of submission of the AFHMP to the Multifamily Regional Center/Satellite Office for review and processing is a requirement of the Financing Plan submission. If the AFHMP has not been approved prior to closing, the following statement will be inserted as part of Exhibit 2 of the RAD PBRA HAP Contract:

“The attached Affirmative Fair Housing Marketing Plan (AFHMP) has been submitted for HUD review. No marketing or leasing is permitted until HUD has given final approval. Marketing or leasing includes solicitation, distribution or acceptance of applications or development of a waiting list.”

The Fair Housing Act requires HUD to administer all programs and activities relating to HUD in a manner that affirmatively furthers fair housing. See HUD Handbook 4350.3 REV-1, paragraph 2-9 for a discussion of Civil Rights Related Program Requirements which implement this obligation as well as paragraph 4-12 and 4-29. Additionally, Subpart M of 24 CFR, part 200, sets forth HUD’s equal opportunity regulations for affirmative fair housing marketing under FHA subsidized and unsubsidized housing programs.

## 2.2 Tenant Selection Plan

Owners must develop and make public written tenant selection policies and procedures that include descriptions of the eligibility requirements and income limits for admission. Figure 4-2 in HUD Handbook 4350.3 REV-1 provides guidance for a tenant selection plan (TSP). The TSP must include any preferences in place, including any elderly preferences, for the admission of tenants. The preference must cite the supporting documentation to ensure nondiscrimination in the selection of tenants. The contents of the TSP must also be consistent with the purpose of improving housing opportunities and be reasonably related to program eligibility and an applicant’s ability to perform the obligations of the lease.

Owners must also include a description of any preference in use at the property. This includes the preferences authorized at 24 CFR 5.655(c)(5) (which do not require HUD approval) and any preferences other than those listed in 24 CFR 5.655(c)(5) that have been approved by HUD (e.g. elderly families, near-elderly single persons, near-elderly families), as required under Notice H 2013-21, Section V.b. Owners must inform all applicants about available preferences and give all applicants an opportunity to show that they qualify for available preferences. This notification to applicants must be made when a new preference is implemented.

Paragraph 4-4 and Figure 4-2 of HUD Handbook 4350.3 REV-1 identify the required topics, as well as the recommended topics, for the TSP. A TSP is not submitted to HUD for approval but is reviewed as part of the ongoing monitoring of the project.

## 2.3 Program Eligibility

Program eligibility determines whether applicants are eligible for assistance. While project eligibility establishes whether applicants are eligible to reside in the specific project to which they have applied. See HUD Handbook 4350.3 REV-1, paragraph 3-15.

Pursuant to the RAD Statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. In-place tenants at the time of conversion are eligible to remain in the unit and receive assistance according to the rent formula described in Chapter 5, Section 4 of HUD Handbook 4350.3, REV-1 and/or the rent phase-in formula specific to RAD.

Owners have the ability to request and review documentation to ensure HUD program compliance as well as compliance with the tenant's obligations under the lease agreement. This review can be performed at the time of a tenant's annual or interim recertification and in accordance with the screening/eviction procedures found in the owner's policies. See HUD Handbook 4350.3 REV-1, Chapter 8.

If, at conversion, households are over/under-housed, these households must be transferred to appropriately sized units when an appropriate sized unit becomes available. Refer to HUD Handbook 4350.3 REV-1, paragraph 3-23 (H)(1)(a), if there are no appropriately sized units available at the project at conversion.

## 2.4 Social Security Numbers

All household members must disclose and provide verification of the complete and accurate SSN assigned to them except for those individuals who do not contend eligible immigration status or tenants who were age 62 or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010. See HUD Handbook 4350.3, REV-1, paragraph 3-9. Tenants that do not have a valid SSN and do not meet one of the exception criteria will receive an error message when transmitted to TRACS and are not eligible to receive assistance.

## 2.5 Citizenship

Assistance in subsidized housing is restricted to U.S. citizens or nationals and noncitizens that have eligible immigration status. At the first annual or interim recertification, owners must determine the citizenship/immigration status of tenants from whom the owner has not previously collected the proper documentation or whose documentation suggested that their status was likely to change. All family members, regardless of age, must declare their citizenship or immigration status. Noncitizens (except those age 62 or older) must sign a verification consent form and submit documentation of their status or sign a declaration that they do not claim to have eligible status. Noncitizens age 62 and older

must sign a declaration of eligible immigration status and provide a proof of age document. U.S. citizens must sign a declaration of citizenship. Additional information on citizenship can be found at HUD Handbook 4350.3, REV-1, paragraph 3-12 and a sample citizenship declaration form can be found at Exhibit 3-5 of HUD Handbook 4350.3, Rev-1.

Note: This paragraph is applicable to all RAD Conversions including (for emphasis) former Section 202 PRAC properties converted under RAD.

## 2.6 Mixed Families

When a family has members that include both citizenship or eligible immigration status and those without citizenship or eligible immigration status, the family is considered a mixed family and housing assistance must be prorated. Instructions for calculating prorated assistance can be found at HUD Handbook 4350.3, REV-1, paragraph 3-12.P.

## 2.7 Elderly Designation

Pursuant to the RAD Statute, Section 202 PRAC Properties converting under RAD remain designated as elderly properties and are required to operate as such after conversion. Owners of all other properties converting under RAD must not establish an elderly designation (i.e., a set-aside of units for the elderly). This is because the Section 8 statute, unlike the statute governing public housing, does not authorize designations.

## 2.8 Preferences

Preferences are established criteria used to determine the order applicants are selected from the waiting list for housing assistance or an assisted housing unit. Preferences may be established by federal law, HUD regulations, State or local law, or written owner policy. Preferences differ from designations which are used to set-aside a distinct number of units for a specific purpose.

As described below, RAD properties are:

- Permitted to establish owner adopted preferences (see Section 2.8.1, Section 2.8.2, and Section 2.8.3)
- Not eligible for the statutory elderly preference established by Title VI, Subtitle D of the Housing and Community Development Act of 1992 (see Section 2.8.6)

### 2.8.1 Owner Adopted Preferences for Populations not identified in 24 CFR 5.655(c)(5) (e.g. Elderly family, Near-elderly single persons, Near-elderly families, etc.), for which local HUD office approval is required under Housing Notice 2013-21, Section V.b.

Properties converting under RAD, except for Section 202 PRAC properties, are considered family properties and are required to operate as such.



All owners, including former Section 202 PRAC owners who converted the property under RAD can, however, establish owner-adopted occupancy preferences for the property which may impact how applicants are selected from the wait list. As identified in 2.8.2 below, some owner-adopted preferences can be implemented without HUD approval, but many will require HUD approval prior to being implemented. Preferences requiring HUD approval are discussed in 2.8.3 below.

Where an owner intends to implement a preference for new admissions immediately following conversion, the approval must be secured prior to conversion. This includes any preference that may have been in use prior to conversion. Further, all applicants that are on the waiting list must be notified of the preference(s) and give all applicants an opportunity to show that they qualify for available preferences.

Note: Many owner-adopted occupancy preferences requested by owners will be reviewed for fair housing compliance by HUD's Office of Fair Housing and Equal Opportunity.

