

Annual PHA Plan <i>(Standard PHAs and Troubled PHAs)</i>	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires: 03/31/2024

Purpose. The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA’s operations, programs, and services, including changes to these policies, and informs HUD, families served by the PHA, and members of the public of the PHA’s mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families.

Applicability. The Form HUD-50075-ST is to be completed annually by **STANDARD PHAs or TROUBLED PHAs**. PHAs that meet the definition of a High Performer PHA, Small PHA, HCV-Only PHA or Qualified PHA do not need to submit this form.

Definitions.

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments if administering both programs, or PHAS if only administering public housing.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceed 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceed 550, and that was designated as a standard performer in the most recent PHAS or SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined and is not PHAS or SEMAP troubled.

A. PHA Information.					
A.1	PHA Name: Boston Housing Authority PHA Code: MA002 PHA Type: ☒ Standard PHA ☐ Troubled PHA PHA Plan for Fiscal Year Beginning: (MM/YYYY): 04/2025 PHA Inventory (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) Number of Public Housing (PH) Units 7985 Number of Housing Choice Vouchers (HCVs) 16,651 Total Combined Units/Vouchers 24,636 PHA Plan Submission Type: ☒ Annual Submission ☐ Revised Annual Submission				
	Availability of Information. PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.				
	The specific location(s) where the public may obtain copies of the PHA Plan, Plan Elements and information about the public hearing are: BHA main administrative office, 52 Chauncy Street, Boston, MA 02111, www.bostonhousing.org, and resident councils. The BHA placed an advertisement in the Boston Globe notifying the public of the Public Hearing and where to locate Plan documents.				
	☐ PHA Consortia: (Check box if submitting a Joint PHA Plan and complete table below)				
	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program
				PH	HCV
Lead PHA:					

B.	Plan Elements					
B.1	Revision of Existing PHA Plan Elements. (a) Have the following PHA Plan elements been revised by the PHA? Y N ☒ ☐ Statement of Housing Needs and Strategy for Addressing Housing Needs ☒ ☐ Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions. ☒ ☐ Financial Resources. ☒ ☐ Rent Determination. ☒ ☐ Operation and Management. ☐ ☒ Grievance Procedures. ☒ ☐ Homeownership Programs. ☒ ☐ Community Service and Self-Sufficiency Programs. ☒ ☐ Safety and Crime Prevention. ☒ ☐ Pet Policy. ☐ ☒ Asset Management. ☒ ☐ Substantial Deviation. ☒ ☐ Significant Amendment/Modification (b) If the PHA answered yes for any element, describe the revisions for each revised element(s): See attached Plan Supplement for B.1 Revision of PHA Plan Elements (ma002a01). In addition, BHA is attaching to the Annual Plan: - Limited English Proficiency Four Factor Analysis (ma002c01) - Site-Based Resident and Applicant Race Ethnicity and Disability-related characteristics (ma002d01) - Rental Assistance Demonstration attachment to annual plan (ma002e01) - Leased Housing Administrative Plan (ma002f01) (redlined) - Admissions and Continued Occupancy Policy (ma002g01) (redlined) (c) The PHA must submit its Deconcentration Policy for Field Office review.					
B.2	New Activities. (a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year? Y N ☐ ☒ Hope VI or Choice Neighborhoods. ☒ ☐ Mixed Finance Modernization or Development. ☒ ☐ Demolition and/or Disposition. ☒ ☐ Designated Housing for Elderly and/or Disabled Families. ☒ ☐ Conversion of Public Housing to Tenant-Based Assistance. ☐ ☒ Conversion of Public Housing to Project-Based Rental Assistance or Project-Based Vouchers under RAD. ☐ ☒ Occupancy by Over-Income Families. ☐ ☒ Occupancy by Police Officers. ☐ ☒ Non-Smoking Policies. ☒ ☐ Project-Based Vouchers. ☒ ☐ Units with Approved Vacancies for Modernization. ☐ ☒ Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants). (b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project-based units and general locations, and describe how project basing would be consistent with the PHA Plan. Please see Plan Supplement, ma002a01.					
B.3	Progress Report. Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan. See attached Five-Year Plan (ma002b01). BHA will submit a progress report with next year's annual plan.					

B.4	Capital Improvements. Include a reference here to the most recent HUD-approved 5-Year Action Plan in EPIC and the date that it was approved. Ongoing capital improvements include, but not limited to, roof replacements, heating and domestic hot water (DHW) systems replacements or improvements, heating plant decentralizations, façade repairs, elevator systems upgrades and improvements, and Life Safety Improvements (replacing repairing fire alarm, fire pumps and fire protections systems) per the most recent 5-Year Action Plan in EPIC approved <u>5/29/2024</u>. The proposed Five-Year Action Plan (FY2025-2029) was available during the Annual Plan public comment and hearing period and will be submitted for HUD approval when the ACC becomes available later this year.
B.5	Most Recent Fiscal Year Audit. (a) Were there any findings in the most recent FY Audit? Y N ☐ ☒ (b) If yes, please describe:
C.	Other Document and/or Certification Requirements.
C.1	Resident Advisory Board (RAB) Comments. (a) Did the RAB(s) have comments to the PHA Plan? Y N ☒ ☐ (b) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations. See attached Responses to Comments, (ma002h01).
C.2	Certification by State or Local Officials. Form HUD 50077-SL, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan. See attached, HUD 50077-SL signed by Mayor Wu of City of Boston(ma002i01).
C.3	Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan. Form HUD-50077-ST-HCV-HP, <i>PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan. See attached, HUD 50077-ST-HCV-HP signed by BHA Administrator Bok (ma002i01).
C.4	Challenged Elements. If any element of the PHA Plan is challenged, a PHA must include such information as an attachment with a description of any challenges to Plan elements, the source of the challenge, and the PHA's response to the public. (a) Did the public challenge any elements of the Plan? Y N ☐ ☒ If yes, include Challenged Elements.
C.5	Troubled PHA. (a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place? Y N N/A ☐ ☐ ☒ (b) If yes, please describe:

D.	Affirmatively Furthering Fair Housing (AFFH).				
D.1	Affirmatively Furthering Fair Housing (AFFH). Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item. BHA is not yet required to submit an AFH, so the new requirements do not apply. However, BHA continues to fulfill the requirements at 24 CFR 903.7(o)(3): <u>"which means that it (BHA) examines its own programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintain records reflecting these analyses and actions."</u> <table border="1" data-bbox="181 655 1451 875"> <tr> <td data-bbox="181 655 1451 697">Fair Housing Goal:</td> </tr> <tr> <td data-bbox="181 697 1451 875"><u>Describe fair housing strategies and actions to achieve the goal</u></td> </tr> </table> <table border="1" data-bbox="181 900 1451 1066"> <tr> <td data-bbox="181 900 1451 942">Fair Housing Goal:</td> </tr> <tr> <td data-bbox="181 942 1451 1066"><u>Describe fair housing strategies and actions to achieve the goal</u></td> </tr> </table>	Fair Housing Goal:	<u>Describe fair housing strategies and actions to achieve the goal</u>	Fair Housing Goal:	<u>Describe fair housing strategies and actions to achieve the goal</u>
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Supplement to HUD Form 50075-ST(1): Revision of PHA Plan Elements and New Activities**January 03, 2025**

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2.Deconcentration and Other Policies that Govern Eligibility, Selection and Admissions	11	X	
3.Financial Resources	24	X	
4.Rent Determination	25	X	
5.Operation and Management	31	X	
6.Grievance Procedures	37		X
7.Homeownership Programs	39	X	
8.Community Services and Self-Sufficiency	44	X	
9.Safety and Crime Prevention including Violence Against Women Act Policy and Description of VAWA activities, services or programs	49	X	
10.Pet Policy	62	X	
11.Asset Management	64		X
12.Substantial Deviation	65	X	
13.Significant Amendment/Modification	65	X	
Section B.2 New Activities			
14.Hope VI or Choice Neighborhoods	66		X
15.Mixed Finance Modernization of Development	67	X	
16.Demolition and/or Disposition	69	X	
17.Designated Housing for Elderly and or Disabled Families	80	X	
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19.Conversion of Public Housing to Project-Based Assistance under RAD	84		X
20.Occupancy by Over-Income Families	84		X
21.Occupancy by Police Officers	84		X
22.Non-Smoking Policies	85		X
23.Project-Based Vouchers	87	X	
24.Units with Approved Vacancies for Modernization	90	X	
25.Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants, or Emergency Safety and Security Grants)	91		X
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Section B.1 Revision of PHA Plan Elements

1. Housing Needs of Families in the Jurisdiction/s Served by the PHA and Strategy for Addressing Housing Needs

Based upon the information contained in the Consolidated Plan/s applicable to the jurisdiction, and/or other data available to the PHA, provide a statement of the housing needs in the jurisdiction by completing the following table. In the "Overall" Needs column, provide the estimated number of renter families that have housing needs. For the remaining characteristics, rate the impact of that factor on the housing needs for each family type, from 1 to 5, with 1 being "no impact" and 5 being "severe impact." Use N/A to indicate that no information is available upon which the PHA can make this assessment.

Housing Needs of Families in the Jurisdiction by Family Type									
Family Type*	Overall**	% of Overall*	Affordability	Supply	Quality	Accessibility	% Overcrowded*	Size	Location
Income <= 30% of AMI	72,375	52.0	5	3	2	2	N/A	1	N/A
Income >30% but <=50% of AMI	31,855	22.9	5	3	2	2	N/A	2	N/A
Income >50% but <80% of AMI	34,835	25.1	4	3	2	2	N/A	2	N/A
Elderly <80%	47,145	33.9	4	3	2	2	N/A	N/A	N/A
Disability Population***	100,256	13.1	3	4	2	2	N/A	N/A	N/A
White <80%****	46,835	33.7	4	3	2	2	N/A	N/A	N/A
Black African American Households <80%****	38,975	28.0	4	3	2	2	N/A	N/A	N/A
Hispanic Households <80%****	33,310	24.0	5	3	2	2	N/A	N/A	N/A
American Indian / Alaska Native <80%****	345	0.2	5	3	2	2	N/A	N/A	N/A
Asian / Pacific Islander <80%****	15465	11.1	4	3	2	2	N/A	N/A	N/A
Unknown/Mixed	4145	3.0							
All Households <80% AMI	139,065	100	4	3	2	2	N/A	1	N/A

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*There is likely some overlap in the data. For example, elderly households will include persons with disabilities who are elderly and disabled families will include both single persons and persons with children.

**Overall renter households eligible for public housing, those below 80% of Area Median Income. Total Households = 139,065; Boston Consolidated Plan Tables 5 and 6

***2023 American Community Survey 1-Year Estimates, U.S. Census Bureau, Selected Economic Characteristics for the Civilian Non-Institutionalized Population By Disability Status for Suffolk County, MA

****From Boston Consolidated Plan Tables 13, 14, and 15 - based on 2010-2020 Comprehensive Housing Affordability Strategy (CHAS) Table 1

X : Consolidated Plan of the Jurisdiction/s

Indicate year: 2024-2028

X : U.S. Census data: the State of the Cities Data Systems: Comprehensive Housing Affordability Strategy (CHAS) dataset 2016-2020 as presented in Boston Consolidated Plan 2024-2028

___ : American Housing Survey data Indicate year:

___ : Other housing market study
Indicate year:

X : Other sources: (list and indicate year of information) Analysis conducted in consultation with staff from the Mayor's Office of Housing.

B. Housing Needs of Families on the Public Housing and Section 8 Tenant- Based Assistance Waiting Lists

State the housing needs of the families on the PHA's waiting list/s. Complete one table for each type of PHA-wide waiting list administered by the PHA. PHAs may provide separate tables for site-based or sub-jurisdictional public housing waiting lists at their option.

Housing Needs of Families on the Waiting List – updated 10/24			
Waiting list type: (select one) <u>X</u> : Section 8 tenant-based assistance ___ : Public Housing ___ : Combined Section 8 and Public Housing ___ : Public Housing Site-Based or sub-jurisdictional waiting list (optional) If used, identify which development / sub-jurisdiction:			
	# of families*	% of total families	Annual Turnover
Tenant- Based Waiting List total	1211		185
Extremely low income <=30%	1,123	92.73%	

Very low income >30% but <=50% AMI	83	6.85%
Low income >50% but <80% AMI	5	0.41%
Over 80%	0	0.00%
Family with children*	613	50.62%
Elderly families*	228	18.83%
Family with disabilities*	522	43.10%
White Hispanic	342	28.24%
White Non-Hispanic	165	13.63%
Black Hispanic	148	12.22%
Black Non-Hispanic	513	42.36%
American Indian Hispanic	6	0.50%
American Indian Non-Hispanic	7	0.58%
Asian/Pacific Island Hispanic	1	0.08%
Asian/Pacific Island Non-Hispanic	12	0.99%
Native Hawaiian/Other Pacific islander Hispanic	3	0.25%
Native Hawaiian/Other Pacific islander Non-Hispanic	0	0.00%
N/A Race	14	1.16%

* The BHA had Single applicants on the waiting list. In addition, there were instances of families that fit into more than one category including disabled and minors; disabled and elderly; elderly and minors; and families that fit in all 3 categories.

**BHA ranked 7277 applications on its Section 8 Tenant-Based Waiting List based on the result of the lottery process when it re-opened the waiting list for two weeks in October 2008.

Is the waiting list closed (select one) ☐ No ☒ Yes

If yes:

HOW LONG HAS IT BEEN CLOSED? SINCE NOVEMBER 1, 2008

Does the PHA expect to reopen the list in the PHA Plan year? ☒ No ☐ Yes

Does the PHA permit specific categories of families onto the waiting list, even if generally closed?

☐ No ☒ Yes

Please Note: BHA implemented site-based waiting lists for Section 8 Project-Based and Moderate Rehabilitation Housing Programs effective May 2007 and the waiting lists are open
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for Priority One Applicants only, except for Elderly/Disabled Section 8 Project-Based waiting lists that have been open to non-priority elderly 62 years of age and older effective May 9, 2014. In addition, the Section 8 Tenant Based waiting list is open for Super Priority, PBV participants switching to tenant-based vouchers after a year of tenancy in good standing, and applicants of BHA supported housing programs, and Mitigation voucher applicants. Additionally, from time to time and with consideration to funding availability, the BHA accepts referral applicants for supportive housing programs under which a referral agency provides services including stabilization services and housing search as agreed upon by a Memorandum of Agreement for proposed applicants.

Housing Needs of Families on the Waiting List – updated 10/24
Waiting list type: (select one) ☐ : Section 8 tenant-based assistance ☒ : Public Housing ☐ : Combined Section 8 and Public Housing ☐ : Public Housing Site-Based or sub-jurisdictional waiting list (optional) If used, identify which development / sub-jurisdiction:

	# of families	% of total families	Annual Turnover
Federal PH Waiting List total	39,220		10,239
Extremely low income <=30%	37,820	96.43%	
Very low income >30% but <=50% AMI	1,118	2.85%	
Low income >50% but <80% AMI	136	0.35%	
Over 80%	146	0.37%	
Family with children	5,735	14.62%	
Elderly families	8,353	21.30%	
Family with disabilities*	11,577	29.52%	
White Hispanic	7,310	18.64%	
White Non-Hispanic	8,527	21.74%	
Black Hispanic	4,381	11.17%	
Black Non-Hispanic	14,602	37.23%	
American Indian Hispanic	201	0.51%	
American Indian Non-Hispanic	349	0.89%	
Asian/Pacific Island Hispanic	104	0.27%	
Asian/Pacific Island Non-Hispanic	3,038	7.75%	
Native Hawaiian/Other Pacific islander Hispanic	164	0.42%	
Native Hawaiian/Other Pacific islander Non- Hispanic	113	0.29%	
N/A Race	431	1.10%	

*The BHA had Single applicants on the waiting list. In addition, there were instances of families that fit into more than one category including duplicates in disabled and children; duplicates in disabled and elderly; duplicates in elderly and children; and families that fit all categories.

Characteristics by Bedroom Size (Public Housing)

Housing Needs of Families on the Waiting List – updated 10/24

BR Size	Total	%
1	24,622	62.78%
2	9,652	24.61%
3	4,062	10.36%
4	752	1.92%
5	102	0.26%
6	23	0.06%
7	7	0.02%
Grand Total	39,220	

Is the waiting list closed (select one)? ☒ No ☐ Yes

If yes:

HOW LONG HAS IT BEEN CLOSED (# OF MONTHS)?

Does the PHA expect to reopen the list in the PHA Plan year? ☐ No ☐ Yes

Does the PHA permit specific categories of families onto the waiting list, even if generally closed? ☐ No ☐ Yes

Strategy for Addressing Housing Needs. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.**

Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list **IN THE UPCOMING YEAR**, and the Agency's reasons for choosing this strategy.

1 Strategies

Need: Shortage of affordable housing for all eligible populations

Strategy 1. Maximize the number of affordable units available to the PHA within its current resources by:

Select all that apply

- ☒ : Employ effective maintenance and management policies to minimize the number of public housing units off-line
- ☒ : Reduce turnover time for vacated public housing units Reduce time to renovate public housing units
- ☒ : Seek replacement of public housing units lost to the inventory through mixed finance development

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- ☒ : Seek replacement of public housing units lost to the inventory through section 8 replacement housing resources
- ☒ : Maintain or increase section 8 lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction
- ☒ : Undertake measures to ensure access to affordable housing among families assisted by the PHA, regardless of unit size required
- ☒ : Maintain or increase section 8 lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- ☒ : Maintain or increase section 8 lease-up rates by effectively screening Section 8 applicants to increase owner acceptance of program
- ☒ : Participate in the Consolidated Plan development process to ensure coordination with broader community strategies
- ☒ : Other (list below)
The BHA is engaging in partnerships with other agencies to better service the needs of our population and create family supported housing programs.

Strategy 2: Increase the number of affordable housing units by:

Select all that apply:

- ☒ : Apply for additional section 8 units should they become available
- ☒ : Leverage affordable housing resources in the community through the creation of mixed - finance housing
- ☒ : Pursue housing resources other than public housing or Section 8 tenant-based assistance.
- ☒ : Other: (list below)

Add market uses to sites where appropriate to help leverage financing that will ultimately be used to preserve affordable units 1:1.

BHA is eager to pursue any and all sources for the preservation and/or creation of new public housing units including using its existing Faircloth authority in conjunction with the RAD program.

In July 2023, HUD issued Supplement Notice 4B to its RAD Notice (H-2023-08 PIH-2023-19) which, among other things, provided guidance about how housing authorities could use their Faircloth capacity in conjunction with RAD to create new project-based voucher units through a Faircloth-to-RAD mechanism. BHA intends to diligently pursue this new pathway.

One particular goal is to leverage public land as sites for Faircloth-to-RAD housing development. BHA will work closely with the City of Boston to identify opportunities at what the City considers "High Opportunity Sites" as identified in its 2022 Public Land for Public Good: Citywide Land Audit."

Need: Specific Family Types: Families at or below 30% of median

Strategy 1: Target available assistance to families at or below 30 % of AMI

Select all that apply

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___: Exceed HUD federal targeting requirements for families at or below 30% of AMI in public housing. *However, given the demographics of the public housing wait list it is anticipated that new admissions at or below 30% of median area income will significantly exceed 40%.*

___: Exceed HUD federal targeting requirements for families at or below 30% of AMI in tenant-based section 8 assistance. *However, given the demographics of the Section 8 Tenant-Based wait list, it is anticipated that new admissions at or below 30% of median area income will significantly exceed 40%.*

X: Employ admissions preferences aimed at families with economic hardships

X: Adopt rent policies to support and encourage work

___: Other: (list below)

Need: Specific Family Types: Families at or below 50% of median

Strategy 1: Target available assistance to families at or below 50% of AMI

Select all that apply

___: Employ admissions preferences aimed at families who are working (in Leased Housing Programs)

X: Adopt rent policies to support and encourage work

X: Other: (list below)

Healthy Start in Housing, HOPWA, Housing Chronically Homeless Elders (age 62 or older), SAMHSA, BPS-Homeless Student Program, Living Well at Home (includes Health Starts At Home & Elder Living At Home Program –ELAHP), PACE in Public Housing; Leading the Way Home, City of Boston Coordinated Access System Referral, NED Program in Section 8, Emergency Housing Vouchers (EHVs) and other Supported Housing Programs

Need: Specific Family Types: The Elderly

Strategy 1: Target available assistance to the elderly:

Select all that apply

X: Seek designation of public housing for the elderly

X: Apply for special-purpose vouchers targeted to the elderly, should they become available

X: Other: (list below)

Housing Chronically Homeless Elders (age 62 or older)

When possible, develop additional units for low-income elders

Need: Specific Family Types: Families with Disabilities

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Strategy 1: Target available assistance to Families with Disabilities:

Select all that apply

☒ : Implementing preference for disabled persons in family public housing

☒ : Apply for special-purpose vouchers targeted to families with disabilities, should they become available

☒ : Affirmatively market to local non-profit agencies that assist families with disabilities

☒ : Other: (list below)

- Provide preference to developers seeking Section 8 Project Based Vouchers in developments that provide services for families with disabilities.
- HOPWA in Public Housing
- Supported Housing Programs in Public Housing
- Section 8 Moderate Rehab Supported Housing Programs
- Supported Housing Programs in Section 8 including Chronically Homeless (Preference for long term shelter stayers applies to Section 8 applicants), City of Boston Coordinated Access System Referrals for Mainstream Housing Vouchers and Stability Vouchers
- VASH Program in Section 8
- Mainstream Housing Vouchers

Need: Specific Family Types: Races or ethnicities with disproportionate housing needs**Strategy 1: Increase awareness of PHA resources among families of races and ethnicities with disproportionate needs:**

Select if applicable

☐ : Affirmatively market to races/ethnicities shown to have disproportionate housing needs

☒ : Other: (list below)

As necessary affirmatively market to races/ethnicities shown to have disproportionate needs in the administration of site based waiting lists in the public housing program (see ACOP).

Strategy 2: Conduct activities to affirmatively further fair housing

Select all that apply

☒ : Counsel section 8 tenants as to location of units outside of areas of poverty or minority concentration and assist them to locate those units

X : Market the section 8 program to owners outside of areas of poverty /minority concentrations

 X : Other: (list below)

Actively participate with the City of Boston in the development of an Assessment of Fair Housing and implementation of the Consolidated Housing Plan for the City of Boston. Effective July 1, 2019, BHA implemented Small Area Fair Market Rents (SAFMRs) as exception payment standards in those zip codes where they are necessary to make the communities accessible and affordable for voucher holders. The goal of implementing SAFMR exception payment standards is to (1) to expand choice for voucher holders and decrease the concentration of vouchers in high poverty areas; (2) to preserve people's ability to remain where they are preventing displacement and the exacerbation of gentrification and (3) to minimize the effects of artificially inflating rent in the City of Boston. The BHA has also implemented Expanding Choice in Housing Opportunities to help families with housing search outside of the areas traditionally reached by BHA voucher holders.

Other Housing Needs & Strategies: (list needs and strategies below)

(2)Reasons for Selecting Strategies

Of the factors listed below, select all that influenced the PHA's selection of the strategies it will pursue:

 X : Funding constraints

 X : Staffing constraints

 X : Limited availability of sites for assisted housing

 X : Extent to which particular housing needs are met by other organizations in the community

 X : Evidence of housing needs as demonstrated in the Consolidated Plan and other information available to the PHA

 X : Influence of the housing market on PHA programs

 X : Community priorities regarding housing assistance

 X : Results of consultation with local or state government

 X : Results of consultation with residents and the Resident Advisory Board

 X : Results of consultation with advocacy groups

 X : Other: (list below)

Increase employment and training of targeted Section 3 workforce and expand M/WBE contracting and subcontracting opportunities, including through Project Labor Agreement mechanisms.

2. Eligibility, Selection and Admissions Policies, including Deconcentration and Wait list Procedures

A. Public Housing

Exemptions: PHAs that do not administer public housing are not required to complete this subcomponent.

(1) Eligibility

a. When does the PHA verify eligibility for admission to public housing? (select all that apply)

___: When families are within a certain number of being offered a unit: (state number)

___: When families are within a certain time of being offered a unit: (state time)

X: Other: (describe) At the time of preliminary application as well as when the applicant nears the top of the wait list. In addition the BHA verifies eligibility for admission for proposed additions to current households' family composition, personal care attendants/live-in aides, and for residual tenancy applicants.

b. Which non-income (screening) factors does the PHA use to establish eligibility for admission to public housing (select all that apply)?

X: Criminal or Drug-related activity

X: Rental history

X: Housekeeping which may include home visits when negative housekeeping history is documented

X: Other (describe) behavior towards landlords, neighbors, BHA staff, treatment of property, credit history, utility payment history, and eligible immigration status. In addition the BHA will comply with the HUD's Enterprise Income Verification (EIV) reporting for bad debts requirements and checking eviction history and termination history (where Section 8 assistance was previously terminated by a PHA) when reported through the EIV system.

c. X: Yes ___: No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

d. X: Yes ___: No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

e. ___: Yes X: No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC- authorized source) The BHA uses the Dru Sjodin –SORI- and the National Sex Offender Registry. The BHA also obtain criminal records from out of state for applicants who have resided outside of Massachusetts. The BHA obtains out of state criminal records in compliance of each state's criminal check request requirements including Puerto Rico.

(2) Waiting List Organization

a. Which methods does the PHA plan to use to organize its public housing waiting list (select all that apply)

___: Community-wide list

___: Sub-jurisdictional lists

X: Site-based waiting lists

___: Other (describe)

b. Where may interested persons apply for admission to public housing?

X: PHA main administrative office

X: PHA development site management office (obtain information)

X: Other: by mail, if out of state or as a reasonable accommodation

May obtain application information by phone, via e-mail, and by downloading forms from the BHA website (www.bostonhousing.org). Applications may be mailed for those living out of state or as a reasonable accommodation.

c. If the PHA plans to operate one or more site-based waiting lists in the coming year, answer each of the following questions; if not, skip to subsection **(3) Assignment**

1. How many site-based waiting lists will the PHA operate in the coming year? 40 public housing; and 9 mixed finance. The BHA has additional housing units within its portfolio. Application information for those sites can be found on the BHA website.

2. ___: Yes X: No: Are any or all of the PHA's site-based waiting lists new for the upcoming year (that is, they are not part of a previously-HUD- approved site based waiting list plan)?
If yes, how many lists?

3. X: Yes ___: No: May families be on more than one list simultaneously?
If yes, how many lists? All lists for which they meet the threshold eligibility criteria.

4. Where can interested persons obtain more information about and sign up to be on the site-based waiting lists (select all that apply)?

X: PHA main administrative office

X: All PHA development management offices (obtain information)

X: Management offices at developments with site-based waiting lists

X: At the development to which they would like to apply

X: Other: Obtain information by visiting the BHA's website (www.bostonhousing.org), by mail, phone, via e-mail and or online through the BHA portal (boston.myhousing.org) or the Common Housing Application for Massachusetts Public Housing (CHAMP) website. HOPE VI and other mixed finance redevelopment sites – Mission Main, Orchard Gardens, Orchard

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Commons, Washington Beech, Maverick Landing, Franklin Hill, and Anne M. Lynch Homes at Old Colony Phase I, II, III, and IV and any other future public housing property converted with mixed finance - maintain and establish their own waiting lists for public housing units. Waiting lists for all Section 8 project-based voucher and Moderate Rehabilitation units, however, are maintained by BHA. In addition, the BHA will maintain the public housing and Section 8 Project-Based waiting lists for Heritage and Lower Mills as well as for any other BHA public housing property converted to Section 8 Project-Based Voucher.

