

Opportunity Zone Rent Increase in Public Housing Conversions to PBRA Conversions: FAQs

This document provide responses to frequently asked questions with related to a provision in Housing Notice 2019-09/PIH Notice 2019-23 (RAD Notice Revision 4) that creates the opportunity for increased contract rents for certain public housing conversions to PBRA that are in designated Opportunity Zones. These FAQs may be updated periodically.

BACKGROUND

Section 1.7.A.5 of the RAD notice states:

“For any transaction that is proposed in its Financing Plan to undertake new construction or substantial rehabilitation in a designated Opportunity Zone, HUD may provide up to a \$100 per unit per month (PUM) increase to the RAD rents, subject to the availability of funds and such conditions as HUD may impose. For purposes of this subparagraph, new construction or substantial rehabilitation is defined 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. Funds for this purpose shall be allocated on a first-come, first served basis, subject to the availability of funds, based on the time of the request (communicated through the submission of a complete and acceptable Financing Plan), where the PHA demonstrates it is necessary for the viability of the transaction.”

Question: What converting projects are the eligible for this provision?

A project, as defined in the RAD Notice and which equates to a single transaction or phase, must meet all of the following criteria. The project must:

- Be converting to a Project Based Rental Assistance (PBRA) HAP contract
- Be located in a designated Opportunity Zone
- Propose in its Financing Plan to be newly constructed or substantially rehabilitated
- Require the rent increase in order to achieve viability of the transaction

Question: How can I determine if a project is in a designated Opportunity Zone?

Each state has designated certain census tracts as Opportunity Zones. HUD has created a national map where users can identify whether a project is situated within a designated Opportunity Zone. See www.opportunityzones.hud.gov/

Question: 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.” Housing Construction Costs for a given market area can be found at <https://www.hud.gov/sites/dfiles/PIH/documents/TDC.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.

For purposes of calculating aggregate construction costs vis-à-vis the 60% threshold, HUD will consider the combined construction costs of the overall development. The development may include a mixture of new construction and rehabilitation and may include other units besides the converting units (e.g., through the development of new units).

Question: How will HUD determine whether the rent increase is necessary for the viability for the transaction?

PHAs may request an increase to the rents in their CHAPs by up to \$100 per unit per month. Generally, HUD will take the following approach to determining whether the rent increase is necessary for the viability of the transaction:

- 1) HUD will consider the total revenue for the property, including any other adjustments to the CHAP rents and other revenue producing units at the site.
- 2) The transaction must utilize “hard,” must-pay financing.
- 3) Using a trending rate of 2% for revenue and 3% for expenses, the transaction must maintain a debt coverage ratio that is no greater than 1.35 over a 20-year pro forma.
- 4) The transaction cannot include any cash-out financing or net acquisition proceeds to the PHA.
- 5) For transactions with more than 50 units, the transaction must defer or exclude at least 25% of the maximum allowable developer fee that would be allowable under the state Qualified Allocation Plan.

As a result of these tests, HUD may deny the rent increase or reduce the amount from what was requested. HUD reserves the right to consider other unique factors in the analysis of individual transactions.

Question: When may a PHA make the request and how will HUD document approval?

PHAs may make an initial request for the rent increase up to six months prior to submission of the Financing Plan and will make the final request when the Financing Plan is submitted.

The PHA’s initial request should affirm that the project:

- Is converting to a Project Based Rental Assistance (PBRA) HAP contract
- Is located in a designated Opportunity Zone
- Will be newly constructed or substantially rehabilitated
- Requires the rent increase in order to achieve viability of the transaction

Unless the project is not converting to PBRA or if it is located outside of an Opportunity Zone, HUD will issue a CHAP addendum that will provide a modified rent schedule conditioned on 1) submission of a complete and acceptable Financing Plan within six months of the date of the addendum and 2) HUD’s verification at the time of Financing Plan that the transaction meets the criteria for the rent increase as described above. The PHA can use the CHAP addendum to support lender and investor underwriting.

Please note that while HUD anticipates being able to fund most requests, HUD may need to delay issuance of a CHAP addendum if there is inadequate funding available to support the request.

If a complete and acceptable Financing Plan is not submitted within six months of the date of the CHAP addendum is issued, the CHAP addendum will expire. HUD will not provide extensions. The PHA may

submit a subsequent request for the rent increase, which HUD will consider subject to the availability of funding.

In reviewing the submitted Financing Plan, HUD will confirm that the project meets all criteria to be eligible for the increase and confirm that the amount of the rent increase is necessary for the viability of the transaction. Once confirmed, HUD will amend the CHAP to fully incorporate the increased rents.