#### 2.8.2 Owner-Adopted Preferences That Do Not Require HUD Approval

Project owners may adopt a preference for any or all the populations identified in 24 CFR § 5.655(c)(5) without prior HUD approval. These four preferences are for:

- Single persons who are 62 or older over other single persons
- Single persons who are displaced over other single persons
- Single persons who are homeless over other single persons
- Single persons with disabilities over other single persons

#### 2.8.3 Preferences That Require HUD Approval

As stated in Section V.b. of Housing Notice 2013-21 *Implementation and approval of owner-adopted admissions preferences for individuals or families experiencing homelessness* (issued July 25, 2013), Section 8 project owners may establish an owner-adopted preference for populations other than those identified in 24 CFR § 5.655(c)(5) but must first obtain local HUD office approval. Examples include but are not limited to:

- Elderly families
- Near-elderly single persons
- Near-elderly families
- Displaced families

Owners are cautioned not to assume a preference will be approved based on request alone. This is especially important if pursuing tax credits that may require the owner to serve a specific population. HUD approval for the population preference should be obtained prior to securing the tax credits to ensure the owner can comply with any tax credit requirements.

#### 2.8.4 Fair Housing Requirements for Preferences

An owner may not adopt a preference that would have the purpose or effect of substantially delaying or denying the participation of other eligible families in the program on the basis of race, color, national origin, religion, sex, disability, or familial status, or would create or perpetuate segregation.

#### 2.8.5 Submission for HUD Approval of Owner-Adopted Preferences

Owners are required by paragraph 1.7.C.9 of the RAD Notice to submit their request for an owner-adopted preference to the Account Executive (field office) prior to execution of the HAP contract. Doing so will reduce the applicant notification burden put on the owner when a new preference is applied to the property. Further, having the preference approved prior to execution of the HAP contract will permit the property to continuously operate in the closest manner to how it operated pre-conversion.

In addition to submitting a request for an owner-adopted preference to the Account Executive for approval, it is recommended that the owner submit the preference(s) intent in the RAD Financing Plan/Conversion Plan. It is important to note preference inclusion in the RAD Financing Plan/Conversion Plan are for notification purposes only. Any owner-adopted preference(s) will still need approval from the Account Executive.

#### 2.8.6 RAD Properties Are Ineligible for Statutory Elderly Preference

RAD properties are not eligible for the statutory elderly preference established by Title VI, Subtitle D of the Housing and Community Development Act of 1992, implemented through 24 CFR § 880.612a, and discussed in HUD Handbook 4350.3, REV-1, paragraph 3-18. For this reason, 24 CFR § 880.612a was struck in Appendix I of the RAD Notice beginning with Revision-2 (issued June 15, 2015).<sup>1</sup>

#### 2.9 Waiting List

The Project owner can utilize a project-specific waiting list or an owner/management agent community waiting list. An owner/management agent community waiting list is different from the public housing community-wide waiting list. Prior to RAD conversion, the PHA should refer to the RAD Notice for guidance to consider the best means to transition applicants from the current public housing waiting list.

After conversion, the project waiting list must conform to the requirements outlined in HUD Handbook 4350.3 REV-1, Chapter 4, Section 3.

Applicants may apply to any number of multifamily housing properties with no limit.

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<sup>1</sup> RAD conversions prior to Revision-2 to the RAD Notice may have established the statutory elderly preference following 24 CFR § 880.612a. Further, properties may have incorrectly identified and implemented an elderly preference as an elderly designation. This is because 24 CFR § 880.612a was not struck in Appendix I of the RAD Notice prior to June 15, 2015. Owners who have done either are required to analyze their policies and, if necessary, modify them to comply with the RAD Notice (Revision 3 and newer), 24 CFR § 5.655(c), and Housing Notice 2013-21.

## 2.10 Lease Agreement and other Required Documents

### 2.10.1 Lease Requirements for Existing Tenants

All properties converting under RAD must use form HUD 90105-A *Model Lease for Subsidized Programs* which is available on [HUDCLIPS](#). Leases for existing tenants must have a lease effective date equal to the HAP Contract effective date. The lease must be signed by both the owner and all adult household members on or before the HAP Contract effective date. Tenants must also be provided with all attachments listed in paragraph 27 of the lease, including form HUD-50059 and 50059-A and the property's house rules, at the time the lease is signed. The RAD provisions must be incorporated as an addendum to the house rules and provided as Attachment 5 to this notice.

### 2.10.2 Required Documents to Provide to Existing Tenants

1. Initial Certification form HUD-50059
2. Executed form HUD-90105A Model Lease
3. Move-in/Unit Inspection Report
4. Form HUD-91067 VAWA Addendum
5. House Rules, including an addendum to incorporate the RAD provisions
6. Pet Rules (if applicable)
7. Lead-based Paint Disclosure (if applicable)
8. HUD-approved Live-in Aide Addendum (if applicable)
9. HUD-approved Police/Security Personnel Addendum (if applicable)
10. Any other HUD approved Addendum (if applicable)
11. Initial Notice of Recertification
12. Form HUD-9887/9887A signed by all adult family members
13. Acknowledgement of Tenant Receipt for:
  - a. HUD 9887 Fact Sheet
  - b. Form HUD-5380 VAWA Notice
  - c. HUD Fact Sheet for Section 8
  - d. EIV & You Brochure
  - e. Resident Rights and Responsibilities Brochure
  - f. Lead-based Paint Brochure (if applicable)

### 2.10.3 House Rules

Owners of properties converting under RAD must adhere to the resident rights and participation requirements identified in the RAD Notice and Attachment 5 of this guide. If owners develop additional house rules for a property beyond these resident rights, the rules must be consistent with HUD requirements for operating HUD subsidized projects, must be reasonable, and must not infringe on tenants' civil rights.

Developing a set of house rules is a prudent practice. By identifying both allowable and prohibited activities in housing units and common areas, owners provide a structure for

treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping the properties safe and clean and making them more appealing and livable for the tenants.

House rules are an attachment to the lease, but do not replace the lease. House rules must not create a disparate impact on tenants based on race, color, national origin, religion, sex, disability, or familial status. Further information on house rules is found at HUD Handbook 4350.3 REV-1, paragraph 6-9.

## 2.11 Pets

### All Properties Converting Under RAD

Existing pets must be grandfathered into the property at RAD conversion. Owners must develop Pet Rules using the requirements found in 24 CFR Part 5, Subpart C, HUD Handbook 4350.1, and HUD Handbook 4350.3 REV-1, Chapter 6. When a property permits pets, the Pet Rules must be provided to each household regardless of whether the household has a pet.

Pet rule requirements for tenant admissions after conversion are covered by State and Local requirements.

### Section 202 PRAC Properties Converting Under RAD – Additional Requirement

Because Section 202 PRAC properties that converted under RAD are available for occupancy only to the elderly, the language addressing pets that is found in the Model Lease for Section 202 PRACS must be incorporated using a HUD-approved lease addendum. A HUD-approved addendum is provided as Attachment 4 to this guide.

## 2.12 Utility Allowances

In general, the utility allowances in the HAP contract at closing must be the utility allowances that are in effect for each public housing unit type prior to conversion. Refer to Attachment 1C of the RAD Notice which includes information on how an alternative utility allowance may be established at conversion when the owner can demonstrate that energy saving improvements will result in measurable tenant-paid utility cost savings.

In accordance with Housing Notice H 2015-04 *Methodology for Completing a Multifamily Housing Utility Analysis*, properties undergoing new construction or substantial rehab may establish initial utility allowances for new or rehabilitated units based on an analysis completed at underwriting through an energy consumption model, but only in the first year of occupancy post-construction. When the property is occupied and the owner can obtain 12 months of consumption data, the owner must then follow the methodology in Notice H 2015-04 and establish a baseline analysis.

For properties not undergoing new construction or substantial rehab, the owner must follow the methodology in Notice H 2015-04 and establish a baseline analysis beginning with the first contract anniversary after the RAD conversion.

If an owner fails to submit a utility analysis with a rent adjustment submission, the owner's rent adjustment will be withheld until a utility analysis is provided to HUD. Once the required documents are received, HUD will retroactively implement the rent adjustment.