(3) Assignment

a. How many vacant unit choices are applicants ordinarily given before they fall to the bottom of or are removed from the waiting list? (select one)

 X : One

 : Two

 : Three or More

b. X : Yes : No: Is this policy consistent across all waiting list types?

c. If answer to b is no, list variations for any other than the primary public housing waiting list/s for the PHA:

(4) Admissions Preferences

a. Income targeting: : Yes X : No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 40% of all new admissions to public housing to families at or below 30% of median area income? However, given the demographics of the public housing wait list it is anticipated that new admissions at or below 30% of median area income will significantly exceed 40%.

b. Transfer policies:

In what circumstances will transfers take precedence over new admissions? (list below)

 X : Special Circumstances (Every eighth unit by Bedroom Size by Development will be offered to Special Circumstances Transfers including Reasonable Accommodation and Transfers related to Designated Housing)

 X : Administrative reasons determined by the PHA (e.g., to permit modernization work, address over and under housing across the portfolio, make apartments with special features available to persons with disabilities, address safety needs due to domestic violence related matters, severe medical issues, witness protection, etc.)

The Administrator of the BHA shall deem when necessary to proceed with Administrative Transfers based on a review of a proposal from Operations and Admissions, which includes information such as historical transfer data, acceptance rates, and current occupancy rates,

c. Preferences

1. ☒ : Yes ☐ : No: Has the PHA established preferences for admission to public housing (other than date and time of application)? (If "no" is selected, skip to next subsection Occupancy)

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences:

☒ : Involuntary Displacement (Disaster, Government Action, Action of Housing Owner [No-Fault Court-Ordered Eviction Only], Inaccessibility [Disabled Applicant Only], Property Disposition, Condemnation, Displacement by any low- rent housing project or by public slum clearance or urban renewal project), Victims of reprisals or hate crimes

☒ : Victims of domestic violence

☒ : Substandard housing Homelessness

☒ : High rent burden (rent is > 50 percent of income)

☐ : Imminent Landlord displacement

Other preferences: (select below)

☐ : Working families and those unable to work because of age or disability

☒ : Veterans and veterans' families

☐ : Residents who live and/or work in the jurisdiction

☐ : Those enrolled currently in educational, training, or upward mobility programs

☐ : Households that contribute to meeting income goals (broad range of incomes)

☐ : Households that contribute to meeting income requirements (targeting)

☐ : Those previously enrolled in educational, training, or upward mobility programs

☒ : Other preference(s) (list below)

- Elderly or Disabled over other single person.
- Designated Housing Preference (for Elderly/Disabled housing program only) if does not require a wheelchair accessible unit.
- Displaced Resident from a Unit in the City of Boston Preference.
- Supported Housing Programs made housing offers before Priority One Applicants.
- Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals.
- Displaced Due to Being Cost Burdened in Boston

3. If the PHA will employ admissions preferences, please prioritize by placing a “1” in the space that represents your first priority, a “2” in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use “1” more than once, “2” more than once, etc.

Date and Time: Only factor among residents/clients with same priority/preference status

Former Federal preferences:

1 Involuntary Displacement (Natural Disaster, Condemnation, Government Action, Action of Housing Owner [No-Fault Court-Ordered Eviction Only], Inaccessibility [Disabled Applicant Only] Displacement by any low-rent housing project or by public slum, victims of reprisals or hate crimes

1 Victims of domestic violence

1 Homelessness

1 Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals.

1 Displaced Due to Being Cost Burdened in Boston

Other preferences: (select below)

___: Working families and those unable to work because of age or disability

X: Veterans and veterans’ families

___: Residents who live and/or work in the jurisdiction

___: Those enrolled currently in educational, training, or upward mobility programs

___: Households that contribute to meeting income goals (broad range of incomes)

___: Households that contribute to meeting income requirements (targeting)

___: Those previously enrolled in educational, training, or upward mobility programs

X: Other preference(s) (list below)

- Elderly or Disabled over other single person.
- Designated Housing Preference (for Elderly/Disabled housing program only) if does not require a wheelchair accessible unit.
- Displaced Resident from a Unit in the City of Boston Preference
- Supported Housing Programs made housing offers before Priority One Applicants.

4. Relationship of preferences to income targeting requirements:

X: The PHA applies preferences within income tiers: Income tiers are used in our HOPE VI redevelopment sites and at our non-HOPE VI redevelopment sites, including West Broadway and Franklin Hill. Income tiering is in effect only after existing residents

in good standing have the opportunity to return to the redeveloped site, regardless of their income.

X : Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

(5) Occupancy:

- a. What reference materials can applicants and residents use to obtain information about the rules of occupancy of public housing (select all that apply)

X : The PHA-resident lease

X : The PHA's Admissions and Continued Occupancy policy

X : PHA briefing seminars or written materials

X : Other source (list): BHA website (www.bostonhousing.org), BHA Reasonable Accommodation Policy, Limited English Proficiency (LEP) Policy, BHA Pet Policies, Transfer Guide, Violence Against Women Act (VAWA) Policy, Rent Manual – available at management offices. For mixed-finance properties may reference the ACOP and/or Administrative Plan available with management.

- b. How often must residents notify the PHA of changes in family composition? (select all that apply)

X : At an annual reexamination and lease renewal

X : Any time family composition changes

X : At family request for revision

___ : Other (list)

(6) Deconcentration and Income Mixing:

- a. ___ : Yes X : No: Did the PHA's analysis of its family (general occupancy) developments to determine concentrations of poverty indicate the need for measures to promote deconcentration of poverty or income mixing?

- b. ___ : Yes X : No: Did the PHA adopt any changes to its **admissions policies** based on the results of the required analysis of the need to promote deconcentration of poverty or to assure income mixing?

- c. If the answer to b was yes, what changes were adopted? (select all that apply)

___ : Adoption of site-based waiting lists

If selected, list targeted developments below:

___ : Employing waiting list "skipping" to achieve deconcentration of poverty or income mixing goals at targeted developments

If selected, list targeted developments below:

___: Employing new admission preferences at targeted developments If selected, list targeted developments below:

___: Other (list policies and developments targeted below)

d. ___: Yes X: No: Did the PHA adopt any changes to other policies based on the results of the required analysis of the need for deconcentration of poverty and income mixing?

e. If the answer to d was yes, how would you describe these changes? (select all that apply)

___: Additional affirmative marketing

___: Actions to improve the marketability of certain developments

___: Adoption or adjustment of ceiling rents for certain developments

___: Adoption of rent incentives to encourage deconcentration of poverty and income- mixing

___: Other (list below)

f. Based on the results of the required analysis, in which developments will the PHA make special efforts to attract or retain higher-income families? (select all that apply)

X: Not applicable: results of analysis did not indicate a need for such efforts

List (any applicable) developments below:

g. Based on the results of the required analysis, in which developments will the PHA make special efforts to assure access for lower-income families? (select all that apply)

X: Not applicable: results of analysis did not indicate a need for such efforts

___: List (any applicable) developments below:

B. Section 8

Exemptions: PHAs that do not administer section 8 are not required to complete this sub-component.

Unless otherwise specified, all questions in this section apply only to the tenant- based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).

(1) Eligibility

a. What is the extent of screening conducted by the PHA? (select all that apply)

X: Criminal or drug-related activity only to the extent required by law or regulation

___: Criminal and drug-related activity, more extensively than required by law or regulation

___: More general screening than criminal and drug-related activity (list factors below)

X : Other (list below) eligible immigration status, priority and preference verification, use of the EIV database to check on existing subsidies, past eviction & termination history

b. X : Yes : No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

c. X : Yes : No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

d. : Yes X : No: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC- authorized source) The BHA uses the Dru Sjodin –SORI- and the National Sex Offender Registry. The BHA also obtain criminal records from out of state for applicants who have resided outside of Massachusetts. The BHA obtains out of state criminal records in compliance of each state's criminal check request requirements including Puerto Rico.

e. Indicate what kinds of information you share with prospective landlords? (select all that apply)

 : Criminal or drug-related activity

 : Other (describe below)

(2) **Waiting List Organization**

a. With which of the following program waiting lists is the Section 8 Tenant-Based assistance waiting list merged? (select all that apply)

 X : None

 : Federal public housing

 : Federal moderate rehabilitation

 : Federal project-based certificate program

 : Other federal or local program (list below)

b. Where may interested persons apply for admission to section 8 tenant-based assistance? (select all that apply)

 X : PHA main administrative office Leased Housing Division-Admissions Department, the applicant portal and mail. Application information can be obtained via website and applicant portal (www.bostonhousing.org), phone, and e-mail. The tenant-based waiting list has been closed since October 2008.

 X : Other: There are several special admissions programs (supported housing programs) run by the BHA in agreement with various non- profit partners which allow applications on a referral basis to eligible families.

(3) **Search Time**

a. X : Yes : No: Does the PHA give extensions on standard 60-day period to search for a unit?

If yes, state circumstances below: See Leased Housing Administrative Plan Chapter 7.2 Voucher Term Length, Tolling, Extension, Expiration and Withdrawal.

(4) Admissions Preferences

a. Income targeting

___: Yes X: No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 75% of all new admissions to the section 8 program to families at or below 30% of median area income?

b. Preferences

1. X: Yes ___: No: Has the PHA established preferences for admission to section 8 tenant-based assistance? (other than date and time of application) (if no, skip to subcomponent (5) Special purpose section 8 assistance programs)

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences

X: Involuntary Displacement (Disaster, Government Action, Action of Housing Owner through no fault of your own, Inaccessibility, Property Disposition), victims of reprisals or hate crimes

X: Victims of domestic violence

___: Substandard housing

X: Homelessness

X: High rent burden (rent is > 50 percent of income)

Other preferences (select all that apply)

___: Working families and those unable to work because of age or disability

X: Veterans and veterans' families

___: Residents who live and/or work in your jurisdiction

___: Those enrolled currently in educational, training, or upward mobility programs

___: Households that contribute to meeting income goals (broad range of incomes)

___: Households that contribute to meeting income requirements (targeting)

___: Those previously enrolled in educational, training, or upward mobility programs

X: Other preference(s) (list below)

1. Project-Based Voucher Residents who have completed 1 Year residency and are in good standing may opt for a tenant-based voucher when available.

2. Transfer from BHA public housing or Section 8 Moderate Rehabilitation Program or Project-Based Voucher programs because of health, safety, BHA rehabilitation programs, reasonable accommodation, and humanitarian reasons

3. Elderly or disabled (including persons who are displaced as a result of expiring use) over other singles person.

4. A participant in a supportive housing program for elderly or disabled persons shall be considered to be imminently in danger of homelessness and shall be eligible for Priority One status if the program participant: 1) has been a tenant in such program for not less than twelve (12) months; AND 2) has outgrown or completed the program's services; AND 3) as a result must relocate from such housing.

5. Displaced Former Boston Resident.

6. Priority one non-elderly disabled applicants who, in accordance with the BHA's Designated Housing Plan would have otherwise been called in for screening for a BHA public housing unit will be referred to Leased Housing.

7. PBV participants who are displaced through no fault of their own.

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8. Former residents returning to a new construction PBV site that was identified as replacement housing.
9. Applicants who are residents of an expiring use property, converted to PBRA, located in the City of Boston, where the BHA administers the waiting list and refers eligible applicants for vacancies.
10. Non-Elderly Disabled applicants at sites which were formerly public housing, were part of a designated housing plan, and have converted to PBV.
11. Supported Housing Programs -the BHA, in a written agreement, will partner with social service, or other agencies, to provide housing and supportive services to targeted populations.
12. Individual with mental and/or physical disabilities exiting institutions or who are at serious risk of institutionalization.
13. Applicants who are referred by partnering homeless service organization or consortia of homeless service organizations.
14. Applicant who are homeless in or displaced from Boston twelve (12) months or longer as defined in the plan.
15. SRO Referral an otherwise qualified Priority 1 applicant that has been referred by the owner of an SRO site to their waiting list.

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

Date and Time: (Only a factor among residents with same priority status)
Former Federal preferences

- 1 Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition), victims of reprisals or hate crimes
- 1 Victims of domestic violence

Other preferences (select all that apply)

- ☐ : Working families and those unable to work because of age or disability
- ☒ : Veterans and veterans' families
- ☐ : Residents who live and/or work in your jurisdiction
- ☐ : Those enrolled currently in educational, training, or upward mobility programs
- ☐ : Households that contribute to meeting income goals (broad range of incomes)
- ☐ : Households that contribute to meeting income requirements (targeting)
- ☐ : Those previously enrolled in educational, training, or upward mobility programs
- ☒ : Other preference(s) (list below)

Priority	Category
1	Project-Based Voucher Residents who have completed 1 Year residency and are in good standing may opt for a tenant-based voucher when available.*

2	Special Purpose Vouchers: The BHA will admit an Applicant who qualifies for a particular category of Special Purpose Vouchers to the Section 8 program before all other Applicants on the waiting list if the BHA is not currently assisting the required number of special purpose vouchers families
3	Super Priority Transfer - from BHA public housing, Section 8 Moderate Rehabilitation Program or Project- Based Voucher programs because of health, safety, BHA rehabilitation programs, reasonable accommodation, and humanitarian reasons* BHA PH residents who qualify for Homeownership
4	Supported Housing Programs pursuant to an MOA between the BHA and a non-profit or government agency.
5	Mitigation Vouchers Priority one non-elderly disabled applicants who, in accordance with the BHA's Designated Housing Plan would have otherwise been called in for screening for a BHA public housing unit will be referred to Leased Housing.
6	Priority One Applicants • Displaced Due to Disaster • Displaced Due to Domestic Violence/ Dating Violence/Sexual Assault/ or Stalking • Displaced due to Being a Victim of Hate Crime • Displaced due Avoidance of Reprisal/Witness Protection • Displaced due to Court Ordered no Fault Eviction • Displaced due to Government Action • For Disabled Persons only, Inaccessibility of a Critical Element of their current Dwelling Unit • Displaced due to Being Cost Burdened in Boston • Graduate of Supportive Service Program (has outgrown program services and must relocate) • Homeless
	See cumulative preference points below.

*The Section 8 Tenant-Based Voucher waiting list is closed except for current BHA Project Based Voucher participants who meet the eligibility requirements as established in the Administrative Plan and are ranked above all other Section 8 Tenant-Based Housing Choice waiting list applicants, current BHA Residents who are determined to qualify for Super priority and priority one non-elderly disabled public housing applicants who in accordance with the BHA's Designated Housing Plan would have otherwise been called in for screening for a BHA public housing unit. Referrals will be accepted from Supported Housing Programs as defined in the Administrative Plan, as funding permits.

The following chart further demonstrates the BHA's priority/preference categories and how they are ranked:

Section 8 Admissions Point System

- (a) The **Priority point system** used by BHA to process new Admissions on all waiting lists is as follows:

PBV w/ 1 Year residency	95 points
Super Priority Applicants	75 points
Mitigation Vouchers	60 points
Supportive Housing Programs	50 points
Priority One Applicants	30 points
Standard Applicants	0 points

- (b) **Preference points** will be added to Priority points as follows for Applicants for Admission only:

1. Project Based Voucher Elderly	100 Points
2. Right of First Refusal	25 Points
3. Preference for Former Moderate Rehab SRO Sites converted to PBV via RAD that offer Supportive Services	25 Points
4. No Fault Displacement	20 Points
5. SRO Referral Preference	20 Points
6. Non-Elderly Disabled	10 Points
7. Preference under Olmstead	7 Points
8. Homeless Service Organizations	7 Points
9. Long Term Homelessness	7 Points
10. Single Elderly or Disabled	5 Points
11. Veterans Preference	3 points
12. Displaced Boston Resident Preference	2 points

4. Among applicants on the waiting list with equal preference status, how are applicants selected? (select one)

 X : Date and time of application (after lottery for Housing Choice Voucher Program tenant-based)

 : Drawing (lottery) or other random choice technique

5. If the PHA plans to employ preferences for "residents who live and/or work in the jurisdiction" (select one)

X : This preference has previously been reviewed and approved by HUD for Displaced Resident from a unit in the City of Boston

___ : The PHA requests approval for this preference through this PHA Plan

6. Relationship of preferences to income targeting requirements: (select one)

___ : The PHA applies preferences within income tiers

X : Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements

(5) Special Purpose Section 8 Assistance Programs

a. In which documents or other reference materials are the policies governing eligibility, selection, and admissions to any special-purpose section 8 program administered by the PHA contained? (select all that apply)

X : The Section 8 Administrative Plan

X : Briefing sessions and written materials

X : Other: Section 8 Moderate Rehabilitation Administrative Plan, Reasonable Accommodation Policy, BHA Limited English Proficiency Policy, Individual program mailings (i.e. Family Self-Sufficiency (FSS) program marketing), advocacy group meetings, support service groups, www.bostonhousing.org

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?

X : Through published notices

X : Other: Press releases and Marketing to targeted support service groups, the BHA website: www.bostonhousing.org

3. Financial Resources

List the financial resources that are anticipated to be available to the PHA for the support of Federal public housing and tenant-based Section 8 assistance programs administered by the PHA during the Plan year. Note: the table assumes that Federal public housing or tenant based Section 8 assistance grant funds are expended on eligible purposes; therefore, uses of these funds need not be stated. For other funds, indicate the use for those funds as one of the following categories: public housing operations, public housing capital improvements, public housing safety/security, public housing supportive services, Section 8 tenant-based assistance, Section 8 supportive services or other. Update October 2024.

Financial Resources: Planned Sources and Uses		
Sources	Planned \$	Planned Uses
1. FEDERAL GRANTS		
1a. Public Housing Operating Fund	\$63,032,353	
1b. Public Housing Capital Fund	\$36,390,449	
1c. HOPE VI Revitalization	----	
1d. HOPE VI Demolition	----	
1e. Annual Contributions for Section 8 Tenant-Based Assistance	\$410,814,607	Program
1f. Section 8 On-going Administrative Fees Earned	\$25,577,487	Section 8 Operating
1g. Resident Opportunity/Self-Sufficiency Grants	\$601,880	
1h. Community Development Block Grant	----	
1i. HOME	----	----
1j. Project Based Section 8	\$6,914,808	
2. Prior Year Federal Grants (unobligated funds only)		
2a. CGP/DDTF	\$0	Included in CFP
2b. HOPE VI	----	
3. Public Housing Dwelling Rental Income	\$37,804,620	Operating
4. Other Income, Vending/Laundry, Cell Towers, Insurance settlements, Tenant Damages	\$100,000	Operating, Social Services
4a. Investment Income	\$500,000	Operating
4b. Non-dwelling Rent	\$12,000	Operating
5. Non-federal sources (list below)		
Donations	\$20,000	Social Services
Total Resources	\$581,768,204	

4. Rent Determination

A. Public Housing

Exemptions: PHAs that do not administer public housing are not required to complete this sub-component.

(1) Income Based Rent Policies

Describe the PHA's income based rent setting policy/ies for public housing using, including discretionary (that is, not required by statute or regulation) income disregards and exclusions, in the appropriate spaces below.

a. Use of discretionary policies: (select one)

 : The PHA will not employ any discretionary rent-setting policies for income based rent in public housing. Income-based rents are set at the higher of 30% of adjusted monthly income, 10% of unadjusted monthly income, the welfare rent, or minimum rent (less HUD mandatory deductions and exclusions). (If selected, skip to sub-component (2))

---or---

 X : The PHA employs discretionary policies for determining income based rent (If selected, continue to question b.)

b. Minimum Rent

1. What amount best reflects the PHA's minimum rent? (select one)

 X : \$0
 : \$1-\$25
 : \$26-\$50

2. : Yes X : No: Has the PHA adopted any discretionary minimum rent hardship exemption policies?

3. If yes to question 2, list these policies below:

c. Rents set at less than 30% than adjusted income

1. : Yes X : No: Does the PHA plan to charge rents at a fixed amount or percentage less than 30% of adjusted income?

2. If yes to above, list the amounts or percentages charged and the circumstances under which these will be used below:

d. Which of the discretionary (optional) deductions and/or exclusions policies does the PHA plan to employ (select all that apply)

___: For the earned income of a previously unemployed household member

___: For increases in earned income (between annual recertifications)

___: Fixed amount (other than general rent-setting policy)

If yes, state amount/s and circumstances below:

___: Fixed percentage (other than general rent-setting policy)

If yes, state percentage/s and circumstances below:

___: For household heads

___: For other family members

___: For transportation expenses

X: For the non-reimbursed medical expenses of non-disabled or non-elderly families

___: Other (describe below)

e. Ceiling rents

1. Do you have ceiling rents? (rents set at a level lower than 30% of adjusted income) (select one)

___: Yes for all developments

X: Yes but only for some developments

___: No

2. For which kinds of developments are ceiling rents in place? (select all that apply)

X: For all developments (includes family and elderly/disabled developments; excludes HOPE VI and redeveloped properties, and any property that had a subsidy conversion)

___: For all general occupancy developments (not elderly or disabled or elderly only)

___: For specified general occupancy developments

___: For certain parts of developments; e.g., the high-rise portion

___: For certain size units; e.g., larger bedroom sizes

___: Other (list below)

3. Select the space or spaces that best describe how you arrive at ceiling rents (select all that apply)

___: Market comparability study

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☐ : Fair market rents (FMR)
☐ : 95th percentile rents
☐ : 75 percent of operating costs
☐ : 100 percent of operating costs for general occupancy (family) developments
☐ : Operating costs plus debt service
☐ : The "rental value" of the unit
☒ : Other (list below) Set at Flat Rent levels for each bedroom size (80% of Fair Market Rent)

f. Rent re-determinations:

1. Between income reexaminations, how often must tenants report changes in income or family composition to the PHA such that the changes result in an adjustment to rent? (select all that apply)

☐ : Never
☒ : At family option (if income decreases)
☐ : Any time the family experiences an income increase
☒ : Any time a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold) \$200/month
☒ : Other (possible when a change in family composition is reported)
☒ : The BHA will process an interim certification, if the family receives any increase in earned income after they had reported a decrease in earned income, but prior to the next regular annual recertification,
☒ : Receipt of Unearned Income Resulting in 10% Increase
 The BHA shall process an interim certification when the family begins receiving unearned income that increase annual income by ten percent (10%) or greater.
☒ : Increase in Family Income for Family without Income
 The BHA shall process an interim certification of income when a family without income receives any increase in earned or unearned income.

If a Family's income is too unstable to project for 12 months or if a Family temporarily has no income (a "zero-income Family") or if a Family has a temporary decrease in income, the BHA may schedule special Recertification with the Family's Leasing Officer every month, or at least quarterly, until the income stabilizes and/or an Annual Income can be determined.

g. ☐ : Yes ☒ : No: Does the PHA plan to implement individual savings accounts for residents (ISAs) as an alternative to the required 12 month disallowance of earned income and phasing in of rent increases in the next year?

(2) Flat Rents

1. In setting the market-based flat rents, what sources of information did the

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PHA use to establish comparability? (select all that apply.)

☒ : The section 8 rent reasonableness study of comparable housing

☐ : Survey of rents listed in local newspaper

☐ : Survey of similar unassisted units in the neighborhood

☒ : Other (list/describe below) HOPE VI sites set their own flat rents. For updated flat rent information, contact the respective management offices. Flat rents are not applicable to redeveloped properties and any property that had a subsidy conversion.

The Boston Housing Authority will set the flat rental amount for each public housing unit that complies with the requirement that all flat rents be set at no less than 80 percent of the applicable Fair Market Rent (FMR) adjusted, if necessary, to account for reasonable utilities costs. For current program participants that pay the flat rental amount, the new flat rental amount will be offered, as well as the income-based rental amount, at the next annual rental option.

The Boston Housing Authority will place a cap on any increase in a family's rental payment that exceeds 35 percent, and is a result of changes to the flat rental amount as follows:

- Multiply the existing flat rental payment by 1.35 and compare that to the updated flat rental amount;
- The BHA will present two rent options to the family as follows:
 - the lower of the product of the calculation and the updated flat rental amount; and
 - the income-based rent.

The Flat rent amount by bedroom size will be reviewed yearly and any necessary changes will become effective thereafter. The BHA will maintain a current listing of its flat rent schedule as an appendix to the BHA Rent Manual and will provide this list to residents at least annually as part of the TSR process.

A. Financial Hardship: Residents who choose flat rents may request to change to an income-based rent at any time if the family is unable to pay the flat rent because of financial hardship. A financial hardship exists for these purposes when a family's income is reduced or their deductions are increased to the extent that an income-based rent is lower than the flat rent.

B. Section 8 Tenant-Based Assistance

Exemptions: PHAs that do not administer Section 8 tenant-based assistance are

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not required to complete this sub-component. Unless otherwise specified, all questions in this section apply only to the tenant-based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).

(1) Payment Standards

Describe the voucher payment standards and policies.

a. What is the PHA's payment standard? (select the category that best describes your standard)

☒ : At or above 90% but below 100% of FMR

☒ : 100% of FMR

☒ : Above 100% but at or below 110% of FMR

☐ : Above 110% of FMR (if HUD approved; describe circumstances below)

The BHA has set its payment standards by zip code depending on the median contract rent in the zip code using the flexibilities permitted by exception payment standards. Payment standards range from 90% to 110% of the Metropolitan Area Fair Market or 90% to 110% of the Small Area Fair Market Rent, depending on the current market rental data. The BHA attempts to set its payment standards by zip code in a manner that provides access to rental units in the majority of the jurisdiction served by the BHA.

b. If the payment standard is lower than FMR, why has the PHA selected this standard? (select all that apply)

☒ : FMRs are adequate to ensure success among assisted families in the PHA's segment of the FMR area

☐ : The PHA has chosen to serve additional families by lowering the payment standard

☒ : Reflects market or submarket

☐ : Other (list below) – Not Applicable

c. If the payment standard is higher than FMR, why has the PHA chosen this level? (select all that apply)

☒ : FMRs are not adequate to ensure success among assisted families in the PHA's segment of the FMR area

☒ : Reflects market or submarket

☒ : To increase housing options for families

☐ : Other (list below)

d. How often are payment standards reevaluated for adequacy? (select one)

☐ : Annually

☒ : Other (list below) As needed, but at minimum annually.

e. What factors will the PHA consider in its assessment of the adequacy of its payment standard? (select all that apply)

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- ☒ : Success rates of assisted families
☒ : Rent burdens of assisted families
☒ : Other (list below) Market Conditions

(2) Minimum Rent

a. What amount best reflects the PHA's minimum rent? (select one)

- ☒ : \$0
☐ : \$1-\$25
☐ : \$26-\$50

b. ☐ : Yes ☒ : No: Has the PHA adopted any discretionary minimum rent hardship exemption policies? (if yes, list below)

5. Operations and Management

Exemptions from this Component: High performing and small PHAs are not required to complete this section. Section 8 only PHAs must complete parts A, B, and C(2).

A. PHA Management Structure

Describe the PHA's management structure and organization. (select one)

 X : An organization chart showing the PHA's management structure and organization is on the last page of this document.

