

Section 18 and RAD Blending: Program FAQs

PIH 2018-04 (HA) permits certain properties converting under RAD to receive Section 18 approval and vouchers, subject to the availability of appropriations, for a portion of units as long as it is part of a strategy to replace and redevelop the units. Specifically, Section 3.A.3.c of the notice states:

“Comprehensive Rehabilitation or Replacement through Rental Assistance Demonstration (RAD). The PHA is converting at least 75 percent of the public housing units within a project (as project is defined by RAD) under RAD and meets the requirements of the RAD Final Implementation Notice REV-3, H-2017-3, and is replacing the units proposed for disposition (up to 25 percent of the public housing units within a project) with Section 8 project-based voucher (PBV) assistance in accordance with 24 CFR part 983. The aggregate number of replacement units (RAD and PBVs) must meet the RAD “substantial conversion of assistance” requirements. To qualify, the project-based Section 8 units (RAD and PBV) must be newly constructed or substantially rehabilitated (defined for purposes of this clause as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, in excess of 60% of the Housing Construction Costs as published by HUD for a given market area) without using 9% Low Income Housing Tax Credits.”

Programmatic Questions

1) What are the eligibility criteria for this provision?

A project, as defined in the RAD Notice and which equates to a single transaction or phase, would need to be newly constructed or substantially rehabilitated without the use of 9% LIHTC and the aggregate number of “hard” units (RAD and PBVs) that are replaced must meet the RAD “substantial conversion of assistance” requirements (see below for more detail). If these criteria are met, HUD will approve the disposition of 25% of the project units.

2) How is “substantial rehabilitation” defined and what can be included in the RAD Scope of Work to measure against Housing Construction Costs?

Substantial rehabilitation is defined here as a proposed RAD scope of work where the hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, exceed of 60% of the “Housing Construction Costs.” The scope of work is not limited by criteria HUD uses in determining physical obsolescence under Section 18.

Housing Construction Costs for a given market area can be found at

https://www.hud.gov/sites/documents/TDCS_2017.PDF. We have also developed a tool available on the RAD Resource Desk that PHAs can use to check to quickly assess whether proposed rehab level meet this threshold.

3) How many TPVs would be issued? How would the PHA project-base the vouchers and under what terms?

HUD determines a PHA’s TPV award based on the relevant appropriations and other HUD issued guidance (including the applicable year’s Housing Choice Voucher (HCV) funding notice). Generally, replacement TPVs will be issued based on the occupancy of the public housing units being removed through Section 18 at the time the SAC application is approved by HUD (see below processing instructions for timing of the approval). Those vouchers may be project-based in accordance with the project-based voucher regulations at 24 CFR 983, as modified by the Housing Opportunities Through Modernization Act of 2016 (HOTMA). See “Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions” ([82 FR 5458](#)) with respect to the applicability of PBV competitive selection requirements, PBV income-mixing project-cap, and PBV program cap.

If the property substantially meets Housing Quality Standards, vouchers may be project-based directly into a PBV HAP contract concurrently with the HAP contract executed through the RAD conversion. Otherwise, the PHA would enter into an Agreement to enter into a HAP contract (AHAP) for those units at conversion. The PBV HAP contract, which would be distinct from the RAD HAP contract, would include the standard terms under the PBV program, including rents set at the lesser of the “reasonable rent” or up to 110% of FMR.

4) Can the 75% of project units that will convert under RAD only convert to PBV?

No, the units converting under RAD may convert to PBV or PBRA. Although processed as one “transaction”, there will be two HAP contracts at closing, a RAD HAP for the RAD units (PBRA or PBV) with rents set per standard RAD rules and a separate regular PBV contract for the units covering the units removed through Section 18 with rents set per standard PBV rules.

5) How does the “substantial conversion of assistance” requirement apply when using this provision?

The totality of replacement units (RAD units + regular PBV contract for the Section 18 units) must fall within the RAD de minimis allowance. For example, for a 100-unit property, excluding the exceptions for long-term vacant units, reconfigured apartments, or social service units, the de minimis unit total could not exceed 5 units or 5%. As a result, a PHA could:

- a. Replace 100 units, with 75 under RAD HAP contract and 25 under a regular PBV contract.
- b. Replace 95 units, with 70 under RAD HAP contract and 25 under a regular PBV contract, and 5 de minimis units.
- c. Replace 100 units, with 70 under RAD HAP contract and 30 under a regular PBV contract (including 5 de minimis units that are backfilled with regular PBVs).

6) RAD and Section 18 normally have different relocation rules and requirements? Which rules and requirements will apply?