## 2.13 Resident Rights and Participation

Owners must be aware of the resident rights and participation requirements identified in the RAD Notice and Attachment 5 of this guide. These rights must be included in the house rules portion of the lease for properties converting under RAD.

## 2.14 Tracking Households Housed Prior to RAD Conversion

Per Section 6.9 of Housing/PIH Notice 2016-17,<sup>2</sup> PHAs and owners are required to maintain 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. This document will be especially helpful for future audits/compliance reviews the property may undergo and will easily identify those households subject to slightly different requirements than future households coming into the property. In addition to the owner developed tracking, HUD’s TRACS system will be updated to include an identifier for all RAD households.

## 2.15 PIH Provisions Continuing After Conversion

### 2.15.1 Family Self-Sufficiency (FSS)

Current Public Housing and Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) participants will continue to be eligible for FSS at the time their housing is converted under RAD. All owners will be required to administer the FSS program for current participants until either those households graduate or leave the program. The PHA and new owner may collaborate, allowing the PHA to continue to operate the FSS program for currently participating households. The PHA will continue to provide the necessary services to the participants, while the owner will be required to submit quarterly reports to HUD, manage the escrow accounts, and create monthly Owner/Agent Request (OARQ) adjustments to the TRACS HAP voucher.

Please note that following conversion, Public Housing grant funds cannot be used to provide services to new participants who lived in the property prior to conversion. Once the RAD transaction is complete, all current residents become part of the PBRA program.

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<sup>2</sup> “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component –Public Housing Conversions.”

For example, Ms. J moved into the public housing property in May 2018. She has never participated in an FSS program. The property completes its RAD transaction and conversion takes effect in February 2019. Ms. J decides to enroll in the FSS program in September 2019. Public Housing grant funds cannot be used to provide service coordination to Mrs. J. The owner would have to find other funding sources to pay for the hours of service coordination provided to Ms. J once she joins the program.

Once the property is converted, the owner must notify HUD at MF\_FSS@hud.gov with the unit number, Head of Household's last name, and start/end date of the CoP for all current FSS participants. This initial notification is required until modifications can be made to TRACS. HUD staff will retrieve the remaining FSS participant information from PIH Information Center (PIC).

Once units are converted to PBRA, the owner may also establish a new Multifamily FSS program, pursuant to the requirements of 24 CFR 984, the participants' Contracts of Participation (CoP) and Housing Notice 2016-08 *Family Self Sufficiency Program in Multifamily*.

Upon conversion, already escrowed funds for FSS participants shall be transferred into a PBRA escrow account and be considered PBRA funds, thus reverting to PBRA if forfeited by the FSS participant or the owner. All forfeited escrow account funds must be remitted to HUD. Please see Housing Notice 2016-08 for additional details, including FSS coordinator funding eligibility under a RAD conversion. Owners can refer to Housing Notice 2016-08 or contact their local HUD office with questions.

The escrow accounts for households participating in the program must be calculated in accordance with the PIH regulations at 24 CFR Part 984. During the Year of Conversion, the FSS escrow account is funded from PIH as part of the conversion. For subsequent years, an owner is permitted to obtain the escrow amount by creating monthly OARQ adjustments on the property's HAP voucher and then must deposit the money in the corresponding escrow account. In order for HUD to identify information relating to FSS, and until future updates can be made to TRACS, all FSS OARQ adjustments must indicate the Voucher Month/Year for the Escrow Credit, Unit Number, Head of Household's Last Name, and the words "FSS Participant" in the comments section. The owner shall deposit the FSS account funds of all participating families into a single depository account.

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

If the PHA converts their entire Public Housing and Housing Choice Voucher stock to PBRA, then the owner must continue to administer the FSS program and honor all executed CoPs for current FSS participants. The owner is not required to enroll new

participants but may choose to do so following the guidance found in Housing Notice 2016-08. Additionally, since the PHA has gone out of business, the owner is no longer eligible to apply for future funding under the PIH Grant Program. There is currently no grant funding available for multifamily assisted housing owners.

Attached to this guide are supplemental forms titled Sample Family Self-Sufficiency Escrow Account Credit Worksheet and the Sample Family Self-Sufficiency Information Page. These two sample forms are included as Attachment 6 and Attachment 7 to this guide.

#### 2.15.2 Earned Income Disregard

Tenants who are employed and are currently receiving the Earned Income Disregard (EID) exclusion at the time of conversion will continue to receive the EID exclusion after conversion, in accordance with regulations at 24 CFR 960.255. After conversion, no other tenants will be eligible to receive the EID. If a tenant receiving the EID exclusion undergoes a break in employment, ceases to use the EID exclusion, or the EID exclusion expires in accordance with 24 CFR 960.255, the tenant will no longer receive the EID exclusion and the owner will no longer be subject to the provisions of 24 CFR 960.255. Furthermore, tenants whose EID ceases or expires after conversion do not qualify for the rent phase-in provision, as described in Section 1.7.B.3 of the RAD Notice. This is because rent phase-in is only applicable at the time of conversion (Initial Certification) and can only be implemented if rent increases purely as a result of the conversion. When the EID ceases or expires after conversion, the household TTP will be adjusted to the appropriate rent level based upon tenant income at that time which includes the previously disregarded income.

#### 2.16 Determining Income and Calculating Rent

All in-place tenants at the time of conversion are eligible to remain in the unit and receive assistance according to the rent formula described in Chapter 5, Section 4 of HUD Handbook 4350.3, REV-1 or, if applicable and a First Component conversion, the rent phase-in formula. For tenants not subject to rent phase-in, income must be determined, and tenant rent must be calculated according to 24 CFR 5.609 and HUD Handbook 4350.3 REV-1, Chapter 5.

Tenants in properties subsidized through the Section 8 program must pay a minimum Total Tenant Payment (TTP) of \$25, unless there is an approved financial hardship exemption. This includes Second Component RAD conversions. Refer to 24 CFR 5.630 and HUD Handbook 4350.3 REV-1, paragraph 5-26 for minimum rent policy for Section 8 properties.

If TTP increases due to the MFH rent calculation, owners must provide the tenant with a 30-day notice of the rent increase. Should the owner fail to complete the initial certification in time to give the tenant a 30-day advance notice of a rent increase, the tenant's rent increase may not take effect until the 30-day rent increase notice period has

expired. The HAP, however, will be effective on the initial certification date.

#### 2.16.1 When TTP Exceeds Gross Rent

There may be instances when a tenant's TTP rises to equal or exceed gross rent (contract rent plus utility allowance). When this occurs, the owner must determine which Component in the RAD Notice governs the property's conversion to PBRA and follow the applicable policy below.

- For First Component RAD Conversions, the family remains a Section 8 family and the owner must charge a tenant rent equal to the lesser of (a) TTP (which is not capped at gross rent), less the utility allowance in the contract, or (b) any applicable maximum rent allowable under LIHTC regulations.

Annual recertifications must continue to be completed by the owner. Owners should refer to the processing instructions found in the TRACS MAT Guide for these families.

Detailed information on this process is in Section 1.7(B)(9) of the RAD Notice.

- For Second Component RAD Conversions, the family's TTP is capped at contract rent. Families do not receive utility allowances when paying contract rent.

Families in place at RAD conversion have the right to remain in the converted unit and pay contract rent until the family qualifies for \$1 of subsidy. At this time the family can request that the owner complete an initial certification. Owners should refer to HUD Handbook 4350.3, REV-1 and the TRACS MAT Guide for further information.