 : A brief description of the management structure and organization of the PHA follows:

DEVELOPMENT NAME	ADDRESS	BHA MANAGED	PRIVATELY MANAGED
Alice H. Taylor	260M Ruggles Street, Roxbury, MA 02120	X	
Annapolis	52 Summer Street, Dorchester, MA 02122	X	
Ashmont	374 Ashmont Street, Dorchester, MA 02124	X	
Ausonia	185 Fulton Street, Boston, MA 02109	X	
Barkley (Cathedral)	1472 Washington Street, Boston, MA 02118	X	
Bellflower	24 Bellflower Street, Dorchester, MA 02125	X	
Doris Bunte (Walnut Park)	1990 Columbus Avenue, Roxbury, MA 02119	X	
Charlestown	55 Bunker Hill Avenue, Charlestown, MA 02129	X	
Codman	784 Washington Street, Dorchester, MA 02124	X	
Commonwealth	35 Fidelis Way, Brighton, MA 02135	X	
Davison	101 Davison Street, Hyde Park, MA 02136	X	
Eva White	440 Tremont Street, Boston, MA 02116		X
Foley	199 "H" Street, South Boston, MA 02127	X	
Franklin Field	91 Ames Street, Dorchester, MA 02124	X	
Franklin Hill Aptmts.	1 Shandon Road, Dorchester, MA 02124		X
Frederick Douglass	755 Tremont Street, Roxbury, MA 02118	X	
General Warren	47 Washington St #26, Charlestown, MA 02129		X
Groveland	15 Mary Moore Beatty Circle, Mattapan, MA 02126	X	
M.C. Hailey (Bromley Park)	30 Bickford Street 1 st fl., Jamaica Plain, MA 02130	X	
Hampton House	155 Northampton Street, Roxbury, MA 02118	X	
Hassan	705 River Street, Mattapan, MA 02126	X	
M.C. Hailey (Heath Street)	30 Bickford Street 1 st fl., Jamaica Plain, MA 02130	X	
Heritage (PBV & RAD PBV)	209 Sumner Street, East Boston, MA 02128		X

Highland Park	50-68 Highland Ave., Roxbury, MA 02119		X
Holgate	125 Elm Hill Avenue, Roxbury, MA 02121	X	

DEVELOPMENT NAME	ADDRESS	BHA MANAGED	PRIVATELY MANAGED
Lower Mills (PBV & RAD PBV)	2262 Dorchester Avenue, Dorchester, MA 02124	X	
Malone	11 Gordon Avenue, Hyde Park, MA 02136	X	
Mary Ellen McCormack	10 Kemp Street, South Boston, MA 02127	X	
Maverick Landing	31 Liverpool Street, East Boston, MA 02128		X
J.J. Meade	5 Melville Avenue, Dorchester, MA 02124	X	
Martin Luther King Tower	280 Martin Luther King Boulevard, Roxbury, MA 02119	X	
Anne M. Lynch Homes at Old Colony Phase 1, 2A, 2B, 2C, and 3A	20 Rev. Burke Street, South Boston, MA 02127		X
Orchard Commons	434 Mass Ave, Roxbury, MA 02118		X
Orchard Gardens	25 Ambrose Street, Roxbury, MA 02119		X
Pasciucco	330 Bowdoin Street, Dorchester, MA 02122	X	
Patricia White (PBV 100%)	20 Washington Street, Brighton, MA 02135	X	
Peabody/Englewood	1875 Dorchester Avenue, Dorchester, MA 02122	X	
Pond Street	29 Pond Street, Jamaica Plain, MA 02130	X	
Rockland	5300 Washington St., West Roxbury, MA 02132	X	
Roslyn	1 Cliffmont Street, Roslindale, MA 02132	X	
St. Botolph	70 St. Botolph Street, Boston, MA 02116	X	
Spring Street	23 Spring Street, West Roxbury, MA 02132	X	
Torre Unidad	80 West Dedham Street, Roxbury, MA 02119	X	
Washington/Beech	4560 Washington Street, Roslindale, MA 02130		X
Washington Manor	1701 Washington Street, Roxbury, MA 02118	X	
Washington Street	35 Fidelis Way, Brighton, MA 02135	X	
West Ninth Street	195 W. 9 th Street, South Boston, MA 02127	X	

Note: Sample contracts with management companies have been included with the Agency Plan supporting documents available in the Planning Department. In addition, the management assessment form used to evaluate performance at each site for both private management companies and in-house managers is available. Resident input in the evaluation of private management companies is considered

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through 1-2 private meetings with the resident organizations during the term of the contracts and prior to selection of contractors during contract renewal processes. Regular interaction between Local Tenant Organizations and BHA supervisory staff informs and guides in assessing management performance at sites directly managed by the BHA.

B. HUD Programs Under PHA Management (as of April 1, 2025)

List Federal programs administered by the PHA, number of families served at the beginning of the upcoming fiscal year, and expected turnover in each. (Use “NA” to indicate that the PHA does not operate any of the programs listed below.)

Program Name	Units or Families Served at Year Beginning	Expected Turnover
Public Housing	7985*	522
Section 8 Vouchers	16,651**	480
Section 8 Certificates	0	
Section 8 Project Based voucher Program	2855	100
Section 8 Mod Rehab	459	60
Section 8 New Construction / Substantial Rehab Program	0	0
Special Purpose Section 8 Certificates/Vouchers (list individually)		
Veterans Administration Supportive Housing (VASH)	564	65
Mainstream Housing Program	295	15
Non-Elderly Disabled Vouchers	491	15
Family Unification Program	191	9
NAACP – Litigation	0	0
Public Housing Drug Elimination Program (PHDEP)	N/A	N/A
Other Federal Programs(list individually)		N/A
Elderly and Disabled Resident Services Program	2,840	218

Section 8 Family Self- Sufficiency Program	1366***	95
Resident Employment Program	94****	N/A
Public Housing Family Self- Sufficiency	88	5
Resident Services Program (ROSS funded)	250*****	N/A

*total federal development including public housing at Hope VI sites occupancy on 9/30/2024.

**This figure includes all HCVP, and VASH units and is a unit baseline for the program. The actual number of units we are able to lease is restricted by annual budget authority.

*** BHA will graduate its first cohort of FSS clients from the partnership with Compass Working Capital in CY2024. We will see very large graduation rates during this year, and hope to offset those graduates with enrollments in both LH and PH.

****Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

1)Section 3 Worker means any Worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

a)The Worker's income for the previous or annualized calendar year is below the income limit established by HUD.

2)Targeted Section 3 Worker means

a)The worker is employed by a Section 3 business concern

b)Any person who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

i) A resident of public housing or Section 8 assisted housing

ii)A resident of other public housing projects or Section 8 assisted housing managed by Boston Housing Authority, or

iii) A YouthBuild participant

*****MEM and Mildred Hailey might exit the ROSS program due to moving into our PBV portfolio. While we explore what sites will stay within the grant we will modify a 250 target

-NA- These programs provide assistance to all eligible applicants so turnover rates are not applicable.

C. Management and Maintenance Policies

List the PHA's public housing management and maintenance policy documents,

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manuals and handbooks that contain the Agency's rules, standards, and policies that govern maintenance and management of public housing, including a description of any measures necessary for the prevention or eradication of pest infestation (which includes cockroach infestation) and the policies governing Section 8 management.

(1) Agency-wide policies (govern both Public Housing and Section 8): (list below)

- Cash Management and Investment Policy
- Civil Rights Protection Plan
- Confidentiality & Confidentiality Agreement Policy
- Drug Free Workplace Policy
- EIV Security Manual
- Healthy Beverage Policy (aka Sugar-Sweetened Beverage Policy)
- Limited English Proficiency Policy
- Minority Participation Policy
- Procurement Policy
- Reasonable Accommodation Policy
- Resident Employment Provision
- Section 3 Policy
- Social Media Participation Policy
- Storm Policy for Staff Attendance
- Sustainability Plan
- Technology Resources Usage Policy (E-mail)
- Tobacco Free Workplace Policy
 - (archived)
- Video Surveillance System Policy
- Violence Against Women Act Policy
 - Workplace Harassment Policy

(1) Public Housing Maintenance and Management:

- (Site-Based) Admissions and Continued Occupancy Policy (ACOP)
- Community Service Policy
- Community Space Use Policy
- Deconcentration Policy
- Demolition/Disposition Policy
- Designated Housing Plan
- Non-Smoking Policy
- Pest Control Policy
- Pet Policy for the Elderly/Disabled Program
- Pet Policy for the Family Program
- Rent Manual
- Resident Relocation and Rehousing Policy
- Site Based Purchasing System Policy
- Standard Operating Procedures for Maintenance

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- Tenant Grievance Procedures
- Tenant Participation (LTO) Policy

(2) Section 8 Management: (list below)

- Section 8 Administrative Plan
- Section 8 Moderate Rehabilitation Administrative Plan

6. Grievance Procedure

Exemptions from this component: High performing PHAs are not required to complete component 6. Section 8-Only PHAs are exempt from sub-component 6A.

A. Public Housing

1. ☒ : Yes ☐ : No: Has the PHA established any written grievance procedures in addition to federal requirements found at 24 CFR Part 966, Subpart B, for residents of public housing?

If yes, list additions to federal requirements below:

Residents seeking a grievance hearing are afforded the option of electing to have a hearing before a Grievance Hearing Panel or a Hearing Officer, subject to public health guidelines such as compliance with distance requirements onsite. If a quorum cannot be assembled for a Panel, the hearing will default to a Hearing Officer.

Decisions of the Grievance Panel or a Hearing Officer (except those relating to an eviction) may be appealed to a designee of the Administrator.

In addition, Grievance Procedures are developed for each redevelopment site that transition to private ownership. The BHA worked with residents and owners from these sites and created a consistent, universal Mixed Finance Site Grievance Procedure.

Also see Section 19 of the Plan Supplement: Conversion of Public Housing to Project-Based Assistance under RAD for further information on Resident Rights, Participation, Waiting List and Grievance Procedures.

2. Which PHA office should residents or applicants to public housing contact to initiate the PHA grievance process? (select all that apply)

☒ : PHA main administrative office

BHA Department of Grievances and Appeals Hearing Panel Coordinator
52 Chauncy Street, 9th Floor (617) 988-4579

☒ : PHA development management offices

☒ : Other (list below): For sites owned and managed by private companies (the "Mixed Finance" sites), management offices at those sites.

B. Section 8 Tenant-Based Assistance

1. ☒ : Yes ☐ : No: Has the PHA established informal review procedures for applicants to the Section 8 tenant-based assistance program and informal hearing procedures for families assisted by the Section 8 tenant-based assistance program in addition to federal requirements found at 24 CFR 982?

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If yes, list additions to federal requirements below: Please refer to Section 8 Administrative Plan.

2. Which PHA office should applicants or assisted families contact to initiate the informal review and informal hearing processes? (select all that apply)

☒ : PHA main administrative office

BHA Department of Grievances and Appeals 52 Chauncy Street, 9th Floors
(617) 988-4579

☐ : Other (list below)

7. Homeownership Programs

A. Public Housing

1. ____: Yes X : No: Does the PHA administer any homeownership programs administered by the PHA under an approved section 5(h) homeownership program (42 U.S.C. 1437c(h)), or an approved HOPE I program (42 U.S.C. 1437aaa) or has the PHA applied or plan to apply to administer any homeownership programs under section 5(h), the HOPE I program, or section 32 of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-4). (If “No”, skip to next component; if “yes”, complete one activity description for each applicable program/plan, unless eligible to complete a streamlined submission due to small PHA or high performing PHA status. PHAs completing streamlined submissions may skip to next component.)

2. Activity Description

____: Yes ____: No: Has the PHA provided all required activity description information for this component in the optional Public Housing Asset Management Table? (If “yes”, skip to next component. If “No”, complete the Activity Description table below.)

Public Housing Homeownership Activity Description (Complete one for each development affected)

1a. Development name:

1b. Development (project) number:

2. Federal Program authority:

____: HOPE I

____: 5(h)

____: Turnkey III

____: Section 32 of the USHA of 1937 (effective 10/1/99)

3. Application status: (select one)

____: Approved; included in the PHA’s Homeownership Plan/Program

____: Submitted, pending approval

____: Planned application

4. Date Homeownership Plan/Program approved, submitted, or planned for submission: (DD/MM/YYYY)

5. Number of units affected:

6. Coverage of action: (select one)

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___: Part of the development
___: Total development

B. Section 8 Tenant Based Assistance

1. X: Yes ___: No: Does the PHA plan to administer a Section 8 Homeownership program pursuant to Section 8(y) of the U.S.H.A. of 1937, as implemented by 24 CFR part 982? (If “No”, skip to next component; if “yes”, describe each program using the table below (copy and complete questions for each program identified), unless the PHA is eligible to complete a streamlined submission due to high performer status. High performing PHAs may skip to next component.)

2. Program Description: In accordance with the regulations promulgated by the Secretary of the United States Department of Housing and Urban Development, the Boston Housing Authority has implemented a Housing Choice Voucher Homeownership program. The mission of the Authority is to provide homeownership possibilities, self-sufficiency training and support, and facilitate community growth, while providing parameters which will attempt to minimize defaults which consequently have a negative impact on both the family and the community.

The BHA’s Section 8 Homeownership Option of the Housing Choice Voucher Program (“homeownership program” or “homeownership assistance”) is designed to promote and support homeownership by a “first-time” homeowner—a Family that moves for the first time from rental housing to a Family-owned Home. Under the Homeownership Program, HCVP Assistance payments supplement the Family’s own income to facilitate the transition from rental to homeownership.

The Leased Housing Department has partnered with the City of Boston Mayor’s Office of Housing (MOH). MOH has an established First Time Home Buyers program. By partnering with our sister agency, the Leased Housing Division has dramatically expedited the implementation of this program. The partnership has strengthened and effectively broadened the impact of homeownership opportunities within the City by providing services, support and expertise in a myriad of areas.

ELIGIBILITY ISSUES

The homeownership option has and will continue to be offered to families participating in the Housing Choice Voucher Program (HCVP) and Moderate Rehabilitation Program (Mod Rehab).

The BHA’s Section 8 Homeownership program is generally limited to first time home buyers who are current Housing Choice Voucher program Participants (including Mod Rehab) or BHA Public Housing Residents. Public Housing residents may qualify for the Homeownership Voucher once they meet eligibility requirements. Residents shall be placed on a list and given priority status to allow them to

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accomplish the home purchase.

APPLICATION PROCESS

Families applying or participating in the HCVP and the Mod Rehab program who indicate homeownership interest will have their eligibility determined by the Leased Housing Department's Section 8 personnel. At the same time, the family will be referred to a HUD approved housing counseling agency, primarily to Mayor's Office of Housing (MOH) First Time Home Buyers Program or a similarly qualified agency, for the purpose of learning about the various responsibilities of owning a home. The topics may include, but not be limited to the following: home maintenance, budgeting and money management, credit counseling, financing, homeownership opportunities, fair housing lending and real estate settlement procedures. If necessary, the Authority may offer additional homeownership counseling to participants and has discretion to require the family to participate in ongoing counseling.

Final applications for the homeownership program will be given to interested and preliminarily qualified applicants upon request. Completed final applications will be reviewed for eligibility status. If an applicant is deemed ineligible and is denied, the BHA will afford the Family the right to an informal review regarding such denial.

After the BHA has determined an applicant finally eligible to participate in the Homeownership program, the BHA will conduct a briefing session at which time it will issue applicants a homeownership "Voucher". This homeownership "Voucher" will be issued according to the BHA's Family Unit Size Subsidy Standards which are applicable to the Housing Choice Voucher Program. At this briefing session, the BHA must advise the Family of any deadlines on locating a Home, securing financing, and purchasing the Home. In establishing such time limits, the BHA should ensure that a Family who has executed a sales contract is provided reasonable time to close on the purchase of the Home.

Qualified applicants in this program must participate in and satisfactorily complete a qualified BHA approved first-time homebuyer classes before commencement of homeownership assistance.

The counseling will be provided by HUD-certified housing counseling or working for agency approved to participate in HUD's Housing Counseling Program. HUD-approved housing counseling agencies provide free counseling. The HUD field office will provide the BHA with a list of the HUD-approved counseling agencies.

a. Size of Program

 X : Yes : No: Will the PHA limit the number of families participating in the section 8 homeownership option?

If the answer to the question above was yes, which statement best describes the

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number of participants? (select one)

☐ : 25 or fewer participants

☐ : 26 - 50 participants

☐ : 51 to 100 participants

☒ : more than 100 participants

The BHA may limit the applicant referrals based on internal capacity.

b. PHA-established eligibility criteria

☒ : Yes ☐ : No: Will the PHA's program have eligibility criteria for participation in its Section 8 Homeownership Option program in addition to HUD criteria?

If yes, list criteria below:

To be eligible to participate in the BHA's Section 8 Homeownership Program the family must:

- Must be a Section 8 participant in good standing in the BHA's Section 8 program.
- Meet all eligibility criteria as described in the Section 8 Homeowner Administrative Plan which includes minimum income and employment requirements
- To qualify for the Homeownership option in the Voucher program, Family income must be above 50% of the area median income or the minimum wage time 2000 hours whichever is greater;
- Any minimum income requirement will only be applied to determine initial qualification to purchase a particular Home, not as a continuing eligibility requirement. The minimum income requirement will only apply again if the Family purchases a subsequent Home with Section 8 homeownership assistance.
- Attend homeownership counseling prior to purchase and post-purchase as offered by HUD-certified counseling agencies.
- Secure financing through a lender acceptable to the BHA.
- Be able to make the monthly payment of the family's portion of the mortgage payment.
- Sign a release allowing the BHA to exchange information with the lender and the lender with the BHA.
- Provide a down payment of at least three percent (3%) of the purchase price. Where at least one percent (1%) of the purchase price for a down payment must come from the Family's own resources and may include funds from an FSS escrow account.

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- Enter into a “Purchase and Sale Agreement” for a home within 180 days of receiving a homeownership voucher, provided the financing commitment has not expired prior to that date.
- Sign an acknowledgment form that the family becomes obligated for the whole mortgage payment in the event of termination of assistance.
- Agree that the family may not enter into an agreement to sell or refinance the home unless the BHA has first approved the sale or the refinance.
- Sign an acknowledgment form that the family will continue to comply with the appropriate provisions of the HUD Section 8 Rental Assistance regulations, family obligations and the BHA’s Section 8 rental assistance and homeownership administrative plans.
- Agree to maintain the condition of the home so as to comply with HUD Housing Quality Standards (HQS) (although the BHA will not inspect the home annually for HQS compliance).

8. Community Service and Self-Sufficiency

Exemptions from this Component: High performing and small PHAs are not required to complete this component. Section 8-Only PHAs are not required to complete sub-component C.

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A. PHA Coordination with the Welfare (TANF) Agency

1. Cooperative agreements:

 : Yes X : No: Has the PHA entered into a cooperative agreement with the TANF Agency, to share information and/or target supportive services (as contemplated by section 12(d)(7) of the Housing Act of 1937)?

If yes, what was the date that agreement was signed? DD/MM/YY

2. Other coordination efforts between the PHA and TANF agency (select all that apply)

 X : Client referrals

 X : Information sharing regarding mutual clients (for rent determinations and otherwise)

 X : Coordinate the provision of specific social and self-sufficiency services and programs to eligible families

 : Jointly administer programs

 : Partner to administer a HUD Welfare-to-Work voucher program

 : Joint administration of other demonstration program

 : Other (describe)

B. Services and programs offered to residents and participants

(1) General

a. Self-Sufficiency Policies

Which, if any of the following discretionary policies will the PHA employ to enhance the economic and social self-sufficiency of assisted families in the following areas? (select all that apply)

 X : Public housing rent determination policies

 : Public housing admissions policies

 X : Section 8 admissions policies

 X : Preference in admission to section 8 for certain public housing families

 X : Preferences for families working or engaging in training or education programs for non-housing programs operated or coordinated by the PHA

 : Preference/eligibility for public housing homeownership option participation

 X : Preference/eligibility for section 8 homeownership option participation

 : Other policies (list below)

b. Economic and Social self-sufficiency programs

 X : Yes : No: Does the PHA coordinate, promote or provide any programs to enhance the economic and social self-sufficiency of residents? (If "yes", complete the following table; if "no" skip to sub-component 2, Family Self Sufficiency Programs. The position of the table may be altered to facilitate its use.)

Services and Programs				
Program Name & Description (including location, if appropriate)	Estimated Size	Allocation Method (waiting list/random selection/specific criteria/other)	Access (development office / PHA main office / other provider name)	Eligibility (public housing or section 8 participants or both)
Elderly and Disabled Resident Services Program	2,840	Open to all residents	Development Office; case manager's office	Public Housing
Veterans Administration Supportive Housing	564	Specific criteria	VA Medical Center in Boston	Section 8
Section 8 Family Self-Sufficiency Program*	1366	Open to Section 8 participants	PHA Main Office	Section 8
Leading the Way Home	1536	Specific Criteria	DHCD in Boston	Section 8
BPS Homeless Families	1500	Specific Criteria	Boston Public Schools	Section 8/Public Housing
Foster Youth to Independence	28	Specific Criteria	Department of Children and	Section 8
HOPWA	15	Specific Criteria	AIDS Action Committee	Public Housing
Healthy Start in Housing	75	Specific Criteria	BPHC in Boston	Public Housing
Living Well at Home (formerly Housing Prescriptions combined with Elders Living at Home)	115	Specific Criteria	Boston Medical Center	Public Housing
BPS Homeless Students / Family Led Stability	35	Specific Criteria	MOH in Boston, Mayor's Office, Boston Public Schools, HigherGround, Project Hope	Public Housing
Chronically Homeless Elders	100	Specific Criteria	MOH in Boston	Public Housing
PACE	12	Specific Criteria	Uphams Corner	Section 8/ Public Housing

Summer House	4	Specific Criteria	Southwest Boston Senior Services Inc. D/B/A Ethos and at Malone Development	Public Housing
Public Housing Family Self-Sufficiency Program* & **	88	Specific Criteria	Development Offices, PHA Main Office	Public Housing
Resident Services Program (ROSS Program)***	1336	Specific Criteria	Alice Taylor, Ruth Barkley, Franklin Field, Mildred Hailey, and MEM primarily	Public Housing
Resident Employment Program****	9494	Specific criteria	PHA Main Office Development Offices	Public Housing

*With the 2014 Notice of Fund Availability, HUD combined the 2 FSS Programs – (Public Housing and Leased Housing) into one Program; however the funding streams remain separate for the Escrow Accounts for Leased Housing and Public Housing participants.

**estimated current size Oct 2024

***estimated current size Oct 2024 of residents who received services from 10/1/22 – 9/30/23.

****Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

1)Section 3 Worker means any Worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

a)The Worker's income for the previous or annualized calendar year is below the income limit established by HUD.

2)Targeted Section 3 Worker means

a)The worker is employed by a Section 3 business concern

b)Any person who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

i) A resident of public housing or Section 8 assisted housing

ii)A resident of other public housing projects or Section 8 assisted housing managed by Boston Housing Authority, or

iii) A YouthBuild participant

2) Family Self Sufficiency program/s

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	Required Number of Participants (start of FY 2024	Actual Number of Participants (As of: DD/MM/YY)
Public Housing	50	88* as of 09/27/24
Section 8	625	1366 as of 09/27/24

*includes 30 original participants

b. X : Yes ___: No: If the PHA is not maintaining the minimum program size required by HUD, does the most recent FSS Action Plan address the steps the PHA plans to take to achieve at least the minimum program size?

If no, list steps the PHA will take below:

*Not Applicable for Section 8. Minimum program requirements fulfilled.

C. Welfare Benefit Reductions

1. The PHA is complying with the statutory requirements of section 12(d) of the U.S. Housing Act of 1937 (relating to the treatment of income changes resulting from welfare program requirements) by: (select all that apply)

X : Adopting appropriate changes to the PHA's public housing rent determination policies and train staff to carry out those policies

X : Informing residents of new policy on admission and reexamination

___: Actively notifying residents of new policy at times in addition to admission and reexamination. Post changes / 45 day notice

___: Establishing or pursuing a cooperative agreement with all appropriate TANF agencies regarding the exchange of information and coordination of services

___: Establishing a protocol for exchange of information with all appropriate TANF agencies

___: Other: (list below)

D. Reserved for Community Service Requirement pursuant to section 12(c) of the U.S. Housing Act of 1937

Boston Housing Authority
PUBLIC HOUSING
COMMUNITY SERVICE REQUIREMENTS

In compliance with the Quality Housing and Work Responsibility Act of 1998, the Boston Housing Authority has developed a policy to administer the resident community service requirement. This policy describes the community service requirement and includes the following provisions:

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- Definitions of community service and economic self-sufficiency
- How residents will be notified
- Definitions of exemptions from participation
- How the exemptions will be verified, both at the beginning of the program and as an ongoing part of program administration
- How compliance will be determined
- How non-compliance will be treated
- BHA's cooperation with other organizations.

BHA's residential lease includes the community service requirement and a community service policy has been approved as part of the ACOP.

Residents became subject to the requirement on October 31, 2003.

Each year at the time of their annual recertification resident compliance with the community service requirement will be determined and exemption status will be re-verified. Residents will be notified of this at least 90 days before the recertification date and required documentation will be specified in the notice. If a resident does not complete community service as required he or she will have one additional year to make up the required service. If the non-compliant resident does not do so or leave the unit, lease termination proceedings will commence.

The policy includes a description of qualifying work and self-sufficiency activities.

These activities include but are not limited to: unsubsidized employment, subsidized private or public sector employment, on the job training, job search and job readiness assistance, vocational educational training, job skills training, education directly related to employment, attendance at a secondary school or GED program or provision of child care services to an individual participating in a community service program.

9. Safety and Crime Prevention

Exemptions from this Component: High performing and small PHAs not participating in PHDEP and Section 8 Only PHAs may skip to the next component. High Performing and small PHAs that are participating in PHDEP and are submitting a PHDEP Plan with this PHA Plan may skip to sub-component D.

A. Need for measures to ensure the safety of public housing residents

1. Describe the need for measures to ensure the safety of public housing residents (select all that apply)

☒ : High incidence of violent and/or drug-related crime in some or all of the PHA's developments

☒ : High incidence of violent and/or drug-related crime in the areas surrounding or adjacent to the PHA's developments

☒ : Residents fearful for their safety and/or the safety of their children

☒ : Observed lower-level crime, vandalism and/or graffiti

☒ : People on waiting list unwilling to move into one or more developments due to perceived and/or actual levels of violent and/or drug-related crime

☒ : Other: Incidence of alleged civil rights violations.

2. What information or data did the PHA use to determine the need for PHA actions to improve safety of residents (select all that apply).

☒ : Safety and security survey of residents

☒ : Analysis of crime statistics over time for crimes committed "in and around" public housing authority

☐ : Analysis of cost trends over time for repair of vandalism and removal of graffiti

☒ : Resident reports

☒ : PHA employee reports

☒ : Police reports

☒ : Demonstrable, quantifiable success with previous or ongoing anticrime/anti drug programs

☒ : Other: Regular consultation with Tenant Task Forces

Review of Civil Rights Administrative Report Forms

Consultation with Boston Police Department

3. Which developments are most affected? (list below) All Family and Elderly/Disabled Developments

B. Crime and Drug Prevention activities the PHA has undertaken or plans to undertake in the next PHA fiscal year

1. List the crime prevention activities the PHA has undertaken or plans to undertake:

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(select all that apply)

☐ : Contracting with outside and/or resident organizations for the provision of crime- and/or drug-prevention activities

☒ : Crime Prevention Through Environmental Design

☒ : Activities targeted to at-risk youth, adults, or seniors

☒ : Crime Watch

☒ : Other (describe below)

1. Utilization of video surveillance equipment in select developments including dissemination to other Law Enforcement Agencies aiding in judicial proceedings
2. Regular Crime Prevention Education
3. Key security systems
4. Lease enforcement activity
5. Employment of police force
6. Training program and new uniforms for Safety Officers
7. Directed patrols / code 19s to address drug issues and violent crimes in high risk areas including follow up "action teams" to address quality of life issues cited in Special Circumstances Transfer applications.
8. Implementation of a nasal naloxone (Narcan) Program under which BHA police will carry and administer Narcan while on duty/patrol.
9. Engagement strategies with community and other stakeholders to prevent, problem solve, and partner on a collaborative approach to crime prevention.