The RAD relocation requirements described in PIH/Housing Notice 2016-17 shall apply to residents of the Section 18 units, in lieu of the relocation requirements under 24 CFR part 970. All of the RAD relocation requirements shall apply to residents of the Section 18 units, including, but not limited to, the resident notice and meeting requirements, the right to return, and relocation assistance and payments. The PHA may not provide different relocation rights and benefits to residents of the project based on whether they reside in a RAD unit or a Section 18 unit.

7) Is the PHA eligible to receive Demolition Disposition Transition Funding (DDTF) and Asset Repositioning Fee (ARF) for the units that will be removed through Section 18?

Yes.

8) How does a PHA sequence its RAD and section 18 applications in order to use this provision? How will HUD process the application materials to ensure that the release of the Declaration of Trust, RAD conversion, and execution of the non-RAD PBV AHAP or HAP occur jointly?

See below for initial processing instructions, which HUD may amend or revise.

Initial Processing Instructions

PHAs should apply through RAD for the entire “project” that will encompass the transaction. The PHA would only make the request to utilize the Section 18 and RAD blending provision in its Financing Plan. The Financing Plan should include:

- a. A detailed transaction summary in the Conversion Overview, which must describe the use of this provision and confirm that the units that will be removed through Section 18 Disposition will be sold or otherwise transferred (i.e. ground lease) to a third-party entity that is recognized as a separate independent entity under State law (which may include a non-profit affiliate controlled by the PHA).
- b. A cash flow pro forma that reflects the income and expenses of the total project, i.e., for the RAD and non-RAD units.
- c. Capital Funds sources that, on a pro-rata basis, do not exceed HUD’s published Total Development Costs (TDC), i.e., any Capital Fund contributions cannot exceed 75% of Total Development Costs (TDC) in a transaction with 75% of the units in RAD and 25% of the units as Section 18.
- d. A Capital Needs Assessment covering the whole property.
- e. A completed front-end civil rights reviews for the entire property.
- f. An Environmental Review for the whole project.
- g. A RAD Initial Year Funding Tool that is correctly sized to include only the RAD units.
- h. An updated post-closing utility allowance schedule (given that the transaction will involve substantial rehab or new construction), which will be used to prepare the CHAP amendment.

The PHA would also submit certain materials needed for a complete Section 18 application that are not already required by RAD. Specifically, the Financing Plan should include:

- a. Site map(s) and spreadsheet designating which units, by address and unit type, will be removed through RAD and Section 18. The site map(s) should detail all land and improvements therein and the spreadsheet should designate which units, by address, and unit type, will be removed through RAD and Section 18
- b. An Amended PHA Annual Plan, Significant Amendment, or MTW Annual Plan signifying that that up to 25% of the units may be partially disposed of through Section 18.
- c. A local government support letter. The PHA should consult local government on the proposal to convert the project with up to 25% of the units under Section 18 and secures mayor’s letter of support—specifically addressing that 25% of the units that will be disposed of under Section 18.
- d. A full relocation plan; and
- e. A Board resolution that approves the HA’s proposal to dispose of up to 25% of the units under Section 18.
- f. Evidence of consultation with any resident organization for the project and the Resident Advisory Board. Section 18 also requires PHAs to consult with affected residents, but PHAs can satisfy this as part of the RAD resident consultation, provided they discuss the Section 18 at that consultation. However, if a PHA receives written comments from residents or resident groups, the PHA must include those comment and its evaluation of the comments. If the project meets the eligibility criteria, HUD will revise the CHAP, amend the RAD PIC removal application, and create the Section 18 removal application using materials already submitted by the PHA to the RAD Resource Desk. HUD’s Special Applications Center (SAC) will alert the PHA if there are any missing items

necessary for the Section 18 application. HUD will not approve the Financing Plan until the Section 18 application is complete.

HUD (Recap) will subsequently issue the RCC, which will reference the transaction's use of the RAD/Section 18 blend and include a special condition that the non-RAD PBV HAP contract will be executed concurrent with the conversion. The SAC will then also issue the Section 18 approval letter.

The closing of the RAD conversion will occur simultaneously with the PHA entering into the PBV HAP or AHAP, as applicable. Accordingly, following the SAC approval, the PHA applies to its local public housing field office for tenant protection vouchers (TPVs) using HUD form-52515 30-60 days before the vouchers are needed. The Section 18 approval letter will identify the number of units eligible for vouchers based on the occupancy of the public housing units at the time of the SAC approval. The PHA should submit a draft of the PBV HAP contract (or AHAP in the case of new construction) with the closing package. All of the land will be released from the DOT and a RAD Use Agreement will generally be placed on the entire property, unless the non-RAD PBV units are on a distinct parcel of land. The PHA will dispose of the property to the entity undertaking redevelopment who will then proceed with the planned rehabilitation or demolition and new construction.