#### 2.16.2 Rent Phase-in – Applicable Only to First Component RAD Conversions

If a resident's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three 3 years or 5 years. Eligibility for the phase-in is to be determined at the Initial Certification which occurs at the time the household is converted to PBRA. Phase-in eligibility must not be determined after the household's Initial Certification. Owners must develop a written policy that determines the length of the phase-in period: three years, five years or a combination depending on circumstances (for example, an owner 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).

Rent phase-in methodology is explained in detail in Attachment 3.

#### 2.17 Security Deposits



Owners are permitted to continue recognizing security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If tenants in-place at RAD conversion have not previously been required to provide a security deposit, the owner cannot require a security deposit to be collected.

## **SECTION THREE – MONITORING**

As part of the conversion to PBRA, the owner will be subject to certain Multifamily Housing monitoring and oversight protocol. Information on monitoring is outlined below and changes or clarifications can be found in existing or subsequent Departmental policy and guidance.

### **3.1 Management and Occupancy Reviews (MORs)**

In accordance with 24 CFR Part 880.612, a management and occupancy review (MOR) must be conducted at the project to ensure the owner is in compliance with the HAP Contract and determine whether the assisted units are in decent, safe, and sanitary condition. In accordance with existing Multifamily guidance, a full MOR should be conducted within six months of the effective date of the HAP contract, subject to available funding. If funding is not available, the Multifamily Regional Center/Satellite Office will conduct a limited MOR (commonly termed a “desk review”).

MORs are conducted by reviewers using form HUD-9834. It is recommended that owners be familiar with this form and use it as a guide for how to comply with HUD requirements. Owners should also be able to demonstrate compliance with these requirements. Form HUD-9834 can be found on HUDCLIPS at <https://www.hud.gov/sites/documents/9834.pdf>.

For additional guidance on what the MOR entails, please see HUD Handbook 4350.1 REV-1, Chapter 6 Project Monitoring and Appendix 2 of that chapter, Management and Occupancy Review (MOR) Frequently Asked Questions.

### **3.2 Physical Inspections**

In accordance with 24 CFR Part 5, Subpart G, and 24 CFR Part 200, Subpart P, HUD housing must be maintained in decent, safe, sanitary condition, and in good repair at all times. Any housing receiving HUD assistance must be maintained in a manner that meets the physical condition standards set forth in the regulations at 24 CFR Part 5 Subpart G, Section 5.703.

The regulations at 24 CFR Part 200, Subpart P, §200.855, state that projects newly financed with FHA-insurance should be inspected within 3-months before or after the two anniversary date of the final endorsement. Projects that do not have FHA-insurance after a RAD conversion should be inspected 3-months before or after the original date of the HAP Contract. However, HUD has the right to inspect before these dates if it

determines that an inspection is justified. Owners may request to delay an inspection outside the inspection notification guidelines provided in housing notice 2019-04 *Standardization of REAC Inspection Notification Timelines*. Any request is approved or denied by the field office as described in the March 21, 2019 memorandum from Deputy Assistant Secretary C. Lamar Seats titled *Approving the Delay of a Physical Inspection Beyond the New Real Estate Assessment Center (REAC) Inspection Notification Guidelines*. This memorandum is included as Attachment 8 to this notice.

If during the initial or subsequent physical inspections the owner receives a REAC inspection score below 60, the policies outlined in Notice H 2018-08, “Servicing of Projects That Do Not Meet HUD’s Physical Condition Standards and Inspection Requirements (PCS&IR) or Fail to Certify That Exigent Health and Safety (EH&S) Deficiencies Have Been Resolved as Required,” will apply. For more information on how to prepare for a REAC inspection, see “Preparing for REAC Inspections” at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_17204.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_17204.pdf).

### 3.3 Financial Requirements

The Owner agrees to comply with HUD’s Uniform Financial Reporting Standards, currently codified in 24 C.F.R. Part 5 Subpart H. Owners will need to submit financial statements for each project separately in the FASS-Multifamily system. This reporting is in addition to any reporting, if any, of the projects in the PHA’s financial statements (see <https://www.hud.gov/sites/documents/RADACCTGBRIEF.PDF>). At a minimum, the PBRA project will need to submit owner-certified financial statements in FASS-Multifamily system for each of their projects. PBRA projects with more than \$500,000 (\$750,000 for a project required to file under the revised Single Audit requirements) of Section 8 subsidy will be required to also submit audited statement of the project.

## SECTION FOUR – RESOURCES

- HUD Handbook 4350.3, REV-1 *Occupancy Requirements of Subsidized Multifamily Housing Programs*  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/hsg/4350.3](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3)
- HUD Handbook 4350.1 *Multifamily Asset Management and Project Servicing*  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/hsg/4350.1](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.1)
- HUD Handbook 4381.5 *The Management Agent Handbook*  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/hsg/4381.5](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4381.5)
- Multifamily Housing Website

[https://www.hud.gov/program\\_offices/housing/mfh](https://www.hud.gov/program_offices/housing/mfh)

- Multifamily Help Desk  
Telephone: 1-800-767-7588
- HUDCLIPS  
[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)
- Rental Housing Integrity Improvement Project (RHIIP) Website  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/rhiip/mfhrhiip](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rhiip/mfhrhiip)
- MFH RHIIP Listserv  
[https://www.hud.gov/subscribe/signup?listname=Multifamily%20Housing%20RHIIP%20\(Rental%20Housing%20Integrity%20Improvement%20Program\)%20Tips&list=MFH-RHIIP-TIPS-L](https://www.hud.gov/subscribe/signup?listname=Multifamily%20Housing%20RHIIP%20(Rental%20Housing%20Integrity%20Improvement%20Program)%20Tips&list=MFH-RHIIP-TIPS-L)
- Multifamily Housing EIV Website  
[https://www.hud.gov/program\\_offices/housing/mfh/rhiip/eiv/eivhome](https://www.hud.gov/program_offices/housing/mfh/rhiip/eiv/eivhome)
- TRACS MAT Guide  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/trx/trxdocs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxdocs)
- TRACS Website  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/trx/trxsum](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxsum)
- RAD Resource Desk  
<https://www.radresource.net>
- Rent and Income Determination Quality Control Monitoring Guide for MFH Programs  
[https://www.hud.gov/sites/documents/DOC\\_20477.PDF](https://www.hud.gov/sites/documents/DOC_20477.PDF)
- Special Claims Guide  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/guidebooks/HSG-06-01](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/HSG-06-01)
- Section 8 Renewal Guide  
[https://www.hud.gov/sites/documents/508FIN\\_CONSOL\\_GUIDE6\\_8\\_17.PDF](https://www.hud.gov/sites/documents/508FIN_CONSOL_GUIDE6_8_17.PDF)

## **Attachment 1: Clarifications of Occupancy Requirements After Conversions**

This attachment highlights several policy requirements that have been brought to HUD for clarification. These requirements can be found in HUD Handbook 4350.3, REV-1 and, at the request of industry partners, are identified independent from the occupancy requirements for tenants that were housed prior to conversion.

### **A. Program Eligibility After Conversion**

Properties converting under RAD, except for Section 202 PRAC properties, are to be treated as Pre-1981 Contracts meaning owners may admit families up to the Low-Income limit.

Section 202 PRAC properties converting under RAD are to be treated as Post-1981 Contracts and admit families up to the Very Low-Income limit.

For more information on how to determine and apply income limits, see HUD Handbook 4350.3 REV-1, paragraph 3-6.

### **B. Social Security Number Requirement**

As with the requirement for tenants that were housed prior to conversion, all new applicants and tenants who do not meet the exemption criteria are required by the regulation at 24 CFR 5.216 to disclose and provide verification of their complete and accurate Social Security numbers.