2. Which developments are most affected? (list below) All developments

C. Coordination between PHA and the police

1. Describe the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities: (select all that apply)

☒ : Police involvement in development, implementation, and/or ongoing evaluation of drug-elimination plan [BHA Police remain committed to this coordination effort despite the loss of the HUD DEP Grant.]

☒ : Police provide crime data to housing authority staff for analysis and action

☒ : Police have established a physical presence on housing authority property (e.g., community policing office, officer in residence)

☒ : Police regularly testify in and otherwise support eviction cases

☒ : Police regularly meet with the PHA management and residents

☒ : Agreement between PHA and local law enforcement agency for provision of above-baseline law enforcement services

☒ : Other activities: Multi-law enforcement task force partnerships geared towards addressing violent crime, youth and gang violence in identified "Hot spots" and drug interdiction.

2. Which developments are most affected? (list below) All developments [including – Hailey (Bromley Heath), Charlestown, Alice Taylor, Franklin Field, Mary Ellen

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McCormack, and Barkley Apartments (Cathedral).]

D. Additional information as required by PHDEP/PHDEP Plan

PHAs eligible for FY 2005 PHDEP funds must provide a PHDEP Plan meeting specified requirements prior to receipt of PHDEP funds.

☐: Yes ☒: No: Is the PHA eligible to participate in the PHDEP in the fiscal year covered by this PHA Plan?

☐: Yes ☒: No: Has the PHA included the PHDEP Plan for FY 2005 in this PHA Plan?

☐: Yes ☒: No: This PHDEP Plan is an Attachment. (Attachment Filename:)

BOSTON HOUSING AUTHORITY VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

I. Purpose and Applicability

Notwithstanding its title, this policy is gender-neutral, and its protections are available to male and non-binary individuals who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2013 (Pub. L. 113-4) and more generally to set forth BHA's policies and procedures regarding domestic violence, dating violence, sexual assault and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by BHA of all its federally subsidized public housing and Section 8 rental assistance programs under the United States Housing Act of 1937 (42 U.S.C. §1437 et seq.).

II. Goals and Objectives

This Policy has the following principal goals and objectives:

A. Maintaining compliance, including training of appropriate staff managing BHA properties, with all applicable legal requirements imposed by VAWA;

B. Participating, with others, in protecting the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault or stalking who are assisted by BHA;

C. Providing and maintaining housing opportunities for victims of domestic violence,

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dating violence, sexual assault or stalking;

D. Cooperating, with others, in formation and maintenance of collaborative arrangements between BHA, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence sexual assault and stalking, who are assisted by BHA; and

E. Responding in accordance with BHA policies and procedures to incidents of domestic violence, dating violence, sexual assault or stalking, affecting individuals assisted by BHA.

III. Other BHA Policies and Procedures

This Policy shall be referenced in and attached to BHA's Five-Year Public Housing Agency Plan and, where appropriate, provisions consistent with this Policy shall be incorporated in and made a part of BHA's Admissions and Continued Occupancy Policy (ACOP), BHA's Section 8 Administrative Plan (Admin Plan), and other BHA policies, and the BHA public housing lease. BHA's annual public housing agency plan shall also contain information concerning BHA's activities, services or programs relating to domestic violence, dating violence, sexual assault and stalking.

To the extent any provision of this policy shall contradict any previously adopted policy or procedure of BHA, the provisions of this Policy shall prevail.

IV. Definitions

As used in this Policy:

A. Domestic Violence – The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction."

B. Dating Violence – means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

C. Stalking – means –

(A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person;

D. Sexual assault – means, any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent;

E. Affiliated individual - means, with respect to a person –

(A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any person, tenant, or lawful occupant living in the household of that person .

F. Perpetrator – means person who commits an act of domestic violence, dating violence, sexual assault or stalking against a victim.

V. Admissions and Screening

A. Denial of Assistance. BHA will not deny admission to public housing or to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault or stalking, provided that such person is otherwise qualified for such admission.

B. Admissions Preference. Applicants for Public Housing and Section 8 housing assistance from BHA will receive a priority in admission by virtue of their status as victims of domestic violence. This priority is described for Public Housing in the BHA's ACOP and for Section 8 in its Admin Plan.

C. Mitigation of Disqualifying Information. When requested by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, dating violence, sexual assault and/or stalking, BHA, may take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, BHA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence, dating violence, sexual assault and/or stalking and its probable relevance to the potentially disqualifying information. BHA may disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence, dating violence, sexual

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assault and/or stalking.

VI. Termination of Tenancy or Assistance

A. VAWA Protections. Under VAWA, public housing residents, and persons assisted under the Section 8 rental assistance program, have the following specific protections, which will be observed by BHA in administration of its programs:

1. An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.

2. In addition to the foregoing, tenancy or assistance will not be terminated by BHA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of the assisted household, a guest or another person under the tenant’s control, and the tenant or an affiliated individual is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

(a) Nothing contained in this paragraph shall limit any otherwise available authority of BHA or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, sexual assault or stalking in question against the tenant or a member of the tenant’s household. However, in taking any such action, neither BHA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence, sexual assault or stalking than that applied to other tenants.

(b) Nothing contained in this paragraph shall be construed to limit the authority of BHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or BHA, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.

(c) Nothing contained in this paragraph shall limit any otherwise available authority of the BHA, or a Section 8 owner or manager to honor various court orders issued to either protect the victim or address the distribution of property in case a household breaks up.

B. Removal of Perpetrator. Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, BHA or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in

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order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence against an affiliated individual or other individual. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or an affiliated individual. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by BHA. If such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance the BHA will provide any remaining household member the opportunity to establish eligibility for housing.

Leases used for all public housing operated by BHA and leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by BHA, presently contain provisions setting forth the substance of this paragraph or as required by the U.S. Department of Housing & Urban Development.

VII. Verification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A. Requirement for Verification. For those seeking protection under this Policy, the law allows, but does not require, BHA or a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking claimed by a tenant or an affiliated individual is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII. C., BHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by BHA. If there is reason to believe that verification is incomplete or inaccurate, the BHA may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger. As necessary, the BHA shall work with the victim to identify appropriate sources of documentation. Section 8 owners or managers receiving rental assistance administered by BHA may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking can be accomplished in one of the following three ways:

1. HUD-approved form - by providing to BHA or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD) and available from BHA, that the individual is a victim of domestic violence, dating violence, sexual assault or stalking; that the incident or incidents in question are bona fide incidents of actual or

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threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator. If there is reason to believe that the certification is incomplete or inaccurate, the BHA may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger. As necessary, the BHA shall work with the victim to identify appropriate sources of documentation.

2. Other documentation - by providing to BHA or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse, described in such documentation or a record of an administrative agency or documentation signed by the applicant or tenant and a mental health professional from whom the applicant or tenant has sought assistance relating to domestic violence, sexual assault or stalking, or the effect of such actions, and states under penalty of perjury, that the mental health professional believes that the domestic violence, dating violence, sexual assault, or stalking meets the requirement found in VAWA 2013. A form is available from BHA. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

3. Police or court record – by providing to BHA or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

B. Time allowed to provide verification/ failure to provide. An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by BHA, or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days (i.e., 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. Time for response will be extended upon a showing of good cause.

C. Waiver of verification requirement. The Administrator of the BHA or her Designee, or a Section 8 owner or manager, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Administrator/Designee, owner or manager. Any such waiver must be in writing. Waiver in a particular instance or

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instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

VIII. Confidentiality

A. Right of confidentiality. All information (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking) provided to BHA or to a Section 8 owner or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted, shall be retained by the receiving party in confidence and shall not be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, or
2. required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
3. otherwise required by applicable law.

B. Notification of rights. All tenants of public housing and tenants participating in the Section 8 rental assistance program administered by BHA shall be notified in writing concerning their right to confidentiality and the limits on such right to confidentiality.

IX. Transfer to New Residence

A. Application for transfer. The opportunity to transfer in Public Housing due to incidents of domestic violence, dating violence, sexual assault and/or stalking is described in the BHA's Admissions and Continued Occupancy Policy (ACOP). The opportunity to relocate in the Section 8 rental assistance program due to incidents of domestic violence, dating violence and/or stalking is described in the BHA Administrative Plan. Except with respect to portability of Section 8 assistance, as provided in section B below, the decision to approve or disapprove a transfer shall be made in accordance with the ACOP or Administrative Plan, as applicable. This policy does not create any additional right on the part of any public housing tenant or Section 8-assisted tenant to be granted a transfer.

B. Portability. Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit in another location (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect the health or safety of an individual member of the household who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

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X. Court Orders/Family Break-up

A. Court orders. It is BHA's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by BHA and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

B. Family break-up. Other BHA policies regarding family break-up are contained in BHA's ACOP and its Section 8 Administrative Plan.

XI. Relationships with Service Providers

It is the policy of BHA to cooperate with organizations and entities, both private and governmental, that provide shelter and/or services to victims of domestic violence, dating violence, sexual assault and/or stalking. If BHA staff become aware that an individual assisted by BHA is a victim of domestic violence, dating violence or stalking, BHA will provide the victim with written materials about such providers of shelter or services. However, and notwithstanding the foregoing, this Policy does not create any legal obligation requiring BHA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence, dating violence, sexual assault and/or stalking or to make a referral in any particular case. BHA's annual public housing agency plan shall describe those providers of shelter or services to victims of domestic violence, dating violence and/or stalking known to BHA.

XII. Notification

BHA shall provide written notification to applicants, tenants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

XIII. Relationship with Other Applicable Laws

Neither VAWA nor this Policy implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence sexual assault, or stalking.

XIV. Amendment

This policy may be amended from time to time by BHA as approved by its Administrator following an opportunity for notice and comment by interested parties.

Description of Violence Against Women Act (VAWA) activities, services, or programs:

BHA staff provide information and referral services to victims of domestic violence. Periodic VAWA and domestic violence trainings have occurred and will continue to occur with both internal and external trainers.

Both the Public Housing Admissions and Continued Occupancy Policy and the Leased Housing Administrative Plan contain a priority for serving victims of domestic violence for admission. The BHA public housing transfer policy gives a priority for victims of domestic violence as an Administrative transfer.

The BHA public safety department provides protective services above and beyond that of the Boston Police Department to BHA victims of domestic violence to both prevent domestic violence and to enhance survivor safety. BHA Police Department Officers receive extensive police academy training and updates on domestic violence. They are able to advise victims as to seeking protective orders and resources.

A partial listing of Violence Against Women Act (VAWA) Resources is below. These resources are posted on the BHA public drive and all staff have been advised of its location alongside the VAWA policy. In addition, the BHA will create a VAWA resources link section on its website.

A partial listing of Violence Against Women Act Resources:

Asian Task Force Against Domestic Violence (Boston office)	617-338-2350x244
Asian Task Force Against Domestic Violence (Lowell, MA office)	978-454-3651
Asian Task Force Against Domestic Violence 24hr. Multilingual Hotline	617-338-2355
Association of Haitian Women in Boston	617-287-0096
AWAKE program (Children's Hospital)	617 – 355 – 6369
BARCC 24hr. Boston Area Rape Crisis Center	617-492-7273
Boston Area Rape Crisis Center (Cambridge, MA)	617-492-8306 x1262
Boston Medical Center	617-414-7734
Boston Police 24hr. Domestic Violence Unit	617-343-4350
Center for Violence Prevention and Recovery at Beth Israel Deaconess Medical Center	617-667-8141
Community Legal Services and Counseling Center (Cambridge, MA)	617-661-1010x146

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Cooperative Economics for Women (Revere, MA)	781-289-4950
Crittenton Women's Union	617 – 661 – 7203
Department of Social Services	1-800-792-5200
Disability Abuse 24hr. Hotline	1-800-426-9009
Domestic Violence services Network (Concord, MA)	978-318-3421
Domestic Violence / Sexual Assault Program Of Newton Wellesley Hospital	617-243-6521
DOVE, Inc. (Quincy)	888-314-3683
Elder Abuse 24hr. Hotline	1-800-922-2275
Elizabeth Stone House	617 – 427 – 9801
Finding Options for Change Understanding and Safety (Lowell, MA)	978-458-6282
FINEX House	617-288-1054
Gay Mens' Domestic Violence Project	800-832-1901
Greater Boston Legal Services	617-371-1234
Greater Boston Legal Services (alternate number)	617-603-1614
HaborCOV (Chelsea, MA)	617-884-9799x137 or 617–884–9909
HAVEN at MGH	617 -724-0054
Independence House (Hyannis, MA)	508-771-6507x243
International Institute of Boston	617-695-9990x172
Jewish Family and Children's Services (Waltham, MA)	781-647-5327
Lowell Community Health Center (Lowell, MA)	978-746-3147
Massachusetts Alliance of Portuguese Speakers (Cambridge, MA)	617-864-7600
Mass Coalition for the Deaf and Hard of Hearing TTY	617-695-7600 TTY
MGH Chelsea Health Care Center (Chelsea, MA)	617-887-4224
Massachusetts Department of Transitional Assistance (Domestic Violence Specialists)	617-348-8500
Massachusetts Immigrant and Refugee Advocacy Coalition	617-350-5480x216
Massachusetts Law Reform Institute	617-357-0700x305
Massachusetts Office for Victim Assistance	617-727-5200
Mayor's 24hr. Housing Hotline	617-635-4500
Merrimack Valley Legal Services, Inc. (Lowell, MA)	978-888-0004
Multicultural AIDS Coalition	617-442-1622
Newton Wellesley Hospital (Newton, MA)	617-243-6521
Nigerian American Community Organization	617-424-7890
Nigerian American Community	617-913-5684

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Organization (alternate number)	
Parental Stress 24hr. Hotline	1-800-632-8188
Passageway at Brigham & Women's Hospital	617 – 732 – 8753
Portal to Hope (Salisbury)	781 – 306 – 6678
REACH Beyond Domestic Violence (Waltham)	800 – 899 – 4000
Refugee and Immigrant Assistance Center	617-238-2434
Renewal House	617 – 566 – 6881
RESPOND, Inc. (Somerville)	617-623-5900
“SafeLink 24hr. Statewide Domestic Violence Hotline Operated by Casa Myrna Vazquez”	1-877-785-2020
SafeLink 24hr. Statewide Domestic Violence Hotline TTY Operated by Casa Myrna Vasquez	877-521-2601 TTY
SAHELI: Friendship for South Asian Women	866 – 472 – 4354
Samaritans 24hr. Suicide Hotline	617-247-0220
Simmons College	617-521-2480
Somerville Commissions (Somerville, MA)	617-625-6600x2406
Teen 24hr. Hotline	1-800-999-9999
The Network/La Red (ending abuse in lesbian, bisexual, and transgender communities)	617-742-4911 TTY: 617-338-SAFE (7833)
The Second Step (Newton)	617 – 661 – 7203
Transition House (Cambridge, MA)	617-868-1655
United Way Help Line	1-800-231-4377
Victim Rights Law Center	617-399-6720
Whittier Street Health Center	617-989-3249

10. Pets

Summary of the Elderly/Disabled Pet Policy and the Family Pet Policy

In compliance with HUD requirements, the Boston Housing Authority has adopted pet policies and rules for all developments authorizing the keeping of pets in BHA developments and incorporated them in the BHA public housing lease. The primary purpose of the rules is to establish reasonable requirements for the keeping of common household pets in order to provide a safe and sanitary environment. The complete BHA Family Pet Policy and BHA Elderly/Disabled Pet Policy and necessary forms are available at your Manager's office. The Elderly/Disabled Pet Policy was adopted and put into effect in October, 2000 and differs in some respects from the Family Pet Policy. The Family Pet Policy was adopted and put in effect in April, 2002. The following is only a summary of the Pet policies. The complete Elderly/Disabled Pet Policy and Family Pet Policy are supporting documents to the Agency Plan. If you have questions please consult the appropriate policy or ask your Manager.

Definitions of Pet and Assistive Animal:

A pet is defined as a domesticated animal of a species that is commonly kept as a household pet in the community, such as a cat, dog, or canary. A monkey, snake, or spider is an example of an animal that is not commonly kept as a household pet in the community. An assistance or service animal provides assistance to a person with disabilities; in compliance with 24 CFR 960.705, this policy does not apply to such animals that reside in public housing or that visit BHA properties. For further information on assistance and service animals, please refer to the BHA Assistance and Service Animal Policy, which is found in the Appendix of the BHA Reasonable Accommodation Policy.

Types and Number of Pets Allowed:

Family Developments, a maximum of two pets: a cat or a dog, and either a caged bird or birds, or a fish tank not to exceed 20 gallons will be allowed in studio, one- and two- bedroom apartments. However, in place of the fish tank or the birdcage, an animal cage of equivalent size housing a reasonable number of hamsters, guinea pigs, ferrets, or gerbils may be kept. A maximum of three pets: a cat or a dog, a caged bird or birds, and a maximum 20-gallon fish tank will be allowed in apartments of three bedrooms or more. Again, in place of the fish tank or the bird cage an animal cage of equivalent size housing a reasonable number of hamsters, guinea pigs, ferrets or gerbils may be kept. A reasonable number of fish or other animals appropriately kept in an aquarium (such as a frog or iguana) will be permitted in a maximum 20-gallon fish tank. A reasonable number shall be the number of animals or fish that may be kept in a similarly sized cage or tank as recommended by a veterinarian.

Elderly/Disabled Developments, a maximum of one cat or dog is allowed per

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apartment. No elderly/disabled resident shall have more than two birds. No resident shall have more than one aquarium, which shall not have a capacity of more than 20 gallons. A reasonable number of fish or animals suitable for keeping in an aquarium will be permitted. A resident may have a birdcage and an aquarium. Any resident who has a dog or a cat may, in addition, have either an aquarium or a bird but not both. For example you may have a poodle and a canary or a Siamese cat and a canary or a poodle and an aquarium.

Pets of vicious or aggressive disposition deemed by management to be potentially harmful to the health and safety of others are prohibited.

Family Developments, no pet will be permitted which is expected to exceed 50 pounds in weight at maturity.

Elderly/Disabled, no pet may exceed 40 pounds in weight or 20 inches in height at maturity.

All dogs and cats over the age of 6 months must be spayed or neutered unless there is certification from a licensed veterinarian that the performance of the procedure will compromise the health of the pet.

Pet Ownership Rules:

A tenant who wishes to add any new pet must apply in writing at their development management office. The Tenant is responsible for proper care, vaccinations, municipal registration (as applicable), and clean up after their pet anywhere on BHA property, as well as the provision of identifying tags for dogs and cats. No pet is to remain unattended, without proper care for more than 24 hours. The tenant is responsible and must pay for the cost of all materials and labor required to repair any damage caused by the pet. The tenant is responsible for insuring that the rights of other tenants are not infringed upon with regard to health, safety, or peace and quiet enjoyment. The Tenant will allow the BHA to inspect their unit as required to ascertain compliance with this policy. Pets currently being kept by BHA residents that have been properly identified to site management will be grandfathered into this policy. No pet ownership fee will be charged for these pets but owners must prospectively comply with this policy.

Non-Compliance:

Violations of these rules will be considered a violation of a material term of the lease. The development manager may require the removal of a pet upon violation of these rules, or commence eviction procedures. All lease enforcement and eviction actions taken as a result of this policy will comply with the BHA's Lease and Grievance Procedures.

11. Asset Management

1. ☒ : Yes ☐ : No: Is the PHA engaging in any activities that will contribute to the long- term asset management of its public housing stock, including how the Agency will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs that have not been addressed elsewhere in this PHA Plan?

2. What types of asset management activities will the PHA undertake? (select all that apply)

☐ : Not applicable

☒ : Private management

☒ : Development-based accounting

☒ : Comprehensive stock assessment

☒ : Other: (list below) strategic redevelopment planning; reorganization for Asset Management staffing functions

3. ☐ : Yes ☒ : No: Has the PHA included descriptions of asset management activities in the optional Public Housing Asset Management Table?

12. and 13. Substantial Deviation / Significant Amendment / Modification

(a) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification".

Definition of "Substantial Deviation" and "Significant Amendment or Modification":

In the Final Rule issued on 12/14/99, HUD provides that, while PHAs may change or modify their plans or policies described in them, any "significant amendment or modification" to the plan would require PHAs to submit a revised PHA plan that has met full public process requirements. The statute also requires that PHAs define "significant amendment or modification" of the Annual Plan and "substantial deviation" from the 5- Year Plan themselves, by stating the basic criteria for such definitions in an annual plan that has met full public process requirements, including Resident Advisory Board review. The BHA will consider the following actions to be significant amendments or modifications:

- A change which would significantly affect current rent or admissions policies or organization of a waiting list in the Public Housing programs;
- A change which would significantly affect current rent policies in the Section 8 Program;
- A change to admission policies or organization of a waiting list in the Section 8 Program which would impact more than 5% of the total number of HCVP vouchers in the BHA's portfolio.
- Additions of non-emergency work items not included in the current Annual Statement, 5-Year Action Plan, over \$8 million or 20% of total CFP, whichever is greater;
- A substantial change to the demolition or disposition, designation, homeownership programs or conversion activities as described in the presently approved Agency or Five-Year Plan.

An exception to this definition will be made for any of the above that are adopted to reflect changes in HUD regulatory requirements or federal statutory requirements; such changes will not be considered significant amendments by HUD.

As part of the Rental Assistance Demonstration (RAD), BHA is redefining the definition of a substantial deviation to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
- b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- d. Changes to the financing structure for each approved RAD conversion.

Section B.2

14. Hope VI or Choice Neighborhoods

Include statements related to these programs as applicable.

a) Hope VI or Mixed Finance Modernization or Development

Yes: X No: a) Has the PHA received a HOPE VI revitalization grant? (if no, skip to question c; if yes, provide responses to question b for each grant, copying and completing as many times as necessary)

b) Status of HOPE VI revitalization grant (complete one set of questions for each grant)

BHA has completed activities under several HOPE VI grants over the last two decades. The last of those grants (the one supporting phase two or redevelopment at the Anne M. Lynch Homes at Old Colony) was closed out and a final audit submitted to HUD in 2021.

Currently BHA has one active Choice Neighborhoods Initiative implementation grant, as follows:

Choice Neighborhoods Initiative Implementation grant

1. Development name: Whittier Street

2. Development (project) number: MA002000111 (original); New development to be project-based vouchers

3. Status of Grant: (select the statement that best describes the current status)

 : Revitalization of Plan under development

 : Revitalization Plan submitted, pending approval

 : Revitalization Plan approved

X: Activities Pursuant to an approved Transformation Plan underway.

Yes:

No: X c.) Does the PHA plan to apply for a HOPE VI Revitalization grant in the Plan year?

If yes, list development name/s below:

15. Mixed Finance Modernization or Development

X: Yes ___: No: d) Will the PHA be engaging in any mixed-finance development activities for public housing in the Plan year?

If yes, list developments or activities below:

- (i) Whittier (Choice Neighborhoods redevelopment with Section 8 replacement units)
- (ii) Anne M. Lynch Homes at Old Colony – Phase Three (RAD and Section 8 redevelopment) completed in 2022; Phases Four and Five began in late 2022 and construction is currently underway with completion expected in Q1 2025; Phase Six, the final phase of redevelopment began construction in May 2024 and will be complete near the end of 2025.
- (iii) West Newton (RAD and Section 8 conversion with renovation) – West Newton and Rutland Streets completed in 2022; 34 East Springfield Street construction completed on 12/27/2023.
- (iv) Amory (Section 8 conversion and renovation) – Original 125 Amory Street modernization and first phase of new construction (Holtzer Park) completed; the next phase of new construction (127 Amory) will break ground in 2025; and there will be one additional phase thereafter.
- (v) St. Botolph (Section 8 conversion with renovation)
- (vi) Doris Bunte (Section 8 conversion with renovation)
- (vii) Ausonia (RAD and/or Section 8 conversion with renovation)
- (viii) Long-Glen Apartments (RAD conversion) – RAD conversion to PBRA completed in 2021.
- (ix) Eva White (RAD and/or Section 8 conversion with renovation)
- (x) Mission Main (RAD and Section 8 conversion with renovation) – conversion completed in December 2022.
- (xi) Heritage Apartments (RAD conversion) – completed 2022.
- (xii) Lower Mills (RAD conversion) – completed 2022.
- (xiii) Lenox Street (Section 8 conversion with renovation) – conversion in 2021; renovations completed in 2023.
- (xiv) JJ Carroll Apartments (Section 8 conversion with redevelopment) – completed in January 2024.
- (xv) Patricia White (Section 8 conversion with renovation)
- (xvi) General Warren (RAD/Section 8 conversion with renovation)

Faircloth and Faircloth-to-RAD

Planning is underway for mixed-finance activities to take advantage of BHA's Faircloth capacity—including the new Faircloth-to-RAD mechanism articulated by HUD in July 2023 in its Notice H-2023-08 PIH-2023-19 (HA).

In 2023 BHA and the City of Boston issued a joint RFP (Request for Proposals) for the City's West End Library site in order to incorporate Faircloth (and now Faircloth-to-RAD) units in a redevelopment of the site.

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In late 2023 and again in 2024, BHA issued solicitations (RFQs or RFPs) for proposals to develop Faircloth-to-RAD units as part of private affordable housing developments.

BHA has also worked closely with the City of Boston to identify Faircloth-to-RAD opportunities at what the City considers “High Opportunity Sites” as identified in its 2022 Public Land for Public Good: Citywide Land Audit.”

Predevelopment Planning

Planning continues for redevelopment and/or modernization at Charlestown, Mary Ellen McCormack, Hailey Apartments, Eva White, St. Botolph Apartments, Doris Bunte, Ausonia, Patricia White and General Warren. See Demolition/Disposition Section for descriptions.

16. Demolition and or Disposition

☒ Yes ☐ No: Does the PHA plan to conduct any demolition or disposition activities (pursuant to section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p)) in the plan Fiscal Year? (If “No”, skip to next component; if “yes”, complete one activity description for each development.)

2. Activity Description

☐ Yes ☒ No: Has the PHA provided the activities description information in the optional Public Housing Asset Management Table? (If “yes”, skip to next component. If “No”, complete the Activity Description table below.)

Demolition/Disposition Activity Description

1a. Development Name: Anne M. Lynch Homes at Old Colony Phase Three

1b. Development (project) number: MA002000124

2. Activity type: Demolition: X

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: 06/11/2018

5. Number of units affected: 443 (not including units converting under RAD)

6. Coverage of action (select one):

Part of the Development: X

Total Development:

7. Timeline for activity:

a. Actual or projected start date of activity:

Start of demolition Phase 3A—03/25/2019 (115 units);

Projected start Demolition Phase 3B (135 units)—December 2019;

Projected start Demolition Phase 4 (remaining units)—Fall 2022.

b. Projected end date of activity: All demolition complete as of 2023; Final phase of new construction (Phase Six) expected to complete in 2025.

Demolition/Disposition Activity Description

1a. Development Name: Whittier

1b. Development (project) number: MA002000111

2. Activity type: Demolition: X

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: 09/25/2017 (Demolition—all phases); 12/14/2017 (Disposition Phase 1)

5. Number of units affected: 200

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity:

a. Actual or projected start date of activity: Demolition start—01/11/2018

b. Projected end date of activity: Demolition was completed in 2021. New construction completion projected by 2025.

BHA was awarded an FY2016 Choice Neighborhoods implementation grant in Dec 2016, pursuant to which HUD granted demolition approval in September 2017.

Disposition approval was granted in December 2017. Demolition and disposition activities are being carried out in phases.

Demolition/Disposition Activity Description

1a. Development Name: Charlestown

1b. Development (project) number: MA002000101

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: September 6, 2017.

5. Number of units affected: 1100

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity:

a. Actual or projected start date of activity: Demolition of Phase One was completed in 2023; the first newly developed building will complete construction by January 2025

b. Projected end date of activity: TBD

Demolition and disposition will be carried out in phases

Demolition/Disposition Activity Description

1a. Development Name: Amory

1b. Development (project) number: MA002000245

2. Activity type: Demolition:

Disposition: X

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3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: 07/20/2018

5. Number of units affected: 216 dwelling (including nonresidential); 18 non-dwelling

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Approved in July 2018.

a. Actual date of disposition: 12/28/2018. b. Projected end date of activity: 2027

A Section 18 disposition was approved by HUD in July 2018 based in part on the high projected rehab costs, which cannot be met through a RAD conversion. BHA requested and received Tenant Protection Vouchers that BHA project-based at the property in order to support the needed renovations. In its July 2018 approval, HUD approved a Section 18 disposition of unused (vacant) portions of the site in order to permit construction of new housing adjacent to the existing building. In September 2020, BHA disposed of the first parcel from the vacant portion of the site where 62 new affordable units completed construction in 2022. The next parcel of vacant land was disposed of in 2023, and a final parcel will be disposed of in 2025, with final construction taking approximately two years for each parcel.

Demolition/Disposition Activity Description*

1a. Development Name: West Newton/Rutland/East Springfield

1b. Development (project) number: MA002000158

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X (in conjunction with RAD conversion)

Submitted, pending approval:

Planned Application:

4. Date application approved:

5. Number of units affected: 25% of units (36) were converted to Project-Based Vouchers in Feb 2019 at the time of the RAD conversion of 110 units; 3 de minimis at E. Springfield will be offered for sale with a priority to redevelop as affordable housing.

6. Coverage of action (select one):

Part of the Development: X

Total Development:

7. Timeline for activity: Application 2017.

a. Actual or projected start date of activity: West Newton and Rutland Streets closed with a RAD/Section 18 Blend in 2019; the disposition of 34 East Springfield Street happened in 2022. b. Projected end date of activity: West Newton and Rutland Streets completed rehabilitation in 2022; 34 East Springfield completed construction

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in December 2023.

*RAD / Section 18 blend pursuant to PIH Notice 2018-04.

Demolition/Disposition Activity Description

1a. Development Name: Mildred C. Hailey Apartments – 253 units

1b. Development (project) number: MA002107119

2. Activity type: Demolition: X

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: September 2022

5. Number of units affected: 253 units (phase one)

6. Coverage of action (select one):

Part of the Development: X

Total Development:

7. Timeline for activity: Application 2021.

a. Actual or projected start date of activity: Phase One planning began in 2017 with public permitting starting in 2020 b. Projected end date of activity: TBD. Phase One entails the demolition of eight buildings comprising 253 units, to be replaced with 253 new deeply affordable units as well as other moderate and market units. The first two newly developed buildings (Buildings 1A and 1B) are currently in construction and will be completed in Summer 2025. A physical needs assessment of the remaining buildings and housing units at the site (beyond the 253 units in phase one) was carried out in 2021 and led to a decision to seek disposition approval of additional units – see next entry.

Demolition/Disposition Activity Description

1a. Development Name: Mildred C. Hailey Apartments

1b. Development (project) number: MA002107119

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval: -

Planned Application:

4. Date application approved: 10/26/2023

5. Number of units affected: The entire balance of the site: 516 units. These units (and the buildings and grounds adjacent to them) will be fully modernized. They will not be demolished.

6. Coverage of action (select one):

Part of the Development: X (up to the remaining units)

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- Total Development: X (together with previously approved—see entry above)
7. Timeline for activity: Application 2023
- a. Actual or projected start date of activity: BHA has undertaken planning to modernize these 516 units with support of a \$50-million commitment from the City of Boston announced in 2022; to leverage that funding, BHA is pursuing a Section 18 Disposition and/or RAD conversion (or RAD/Section 18 Blend) to facilitate that modernization. BHA intends to continue to own (through affiliated entities) and operate the modernized buildings.

Demolition/Disposition Activity Description

- 1a. Development Name: Mary Ellen McCormack
- 1b. Development (project) number: MA002000123
2. Activity type: Demolition: X
Disposition: X
3. Application Status (select one)
Approved: X
Submitted, pending approval: X
Planned Application:
4. Date application approved: 07/02/2024.
5. Number of units affected: 1016 public housing units
6. Coverage of action (select one):
Part of the Development:
Total Development: X
7. Timeline for activity: Application 2022 or 2023.
- a. Actual or projected start date of activity: Planning lasted several years. Permitting on a phase one (of two) began in 2022 and was approved in early 2024. The first demolition and new construction (Building A) will begin in Q1 2025. b. Projected end date of activity: TBD. The proposed initiative is to replace all 1016 existing public housing units on a one-for-one basis, and to add additional market, retail and open space uses to the site. In all, over 3000 new units are planned but the plans are preliminary and still need to undergo significant public review.

Demolition/Disposition Activity Description*

- 1a. Development Name: Eva White
- 1b. Development (project) number: MA002000241
2. Activity type: Demolition:
Disposition: X
3. Application Status (select one)
Approved: X
Submitted, pending approval:
Planned Application:
4. Date application approved: December 2024.
5. Number of units affected: BHA undertook a RAD/Section 18 Blended conversion pursuant to PIH Notice 2021-07, in which 80% of units (81 out of 102) will be converted to Project Based Vouchers. 6. Coverage of action (select one):

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Part of the Development:

Total Development: X

7. Timeline for activity: Conversion was effective 01/01/2025 with construction start in Q1 2025. a. Actual or projected start date of activity: 2023.

b. Projected end date of activity: TBD

Demolition/Disposition Activity Description*

1a. Development Name: Lenox

1b. Development (project) number: MA002000104

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: April 29, 2020.

5. Number of units affected: A Section 18 disposition was approved by HUD in April 2020. BHA has submitted a request for Tenant Protection Vouchers to be project-based at the property to support the renovation work.

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application approved on April 29, 2020.

a. Actual or projected start date of activity: Disposition (and start of rehab construction) occurred in 2021. b. End date of activity: Construction completed in 2023

Demolition/Disposition Activity Description*

1a. Development Name: J.J. Carroll Apartments

1b. Development (project) number: MA002000237

2. Activity type: Demolition: X

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: May 22, 2020.

5. Number of units affected: A Section 18 disposition was approved by HUD in May 2020 based in part on the high projected rehab costs, which cannot be met through a RAD conversion. BHA received Tenant Protection Vouchers that have been project-based at the property in order to support the new development.

6. Coverage of action (select one):

Part of the Development:

Total Development: X

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7. Timeline for activity: Application 2020

a. Actual or projected start date of activity: Disposition and Demolition start in 2021 b.
End date of activity: January 2024

Demolition/Disposition Activity Description*

1a. Development Name: Patricia White Apartments

1b. Development (project) number: MA002000271

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application: X (for Section 18 disposition application)

4. Date application approved: 11/05/2020.

5. Number of units affected: BHA secured a Section 18 disposition approval in order to convert the entire property (all 224 residential units but not including the one non-residential unit) to PBVs. Because the BHA did not pursue a Section 18 approval on the basis of obsolescence (but rather based on other reasons), BHA was entitled to apply for 25% of the PBVs as tenant protection vouchers; the others PBVs are funded from BHA's existing Section 8 portfolio.

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2020

a. Actual or projected start date of activity: 2020 b. Projected end date of activity: 12/30/2020 (disposition and conversion). BHA and resident representatives have been working with a design team of architects and engineers to assess physical needs, project costs and plan for construction work. We aim to share and advance the latest concepts in 2025.

Demolition/Disposition Activity Description*

1a. Development Name: St. Botolph

1b. Development (project) number: MA002000253

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted:

Pending approval:

Planned Application:

4. Date application approved: July 21, 2020

5. Number of units affected: A Section 18 disposition was approved by HUD in July 2020 based in part on the high projected rehab costs, which cannot be met through a RAD conversion. BHA will request Tenant Protection Vouchers that BHA will

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project-based at the property in order to support the needed renovation. Due to recent changes in Section 8 program regulations, BHA expects to pursue a RAD/Section 18 blend.

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2020

a. Actual or projected start date of activity: 2025 b. Projected end date of activity: 2027

Demolition/Disposition Activity Description*

1a. Development Name: Doris Bunte Apts. (Walnut Park)

1b. Development (project) number: MA002000242

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted:

Pending approval:

Planned Application:

4. Date application approved: 11/30/2020

5. Number of units affected: BHA secured Section 18 disposition approval in order to convert all 165 units to PBVs. Due to recent changes in Section 8 program regulations, BHA may need to pursue a RAD/Section 18 blend.

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2020

a. Actual or projected start date of activity: 2026 (disposition) b. Projected end date of activity: 2028 (completion of associated renovations)

Demolition/Disposition Activity Description*

1a. Development Name: Ausonia

1b. Development (project) number: MA002000261

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: 09/14/2022

5. Number of units affected: Due to recent changes in Section 8 program regulations, BHA may need to pursue a RAD/Section 18 Blended conversion

6. Coverage of action (select one):

Part of the Development:

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Total Development: X

7. Timeline for activity: Application 2021 (approved: 2022)

a. Actual or projected start date of activity: 2026 b. Projected end date of activity: 2028

Demolition/Disposition Activity Description*

1a. Development Name: Mission Main

1b. Development (project) number: MA002002114, MA002002117, & MA002002118

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X (RAD/Section 18 blend)

Submitted, pending approval:

Planned Application:

4. Date application approved: Conversion closing 12/30/2022

5. Number of units affected: BHA carried out a RAD/Section 18 Blended conversion pursuant to PIH Notice 2021-07 in which 40% of units (178 out of 445) converted to Project Based Vouchers and 60% of the units (267 out of 445) converted to RAD Project Based Vouchers

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2021

a. Actual or projected start date of activity: Conversion (RAD/Section 18 Blend) happened in December 2022 b. Projected end date of activity: 2025

Demolition/Disposition Activity Description

1a. Development Name: Parcel 2D at Adams Orchard

1b. Development (project) number: N/A

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved: X

Submitted, pending approval:

Planned Application:

4. Date application approved: 12/05/2023

5. Number of units affected: None. Parcel 2D is a vacant parcel with no buildings on it. It is owned by Orchard Park Revitalization Corporation, an instrumentality of the BHA, and is part of the premises that is ground leased to Adams Orchard Limited Partnership. It is next to but separately fenced from the residential development. It has no use to the residential units.

6. Coverage of action (select one):

Part of the Development: X. The remainder of the Adams Orchard ground lease premises will not change.

Total Development:

7. Timeline for activity: Application 2023

a. Actual or projected start date of activity: 2022 (planning, public process)

b. Projected end date of activity: 2024

Demolition/Disposition Activity Description*

1a. Development Name: Orchard Gardens

1b. Development (project) number: MA002002113 and MA002002115

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved:

Submitted, pending approval:

Planned Application: X (RAD and Section 18 disposition application)

4. Date application approved:

5. Number of units affected: 282 public housing units. BHA will pursue a RAD/Section 18 Blended conversion pursuant to PIH Notice 2021-07

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2023 (CHAP issued July 2023)

a. Actual or projected start date of activity: Planning and public process underway; Conversion (RAD/Section 18 Blend) to occur by 2026

b. Projected end date of activity: TDB

Demolition/Disposition Activity Description

1a. Development Name: General Warren

1b. Development (project) number: MA002000247

2. Activity type: Demolition:

Disposition: X

3. Application Status (select one)

Approved:

Submitted, pending approval:

Planned Application: X (with RAD blend)

4. Date application approved: Not yet submitted

5. Number of units affected: BHA will pursue a Section 18 disposition or a RAD/Section 18 Blended conversion pursuant to PIH Notice 2021-07 depending on capital needs

6. Coverage of action (select one):

Part of the Development:

Total Development: X

7. Timeline for activity: Application 2025

- a. Actual or projected start date of activity: 2026
- b. Projected end date of activity: 2027

17. Designated Housing for Elderly and Disabled Families

1. X : Yes ___ : No: Has the PHA designated or applied for approval to designate or does the PHA plan to apply to designate any public housing for occupancy only by the elderly families or only by families with disabilities, or by elderly families and families with disabilities or will apply for designation for occupancy by only elderly families or only families with disabilities, or by elderly families and families with disabilities as provided by section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e) in the upcoming fiscal year? (If “No”, skip to the next component. If “yes”, complete one activity description for each development, unless the PHA is eligible to complete a streamlined submission; PHAs completing streamlined submissions may skip to the next component.)

2. Activity Description

___ : Yes X : No: Has the PHA provided all required activity description information for this component in the optional Public Housing Asset Management Table? If “yes”, skip to the next component. If “No”, complete the Activity Description table below.

Designation of Public Housing Activity Description

1a. Development name: All Elderly/Disabled Program Developments (See supplemental table below)

1b. Development (project) number: All Elderly/Disabled Program Developments (See supplemental table below)

2. Designation type:

Occupancy by only the elderly ___:

Occupancy by families with disabilities ___:

Occupancy by only elderly families and families with disabilities X : (in ratio of 80% elderly, 20% disabled at each site)

3. Application status (select one)

Approved; included in the PHA’s Designation Plan X :

Submitted, pending approval ___:

Planned application ___:

4. Date this designation approved, submitted, or planned for submission:

Approved on 03/24/22.

5. If approved, will this designation constitute a (select one)

X : New Designation Plan

___ : Revision of a previously-approved Designation Plan

6. Number of units affected: 2840 (available – wheelchair)
 7. Coverage of action (select one)
X : Part of the development (See supplemental table below)
 ___ : Total development

The amended DHP applies to all units across the Elderly-Disabled portfolio except for wheelchair units, all of which are exempt from the DHP. BHA continues to monitor the percentages of elderly and non-elderly disabled households living in each Elderly/Disabled Development on an ongoing basis. When the percentage of elderly households occupying a development reaches 75%, the development is flagged so that each subsequent offer of housing will be reviewed by a Manager in the Admissions Department. When the percentage of elderly households occupying a development reaches 80%, the BHA will turn off Designated Housing preference points to elderly applicant households for this development and turn on the Designated Housing preference for the disabled. If the percentage of elderly households occupying a development falls below 80%, the BHA will turn on Designated Housing Preference points to elderly applicant households for this development.

Federal Elderly/Disabled Development Designation as of October 2024*

Development	Available Units	Wheelchair Units	Eld.80%	Non-Eld/Dis 20%	0 BR	1 BR	2 BR
Annapolis	56	0	45	11	0	50	6
Ashmont	54	0	43	11	0	48	6
Ausonia Apartments	100	5	80	20	0	93	7
Bellflower	114	6	91	23	0	106	8
Codman Apartments	102	9	82	20	61	30	11
Commonwealth Elderly	116	10	93	23	0	104	12
Davison Apartments	47	0	38	9	31	16	0
Doris Bunte Apartments	165	4	132	33	105	52	8
Eva White Apartments	102	0	82	20	34	57	11
Foley Apartments	96	6	77	19	0	96	0
Frederick Douglass	78	8	62	16	42	35	1
General Warren	96	0	77	19	56	36	4
Groveland	48	0	38	10	27	19	2
Hampton House	78	7	62	16	42	35	1
Hassan Apartments	100	8	80	20	55	40	5
Holgate Apartments	81	1	65	16	0	81	0
J J Meade Apartments	40	0	32	8	0	38	2
Malone Apartments	102	4	82	20	0	101	1
Martin Luther King Towers	104	1	83	21	26	78	0
Mildred C. Hailey Bromley	56	0	45	11	0	42	14
Pasciucco	92	6	74	18	64	26	2
Peabody Apartments	103	9	82	21	0	98	5
Pond Street	44	0	35	9	0	40	4
Rockland Towers	69	4	55	14	41	26	2
Roslyn Apartments	119	9	95	24	0	113	6
Spring Street	104	5	83	21	0	99	5
St Botolph Apartments	132	10	106	26	82	47	3
Torre Unidad	199	9	159	40	112	83	4
Washington Manor	77	7	62	15	41	35	1
Washington Street	82	1	66	16	0	72	10
West Ninth Street	84	0	67	17	0	76	8
Total	2,840	129	2,272	568	819	1,872	149
As October 2024							

*UFAS or Wheelchair units are exempt from the Designated Housing Plan. Elderly 80% shows of the available units how many are designated for the elderly, while Non-Eld Dis

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20% shows of the available units how many are designated for the Non-Elderly Disabled. The final three columns 0 BR, 1 BR, and 2 BR shows the total number of units at the site with those bedroom sizes reflected in the available unit totals.

**Only includes units at 295 and 297 Centre Street, units #'s BP0003 - BP00028 and BP0033 - BP0056. Overall, this is a family development but these units are set aside for the elderly and non-elderly disabled and have their own site-based waiting list.

☞ Developments (or parts of developments) that are removed from the public housing program through, for example, RAD conversions or Demolition/Disposition actions will be removed from this list as they are removed from the public housing program.

18. Conversion of Public Housing to Tenant-Based Assistance

Boston Housing Authority Voluntary Conversion from Public Housing to Tenant-Based Assistance Initial Assessment

The Boston Housing Authority determined a Per Unit Monthly (PUM) cost for covered (general occupancy) developments including operating costs with tenant contribution (\$1799.48) and capital (\$434.40) for a total of \$2233.88 PUM as of October 2024. We then compared that to the average Housing Assistance Payment at \$2106.74 plus the tenant's contribution at \$590.20 that amounted to \$2696.94 PUM as of October 2024. Therefore, the change to tenant-based assistance would not be cost effective in most cases. The BHA is not subject to computing the mandatory conversion calculation because none of our developments meet the 15% vacancy standard for identifying public housing developments subject to the required conversion. The above formula applies to the following developments:

Dev #	Development Name	Number of Occupied Units*
114	Alice H. Taylor Apartments	351
101	Charlestown	750
182	Commonwealth	264
189	Franklin Field	333
193	Highland Park	25
123	Mary Ellen McCormack	927
119	Mildred C. Hailey Bromley P	427
107	Mildred C. Hailey Heath Stre	193
106	Ruth Barkley Apartments	400

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19. Conversion of Public Housing to Project-Based Assistance under RAD

See the Rental Assistance Demonstration attachment to the Annual Plan compiled in accordance with guidance included in Revision 4 of the RAD Notice, H-2019-09 PIH 2019-23, REV-4.

20. Occupancy by Over-Income Families

BHA is including in its Admissions and Continued Occupancy Policy (ACOP) Section 9.4 a policy for over-income families.

21. Occupancy by Police Officers

See Admissions and Continued Occupancy Policy (ACOP) section 10.6. for policy on Occupancy by Police Officers. BHA doesn't have any units officially occupied by law enforcement officers as reported in PIC.

22. Non-Smoking Policies

NON-SMOKING POLICY from Section 18 of the BHA Public Housing Lease

A. Purpose of Non-Smoking Policy. The parties (BHA and the Tenant/Resident) desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smoke-free building.

B. Definition of Smoking. The term “smoking” means inhaling, exhaling, breathing, or carrying or possessing any lighted cigarette, cigar, pipe or other tobacco product or similar lighted product in any manner or in any form.

C. Non-Smoking Area. Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household and any interior common areas, including but not limited to community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevator, within all living units, and within a specified distance from building(s), as determined by the property manager in consultation with the residents, including entry ways, porches, balconies and patios have been designated as a Non-smoking living environment. Resident and members of Resident's household shall not smoke anywhere in said Non-Smoking Area, including in the unit rented by Resident, the building where Resident's dwelling is located, or in any of the common areas or adjoining grounds of such building including the steps, patios or yards, nor shall Resident permit any guests or visitors under the control of Resident to smoke in said Non-Smoking Area.

D. Resident to Promote Non-Smoking Policy and to Alert Landlord of Violations. Resident shall inform Resident's guests of the non-smoking policy. Further, Resident shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Resident's unit from sources outside of the Resident's unit.

E. Landlord to Promote Non-Smoking Policy. Landlord shall post no-smoking signs at entrances and exits, in common areas, and in conspicuous places adjoining the grounds of the Non-Smoking Area.

F. Landlord Not a Guarantor of Smoke-Free Environment. Resident acknowledges that Landlord's adoption of a non-smoking living environment does not make the Landlord or any of its managing agents the guarantor of Resident's health or of the non-smoking condition of the Resident's unit and the common areas. However, Landlord shall take reasonable steps to enforce the

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non-smoking terms of this leases and to make the Non- Smoking Area as smoke-free as is reasonably possible. Landlord is not required to take steps in response to smoking unless Landlord knows of said smoking or has been given written notice of said smoking.

G. Effect of Breach and Right To Terminate Lease. A breach of this Section of the Lease shall give each party all the rights contained herein, as well as the rights otherwise contained in the Lease. A material or continuing breach of this Section shall be a material breach of the Lease and grounds for termination of the Lease by the Landlord. **Tenant acknowledges that the remedy for smoking within the apartment may be the assessment of a charge of up to two hundred-fifty dollars (\$250.00) for each smoking incident. Charges will be used by the BHA towards the costs of refurbishing the apartment.**

H. Disclaimer by Landlord. Resident acknowledges that Landlord's adoption of a non- smoking living environment, does not in any way change the standard of care that the Landlord or managing agent would have to a resident household to render buildings and premises designated as non-smoking any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Landlord specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Landlord cannot and does not warrant or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Landlord's ability to police, monitor, or enforce the provisions of this Section is dependent in significant part on voluntary compliance by Resident and Resident's guests, as well as by other residents and guests in other parts of the Non-Smoking Area. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Section than any other landlord obligation under the Lease.

23. Project-Based Vouchers

Project-based Vouchers: Boston Housing Authority Section 8 Project Based Voucher Program

Background

As a result of the Fiscal Year 2001 HUD Appropriations Act, regulations were issued incorporating the Project Based Assistance requirements into the merged voucher program. These regulations were originally published in the Federal Register on January 16, 2001 and permitted the BHA to enter into a housing assistance payments (HAP) contracts with otherwise qualified owners provided the HAP contracts were in congruence with the PHA Plan (see 42 U.S.C. 1437c-1, implemented at 24 CFR part 903.) HUD defines “consistency with the PHA Plan” as a demonstration by the PHA that circumstances exist that indicate that project basing of the units, rather than tenant-basing of the same subsidy assistance is an appropriate option. Subsequently, HUD promulgated the Project Based Voucher Program; Final Rule on October 13, 2005, incorporating therein the sum and substance of the January, 2001 Initial Guidance. The following discusses the BHA’s implementation of this important policy tool.

PHA Plan

HUD’s initial guidance published January, 2001 and again incorporated into the October, 2005 final rule specifies that PHAs that wish to use the project-based voucher option must attach a statement to the PHA Plan template. 66 Fed. Reg. 3608.

___: The statement must include the projected number of project-based units and general locations, and

___: how project basing would be consistent with the PHA plan.

The Projected Number of Project Based Units

Under the Project Based Voucher (PBV) regulations, the BHA has the option to convert up to 20% of our tenant based voucher allocation to project based assistance. With the BHA’s present portfolio size of 16,651 units, 20% would equate to 3330 units. The BHA can use an additional 10 percent of their Housing Choice Vouchers for PBVs that: (a) assist veterans or people experiencing homelessness, (b) are located in properties that provide supportive housing to older adults or people with disabilities, or (c) are located in areas where the poverty rate is 20 percent or less. The additional 10% limitation brings the limit to 4,995. Additionally, PBVs that were converted from Public Housing do not count against the BHA in the 20 percent and additional 10 percent limits. By the end of BHA Fiscal Year 2024, the BHA anticipates that it will have more than 4000 units under contract in its PBV Program.

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In 2024 and 2025, BHA anticipates a number of PBV projects that will be excluded from the 20% threshold as they will result from Public Housing developments converted under HOTMA and through RAD. Currently, there are 471 RAD PBV units under contract that would be excluded from the 20% threshold calculation. Further, the BHA has 10 RAD units converted from its Moderate Rehabilitation Program. Mainstream vouchers, VASH vouchers and units in areas of low poverty concentration which are project based can also be excluded. For information regarding specific details on the sites that are being redeveloped please see Attachment D to the Section 8 Administrative Plan.

The BHA may grant project based vouchers only if the contract is consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities. Projects may not be sited in areas where the census data reflects a poverty rate of greater than 20% unless there is evidence that the project will further deconcentration goals. All of the BHA's Project Based Vouchers under lease have met HUD's requirements listed above regarding the location of projects.

Future Siting of Section 8 Based Voucher Projects: Strategic Investment

The PBV rules permit a PHA to give an award of PBV vouchers if a developer has successfully obtained financing from other competitive rounds; where an award of PBV assets was not contemplated. In the event that resources permit and an otherwise qualified project is presented, the BHA reserves the ability to review individual requests.

Future PBV project sites should have strategic importance for the social or economic well-being of the community. This should be demonstrated both by an analysis of how the proposed project will meet a specific community need as well as by the level of public support for the project. By necessity, this will vary depending on the type of project being proposed. The following guidelines should be considered:

Construction type: New construction projects have the greatest physical impact on the surrounding community, and thus should provide a clear justification for the choice of location and how the project will impact (positively or negatively) the immediate surrounding neighborhood. Adaptive reuse projects should justify the impact of the converted use on the surrounding area. The rehabilitation of vacant/abandoned buildings should explain why the particular building(s) was selected and the impact its restoration will have on nearby properties and the neighborhood.

Preservation projects of occupied buildings generally may or may not have any impact on the surrounding neighborhood. Finally, larger projects of any type tend to have greater impacts than smaller projects.

Neighborhood needs: Neighborhood needs can be demonstrated in several ways. The most significant method, for example, is when the project is the outcome of a participatory neighborhood planning process that has identified the strategic importance of specific sites and buildings as part of a larger neighborhood development plan. A similar though less formal method is when a building or site has been identified by a community group as very important for redevelopment (e.g. perhaps it is a major eyesore at a key location). Neighborhood needs may also be supported by data that demonstrate there is a shortage of a particular housing type (e.g. units for single people, large families, etc.).

Citywide needs: If the project is intended to serve more of a citywide housing need -- for example, supportive housing for the disabled, elderly, veterans, and/or homeless -- the applicant should provide information supporting the need for that housing and as well as the choice of location versus other possible locations.

Community support: Ideally, all projects will have already established firm community support. This is not always possible, however. The project should be able to demonstrate local neighborhood support and/or the support of citywide organizations, to the extent the project is serving a broader citywide need. If support has not been established at the time of application, the applicant must submit a plan for further outreach that is appropriate to the type of project being proposed. It is important for projects serving citywide needs to establish meaningful contact with local abutters and neighborhood organizations. It is also important to establish a greater level of support for projects that will have significant physical impacts (e.g. a large new construction project). Final funding commitments will be made only following successful completion of the outreach plan.