Tenants age 62 or older as of January 31, 2010 and whose initial determination of eligibility was begun before January 31, 2010 are exempt from disclosing and providing verification of their Social Security number.

### **C. Project Eligibility**

#### **C.1 Eligible Household Requirements**

##### Section 202 PRAC Properties Converting Under RAD

In accordance with the RAD statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC properties converting assistance under RAD must continue to serve elderly persons. Accordingly, in addition to income-eligibility and income targeting requirements in 24 CFR 5.653, new admissions must meet the definition of “elderly family” in 24 CFR 5.403:

Elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

## **Attachment 1: Clarifications of Occupancy Requirements After Conversions**

### All Other Properties Converting Under RAD

Properties converting under RAD, except for Section 202 PRAC Properties, are considered family properties. These properties are subject to 24 CFR 880 regulations and are considered Section 8 New Construction properties. Because of this, they will follow the following definitions in HUD Handbook 4350.3, REV-1, Figure 3-6. Specifically, Definition A - Elderly Family, Definition D – Disabled Family, and Definition E - Person with Disabilities.

As mentioned in Section 2.8 of this guide, properties converting under RAD, except for Section 202 PRAC properties, are not permitted to establish an elderly designation (i.e. set-aside of units for the elderly) but may adopt a selection preference for elderly individuals and/or elderly families.

### C.2 Occupancy Standards

Occupancy standards serve to prevent the over or underutilization of units that can result in an inefficient use of housing assistance. Occupancy standards also ensure that tenants are treated fairly and consistently and receive adequate housing space.

Owners must develop and follow occupancy standards that are compliant with local requirements and take into account the size and number of bedrooms needed based on the number of people in the family. Additionally, owners must establish guidelines for over/under housed households. These guidelines must be included in the TSP.

If at the time of conversion, an eligible family assisted under the HAP contract is occupying a unit that is larger than appropriate because of the family's composition, the family will be permitted to continue to occupy the unit until an appropriate-sized unit becomes available in the project. When an appropriate sized unit becomes available in the project, the family living in the under-occupied unit must move to the appropriate sized unit within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriately sized unit becomes available in the project, HUD is waiving the portion of 24 CFR § 880.605 that assumes the unit has become under-occupied as the result of a change in family size.

More information can be found in HUD Handbook 4350.3 REV-1, paragraph 3-23.

### D. Determining Income and Calculating Rent for Move-ins and Annual/Interim Recertifications for Tenants Housed After Conversion

For move-ins after conversion income must be determined, and tenant rent must be calculated, according to 24 CFR 5.609 and HUD Handbook 4350.3 REV-1, Chapter 5. Rent phase-in does not apply.

### E. Verification Requirements

Owners must verify all income, assets, expenses, deductions, family characteristics, and

## Attachment 1: Clarifications of Occupancy Requirements After Conversions

circumstances that affect family eligibility or level of assistance. HUD Handbook 4350.3 REV-1, Chapter 5, Section 3 provides details on performing third-party verifications.

### F. Lease Requirements

#### F.1 HUD Model Lease and Lease Term

All properties that have converted under RAD must use form HUD 90105-A *Model Lease for Subsidized Programs* with an initial lease term of one year for new move-ins. This minimum term may be less than one year if the Section 8 HAP contract will expire in less than 12 months from the effective date of the lease (i.e., for leases entered into during the nineteenth year of the initial twenty-year term). The renewal term must be a minimum of 30 days. See Figure 6-3 of HUD Handbook 4350.3 REV-1.

#### F.2 Modifying the HUD Model Lease

Changes to the Model Lease for Subsidized Programs may be made only to comply with documented state or local laws, or a management practice generally used by management entities of assisted projects. Before implementing lease changes, owners must obtain written approval from HUD or the Contract Administrator. A modification to the lease may only be effective at the end of a lease term and the owner must provide the tenant with the approved modifications at least 60 days prior to the end of the lease term.

HUD will not permit modifications to the following nine provisions of the model lease:

1. Changes in Tenant Rent;
2. Regularly Scheduled Recertifications;
3. Reporting Changes between Regularly Scheduled Recertifications;
4. Removal of Subsidy;
5. Tenant Obligation to Repay;
6. Discrimination Prohibited;
7. Changes in Rental Agreement;
8. Termination of Tenancy; and
9. Penalties for Submitting False Information

#### F.3 Security Deposits for New Tenants After Conversion

For new tenants housed after conversion, owners must collect a security deposit at the time of the initial lease execution equal to the greater of the household's one-month total tenant payment at move-in or \$50. See HUD Handbook 4350.3 REV-1, Chapter 6, Section 2 for further information relating to security deposits.

#### F.4 Charges in Addition to Rent

Multifamily Housing does not permit owners to charge applicants for costs associated with accepting and processing applications, screening applicants, or verifying income and eligibility. Hence, owners must not require applicants to pay application fees, credit

## Attachment 1: Clarifications of Occupancy Requirements After Conversions

report charges, charges for home visits, charges to obtain a police report(s), or other costs associated with the above functions. These costs are considered project expenses.

Some charges during occupancy are permitted. A complete explanation can be found at HUD Handbook 4350.3, REV-1, Chapter 6, Section 3.

### G. Enterprise Income Verification (EIV) System

Owners must follow all EIV requirements identified in HUD Handbook 4350.3, REV-1 including the following:

#### G.1 Creation of Policy and Procedure Documents

Owners must develop policies and procedures for staff to follow for using the EIV Income reports and all Verification Reports. These documents must identify when each report will be reviewed and how the owner will use the data. Owners are also required to update the Tenant Selection Plan to include written policies for using the Existing Tenant Search.

#### G.2 Retention of EIV Reports

Several EIV Reports provide information at the property level and must be retained by the owner. These reports include:

- The New Hires Report
- The Deceased Tenant Report
- The Multiple Subsidy Report
- The Identity Verification Reports (Failed Pre-Screening and Failed Verification)

#### G.3 EIV & You Brochure

Owners must provide each tenant household with the *EIV & You* brochure at the time of move-in and annual recertification along with a copy of the HUD Fact Sheet “How Your Rent is Determined.”

Owners may order the *EIV & You* brochure (English version) from the online HUD Direct Distribution Center at <http://www.hud.gov/offices/adm/dds/index.cfm>, or by telephone at (800) 767-7468. Quantities ordered should be sufficient to cover distribution to existing tenant households and anticipated new tenant households over the next twelve months. The brochure is also available for download at the Multifamily RHIIP website at [https://www.hud.gov/program\\_offices/housing/mfh/rhiip/mfhrhiip](https://www.hud.gov/program_offices/housing/mfh/rhiip/mfhrhiip).

Translated versions of the brochure for non-English speaking households are posted to the Multifamily RHIIP website and on the Department’s Limited English Proficiency (LEP) website, located at [www.hud.gov](http://www.hud.gov). These versions will not be available for order through the HUD Direct Distribution Center.

## **Attachment 1: Clarifications of Occupancy Requirements After Conversions**

### **H. Resident Rights and Responsibilities**

Owners must provide each tenant household with a copy of the Resident Rights and Responsibilities brochure at the time of move-in and annual recertification.

### **I. Repayment Agreements for Former PIH Tenants Housed Prior to RAD Conversion**

Subsidy related repayment agreements may be necessary when a tenant is over-subsidized by HUD for a period of time. When this occurs the owner and tenant will enter into a repayment agreement according to the procedures set forth in HUD Handbook 4350.3, REV-1, Chapter 8.

#### **1. Funds Owed prior to RAD Conversion**

If an adjustment shows that the tenant owed money due to an underpayment of rent that occurred prior to the effective date of the RAD HAP Contract, the money attributed to this time period is out of the control of Multifamily Housing. No recapture of subsidy is necessary. PHAs must not enter the debt into the Earned Income Verification “Debts Owed” module.

#### **2. Year of Conversion Repayment Funds**

For properties converting under RAD, any money that is to be repaid during the Year of Conversion must not be returned through TRACS in the form of a voucher adjustment. In accordance with Section 2.5 of the HAP Contract, the owner is permitted to keep these funds for operating costs. Some examples for use are resident services or to contribute to a project’s capital or operating reserve. The funds cannot be applied to residual receipts and cannot be withdrawn as distributions.

#### **3. Subsequent Year Repayment Funds**

Money repaid after the initial Year of Conversion is returned to HUD through a voucher adjustment and following the requirements found in the MAT Guide.



## Attachment 1: Clarifications of Occupancy Requirements After Conversions

Example		
RAD Property executes a HAP Contract on July 1, 2017. The tenant misreported income on the May 1, 2017 PIH Annual Recertification resulting in a \$20 per month overpayment of subsidy. Tenant begins paying correct TTP on February 1, 2018. The amount due for overpayment of subsidy is \$180 (9 months times \$20).		
Breakdown of amounts due:		
May 2017	\$20	Tenant was in PIH, no owner action needed for this overpayment.
June 2017	\$20	
July 2017	\$20	This overpayment occurred during the Year of Conversion. \$120 is owed to the owner.
August 2017	\$20	
September 2017	\$20	
October 2017	\$20	
November 2017	\$20	
December 2017	\$20	
January 2018	\$20	This \$20 overpayment was from MFH funding and is adjusted through a voucher adjustment.

### J. Annual Recertifications

To ensure that assisted tenants pay rents commensurate with their ability to pay, HUD requires owners to conduct a recertification of family income and composition at least annually. Owners must recalculate tenants' rents and assistance payments, if applicable, based on the information gathered. HUD Handbook 4350.3 REV-1, Chapter 7, Section 1 and Housing Notice 2016-09 *Streamlining Administrative Regulations for Multifamily Housing Programs* provide detailed instructions for conducting annual recertifications.

### K. Interim Recertifications

Interim recertifications are required by 24 CFR 5.657 and further information can be found in HUD Handbook 4350.3 REV-1, Chapter 7, Section 2. Interim recertifications are performed when a tenant experiences a change in income or family composition between annual recertifications.

1. To ensure that assisted tenants pay rents commensurate with their ability to pay, tenants must supply information requested by the owner or HUD for use in an interim recertification of family income and composition in accordance with HUD requirements.

## Attachment 1: Clarifications of Occupancy Requirements After Conversions

- All tenants must notify the owner when:
- a. A family member moves out of the unit;
  - b. The family proposes to move a new member into the unit;
  - c. An adult member of the family who was reported as unemployed on the most recent certification or recertification obtains employment; or
  - d. The family's income cumulatively increases by \$200 or more a month.
2. Tenants may request an interim recertification due to any changes occurring since the last recertification that may affect the Total Tenant Payment (TTP) or tenant rent and assistance payment for the tenant. Changes a tenant may report include the following:
- a. Decrease in income including, but not limited to, loss of employment, reduction in the number of hours worked by an employed family member, and loss or reduction of welfare income;
  - b. Increases in allowances including, but not limited to, increased medical expenses, and higher childcare costs; and
  - c. Other changes affecting the calculation of a family's annual or adjusted income including, but not limited to, a family member turning 62 years old, becoming a full-time student, or becoming a person with a disability.
3. Tenants are not required to report when a family member turns 18 years of age between annual recertifications. However, tenants must follow the requirements in their lease for reporting changes in the household income.
4. Owners must process an interim recertification if a tenant reports:
- a. A change in family composition;
  - b. An increase in a family's cumulative income of \$200 or more a month;
  - c. An increase in allowances (e.g. number of dependents, a new disability assistance expense);
  - d. Most decreases in income except in circumstances described in HUD Handbook 4350.3 REV-1, paragraph 7-11.D; or
  - e. A change in citizenship or eligible immigration status of any family member
5. If a tenant reports a change in income that does not increase the household's cumulative income by \$200 or more a month, the owner should not process an interim recertification to increase the tenant's rent. If a tenant reports any other change addressed above along with an increase in income that does not increase household income by \$200 or more a month, the owner should not include the increase in income in processing the interim recertification.
6. Upon receiving a tenant request for an interim recertification, owners must process a recertification of family income and composition within a reasonable time, which is only the amount of time needed to verify the information provided by the tenant. Generally, this should not exceed four weeks.

## **Attachment 1: Clarifications of Occupancy Requirements After Conversions**

7. Owners should not recertify a tenant receiving welfare assistance in an as-paid welfare program when the Public Assistance Agency reduces the tenant's shelter and utility allowance because it is greater than the tenant's actual rent.
8. Owners may delay, but not refuse, to process an interim recertification if they have confirmation that a tenant's income will be partially or fully restored within two months. Processing may be delayed only until the new income is known.
9. Owners do not have to perform interim recertifications for individual tenants who are paying market rent.

## **Attachment 2: Section 202 PRAC Conversions Under RAD**

The Section 202 PRAC program operated using several requirements that differ from Section 8 requirements. After converting under RAD, former Section 202 PRAC properties must operate using the standard RAD requirements for properties converting to PBRA under the Second Component of RAD except for the below. These exceptions are identified in the applicable sections above and organized below.

### **A. Income Limits**

Section 202 PRAC properties converting under RAD are to be treated as Post-1981 Contracts and admit families up to the Very Low-income limit.

### **B. Eligible Households**

In accordance with the RAD statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC properties converting assistance under RAD must continue to serve elderly persons. Accordingly, in addition to income-eligibility and income targeting requirements in 24 CFR 5.653, new admissions must meet the definition of “elderly family” in 24 CFR 5.403:

Elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

### **C. Pets**

Lease provisions for pets are not found in the Model Lease for Subsidized Programs. Because Section 202 PRAC properties that converted under RAD are available for occupancy only to the elderly, the language addressing pets that is found in the Model Lease for Section 202 PRACS must be incorporated using a HUD-approved lease addendum. A HUD-approved addendum is provided as Attachment 4 to this notice.

**Attachment 3: Rent Phase-In Procedure**  
***Only Applicable to First Component RAD Conversions***

The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section “Calculated Multifamily 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 the family’s most recent HUD Form 50059.

**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 Multifamily 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 Calculated Multifamily TTP
- Year 3: Year 3 AR and all subsequent recertifications – Year 3 AR and any IR in Year 3: Full Calculated Multifamily TTP

**Five Year Phase-in:**

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

**Please Note:** In either the three-year phase-in or the five-year phase-in, once Calculated Multifamily TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full Calculated Multifamily TTP from that point forward.

## **Attachment 4: Pet Addendum for Former Section 202 PRAC Properties**

### **Addendum to HUD Model Lease (form HUD-90105a)**

#### **Pet Language for Former Section 202 PRAC Properties Converting Under the Second Component of the Rental Assistance Demonstration (RAD)**

The TENANT is permitted to keep common household pets in his/her dwelling unit (subject to the provisions in 24 CFR Part 5 Subpart C) and the pet rules promulgated under 24 CFR 5.315). Any pet rules promulgated by the LANDLORD are attached hereto and incorporated hereby. The TENANT agrees to comply with these rules. A violation of these rules may be grounds for removal of the pet or termination of the TENANT's (pet owner's) tenancy (or both), in accordance with the provisions of 24 CFR Part 5, Subpart C and applicable regulations and State or local law. These regulations include 24 CFR Part 247 (Evictions From Certain Subsidized and HUD-Owned Projects) and provisions governing the termination of tenancy under the Project Rental Assistance Contract.