How Project Basing is Consistent with the PHA Plan: The BHA has elected to convert tenant-based assistance to project based assistance to encourage new construction, rehabilitation, and preservation. As part of that strategy, the BHA will actively be seeking sites to fully utilize its Faircloth (to RAD) authority.

Project based housing provides long term assets which are dedicated to housing persons of low income, as well as special needs tenants. These units will not experience fluctuations in availability and price to which the general housing market is subject.

24. Units with Approved Vacancies for Modernization

See Admissions and Continued Occupancy Policy section 6.2.3 for policy on

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units with approved vacancies for modernization.

Development Number	Development	Unit Number
MA002000241	Eva White Apartments	EW0002
MA002000241	Eva White Apartments	EW0003
MA002000241	Eva White Apartments	EW0015
MA002000241	Eva White Apartments	EW0016
MA002000241	Eva White Apartments	EW0020
MA002000241	Eva White Apartments	EW0028
MA002000241	Eva White Apartments	EW0029
MA002000241	Eva White Apartments	EW0047
MA002000241	Eva White Apartments	EW0061
MA002000241	Eva White Apartments	EW0066
MA002000241	Eva White Apartments	EW0076
MA002000241	Eva White Apartments	EW0079
MA002000235	Washington Street Apts	WA0031
MA002000247	General Warren	GW0085
MA002000247	General Warren	GW0086
MA002000247	General Warren	GW0087
MA002000247	General Warren	GW0088

Updated Oct 2024

25. Other Capital Grant Programs

X_: Yes _: No: e) Will the PHA be conducting any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement?

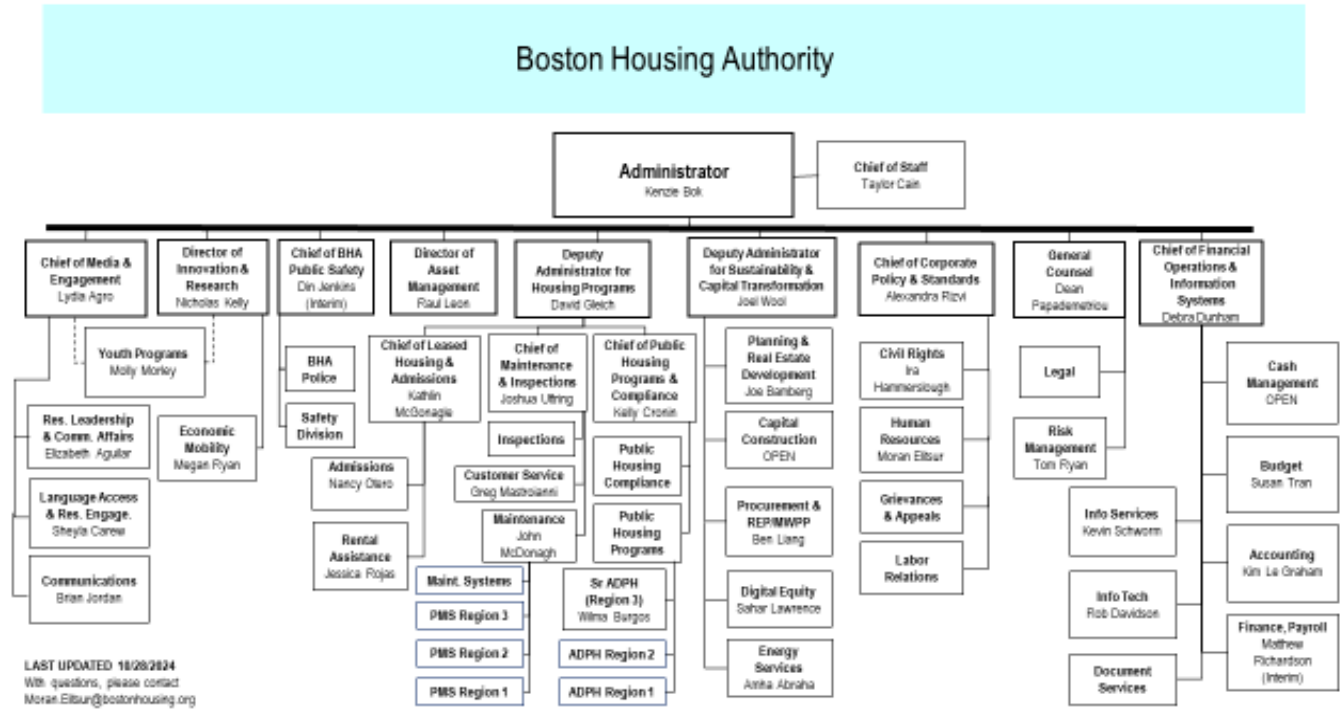
If yes, list developments or activities below:

Boston Housing Authority - Other Capital Grants

Rev: 10/15/2023

	FY2022	FY2023	Other	Total	Program
Ausonia - Healthy Housing		1,000,000		1,000,000	CPF
Ausonia - Modernization		750,000		750,000	CPF
Mary Ellen McCormack	1,750,000			1,750,000	CPF
Lead Based Paint	2,244,000			2,244,000	LBP
Housing Related Hazards	1,631,000			1,631,000	HRH
Municipal ARPA - Healthy Housing			32,000,000		SLFRF
	-	-	-	-	
Total	5,625,000	1,750,000	32,000,000	39,375,000	

Section 26: BHA Organization Chart



5-Year PHA Plan (for All PHAs)	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires: 03/31/2024

Purpose. The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA’s operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA’s mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families

Applicability. The **Form HUD-50075-5Y** is to be completed once every 5 PHA fiscal years by all PHAs.

A.	PHA Information.																				
A.1	PHA Name: <u> Boston Housing Authority </u> PHA Code: <u> MA002 </u> PHA Plan for Fiscal Year Beginning: (MM/YYYY): <u> 04/2025 </u> The Five-Year Period of the Plan (i.e. 2019-2023): <u> 2025-2029 </u> PHA Plan Submission Type: ☒ 5-Year Plan Submission ☐ Revised 5-Year Plan Submission Availability of Information. In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information on the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official websites. PHAs are also encouraged to provide each resident council a copy of their PHA Plans. The specific location(s) where the public may obtain copies of the PHA Plan, Plan Elements and information about the public hearing are: BHA main administrative office, 52 Chauncy Street, Boston, MA 02111, Boston Public Library Copley branch, www.bostonhousing.org, and resident councils. The BHA placed an advertisement in the Boston Globe and mailed out flyers to public housing residents in the rent mailing and to section 8 participants in Boston and surrounding communities as well as to many local officials and advocacy groups notifying them of the Public Hearing and where to locate Plan documents. ☐ PHA Consortia: (Check box if submitting a Joint PHA Plan and complete table below.) <table border="1"> <tr> <th rowspan="2">Participating PHAs</th> <th rowspan="2">PHA Code</th> <th rowspan="2">Program(s) in the Consortia</th> <th rowspan="2">Program(s) not in the Consortia</th> <th colspan="2">No. of Units in Each Program</th> </tr> <tr> <th>PH</th> <th>HCV</th> </tr> <tr> <td>Lead PHA:</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program		PH	HCV	Lead PHA:											
Participating PHAs	PHA Code					Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program													
		PH	HCV																		
Lead PHA:																					
B.	Plan Elements. Required for <u>all</u> PHAs completing this form.																				
B.1	Mission. State the PHA’s mission for serving the needs of low-income, very low-income, and extremely low-income families in the PHA’s jurisdiction for the next five years. BHA Mission: We foster sustainable communities by providing high quality affordable housing, bringing stability, opportunity, and peace of mind to thousands of low-and moderate-income individuals and families across Greater Boston, and to the City of Boston. We strive to break down the barriers to racial equity and justice in housing that disproportionately impact Black, Indigenous, and people of color (BIPOC) communities. BHA ensures affordability for Boston area families and individuals through its Public Housing communities and the Section 8 rental assistance programs. BHA is guided by four key principles outlined below: - Public support for housing works: Boston, like most major cities, is facing a housing crisis. The BHA’s publicly supported housing programs are longstanding anchors of affordability that must continuously evolve to meet the needs of the present and future. - We are people, not buildings: The BHA is not about buildings or vouchers. It’s about people: those residents we support through our services, and the employees who, day in and day out, dedicate their lives to our mission. - There is no home without community: Community is at the center of everything we do. We don’t just provide access to affordable housing; we foster diverse, healthy communities and improve quality of life for everyone. - We are essential to Boston: Our staff, residents, and partners are all part of a system that fosters the kind of city we want to live in: diverse, equitable, and inclusive.																				

B.2

Goals and Objectives. Identify the PHA’s quantifiable goals and objectives that will enable the PHA to serve the needs of low-income, very low-income, and extremely low-income families for the next five years.

BHA 2025-2029 Goals and Objectives

Priority Area	Goals	Key Metrics
Lead with customer service	Institutionalize and report back on resident wide survey on BHA programs and services	Number of respondents to resident survey Percentage of resident survey respondents who “agree/strongly agree” that BHA is responsive to their needs
	Adopt and implement best practices in design and web accessibility on the BHA website	Enhance compliance with the American Disabilities Act (ADA) requirements for web content and mobile applications Number of unique website visitors
	Develop and implement an annual customer service oriented training series for all BHA staff	Percentage of staff who participated in annual customer service training Percentage of customer service survey respondents who “agree/strongly agree” that they received quality customer service
	Implement a comprehensive training program for all housing programs staff to improve knowledge of policies, procedures, and cultural competency skills.	Percentage of staff who participated in housing program focused training
	Enhance applicant experience by reducing the average number of days in the screening process from the current average to 30 days	Percentage of applicants screened within 30 days
	Close 95% of resident-initiated work orders in	Percentage of resident-initiated

		60 days (exception for emergency related work orders)	work orders closed in 60 days
	Invest in high quality maintenance, management, and inspections	Maintain current HUD-calculated occupancy rate of 97% or better Maintain current HUD-calculated completed recertification rate of 98% or better Maintain Section 8 Management Assessment Program (SEMAP) High Performer status Ensure 100% of public housing units are annually inspected by professionally trained BHA inspectors Implement resident service plans for (8) BHA elderly/disabled communities Monitor and enforce compliance for the fair housing obligations across BHA's portfolio, including private management firms operating at BHA properties	HUD-calculated occupancy rate Percentage of applicants entering screening process HUD-calculated completed recertification rate SEMAP High Performer status Percentage of units with inspections completed in past year Percentage of inspections generated work orders completed in 60 days Number of sites with resident service plans Monitoring frameworks updated and all properties in compliance with fair housing obligations
	Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff	Increase employment and training of targeted Section 3 workforce, including through Project Labor Agreement mechanisms Expand M/WBE contracting and subcontracting opportunities, including through Project Labor	Number of targeted Section 3 participations in BHA contracts Targeted Section 3 participants in pre-apprenticeship programs Overall M/WBE participation in prime and subcontracting

		Agreement mechanisms Support 120 new BHA first time homebuyers Support 100 BHA households who wish to relocate to Expanded Choice Communities Enroll 2,000 households in Family Self Sufficiency (FSS) program or other wealth building programs Increase resident participation in Workforce development/Self Sufficiency events: Job Fairs, Scholarship info sessions, citizenship fairs, resource fairs, and other informational sessions by 50%	opportunities M/WBE participating in emerging industries including clean tech and digital equity Number of new first time homebuyers Amount of FSS escrow used to purchase homes Number of homebuyers in the City of Boston Number of BHA households in Expanded Choice Communities Amount of moving assistance distributed to households moving to Expanded Choice Communities Number of children engaged by ECHO coordinators in each community Number of FSS and participants Amount of escrow savings Number of participants who improve credit score Number of Boston Saves participants Average increase in assets Average increase in income Number of individuals registered for workforce development events Number of attendees for workforce development/self-sufficiency events

		Host 100 digital literacy classes where at least 95% of participants successfully complete classes and accomplish at least one goal identified during their training Host annual information sessions for BHA staff on employee benefits including tuition reimbursement and transportation benefits	Number of residents in Charlestown Adult Education programming Number of BHA households operating family childcare businesses Number of BHA Northeastern Scholars Number of digital literacy classes (by site) Number of digital literacy program participants who accomplished one training goal Number of participants who express confidence level 3 or above Number of BHA staff utilizing tuition reimbursement and transportation benefits Number of advertisements posted to BHA employees about employee benefits
	Partnering with residents and community stakeholders to promote community safety	Successfully launch and grow place-based after school programming at 4 BHA communities, including Franklin Field, Commonwealth, and Hailey Develop and implement site based community safety plans for 10 sites Invest in technologies that enhance resident safety	Number of sites with place based after school programming Number of young people participating in site based youth programming Number of sites with community safety plans Number of sites with new intercom systems Percentage of resident survey

		Develop and implement an annual training plan for BHA safety division	respondents who “agree/strongly agree” feeling safe in the property they live in Percentage of safety division who have completed training
	Create green and healthy communities	Through a people centered participatory process, create data driven comprehensive capital plans for every BHA community In keeping with Mayor Wu’s January 2023 announcement of the BHA’s intention to decarbonize its portfolio, weatherize, insulate, and provide heat pumps to 1,500 BHA apartments Modernize 2,700 BHA apartments Complete (10) accessibility and open space projects through federal and state capital programs Complete solar development projects for (10) BHA sites Partner with green workforce training programs on (20) site based sustainability projects	Number of sites with comprehensive capital plans Number of PH units weatherized/insulated/provided with heat pumps Number of PH modernization units permitted Number of PH modernization units completed Number of PH sites with completed accessibility and open space projects Number of PH sites solarized Number of sites with green workforce training program partnerships Number of sustainability projects installed

	Plan for long term financial sustainability at BHA	Convert at least 5 properties from public housing to BHA owned project based vouchers Reduce accounts receivable by 25% annually	Number of sites repositioned from public housing to project based vouchers Percent decrease in accounts receivable
	Build new public housing	Achieve financial/real estate closing for 4 Restore Rebuild transactions on publicly and privately owned sites Redevelop 3 BHA owned sites to increase housing opportunities for individuals with developmental disabilities, older adults, and families with children Redevelop at least one BHA owned site to increase housing opportunities for veterans; per HUD Title 24 Code of Federal Regulations 983.51(c) BHA hereby provides notice of its intention to non-competitively select one or more projects for Project-Based Voucher (PBV) assistance. In keeping with Mayor Wu's January 2024 announcement of the BHA's intention to develop all of its remaining Restore Rebuild units over the next decade, develop net new deeply affordable housing at BHA owned and other public and private sites	Number of completed Restore Rebuild transactions Number of sites with zoning and permitting approval Number of new permitted and occupied units for individuals with developmental disabilities, older adults, and families with children Number of sites with zoning and permitting approval Number of permitted and occupied units for veterans focused housing Number of new permitted and occupied units at redeveloped sites Number of Restore Rebuild development plans initiated with public and private partners
	Promote well-being and leadership for BHA residents and staff	Complete 28 LTO elections	Number of sites with completed elections Number of sites that engaged in planning activities to create a new LTO

		Coordinate activities with the Youth Council that encourage youth interaction, leadership development, and solicit feedback to BHA on topics that are important to youth. Increase BHA staff participation in leadership development training	Number of youth council participants who develop public speaking and policy/program development experience Number of staff participating in leadership development training
B.3	Progress Report. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. BHA will provide a report on the progress made in meeting the goals and objectives described in the 5-Year Plan with next year's Plan submission (2026).		
B.4	Violence Against Women Act (VAWA) Goals. Provide a statement of the PHA's goals, activities, objectives, policies, or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking. See attached annual Plan Supplement, (ma002a01) Section 9, Safety and Crime Prevention for the BHA VAWA policy, goals, and objectives.		
C.	Other Document and/or Certification Requirements.		
C.1	Significant Amendment or Modification. Provide a statement on the criteria used for determining a significant amendment or modification to the 5-Year Plan. See attached annual Plan Supplement, (ma002a01) Sections 12 and 13, Substantial Deviation / Significant Amendment / Modification.		
C.2	Resident Advisory Board (RAB) Comments. (a) Did the RAB(s) have comments to the 5-Year PHA Plan? Y N ☒ ☐ (b) If yes, comments must be submitted by the PHA as an attachment to the 5-Year PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations. See attached Responses to Comments, ma002h01.		
C.3	Certification by State or Local Officials. Form HUD-50077-SL, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan. See attached signed Plan Certifications, ma002i01.		
C.4	Required Submission for HUD FO Review. (a) Did the public challenge any elements of the Plan? Y N ☐ ☒ (b) If yes, include Challenged Elements.		
D.	Affirmatively Furthering Fair Housing (AFFH).		

D.1

Affirmatively Furthering Fair Housing. (Non-qualified PHAs are only required to complete this section on the Annual PHA Plan. All qualified PHAs must complete this section.)

Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item.

BHA is not yet required to submit an AFH, so the new requirements do not apply. However, BHA continues to fulfill the requirements at 24 CFR 903.7(o)(3): "which means that it (BHA) examines its own programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintain records reflecting these analyses and actions."

Fair Housing Goal:

Describe fair housing strategies and actions to achieve the goal

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Describe fair housing strategies and actions to achieve the goal

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The Boston Housing Authority created its Five-Year plan covering the years 2020-2024 as part of the 2020 Annual Plan. Each year with the submission of the annual plan, the BHA will provide an update in the Progress Report. The goals and key initiatives from 2020 are listed below in the left hand column and those will remain the same for the five-year period. The updates and progress made on achieving those goals and key initiatives are described below in the right hand column and will be updated each year.

Background:

Boston Housing Authority owns and manages more than 10,000 units of public housing and administers housing subsidies for an additional 15,500 families in Boston and eastern Massachusetts through its Leased Housing programs. It is BHA's purpose to provide quality homes and strong communities for low-income Bostonians. BHA housing is truly affordable to Boston's most vulnerable families and individuals, and the Authority strives to ensure that its housing resources serve as a platform for opportunity for residents and a resource to the broader community.

BHA is a critical Boston institution that is an integral part of the vast majority of neighborhoods across the city. Employing nearly 800 workers, most of whom live in the city, BHA contributes significantly to the local economy. Each year we invest nearly \$140 million across the neighborhoods of Boston in the operation of our public housing communities, and we also invest \$270 million in private housing throughout the City through our Leased Housing program. We have generated an additional \$1.5 billion of investment in our neighborhoods through public-private partnerships like the redevelopments currently underway at Whittier, Orient Heights, and Charlestown.

One of the priorities laid out in BHA's previous five-year plan, 2015-2019, was to develop a framework to ensure the long-term viability of BHA's public housing communities in the face of persistent federal funding shortfalls. One important strategy has been public-private partnerships between BHA and other providers of affordable housing and supportive services. In November 2014, BHA issued an invitation to the affordable housing community in the form of a Request for Qualifications, asking organizations to propose innovative approaches to preserving BHA's housing for future generations with decreased reliance on federal public housing subsidies. The response was wide-ranging. BHA received ideas focused on over thirty separate public housing communities. In the years since, BHA has been taking up the most promising proposals one at a time, issuing a series of Requests for Proposals that have led to several new public-private partnerships. In the process, BHA has articulated a set of firm principles to guide its partnerships: Engage residents and community members in meaningful participatory planning; ensure tenant protections; fully preserve on a one-for-one basis all deeply subsidized housing units; and focus on sustaining BHA's assets to fulfill its mission to serve future generations.

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An equally critical strategy in addition to public-private partnerships is to provide for those BHA communities that will remain under BHA ownership - which is the majority of BHA's housing (about 7000 units). Amassing the resources to upgrade and maintain BHA's public housing portfolio remains a challenge given the nearly \$1 billion in capital backlog. BHA will continue to invest in the long-term preservation of these communities using a variety of tools, including HUD's Rental Assistance Demonstration program, project-based Section 8, comprehensive capital planning, and better use of technology to deliver our housing services. These BHA sites will continue to be a critical part of their surrounding neighborhoods and the community fabric of the City of Boston.

While we endeavor to preserve our public housing assets, BHA's Leased Housing program has steadily grown to cover more than 15,500 homes, providing a critical tool for affordable housing preservation and development throughout Boston. BHA is continually implementing strategies to ensure that the Leased Housing program is effectively serving low-income families and individuals. As part of BHA's commitment to affirmatively further fair housing, in July 2019, BHA implemented Small Area Fair Market Rents (SAFMRs) as exception payment standards in those zip codes where they are necessary to make communities accessible and affordable for voucher holders. The goal of implementing SAFMR exception payment standards is multifold: expand choice for voucher holders and decrease the concentration of vouchers in high poverty areas; preserve people's ability to remain where they live, preventing displacement and harmful gentrification; and minimize the risk of artificially inflating rents throughout the city.

Over the coming five years, as we continue to invest in public housing preservation and expand the reach of the Leased Housing program, BHA will adjust our business processes and expand our internal capacities. For this 2020-2024 Plan, we identify six broad strategic priorities:

1. Achieve and maintain high performer status for the public and leased housing programs.
2. Strengthen and preserve the BHA portfolio of public housing.
3. Increase housing opportunities through the leased housing program.
4. Support resident capacity-building, self-sufficiency and quality of life initiatives that help residents meet their personal goals for themselves and their families.
5. Identify and plan for future staffing needs at BHA.
6. Continue to improve customer service in all areas so that the BHA is consistently experienced by residents, applicants, landlords and vendors as an efficient, pleasant and responsive organization.

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Within this context, the Authority proposes the following initiatives:

Goals	Updates and Progress Made
1. Strategic Focus: Achieve and maintain high performer status as evaluated by HUD in their Public Housing Assessment System (PHAS) for the public and leased housing programs:	
Maintain 97% or higher Occupancy Levels:	In the midst of redevelopment of the Charlestown and Mildred C. Hailey developments, current resources are being utilized for the relocation efforts in those projects. Operations continue to work on expediting unit turnover with the expectation that all vacant units be ready for move in 30 days or less, and new applicants housed in under 60 days and to work closely with the Admissions Department to ensure there are sufficient pools of applicants to fill vacancies and improve tracking capabilities of expected future vacancies. At the end of September 2023, the occupancy rate was 96.8% with the goal of reaching 97%. BHA reached 97.8% occupancy in early 2025 and has a goal of reaching 98% while maintaining a minimum of 97% over the next fiscal year. BHA continues to strive to improve occupancy performance on multiple fronts, including increased scrutiny of standards for all turnover units, with inspections prior to showings, maximize marketing and curb appeal to ensure we minimize the rejection rates. BHA is also exploring ways to increase the number of offers to waiting list applicants, and implementing measures to centrally capture and share information on anticipated vacancies, so that the unit turnover and applicant screening processes can begin as quickly as possible. Additionally BHA is identifying ways to collect feedback from waiting list applicants about the wait list experience and site selection process. BHA anticipates using this feedback to inform changes to wait list processes that will improve acceptance rates for housing offers.
Maintain 100% Utilization of Section 8 Resources:	The BHA expended approximately 99% of funding eligibility in 2024 and

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	utilizing 99% of the unit months available under the HUD prescribed voucher baseline. The BHA expects to expend all available funding in 2025 and be leased to just below the HUD baseline for vouchers. 2024 update: 16,692 HVC, 468 Emergency Housing Vouchers, 410 Mainstream, 950 State Subsidies, 430 Mod Rehab Vouchers, 400 City Vouchers = 19,350 Total Vouchers; BHA also invests more than \$380 million in private housing throughout our Leased Housing program.
Continually improve toward achievement of high-performer PHAS status.	Continue to focus on all key indicators including rent collection, recertifications, and vacancy reduction along with improved REAC scores. Staff training as well as implementing and setting clear productivity expectations on each indicator. BHA continues to focus on improving/maximizing performance on each of the PHAS components. As has been the case for many large housing authorities, and almost universally in the national rental housing industry, performance in rent collection suffered significantly due to the lingering impact of COVID-19. BHA continued to assist impacted households in submitting applications to the City of Boston through 9/30/23, for federal rental assistance relief funds to pay eligible, COVID-19-related rent balances. BHA continues to work with individual households to stabilize potentially at-risk tenancies by assisting clients with referrals to local non-profit organizations that assist with the payment of rent balances, and management encourages residents in arrears to utilize repayment agreements whenever feasible. The rent collection rate in early 2025 was 95.3% and 23% of rental arrears were under management or court repayment agreements. In FY 2024, BHA completed the first full year of inspections under HUD's new NSPIRE standard.

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	In preparation for the transition, BHA management and maintenance staff trained extensively on the new criteria. The 2024 inspection cycle concluded in November of 2024, and BHA demonstrated significant improvement, with 29 of the 36 inspected properties receiving improved scores. This group of 36 properties had an average score of 67 on their previous inspections back in 2022, but that average score rose to 84.
2. Strategic Focus: Strengthen and preserve the BHA portfolio of public housing:	
Formalize asset management staffing and systems within BHA's organizational structure.	BHA senior management convened meetings to advance this goal. Much of the focus has been BHA's increasing portfolio of Section 8 housing units and other affordable housing outside of the traditional public housing program. For example, staff are devising tools such as budgeting templates that will be flexible enough to accommodate various subsidy platforms, while also delivering robust budget-to-actuals reporting to guide operational decisions. BHA senior management continues to focus on specific pieces of this effort, which has led to the development of better budgeting tools and enhanced financial reporting. This process is also leading to the development of a framework for reviewing the financial resources, needs, and performance of properties in order to best position BHA to make projections and structural decisions about which BHA communities may be most viable for continued operation as traditional public housing, or may be candidates for conversion to Project Based Section 8, or require another method of subsidy to best sustain as many units as possible as long-term affordable housing resources. BHA is also developing overarching goals for asset management and conducting case studies of conversions to better understand needed staffing and management systems.
In all redevelopment transactions, provide for BHA's financial stability in order to preserve public housing character and associated tenant protections into the	While traditional public housing provides valuable, explicitly articulated protections for public housing tenants, the programs have been underfunded over the years. As BHA implements alternatives to traditional public housing—such as, for example, Project Based Voucher Section 8

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future.	subsidies that provide a more robust and reliable financing stream—we must also take care to put in place the same sorts of protections that public housing residents enjoy. In 2021 BHA joined two advocacy agencies, Greater Boston Legal Services and City Life/Vida Urbana to secure a grant through the Innovative Stable Housing Initiative Upstream Fund (the “ISHI Grant”) that supported work among the organizations and in collaboration with public housing local tenants organizations at sites that are going through (or have recently gone through) subsidy conversions and, in some cases, ownership transitions. The goal of the ISHI work was to compile a toolkit of resources to inform such conversions and includes explanatory materials to inform residents and managers about how conversions may affect basic operational processes such as rent calculations. It also includes model documents such as leases and House Rules that ensure continuation of valuable public housing protections even under alternative subsidy platforms. A final version of the Toolkit is available on the BHA website in English, Spanish, and Chinese and was shared at the Resident Empowerment Conference.
Complete a portfolio-wide capital needs assessment for all properties not currently slated for redevelopment. Devise a strategic plan to fund these capital needs over the long term.	Capital Needs Assessments (CNAs) are 100% complete for all of BHA Public Housing properties. These CNAs assist in planning for immediate and future capital projects.
Add new deeply affordable units where possible during redevelopment.	In recent years BHA public housing redevelopment activity has successfully adhered to the principle of one-for-one replacement, meaning that all original public housing units have been replaced (or preserved) with comparable, equally deeply affordable housing units—either RAD or Section 8 Project Based Voucher (PBV) units. At the same time, BHA is also creating net-new deeply affordable housing. “Net-new” means additional new deeply affordable housing units above the number needed to replace (or preserve) the number of original public housing units that previously existed at a given site.