Note: The Part 5 Pet Rules do not apply to an animal used by a Tenant or visitor that is needed as a reasonable accommodation for the Tenant's or visitor's disability.

[Optional] The LANDLORD may after reasonable notice to the TENANT and during reasonable hours, enter and inspect the premises. Entry and inspection is permitted only if the LANDLORD has received a signed, written complaint alleging (or the LANDLORD has reasonable grounds to believe) that the conduct or condition of a pet in the dwelling unit constitutes, under applicable State or local law, a nuisance or a threat to the health or safety of the occupants of the project or other persons in the community where the project is located.

If there is not State or local authority (or designated agent of such an authority) authorized under applicable State or local law to remove a pet that becomes vicious, displays symptoms of severe illness, or demonstrates other behavior that constitutes an immediate threat to the health or safety of the tenancy as a whole, the LANDLORD may enter the premises (if necessary), remove the pet, and take such action with respect to the pet as may be permissible under State and local law, which may include placing it in a facility that will provide care and shelter for a period not to exceed 30 days. The LANDLORD shall enter the premises and remove the pet or take such other permissible action only if the LANDLORD requests the TENANT (pet owner) to remove the pet from the project immediately, and the TENANT (pet owner) refuses to do so, or if the LANDLORD is unable to contact the TENANT (pet owner) to make a removal request. The cost of the animal care facility shall be paid as provided in 24 CFR 5.363.

**Attachment 5: House Rule Provisions Required by RAD**  
***Only Applicable to First Component RAD Conversions***

The information provided below must be included as part of the House Rules for the associated project and evidence of such incorporation may be requested by HUD for purposes of monitoring the program. Additional key requirements for House Rules can be found at Section 6-9 of HUD Handbook 4350.3, REV-1.

**Resident Procedural Rights**

- A. Termination Notification.** HUD is incorporating additional termination notification requirements to comply with Section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR § 880.607 and the Multifamily HUD Model Lease.
- i *Termination of Tenancy and Assistance.* The termination procedure for RAD conversions to PBRA will additionally require that Project Owners provide adequate written notice of termination of the lease which shall not be less than:
    - 1. A reasonable period of time, but not to exceed 30 days:
      - a. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      - b. In the event of any drug-related or violent criminal activity or any felony conviction; or
    - 2. Not less than 14 days in the case of nonpayment of rent; and
    - 3. Not less than 30 days in any other case, except that if State or local law provides for a shorter period of time, such shorter period shall apply.
  - ii *Termination of Assistance.* In all other cases, the requirements at 24 CFR § 880.603, the Multifamily HUD Model Lease, and any other HUD multifamily administrative guidance shall apply.
- B. Grievance Process.** In addition to program rules that require that tenants are given notice of covered actions under 24 CFR Part 245 (including increases in rent, conversions of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant paid utility allowances), HUD is incorporating resident procedural rights to comply with the requirements of Section 6 of the Act. RAD will require that:
- i Residents be provided with written notice of the specific grounds of the Project Owner's proposed adverse action, as well as their right to an informal hearing with the Project Owner;
  - ii Residents will have an opportunity for an informal hearing with an impartial member of the Project Owner's staff within a reasonable period of time;
  - iii Residents will have the opportunity to be represented by another person of their choice, to ask questions of witnesses, have others make statements at the hearing, and to examine any regulations and any evidence relied upon by the Project Owner as the basis for the adverse action. With reasonable notice to the Project Owner, prior to hearing and at the residents' own cost, resident may copy any documents or records related to the proposed adverse action; and

## Attachment 5: House Rule Provisions Required by RAD

- iv Project Owners provide the resident with a written decision within a reasonable period of time stating the grounds for the adverse action, and the evidence the Project Owner relied on as the basis for the adverse action.

The Project Owner will be bound by decisions from these hearings, except if the:

- i Hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing.
- ii Decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

If the Project Owner determines that it is not bound by a hearing decision, the Project Owner must promptly notify the resident of this determination, and of the reasons for the determination.

**C. Family Right to Move. [Do not include this provision if HUD provided to the Covered Project a good-cause exemption from Choice Mobility as described in Section 1.7.5.]** Each family has the option to obtain tenant-based rental assistance (commonly known as a Housing Choice Voucher) from [name of the PHA], subject to certain program limitations, at any time after the second year of occupancy. Before providing notice to terminate the lease, the family must first contact the PHA to request tenant-based rental assistance if the family wishes to move with continued assistance. If tenant-based rental assistance is not immediately available, the PHA shall give the family priority to receive the next available opportunity for tenant-based rental assistance. After the PHA offers the family the opportunity for tenant-based rental assistance in accordance with HUD requirements and after the family has secured a lease with such tenant-based rental assistance, the family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease.



## Attachment 6: FSS Escrow Account Credit Worksheet

Family Self-Sufficiency Program FSS Escrow Account Credit Worksheet	U.S. Department of Housing and Urban Development Office of Housing
Escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS Contract of Participation while the family is participating in the FSS program.	
Head of the FSS family	Date
1. Current Annual Income (Enter amount from line 86 of form HUD-50059)	1.
2. Applicable Income Limit (Enter the current income limit for the jurisdiction in which the FSS family is living. Line 87, 88, or 89 of form HUD-50059)	2.
3. Current Adjusted Annual Income (Enter amount on line 107 of form HUD-50059.) <b>If line 3 is greater than line 2, family does not qualify for an FSS credit.</b>	3.
4. Earned Income included in line 1 (Add up the income in column 68 for items coded as B, F, M, W in column 67 of form HUD-50059.)	4.
5. Earned income included in Annual Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	5.
6. Increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 5 from line 4. If negative, enter 0)	6.
7. Current Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 1.)	7.
8. Thirty percent of current monthly Adjusted Income (Line 3 divided by 40. The calculated amount should equal the amount on line 108 of form HUD-50059.)	8.
9. Current Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 3.)	9.
10. 30% of current monthly Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 9 divided by 40)	10.
11. 10% of current monthly Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 7 divided by 120)	11.
12. If applicable, welfare rent (enter amount on line 113 of form HUD-50059)	12.
13. TTP based on current Annual Income less increase in earned income since effective date of the FSS Contract of Participation. (Enter the greater of line 10, 11, or 12.)	13.
14. Difference between 30% of current monthly Adjusted Income and TTP adjusted for increases in earned income. (Subtract line 13 from line 8. Enter 0 if negative.)	14.
15. Current TTP (Enter the amount on line 108 of form HUD-50059.)	15.
16. TTP on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	16.
17. Difference between current TTP and TTP on effective date of the FSS Contract of Participation. (Subtract line 16 from line 15. Enter 0 if negative.)	17.
18. Enter the lesser of line 14 or line 17.	18.
19. Applicable Very Low-Income Limit (Enter the current very low-income limit for the jurisdiction in which the FSS family is living. Line 88 of form HUD-50059)	19.
20. Amount by which Adjusted Income exceeds the Very Low-Income Limit (Subtract line 19 from line 3.)	20.
21. 30% of the amount by which Adjusted Income exceeds the Very Low-Income Limit (Line 20 divided by 40)	21.
22. Escrow credit (Subtract line 21 from line 18.)	22.