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The net-new deeply affordable housing units underway or completed during the 5-Year Plan are as follows:

- O'Connor Way, a new affordable elderly housing community completed in late 2020 and occupied in 2021 on vacant land at the periphery of BHA's Mary Ellen McCormack, includes 22 new PBV Section 8 units (deeply affordable) plus 25 additional affordable units for a total of 47 net-new affordable units.
- 125 Amory, a BHA elderly/disabled property that completed renovations in early 2021, offers 12 new Section 8 PBV units (in addition to the 199 original public housing units that have converted to Section 8).
- The redevelopment of JJ Carroll completed in the fourth quarter of 2023; it includes 77 net-new PBV Section 8 units (in addition to 64 PBV Section 8 units to replace the original public housing units).
- Old Colony Phase 3, which completed construction in 2022, includes 55 net-new deeply affordable units as Phase 3C.
- The redevelopment of BHA's Clippership Apartments, which was completed in early 2021, resulted in a total of 22 PBV Section 8 units, which is 2 more than the original 20 units that were demolished—in other words, 2 net-new rental units—as well as, 30 net-new homeownership units, 16 of which are affordable.
- Holtzer Park, a new building which completed construction on vacant land at BHA's Amory Street site in 2022, is 100% net-new affordable housing: 62 total net-new units, of which 8 are deeply affordable PBV Section 8 units.
 - The first two new buildings at Mildred C. Hailey (Building 1A and 1B) which is scheduled to complete construction in summer 2025 include 8 net-new Section 8 project-based voucher units (in addition to 91 replacement Section 8 units plus 124 other affordable units—or a total of 223 units).
- The next new building at BHA's former Amory Street site (127 Amory Street which began construction in early 2025 will include 38 net-

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	new Section 8 project-based voucher units (plus 58 additional new affordable units for a total of 96 units). • Old Colony Phase 6, which began construction in summer 2024, will include 89 net new Section 8 project-based voucher units. • 3368 Washington Street, a brand new building that completed construction in Fall of 2024, is 100% net new supported housing: 156 PBV Section 8 units. • 900 Morrissey Blvd, brand new supported housing that will complete construction July of 2025, will result in 99 PBV Section 8 units.
In furtherance of BHA’s commitment to sustainability, continue to reduce carbon emission toward 38% of 2008 level; and continue to explore climate resiliency, moving from identifying vulnerabilities toward implementing solutions.	BHA has updated energy goals to comply with local and state regulation, including reducing greenhouse gas emissions to 50% of 2008 levels by 2030 and 0% by 2050. The BHA is introducing non-federal resources to public housing through utility energy efficiency programs and reducing energy costs to support public housing operations. 1. Reduced energy consumption and carbon emissions at numerous developments, including: a. Codman – Heating and Hot Water Boiler Retrofit b. Frederick Douglass – Air Sealing c. Hampton House – Air Sealing d. Washington Manor – Air Sealing e. JJ Malone – High Efficiency Hot Water Distribution Pilot f. Ruth Barkley – Heating and Hot Water Boiler Retrofit g. St. Botolph – Add Insulation in Cavities Wall h. Ashmont – Heating System Retrofit under contract i. Hassan – Add Insulation in Cavities Wall j. Washington Manor – Add Insulation in Wall Cavities Wall 2. Explore Climate Resiliency: a. Participated in the Urban Land Institute’s charrette “Living with Heat”, and monitoring their comprehensive research project examining the effects and solutions to increased heat on the Greater Boston Area. Partner with Trust for Public Land on Park Equity Accelerator – mapping of

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	open space access. b. Partnered with City of Boston's Climate Ready team on strategies contained in the framework of the Heat Resilience Study. Distributed air conditioners to elderly sites and added One Call Now communication system. Heat pump projects will add cooling at various sites. c. Working with City of Boston's Green Infrastructure team on assessments of priority sites at particular risk for extreme heat and flooding. Installed new rain garden at Franklin Field. Identified other stormwater and resiliency projects. 3. Added Sustainability Planning and Reduction of Use of Fossil Fuels in Housing per Mayor Wu's State of the City Address January 2023. Energy conservation projects in design at Franklin Field, Pond Street, Hassan, Bellflower, Peabody to save on utility bills. a. BHA completed a consultant review on energy efficiency and electrification in its portfolio. b. BHA received in-kind services to identify Solar Energy Systems/Photovoltaic installations at BHA Sites and estimated energy savings from these projects. c. Launched pilot Networked Geothermal project at Franklin Field, currently in design. d. Constructed first electric vehicle charging stations and secured consultant to deliver recommendations on local fleet transition.
3. Strategic Focus Area: Increase Housing Opportunities through the Leased Housing program:	
Apply for additional vouchers as opportunities arise.	In 2021, BHA applied for and received an additional award of 100 Mainstream Housing Vouchers, vouchers allocated for families with disabled non-elderly adult household members bringing the total to 410. These vouchers supplement the 500 vouchers BHA maintains for Non-Elderly Disabled (NED) households, bringing the total number of vouchers for non-elderly disabled families to 910, notwithstanding the units designated for non-elderly disabled families in the project based voucher

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	portfolio. The BHA has utilized approximately 200 Mainstream vouchers, with a majority of the remaining 210 being committed to permanent supportive housing project based voucher developments. In 2022, BHA applied for Emergency Housing Vouchers (EHVs) and received an allocation of 480 that are currently being issued in cooperation with the Continuum of Care (CoC). As of the writing of this plan, 420 of 480 EHVs have been issued and more than 410 families have been housed. The BHA also received additional funding for 15 additional VASH vouchers in September of 2024, bringing the BHA's total VASH allocation to 758. The BHA was able to increase utilization for the Family Unification Program (FUP) to near 100% increasing the chances of eligibility for any additional funding opportunities. BHA has also applied for and received 50 Foster Youth to Independence vouchers in 2024, resulting in a grand total of 94, 47 of which have been housed, supplementing the work BHA does with the MA Department of Children and Families. Effective 10/1/2022, BHA received an additional allocation of 55 Housing Choice Vouchers. Effective 10/1/23 BHA received 47 stability vouchers, to utilize in partnership with the CoC. The BHA will continue to apply for additional voucher opportunities as they arise.
Maintain high occupancy rates in the Project-Based Voucher (PBV) portfolio while decreasing turnover	The BHA closely monitors vacancy rates in the project based voucher program to maximize housing opportunities for Boston families. In order to

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times.	further increase occupancy rates and a focus on reducing unit turnover, BHA is implementing an online Owner Portal that will enable the tracking of eligible applicant referrals from the BHA waiting lists to the respective owner for suitability screening. In addition to technology implementation, the BHA is seeking other ways to optimize and streamline the screening process.
Optimize the use of PBVs to preserve and create affordable housing in Boston.	The BHA has awarded project-based vouchers to preserve tenancies at three expiring use developments that were previously subsidized by the state 13a mortgage program. The expiring use project at Mercantile Wharf is now under a long-term PBV contract, stabilizing eligible low-income families at the property for years to come. Additionally, the BHA awarded 156 vouchers to a project in Jamaica Plan that include a mix of Project Based Vouchers and Mainstream Vouchers and another 15 vouchers a project at Quint Ave that provides support to individuals in recovery. In 2021, the BHA awarded 210 Project Based Vouchers (a combination of Mainstream and traditional vouchers) to Beacon Development to preserve and create affordable housing at 140 Clarendon Street. The BHA will continue to solicit Project Based Vouchers, specifically soliciting opportunities to project base Mainstream vouchers. BHA is actively exploring how to use its “Faircloth” capacity—the number of public housing units that BHA is entitled to create—in combination with a mechanism articulated by HUD (in 2023) to create new project-based voucher units through HUD’s RAD program. BHA’s aims to use this new “Faircloth-to-RAD” path to create new PBV units with its approximately 2900-unit Faircloth capacity over the coming years. In 2024, the BHA submitted requests for Notice of Anticipated RAD Rents (NARRs) as the first stage of leveraging HUD's Restore Rebuild program (formerly Faircloth to RAD). BHA's request reflected updated HUD guidance enabling non-MTW agencies to pursue rent augmentation for Restore Rebuild units. BHA successfully submitted NARRs for all of the agency's

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Implement ECHO—Expanding Choice in Housing Opportunities pilot program—and Small Area Fair Market Rents to promote access for voucher holders to a wider array of neighborhoods.	current Faircloth capacity. The BHA launched Expanding Choice in Housing Opportunities (ECHO) pilot program. ECHO is a voluntary program aimed at affirmatively furthering fair housing by providing technical assistance and information to BHA voucher-holders. Under the Fair Housing Act, our voucher-holders should be able to live in any part of Massachusetts they choose and the mission of the ECHO program is to provide them with all the information and technical assistance they need to make their own decisions. Through ECHO, BHA has taken steps insure that our voucher-holders receive Fair Housing training, so they know their rights and protections under the Fair Housing Act, and what steps to take if they encounter any discriminatory behavior. The BHA also developed a software tool that assists families with identifying neighborhoods that might meet their family needs, providing information on neighborhood qualities including schools, transportation, and public safety and linking them to units that can be afforded under BHA’s payment standard structure. The BHA has also implemented Small Area Fair Market Rents as exception payment standards in many of the zip codes that fall within its administrative area, to increase options for voucher holders to find apartments in a wider variety of apartments. The BHA hired a Director of Housing Search and Landlord Recruitment with the goal of continuing to expand on housing choices for voucher families by recruiting new landlords to the program, improving on existing program marketing materials, streamlining administrative barriers, and proving resources for housing search through internal tools and access to external partnerships. The ECHO team continues to expand its housing search services to BHA

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	families that are facing displacement due to failed inspections and a landlords failure to make repairs and victims of Domestic Violence that have been issued vouchers in order to permit relocation from public housing.
4. Strategic Focus: Strengthen resident capacity-building and quality of life initiatives that help residents meet their own personal goals and that help support vibrant communities:	
Rebuild resident capacity program to support resident empowerment and leadership; improve the efficacy and efficiency of Local Tenant Organizations (LTOs), Resident Empowerment Coalition (REC), and Section 8 Tenants Incorporated (S8TI). - o Develop metrics to track levels of resident organization and engagement. - o Revise LTO policy, election procedures, and by-laws; pursue strategies to maximize diversity of participants and their level of participation in LTOs.	The Resident Capacity Program provides regular board compliance and Tenant Participation Fund training to new and existing Family & Elderly/Disabled Board members in collaboration with Mel King Institute and Boston Resident Training Institute. Current metrics track LTO Compliance; TPF spending; participation in REC Meetings; LTO meetings and activities. Several Local Tenant Organization elections were completed in 2023 and 2024 and election activities are under way at Charlestown, Mildred Hailey Apartments, MLK, Codman, along with other sites. Election activities also includes outreach to sites without boards to gauge interest and working to fill vacancies as they arise. Resident Advisory Board elections were also completed in summer 2024 for the first time since 2016 with more than 40 residents elected across family, elderly disabled, and leased housing programs. The Tenant Participation Policy has been updated and renamed as the Resident Participation Policy after significant public and resident review. The document was streamlined and reorganized for clarity and includes clarification that the policy applied to mixed-finance sites, and provides guidance for use of resident stipends, among other changes. Holding Resident Empowerment Coalition meetings, now on a virtual basis. Registration for meetings captures first time participants. Meetings are held every other month. BHA staff will continue to host virtual and in-person events, meetings, and activities and promote LTO events.

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From the REC Meetings, we have developed a Peer Learning Committee and Election Support Committee. The topics for both committees are developed with resident input and resident leaders co-host with RCP staff.

Tenant Participation Fund reports and Laundry fund reports are tracked quarterly, with regular follow-ups and technical assistance provided to LTOs.

Youth Council continues in partnership with SPOKE Art, Inc. The youth leaders connect with other BHA youth and provide feedback to the BHA related to items of importance to youth and young adults. The Youth Council also plans to meet with the Mayor's Youth Council and both groups will present to each other and discuss possible areas of collaboration.

BHA is also hiring two staff to assist with Resident Leadership and Engagement.

The CCECR section of the BHA website features an LTO Resource Page - for LTO members and general residents. The information includes links to templates needed for their TPF reporting. LTO Members and general residents can also find links to LTO bylaws and Board contact information.

Digital Equity: Senior Advisor for Digital Equity is overseeing efforts; Hired 2 full-time Digital Equity Coordinators;

- Received additional funding from City of Boston, Mass Broadband & FCC to support digital equity classes, outreach, and assessment of wiring in public housing
- Wired 17 developments for BoNet
- New partnership with MAPC to promote wireless internet access in unit at several developments
- Updated ISP agreements to enhance speed and competition

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	Previously the team provided laptops and tablets to tenant leaders during the pandemic and in a partnership with the Boston Public Library and City of Boston distributed free Wi-Fi routers that will be connected through 2023 and free Chromebooks. All residents were provided the opportunity to request these devices and to date BHA has provided residents with more than 3000 devices BHA has also provided on site digital equity classes and drop-in hours directly through staff and through partnerships with various service providers. In 2024, Digital Equity staff reactivated two computer labs, providing 10 computers in each lab and also started regular programming to provide various digital literacy related workshops; held 41 digital literacy programs, including computer classes focused on basic computer and internet skills; tech drop ins providing one-on-one basic technology and resource support; and virtual workshops focused on cybersecurity/online safety and using social media, serving more than 100 residents; and distributed over 100 laptops to residents, primarily to computer class graduates and residents who've expressed a need for a device. Multiple boards have received training from Mel King Institute as part of their public housing leadership training including Mildred Hailey, Commonwealth, and Charlestown. Launched 'Powered by the REC' on October 1st: an initiative to increase resident engagement with their LTOs.
Institutionalize resident protections and participation in all redevelopment projects; advance internal BHA systems to ensure long-term compliance by new owners.	BHA collaborated with Greater Boston Legal Services and City Life/Vida Urbana on a grant offered by three hospitals known as Innovative Stable Housing Initiative that was successful. The partners called it the Resident Empowerment Project (REP) and its focus was to develop tools and trainings and empower residents as they go through redevelopment. The initial grant work wrapped up in summer 2021, and the grant partners created a "Toolkit" for resident empowerment shortly thereafter. The

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	Toolkit is finalized and available in multiple languages. Materials are hosted on the BHA website. In addition, a Resident Empowerment conference was held on October 15, 2022.
Explore voter registration at re-certification.	No update for 2024. Staff will move forward with planning around this goal in 2025.
Increase Family Self-Sufficiency (FSS) Participation from 200 to 800 households.	BHA has increased FSS Participation to approximately 1600 and continues to enroll families. We expect to enroll 1,700 enrolled by the end of 2025. We also expect to graduate approximately 150 families by end of 2024 and 200 families by the end of 2025.
5. Strategic Focus: Identify and plan for future staffing needs and to support BHA staff:	
Proactively plan for future staffing in light of property repositioning and pending retirements; identify areas where BHA needs to hire for new capacities and functions.	Human Resources and Finance identify retirees and devise replacement needs agency wide. Identify career development opportunities for staff that could be promoted into new classifications for advancement. BHA continues to reach out to local colleges and universities and has partnered with Bunker Hill Community College and Roxbury Community College to hire a series of interns who have an interest in pursuing careers in the field of affordable housing. Additionally BHA developed partnerships with training and career development organizations (such as the YMCA Training Inc.) to create opportunities for BHA residents. BHA's Operations Division has partnered with Building Pathways training program and have recruited 2 graduates to enter the work force as Janitor Groundskeepers. Both continue to be active members of the BHA community. We anticipate this relationship will continue, and allow both BHA and City residents the opportunity for employment at the BHA. A new Onboarding initiative launched in Fall 2022, which includes a broad overview of the BHA's and Operations Division goals, as well as training sessions to assist with the employee's entry into new positions. Operations has established two training tracks, one follows the necessary training for management staff, and the second training track focuses on

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	those who have joined our maintenance operations. Training facilitators for both tracks are current Operations staff that have expertise with the subject matter. BHA continues to enhance the onboarding experience with a goal to encourage those who participate to view the BHA as career path for future staff development options.
Institute additional mentoring and training for the current and the next generation of BHA staff.	Created and implemented intensive 3-month manager training program called Management at its Best since 2020. BHA is also offering a variety of skill building workshops, such as monthly Microsoft Office trainings in Excel, Word, Outlook, etc. and Civility in the Workplace.. In FY2024, Operations rolled out a six-month Manager III training program, providing a career path for Management Aides.
Continue to promote diverse hiring and employment opportunities for BHA residents.	BHA has been able to provide additional stipends for residents interested in capacity building and engagement work (i.e.; Census, digital equity). Hired BHA resident as Resident Capacity Program (RCP) Assistant. BHA continues to make efforts to recruit, hire, and promote public housing residents and voucher holders and is proactively seeking more creative, non-traditional means of candidate recruitment to reach a broader audience of potential applicants. BHA is looking to expand on the Internship Program, offering paid internships throughout the year. Additionally BHA developed partnerships with training and career development organizations (such as the YMCA Training Inc.) to create opportunities for BHA residents. We hope to launch a resident apprenticeship program for residents interested in Property Management careers.
Continue to develop information systems, communications tools, and interactive forums to enhance collaboration, efficiency and productivity across departments.	BHA implemented 'One Call Now' software to provide automated texting, robocalling and emailing capabilities for more timely and efficient communication with residents. BHA is using this software at all public housing sites in multiple languages and has trained Operations and other staff in its use. Messaging around urgent utility outages (ie; no water, electricity, heat, elevator) are being sent regularly to residents through the BHA's ERS team and messaging related to non-urgent or recurring

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	activities, such as Unity Days, food deliveries, resident meetings, are being sent through the BHA's communications team. Additional messages are continually being developed and will expand into a variety of other messaging such as Living Unit Inspection, work order, rent due messages over time. The tool can also be utilized for messaging to staff and leased housing participants and landlords as appropriate going forward.
6. Strategic Focus: Continue to improve customer service in all areas so that the BHA is consistently experienced by residents, applicants, landlords and vendors as an efficient, pleasant and responsive organization:	
Develop a Customer Service Policy to promote client-focused and consistent service delivery.	A Customer Service Representative position was created within Admissions and Leased Housing. An Operations Customer Service and Programs Compliance Manager position is working on developing and implementing business process changes designed to improve the accessibility and clarity of information provided to individuals and families as they use the programs and services offered by BHA and ensuring the BHA Reasonable Accommodation policy is adhered to and tracked consistently. Customer Service staff have conducted many training sessions for the client facing ERS team to improve their understanding of operations and how they affect business and refine their current customer service skills. The Customer Service Director has also created a comprehensive service training program for his team with the goal of rolling out the same training agency wide over the next year or two; and has also created phone/email etiquette/protocol for all BHA employees. The Operations Division works closely with the Director of Human Resources identifying staff's skill development needs, as well as building the needed current and future staff capacity. Actively engaging with the YMCA and colleges providing internship opportunities in an effort to build needed temporary and potential future staff capacity ensuring improved,

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Optimize technology to transform interaction with the agency—e.g., landlord and tenant portals, vendor tools, on-line rental payment and direct deposit.	efficient, and consistent service delivery throughout the Agency. BHA implemented on-line rental payment and automated demand debit rental payments for residents who opt in. BHA implemented Virtual appointments with clients in order to expedite processing, recertifications, rent changes and other business that was strictly handled in person previously. In 2023 and 2024, staff training on handheld tablets with introduction of a mobile work order platform (Elite) to improve the efficiency of the work order system. In 2024, BHA customer service staff sourced, hired and trained a new answering service to back up ERS/Work Order associates when they are on the phone, out sick, etc. We redefined the process for the new answering service and the results have been excellent. We have cut our response time in half for these calls and continue to improve service and response time. Public Housing files have largely been digitally transferred. All resident records stored digitally allows greater capacity to serve our residents both in person and virtually. The planning of resident portals continues, with a goal of providing an interactive online avenue to conduct many frequent customer service transactions with BHA, including the annual certification process and requesting maintenance service. BHA Operations implemented a new work order system in 2021, and continues to work on maximizing the system’s functionality and continues staff training on all aspects of the system. Customer Service staff, in partnership with Operations staff, have implemented new technology to enable our teams to communicate work order emergencies in a more timely, organized fashion. Essentially, this entire process has enabled us to go “paperless” and has eliminated a great deal of oversight and lost paper work orders. This initiative involved the purchasing of new technology for many of our tradesmen and a great deal of training and

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	practice on the operations and service side. As a result, the entire work order process, including assigning emergencies, is easier, more accurate, more timely and also much better at archiving work order info. In September of 2023, BHA implemented a new component of the Emphasys software, which features a dashboard capable of providing real time information on work orders, vacancies, and other performance metrics. BHA is continuing to work toward improving the efficiency of maintenance delivery and performance, while working with our software vendor to continue enhancing capability to monitor progress city-wide, as well as at the portfolio and property level. Reducing the backlog of work orders will allow site maintenance supervisors to focus more on maintenance delivery and less on reconciliation of outstanding, and often duplicative, work orders.
Streamline and simplify the housing application process to maximize transparency for applicants and focus staff efforts on working with applicants who are most likely to be housed in the near future.	BHA worked on policy revisions that align the application and verification policies across federally assisted programs, to simplify requirements for any applicant that applies to multiple BHA programs. The policy revisions also reduce the verification requirements for applicants as related to housing history, which can often be extremely difficult to piece together for homeless or otherwise unstably housed applicants and of little value for determining eligibility and suitability. In late 2021/early 2022, BHA launched a web-based online application system that dramatically simplifies the application process. All applications are now completed online, with exceptions for applicants that require additional assistance. The technology continues to be refined to streamline the application process and reduce administrative burden for the Authority. The information on the website regarding BHA housing programs continues to be added to and improved for readability so that applicants

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Simplify applicant and resident forms; improve program marketing materials and briefings.	may make informed choices. The BHA revised the Admissions and Continued Occupancy policy aimed at transparency. The BHA will continue working on policy documents in the coming years to be as succinct and precise as possible. The BHA created an online briefing session and worked to simplify many of the forms associated with voucher issuance, including the RFTA and the BHA Leasing Guidebook. The BHA continues to simplify its online application process and improve the quality of the information on the website. BHA updated and converted several frequently used applicant and resident forms, including the transfer application, the request forms to add household members, and the request form for approval of residual tenancy, to a fillable pdf format and online forms with the resident/applicant information pre-filled to increase efficiency and convenience for staff and clients.
Improve landlord recruitment and retention strategies.	The BHA hired a Director of Housing Search and Landlord Recruitment to focus on this issue. The Director focuses on marketing to existing and new landlords, including designing informational sessions for interested landlords. BHA has developed and conducts landlord outreach and holds briefing sessions on a monthly basis to recruit new landlords and educate existing. The BHA implemented an online owner portal that allows BHA owners access to financial information, inspection results and scheduling information, and the ability to follow move ins and rent increases through statuses as they move from submission to completion. The BHA continues to streamline paperwork and enrollment processes so that the barrier to become a landlord is minimal. The request for tenancy

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	approval process is primarily managed entirely online, however we also offer a paper option for those who prefer it.
Provide additional opportunities for customer feedback.	The BHA implemented a texting survey for voucher holders which has provided significant feedback regarding the housing search and move process. The BHA will develop other surveys for owners, applicants, and tenants, to drive procedural changes and improve customer service. New platforms will be created where clients can receive surveys in all media form, TEXT, EMAIL, PHONE, and reply confidentially. Customer Service staff have created magnets with QR codes, signs and swag that we handed out at our (very successful), fall 2024 resident event, the Future of Public Housing, to spread the word about our efforts to modernize the way we operate in an effort to improve efficiency and the resident experience. In early 2022, the BHA implemented a customer service tracking system, Zendesk, that allows BHA to report and track customer service issues as they are resolved while monitoring responsiveness and consistency. The system allows BHA clients to report issues by web, email, and phone and receive an issue number that will allow them to follow up on the inquiry no matter who they reach at the BHA. Most customer service issues have been resolved on time since the program launched, and BHA hopes to continue to improve. A recent week of service requests across Admissions, Communications, Customer Service, Inspections, Leased Housing and Public Housing departments logged 601 requests with 594 or a 99% achievement rate.

Rental Assistance Demonstration Attachment to Annual Plan

The Boston Housing Authority (BHA) has been a successful applicant in the Rental Assistance Demonstration (RAD) program. As a result, BHA is pursuing conversion of public housing dwelling units at several sites to Project Based Vouchers or Project Based Rental Assistance under the guidelines of H-2019-09 PIH 2019-23, REV-4 and any successor Notices.

In addition to conversions of existing public housing, BHA intends to pursue opportunities to convert newly constructed (and unoccupied) public housing to be developed using BHA's "Faircloth" capacity. In July 2023, HUD issued Supplement Notice 4B to its RAD Notice (H-2023-08 PIH-2023-19) which, among other things, provided guidance about how housing authorities could use their Faircloth capacity in conjunction with RAD to create new project-based voucher units through a Faircloth-to-RAD mechanism. BHA intends to diligently pursue this new pathway.

One particular goal is to leverage public land as sites for Faircloth-to-RAD housing development. BHA will work closely with the City of Boston to identify opportunities at what the City considers "High Opportunity Sites" as identified in its 2022 Public Land for Public Good: Citywide Land Audit." In addition, through a series of public procurements beginning in December 2023, BHA has solicited proposals from private developers to create new Faircloth-to-RAD housing units. BHA is pursuing many of the resulting proposals both at publicly owned and at privately owned sites.

Upon conversion of a public housing unit to a Project Based Voucher unit the BHA will adopt the resident rights, participation, waiting list and grievance procedures listed in Section 1.6 of H-2019-09 PIH 2019-23, REV-4 and H-2016-17/PIH-2016-17; upon conversion to Project Based Rental Assistance the BHA (or the property owner as applicable) will adopt the resident rights, participation, waiting list and grievance procedures listed in Section 1.7 of H-2019-09 PIH 2019-23, REV-4 and H-2016-17/PIH-2016-17. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, the BHA certifies that it is currently compliant with all fair housing and civil rights requirements.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing public housing authorities with access to private sources of capital to repair and

preserve its affordable housing assets. (The Faircloth-to-RAD mechanism further allows public housing authorities to develop brand new public housing assets that will convert to RAD.) Please be aware that upon conversion, the Authority's public housing Capital Fund will be reduced by the pro rata share attributable to the Public Housing Developments converted through RAD. BHA may borrow funds to address capital needs, and BHA may also contribute Capital Funds (including Replacement Housing Factor funds) towards the RAD conversions. BHA currently has debt under the Capital Fund Financing Program and will be working with its bond trustee to address outstanding debt issues, which may result in additional reductions of Capital Funds. The BHA currently has debt under an Energy Performance Contract (EPC) and will be working with that bond trustee and its EPC partner, Ameresco, to address outstanding debt issues, which may result in additional reductions of Capital or Operating Funds.

Below, on the following pages, please find specific information related to the Public Housing Development(s) for which BHA is currently pursuing RAD conversions.

In addition, the BHA is also engaged in the conversion of Moderate Rehabilitation/Rent Supplement Sites pursuant to Component II of the RAD notice. As an integral part of these conversions the BHA is partnered with the Developer/Owner as the subsidy administrator and provides choice mobility to these residents. Following the Public Housing Developments listed below, is a list of the Moderate Rehabilitation sites which have or will be converted to Project Based Section 8 via RAD.