**Attachment 7: Sample Family Self-Sufficiency Information Page**

1. Participate in FSS program (Y or N)	1.
2. FSS report category (check one) <input type="checkbox"/> Enrollment <input type="checkbox"/> Progress <input type="checkbox"/> Exit	
3. FSS effective date (mm/dd/yyyy) of action	3.
4. PHA code of PHA administering FSS contract	4.
<b>5. General Information</b>	
(a) Current employment status of head of household. Check the box to indicate the head of household's employment status at the time addendum completed.	
<input type="checkbox"/> Full-time (32 hours per week or more) <input type="checkbox"/> Part-time <input type="checkbox"/> Not employed	
(b) Date (mm/dd/yyyy) current employment began	5b.
(c) Benefits in current employment (check all that apply)	
<input type="checkbox"/> Health <input type="checkbox"/> Retirement Account <input type="checkbox"/> Other	
(d) Years of school completed by the head of household. Enter the highest grade of education or years of formal schooling the head of household completed at the time Addendum is submitted (0-25)	5d.
(e) Assistance received by the family (check all that apply)	
<input type="checkbox"/> TANF Income Assistance <input type="checkbox"/> General Assistance <input type="checkbox"/> Food Stamps <input type="checkbox"/> Medicaid/Children's Health Insurance Premium <input type="checkbox"/> Earned Income Tax Credit	
(f) Number of children receiving childcare services	5f.

<b>6. Family services table</b>	Need (Y or N)	Need Met During Participation in Program (Y or N)	Service Provider
Education/Training			
GED			
High school			
Post secondary			
Vocational/Job training			
Job search/job placement			
Job retention			
Transportation			
Health services			
Alcohol and other drug abuse prevention services			
Mentoring			
Homeownership counseling			
Individual Development Account (IDA)			
Child care			
None			

Service provider codes:

P = PHA

O = Owner

T = TANF agency

D = DOL grantee

V = Voluntary Organization

PR = For profit entity

N = Nonprofit agency

E = Employer

C = Community College

7. FSS Contract Information	
(a) Initial start date (mm/yyyy) of contract of participation.	7a.
(b) Initial end date (mm/yyyy) of contract of participation.	7b.
(c) Contract date extended to (mm/yyyy) (if applicable)	7c.
(d) Number of family members with Individual Training and Services Plan	7d.
(e) Did the family receive selection preference because of a FSS related service program participation (Y or N)	7e.
8. FSS account information	
(a) Current FSS account monthly credit	8a.
(b) Current FSS account balance	8b.
(c) FSS account amount disbursed to the family (cumulative as of end of reporting period)	8c.
9. FSS exit information (FSS Exit Report only)	
(a) Did family complete contract of participation? (Y or N)	9a.
(b) If (1) is Yes, did family move to homeownership? (Y or N)	9b.
(c) If (1) is No, primary reason for exit:	
<input type="checkbox"/> Left voluntarily	<input type="checkbox"/> Portability move-out
<input type="checkbox"/> Asked to leave program	<input type="checkbox"/> Left because essential service was unavailable
<input type="checkbox"/> Contract expired but family did not fulfill obligations	

## Attachment 8: Approving the Delay of a Physical Inspection Memo



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

MAR 21 2019

MEMORANDUM FOR: Multifamily Regional Directors  
Multifamily Satellite Office Directors  
Multifamily Owners and Management Agents

FROM: C. Lamar Seats, Deputy Assistant Secretary, Office of Multifamily  
Housing Programs, HT

SUBJECT: **Approving the Delay of a Physical Inspection Beyond the New Real Estate  
Assessment Center (REAC) Inspection Notification Timelines**

This memorandum is written to provide guidance on when a field office may approve an owner's request to delay an inspection outside the new inspection notification guidelines provided in Notice PIH-2019-02(HA) H-2019-04, captioned, "Standardization of REAC Inspection Notification Timelines." This Notice was published on February 22, 2019, and it will take effect on March 25, 2019. Once the Notice takes effect, HUD employees and contract inspections conducting inspections on behalf of HUD will provide multifamily project owners and agents (POAs) notice that an inspection will take place 14 calendar days from the date of notification. Although Notice PIH-2019-02(HA) H-2019-04, does not apply to projects with FHA-insurance, Field Offices should use the same criteria for approving a delay of an inspection at an FHA-insured project.

The Notice states that the following conditions will apply:

- If a POA declines to accept an inspection at the time of initial notification, a presumptive score of "0" (zero) will be recorded but held in abeyance pending the outcome of a second attempt to schedule the inspection.
- If a POA cancels or refuses entry for an inspection scheduled during the initial notification, a presumptive score of "0" (zero) will be recorded but held in abeyance pending the outcome of a second attempt to schedule the inspection.
- If the second attempt results in a successfully completed inspection within seven calendar days of the initial scheduled date, the resulting inspection score shall be recorded.
- If the second attempt does not result in a successfully completed inspection within seven calendar days of the initial scheduled date due to the fault of the POA, the resulting score shall be recorded as "0" (zero) and the POA may be subject to any and all penalties and remedies established through statute, regulation, sub-regulatory policy, grant agreement, or contract.

Among several clarifications and limitations to the above, the Notice also provides that:

- Requests to extend or reschedule an inspection outside of the notification window, such

[www.hud.gov](http://www.hud.gov)

[espanol.hud.gov](http://espanol.hud.gov)

## Attachment 8: Approving the Delay of a Physical Inspection Memo

as for any circumstances which may significantly impact the execution of an inspection or inspection results (e.g., major renovations, significant rehabilitation, fire, etc.), must be submitted by the POA and approved by HUD prior to the proposed date of inspection.

The Asset Management Director may approve a delay in an inspection for the following circumstances<sup>1</sup>:

- **Major Rehabilitation:** The HUD Field Office may only approve the delay of an inspection for major rehabilitation if the POA informed the Field Office of the rehabilitation before receiving notification of an inspection date. HUD will not approve a delay after the owner receives a call or email notification to schedule an inspection date. HUD will not approve a delay for routine maintenance or localized rehabilitation. To qualify as major rehabilitation:
  - The project is undergoing a major recapitalization transaction such as a refinance or an allocation of Low Income Housing Tax Credits (LIHTC) where the total cost of the rehabilitation is \$15,000 per unit or more. This is calculated by taking the total cost of the rehabilitation work divided by the total number of units at the project or the total number of assisted units for partially assisted projects. (Total Cost of Repairs ÷ Total Units = Total Cost Per Unit).

The POA must provide the field office with the information to verify the start and end dates of the rehabilitation, a description of the work covered and the total cost.

In cases where repairs or rehabilitation do not meet these criteria, the POA may submit a Database Adjustment (DBA) appeal prior to an inspection taking place or within 45-days of the release on an inspection report. The instructions for submitting a DBA prior to or after the release of an inspection are found at:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/reac/products/pass/pass\\_guid\\_eandrule](https://www.hud.gov/program_offices/public_indian_housing/reac/products/pass/pass_guid_eandrule)

We have also attached a brief booklet on Technical Review and DBA appeals.

- **Presidential Disaster Declaration (PDD):** The project is located in an area/county covered by a PDD during the period an inspector is trying to schedule an inspection.
- **Other Emergency:** An emergency such as a fire or water damage occurred that was beyond the owner's control occurred that effects more than 30% of the units during the period an inspector or HUD is trying to schedule an inspection. In cases where the damage is restricted

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<sup>1</sup> According to 24 CFR, part 200, subpart P, §200.855, physical inspections are scheduled within the time period spanning 90-days before or 90-days after the ideal future date of the next inspection. The POA should refrain from starting major rehabilitation during this time frame unless the work is an emergency. The ideal future date is calculated based on the score of the last inspection. Projects that score 90-100 must be inspected every three years, projects that score from 80-to 89 every two years and projects that score 79 or below at least once a year.