The information referenced above regarding resident rights, participation, waiting list and grievance procedures is appended following the information related to each development.

Development 1

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
West Newton-Rutland-East Springfield Street	MA002000158	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
146	Family	Family	*\$164,074
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	44	44	
1BR	58	58	
2BR	20	20	
3BR	11	11	
4BR	12	12	
5BR	1	1	
6BR			
Notes			
• RAD/Section 18 Blend with 110 units converting to RAD and 36 converting to PBVs • CHAP date: 03/01/2017 • Closing date: 01/31/2019 (completed 2022) • 3 uninhabitable units (long-term vacant due to fire damage) at 34 East Springfield treated as a <i>de minimis</i> removal (disposition completed 2022) • *Award as Demolition and Disposition & Transitional Funding (DDTF)			

Development 2

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Ausonia	MA002000261	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
100	Elderly/Disabled	Elderly/Disabled	\$384,844
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	93	93	
1BR	7	7	
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
• Due to high capital needs, BHA separately pursued a Section 18 disposition, and that application was in fact approved by HUD. The final conversion may nevertheless involve a RAD/Section 18 Blend—and for that reason we are mindful to keep Ausonia in this RAD Attachment. • CHAP date: 02/20/2018 • Closing date: Expected 2026			

Development 3

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Anne M. Lynch Homes at Old Colony	MA002000124	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
28	Family	Family	\$0.00 (previously converted)
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	13	13	
2BR	11	11	
3BR	4	4	
4BR			
5BR			
6BR			
Notes			
• CHAP date: 02/22/2018 • Closing date: 08/08/2019 • These 28 PBV RAD units are part of the Phase 3A phase of new construction redevelopment, which was completed in 2022			

Development 4

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Orchard Offsite Phase II – Long-Glen Apts	MA002002119	PBRA	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
34	Family	Family	\$0.00 (converted in 2021)
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	10	10	
1BR	14	14	
2BR	9	9	
3BR	1	1	
4BR			
5BR			
6BR			
Notes			
- Long-Glen is an existing mixed-finance redevelopment that is not owned by BHA. - There are 34 public housing units plus 25 non-public housing units at the property; all 34 public housing units have converted to PBRA RAD. - CHAP date: 03/02/2018 - Closing date: 03/01/2021			

Development 5

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Heritage	MA002002141	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
31	Elderly/Disabled	Elderly/Disabled	\$0.00 (converted in 2022)
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	22	22*	
1BR	3	3	
2BR	6	6*	
3BR			
4BR			
5BR			
6BR			
Notes			
- Heritage is an existing mixed-finance property that is owned by an instrumentality of the BHA. - There had been 31 public housing units plus 245 PBV units; 28 public housing units converted to PBV RAD. *One Studio public housing unit is an agency unit and two 2BR units are employee units. - CHAP date: 11/30/2018 - Closing date: 09/30/2022			

Development 6

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Lower Mills	MA002002142	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
19	Elderly/Disabled	Elderly/Disabled	\$0.00 (converted in 2022)
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	9	9	
1BR	8	8*	
2BR	2	2*	
3BR			
4BR			
5BR			
6BR			
Notes			
- Lower Mills is an existing mixed-finance property that is owned by an instrumentality of the BHA. - There had been 19 public housing units plus 159 PBV units; 17 public housing units converted to PBV RAD. *One 1BR public housing unit is an agency unit and one 2BR is an employee unit. - CHAP date: 11/30/2018 - Closing date: 08/31/2022			

Development 7

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Mission Main (Phases I, II, and III)	MA002002114 MA002002117 MA002002118	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
445	Family	Family	\$382,583*
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	120	120	
2BR	150	150	
3BR	125	125	
4BR	48	48	
5BR	2	2	
6BR			
Notes			
• Mission Main is an existing mixed-finance property that is not owned by the BHA. • There had been 445 public housing units and 90 non-public housing units at Mission; all 445 public housing units converted to PBV RAD/Section 18 Blend pursuant to Notice PIH 2021-07. • CHAP date: 11/30/2018 • Closing date: Dec 2022 • *Award as Demolition and Disposition & Transitional Funding (DDTF) against the subset of units (178 units or 40% of the total) that converted through Section 18			

Development 8

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Eva White Apartments	MA002000241	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
102	Elderly/Disabled	Elderly/Disabled	\$373,731
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	34	34	
1BR	57	57	
2BR	11	11	
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD/Section 18 Blend pursuant to Notice PIH 2021-07, with 20% of units converting to RAD and 80% converting to PBVs • • CHAP date: 05/31/2019 • Closing date: December 2024 with RAD effective 01/01/2025.			

Development 9

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Orchard Gardens (Phases 1&2, and 3)	MA002002113 MA002002115	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
282	Family	Family	\$512,550
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	73	73	
2BR	87	87	
3BR	94	94	
4BR	23	23	
5BR	5	5	
6BR			
Notes			
- Orchard Gardens is an existing mixed-finance property that is not owned by the BHA. - There are currently 282 public housing units 49 non-public housing units at Orchard Gardens; all 282 public housing units will convert to PBV RAD/Section 18 Blend pursuant to Notice PIH 2021-07. - CHAP date: TBD - Closing date: Expected 2026			

Development 10

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Mildred C. Hailey Apartments	MA002107119	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
516	Family	Family	\$2,184,837*
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	67	67	
2BR	202	202	
3BR	182	182	
4BR	51	51	
5BR	12	12	
6BR	2	2	
Notes			
- BHA received Section 18 Demo/Dispo approval for these 516 units in October 2023. - BHA is keeping the 516 units listed in this RAD Attachment solely to preserve flexibility if for any reason a partial RAD conversion becomes helpful. - BHA intends to continue to own (through affiliated entities) and operate the modernized buildings. - CHAP date: TBD - Closing date: TBD *516 units times \$4,234.18/unit FY24 CFP allocation			

Development 11

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
General Warren	MA002000241	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
96	Elderly/Disabled	Elderly/Disabled	\$345,817
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	56	56	
1BR	36	36	
2BR	4	4	
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD/Section 18 Blend pursuant to Notice PIH 2021-07 • In the event of high capital needs, BHA would separately pursue a Section 18 disposition that would result in a 100% PBV conversion • BHA plans to pursue a RAD conversion on its own without a development partner. • CHAP date: TBD • Closing date: Expected 2026			

Development 12

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
West End Library	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	N/A	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	N/A	28	
2BR	N/A	4	
3BR	N/A		
4BR	N/A		
5BR			
6BR			
Notes			
In 2022, BHA and the City of Boston issued a joint Request for Proposals for the redevelopment of the City-owned property that is the current site of the West End Library branch of the Boston Public Library. The RFP called for development proposals that include Faircloth public housing units; pursuant to Supplement Notice 4B to the RAD Notice (H-2023-08 PIH-2023-19) BHA proposes to convert any newly development Faircloth public housing units at the West End Library to RAD upon completion and prior to occupancy.			

Development 13

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Faneuil Gardens	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	N/A	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	Zero federal units		
1BR		54	
2BR		72	
3BR		45	
4BR		9	
5BR			
6BR			
Notes			
Faneuil Gardens is a 258-unit state public housing community in Brighton. BHA and its procured developer, The Community Builders, in collaboration with the Faneuil Gardens Tenant Task Force, have developed a master plan to redevelop the site. Up to three-quarters of the replacement units may be created through the Faircloth-to-RAD process. Phase one (out of five phases) is projected to include 32 Faircloth-to-RAD units.			

Development 14

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Parcel P-12C	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	N/A		
1BR		2	
2BR		14	
3BR		13	
4BR			
5BR			
6BR			
Notes			
This is private development being undertaken by a joint venture of two local nonprofits (The Community Builders and Asian Community Development Corporation) on a parcel in the Chinatown neighborhood.			

Development 15

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Allston Senior Housing	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	N/A		
1BR		47	
2BR		3	
3BR			
4BR			
5BR			
6BR			
Notes			
This is private development being undertaken by the Allston-Brighton Community Development Corporation in the Allston neighborhood.			

Development 16

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Our Lady's Guild House	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	10	10	
1BR	10	10	
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
This is private development being undertaken by a joint venture of two local nonprofits (The Planning Office for Urban Affairs and the Fenway Community Development Corporation) in the Fenway neighborhood.			

Development 17

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Building 104	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR	20	20	
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
This is private development involving the renovation of an existing apartment community being undertaken by nonprofit developer The Community Builders in the Charlestown neighborhood.			

Development 18

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
495 Dorchester Av	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	N/A	2	
1BR		17	
2BR		3	
3BR			
4BR			
5BR			
6BR			
Notes			
This is private development being undertaken by a joint venture of two local developers (Core Investments and Dream Development) in the Dorchester neighborhood.			

Development 19

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
290 North Beacon St	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	N/A		
1BR		42	
2BR		50	
3BR		22	
4BR		19	
5BR			
6BR			
Notes			
BHA has been designated by the City of Boston to redevelop this City-owned parcel adjacent to BHA’s Faneuil Gardens state public housing community. It will be a mixed-use redevelopment including musician rehearsal/studio space and other complementary arts-and-culture space in addition to RAD rental units.			

Development 20

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
120 George St	N/A	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
TBD	TBD	TBD	N/A
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency	Zero federal units		
1BR		6	
2BR		9	
3BR		5	
4BR		1	
5BR			
6BR			
Notes			
This is a property BHA currently owns and which is in BHA’s state public housing “Scattered Site” portfolio. BHA is replacing those state-funded units at a new location, which will permit new development of 21 RAD units at 120 George Street through HUD’s Restore-Rebuild program.			

Moderate Rehabilitation/ Rent Supp. Site 1

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Hartwell House		PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
6	Rent Sup	Supportive Services	
Bedroom Type	Units pre-conversion	Units post-conversion	Change
Studio/Efficiency			
1BR			
2BR	17	6	These units were not previously BHA. BHA was designated as subsidy administrator
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD Rent Supp Conversion • CHAP date: N/A • Closing date: RAD effective 02/01/2015.			

Moderate Rehabilitation/Rent Supp. Site 2

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Nueva Vida	MA002R20003 MA002AF0035	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
8	Moderate Rehab	PBV- Supportive Services	
Bedroom Type	Units pre-conversion	Units post-conversion	Change
SRO/Studio/efficiency	8	8	
1BR			
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD Moderate Rehabilitation conversion to PBVs pursuant to (PIH) H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration – Final Implementation, Rev 4. • CHAP date: N/A • Closing date: RAD effective 08/07/2023.			

Moderate Rehabilitation/Rent Supp. Site 3

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
Bishop Street/ Elsie Frank	MA002R20004 MA002AF0036	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
9	Moderate Rehabilitation	PBV-Supportive Services	
Bedroom Type	Units pre-conversion	Units post-conversion	Change
SRO/Studio/Efficiency	9	9	
1BR			
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD Moderate Rehabilitation conversion pursuant to (PIH) H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration – Final Implementation, Rev 4. • CHAP date: N/A • Closing date: RAD effective 04/30/2024.			

Moderate Rehabilitation/Rent Supp. Site 4

Development Name	PIC Development ID	Conversion Type	Transfer of Assistance
123 Crawford	TBD	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
17	Moderate Rehabilitation	PBV-Supportive Services	
Bedroom Type	Units pre-conversion	Units post-conversion	Change
SRO/Studio/Efficiency	17	17	
1BR			
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD Moderate Rehabilitation conversion pursuant to (PIH) H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration – Final Implementation, Rev 4. • CHAP date: N/A • Closing date: TBD			

Moderate Rehabilitation/Rent Supp. Site 5

	PIC Development ID	Conversion Type	Transfer of Assistance
Tuttle House	TBD	PBV	N/A
Total Units	Pre-RAD Unit Type	Post-RAD Unit Type	FY24 CFP Allocation
26	Moderate Rehabilitation	PBV-Supportive Services	
Bedroom Type	Units pre-conversion	Units post-conversion	Change
SRO/Studio/Efficiency	26	26	
1BR			
2BR			
3BR			
4BR			
5BR			
6BR			
Notes			
• RAD Moderate Rehabilitation conversion pursuant to (PIH) H-2019-09 PIH-2019-23 (HA), Rental Assistance Demonstration – Final Implementation, Rev 4. • CHAP date: N/A • Closing date: TBD			

APPENDICES

Resident Rights, Participation, Waiting List and Grievance Procedures

Copies of the documents referenced in the third fourth paragraph of this RAD addendum Attachment to Annual Plan are attached hereto in their entirety:

1. .RAD Fair Housing, Civil Rights and Relocation Requirements (Notice H 2016-17/PIH 2016-17)

Posted by HUD to its RAD Resource Desk on 12/02/16 and downloaded by BHA on 10/26/24

2. RAD Notice H-2019-09 / PIH 2019-23 REV-4 as amended by Supplemental Notice 4B

Posted by HUD to its RAD Resource Desk on 7/23/24 and downloaded by BHA on 10/26/24



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

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

SUBJECT: Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.¹

SECTION 1. Purpose, Applicability and Major Provisions of this Notice

1.1. Purpose

This notice (Notice) provides PHAs,² Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

¹ While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

² Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.

regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.³

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

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

(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

1.2. PHA and Project Owner Responsibilities

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.⁴

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

⁴ The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.

that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.⁵ The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.⁶ The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

1.3. Applicability

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

⁵ For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

⁶ See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

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

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

1.4. Explanation of Major Provisions

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

Fair Housing & Civil Rights

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

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

Relocation

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

1.5. Request for Public Comment

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

1.6. Paperwork Reduction Act

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

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SECTION 3. Background

3.1. RAD Authority

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

3.2. Definitions

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

3.3. Applicable Legal Authorities

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

⁷ Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.⁸ In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

3.4. Further Information

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

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

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

⁸ See Pub. L. No. 112-55, as amended.

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

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.⁹ Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.¹⁰ As described further below, the Fair Housing Act prohibits discrimination in housing¹¹ and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.¹² In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin¹³ and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.¹⁴ RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.¹⁵ Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

⁹ See 24 C.F.R. § 5.105.

¹⁰ See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

¹¹ See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

¹² 42 U.S.C. § 3608(d) and (e).

¹³ See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

¹⁴ See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

¹⁵ See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.¹⁶ Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.¹⁷

- **Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.¹⁸ The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.¹⁹ In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.²⁰ ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.²¹ Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- **Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

¹⁶ 24 C.F.R. § 5.150 *et seq.*

¹⁷ See 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

¹⁸ See 24 C.F.R. § 1.4(b)(3).

¹⁹ See 24 C.F.R. § 1.4(b)(6).

²⁰ See 24 C.F.R. § 8.4(b)(5).

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

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

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

²² For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26.

²³ In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

²⁴ See 28 C.F.R. part 35, Appendix B.

- **Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.²⁵ PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

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

²⁵ For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.²⁶ Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.²⁷
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

²⁶ For additional information regarding reasonable accommodations under the Fair Housing Act, see the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf>.

²⁷ See 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."

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

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

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

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

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

5.1. RAD Eligibility Review

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

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

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

5.2. PHA's Proposed Site Selection and Certification

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).²⁸ Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.²⁹ PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."³⁰ Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.³¹

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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

²⁹ 42 U.S.C. § 1437f(bb).

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

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

requirements described in 24 C.F.R. § 8.4(b)(5).³² The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.³³ Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.³⁴

³² See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

³³ See 28 C.F.R. § 35.130(b)(4).

³⁴ In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

5.3. RAD Front-End Civil Rights Transaction Review

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

A) Activities Subject to Front-End Civil Rights Review

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,³⁵ as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

³⁵ Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. See 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

B) Fair Housing, Civil Rights, and Relocation Checklist

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.³⁶ HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

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

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

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.³⁷

C) Timing of Front-End Review Submissions

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

D) Completion of HUD's Front-End Review

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

³⁷ The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction

A) Conditions Triggering Review

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.³⁸

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

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

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

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

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

B) Analysis of Areas of Minority Concentration

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

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.³⁹
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

³⁹ The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt. However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.

understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.⁴⁰ HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

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

C) The Sufficient Comparable Opportunities Exception

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

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

⁴⁰ For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

⁴¹ Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

serve the same income group, are located in the same housing market area, and are in standard condition.⁴²

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”⁴³

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”⁴⁴ Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

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

⁴² See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

⁴³ 24 C.F.R. § 983.57(e)(3)(iii); *see also* Appendix III of the RAD Notice, paragraph (e)(1).

⁴⁴ 24 C.F.R. § 983.57(e)(3)(v); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B).

⁴⁵ 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

⁴⁶ Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

⁴⁷ 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

⁴⁸ 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

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

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

⁴⁹ 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

⁵⁰ 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

⁵¹ 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

⁵² 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.⁵³ The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

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

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

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

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

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

D) The Overriding Housing Needs Exception

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD⁵⁵ outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”⁵⁶

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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

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

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

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

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

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

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

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

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

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

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

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

A) *Applicable Standards*

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

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

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

B) Analysis of Transfers of Assistance

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.⁵⁹ This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.⁶⁰ For purposes of this analysis, HUD will examine the minority concentration of:
 - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
 - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
 - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
 - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
 - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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

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

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

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

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

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

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

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

⁶¹ See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

⁶² Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.⁶³ In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

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

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

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

B) Review of Changes in Occupancy Type

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

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

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

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

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

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

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

C) Remedial Agreements and Orders.

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

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

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.⁶⁴ Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.⁶⁵ They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

⁶⁴ The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. See 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; see also Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

⁶⁵ See 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

SECTION 6. RELOCATION REQUIREMENTS

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

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

⁶⁶ Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.⁶⁷

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.⁶⁸

6.1. Planning

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (see 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.⁶⁹ All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

⁶⁷ 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

⁶⁸ A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

⁶⁹ The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	• Determine potential need for relocation in connection with proposed conversion plans. • Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback. • Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.
2. After submission of RAD application	• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements. • Survey residents to inform relocation planning and relocation process. • Develop a relocation plan (see Appendix II for recommended content). • Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.⁷⁰
3. Following issuance of the CHAP, or earlier if warranted	• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.
4. While preparing Financing Plan	• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager. • Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities. • Identify relocation housing options . • Budget for relocation expenses and for compliance with accessibility requirements. • Submit the Checklist and, where applicable, the relocation plan. • If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA). • If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as

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

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	• Meet with residents to describe approved conversion plans and discuss required relocation. • The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)). • If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice. • Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.
6. Post-Closing	• Ongoing implementation of relocation • Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice • Implementation of the residents’ right to return

6.2. Resident Right to Return

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

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

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

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

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

- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;⁷³ and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.⁷⁴

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

⁷³ In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

⁷⁴ Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

6.3. Admissions and Continued Occupancy Requirements

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

6.4. Types of Moves and Relocation

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.⁷⁵ In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

A) Moves within the same building or complex of buildings⁷⁶

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.⁷⁷ The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

⁷⁵ PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

⁷⁶ An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

⁷⁷ Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

B) Temporary relocation lasting one year or less

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.⁷⁸

C) Temporary relocation initially expected to last one year or less, but which extends beyond one year

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

D) Temporary relocation anticipated to last more than one year

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

⁷⁸ HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

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

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

E) Permanent moves in connection with a transfer of assistance

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

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

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

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

F) Voluntary permanent relocation

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

6.5. Initiation of Negotiations (ION) Date

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

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

6.6. Resident Relocation Notification (Notices)

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

⁷⁹ The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at www.hud.gov/rad.

A) RAD Information Notice

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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

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

B) General Information Notice (49 C.F.R. § 24.203(a))

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

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

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

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

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

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

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).⁸⁰ The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

D) RAD Notice of Relocation

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

⁸⁰ Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.

Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.⁸¹

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.⁸²

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.⁸³ The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
 - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.⁸⁴ PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

⁸¹ PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. See Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

⁸² The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

⁸³ The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

⁸⁴ Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.⁸⁵
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).⁸⁶
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

⁸⁵ Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

⁸⁶ PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.⁸⁷

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

⁸⁷ To illustrate, consider the following examples.

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

F) Notification of Return to the Covered Project

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

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

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

6.7. Relocation Advisory Services

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

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

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

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

6.8. Initiation of Relocation

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

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

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

6.9. Records and Documentation; Resident Log

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

⁸⁹ For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

⁹⁰ Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
 - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
 - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
 - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
 - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
 - Date of the RAD Information Notice

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

6.10. Alternative Housing Options

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

A) Requirements for Any Offer of Alternative Housing Options

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

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

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

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

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

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

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

B) Assisted Housing Options as Alternatives

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

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

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

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

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

C) Monetary Elements Associated With Alternative Housing Options

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

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.⁹⁴
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

D) Disclosure and Agreement to Alternative Housing Options

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;⁹⁵ b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

⁹⁴ Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

⁹⁵ In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

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

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

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

the earlier of issuance of the NOIA or the effective date of the RCC.⁹⁶ If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

6.11. Lump Sum Payments

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS

7.1. HCV Waiting List Administration Unrelated to the RAD Transaction

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

⁹⁶ The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

7.2. HCV Waiting List Administration Related to the RAD Transaction

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.⁹⁷

7.3. Public Housing Transfers Unrelated to the RAD Transaction

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)⁹⁸ or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.⁹⁹ Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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

⁹⁸ Title IV, section 40001-40703.

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

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

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

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

7.5. Public Housing as a Temporary Relocation Resource

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

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

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

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

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

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

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

7.7. Right-Sizing

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

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

Edward L. Golding
Principal Deputy Assistant Secretary for
Housing

APPENDIX I: Applicable Legal Authorities

APPENDIX II: Recommended Relocation Plan Contents

APPENDIX I: Applicable Legal Authorities

Part 1

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.¹⁰⁰ In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.¹⁰¹

¹⁰⁰ See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

¹⁰¹ For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address

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

United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf.¹⁰²

significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

¹⁰² See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”¹⁰³

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.¹⁰⁴ These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

¹⁰³ 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

¹⁰⁴ 24 C.F.R. § 8.4(b)(5).

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

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

Titles II and III of the Americans with Disabilities Act

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

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

Section 109

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

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

Equal Access to HUD-assisted or HUD-insured Housing

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

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

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

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

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.¹⁰⁵ The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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

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

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

Part 2 – Accessibility Requirements

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

Accessibility Requirements for New Construction

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

¹⁰⁶See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

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

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

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

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

¹⁰⁷ See 24 C.F.R. § 100.205.

¹⁰⁸ For more information about the design and construction provisions of the Fair Housing Act, see www.fairhousingfirst.org. See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: www.hud.gov/offices/fheo/library/hudjointstatement.pdf.

¹⁰⁹ See 24 C.F.R. § 8.3.

¹¹⁰ The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

¹¹¹ See 24 C.F.R. § 8.22.

¹¹² See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), http://www.ada.gov/revised_effective_dates-2010.htm.

Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.¹¹³

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.¹¹⁴ If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.¹¹⁵

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

¹¹³ See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

¹¹⁴ HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

¹¹⁵ 24 C.F.R. § 8.23(b).

regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.¹¹⁶

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.¹¹⁷ This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

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

Program Accessibility Requirements

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

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

¹¹⁷ See 24 C.F.R. §§ 8.26 and 8.27.

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

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

APPENDIX II: Recommended Relocation Plan Contents

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

The basic elements of the relocation plan include:

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

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

I. Project Summary

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

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

II. Project Occupancy

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

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

III. Resident Return and Re-occupancy Policies

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

IV. Temporary Relocation Assistance

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

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

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

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

¹²⁰ Defined at 24 C.F.R. 905.108.

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

V. Transfer of Assistance

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

VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance

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

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

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

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

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

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).¹²¹

VII. Relocation Budget

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
 - Number and cost of one permanent move to a unit not within the same building/complex
 - Any required dislocation allowance
- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
 - 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
 - 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

¹²¹ See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21st Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

IX. Appeal Process

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

X. Certification

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

Technical Assistance

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email rad@hud.gov.

This document combines Notice H 2019-09 and Notice H 2023-05 for the convenience and ease of readers.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Office of Housing
Office of Public and Indian Housing**

Special Attention of:

Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Multifamily Regional Center Directors
Multifamily Regional Satellite Office Directors
Regional and Field Office Directors
Regional Administrators
Performance Based Contract Administrators

Notice H-2019-09 PIH-2019-23 (HA)

Issued: 09/05/2019

Supersedes: Notice PIH-2012-32 (HA) H-2017-03, REV-3 and Notice PIH 2018-11 (HA) H 2018-05 and Notice PIH 2018-22 H 2018-11

Expires: This Notice remains in effect until amended, superseded, or rescinded.

SUBJECT: Rental Assistance Demonstration – Final Implementation, Revision 4

Purpose

This revised notice (Notice) provides program instructions for the Rental Assistance Demonstration (RAD or Demonstration), including eligibility and selection criteria.

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. Section I of this Notice provides instructions for PHAs that apply for conversion under the First Component.

While the RAD Statute, as amended, contains language authorizing HUD to convert Section 8 Moderate Rehabilitation (Mod Rehab) projects (including Mod Rehab McKinney Vento SROs)¹ under the First Component, HUD is exercising its discretion to prioritize public housing conversions under the competitive requirements of this component. The demand for public housing conversions is extremely high and significantly exceeded the initial limitation on the number of units that could be converted under the First Component. In addition, unlike Mod Rehab conversions, there is no Second Component option available for public housing projects. Consequently, Mod Rehab conversions are processed exclusively under the Second Component of RAD, which is non-competitive.

- Second Component. The Second Component allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Mod Rehab programs to convert to PBV or PBRA contracts upon contract expiration or termination occurring after October 1, 2006. The Second Component further allows owners of projects funded pursuant to Project Rental Assistance Contracts under the Section 202 Supportive Housing for the Elderly program (202 PRAC) to convert to PBV or PBRA contracts. Section II of this Notice provides instructions for owners of Mod Rehab projects. Section III of this Notice provides instructions for owners of Rent Supp and RAP projects. Section IV of this Notice provides instruction for owners of 202 PRAC projects.

Collectively, pre-conversion projects whose assistance is converting from one form of rental assistance to another are referred in this Notice as “Converting Projects.” Post-conversion projects with assistance converted from one form of rental assistance to another are referred in this Notice as “Covered Projects.”

Previous versions of this Notice were published as follows:

¹ All references in this Notice to Mod Rehab include Mod Rehab SRO unless otherwise stated.

- Notice PIH 2012-18 (March 8, 2012, superseded by Notice PIH 2012-32)
- Notice PIH 2012-32 (July 26, 2012)
- Notice PIH 2012-32 REV-1 (July 2, 2013)
- Notice PIH 2012-32 REV-1 Technical Correction (February 6, 2014)
- Notice PIH 2012-32 REV 2 (June 15, 2015)
- Notice PIH 2012-32 (HA) H 2017-03, REV 3 (January 12, 2017)
- Notice PIH 2018-11 H 2018-05 (July 2, 2018)
- Notice PIH 2018-22 H 2018 11 (December 11, 2018)

The terms of the Notice in effect at the time of closing generally govern all projects converting assistance under either component of RAD, notwithstanding execution of a conditional approval or commitment for conversion. For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this Notice to program participants that are near conversion.

Major Revisions in Revision 4

This revised Notice includes a change in eligibility and selection criteria as well as clarifications of existing instructions. Major revisions are summarized below. Where indicated, the provisions will be subject to a 30-day Notice and Comment period.

First Component (Public Housing Conversions)

1. Extends all resident rights to households that will reside in non-RAD Project Based Voucher (PBV) units placed in a converted public housing project so as to facilitate the standard protection of residents (see Section 1.6);
2. Increases resident notice requirements to improve communication with residents throughout the conversion process (see Section 1.8);
3. Establishes a mechanism for public housing agencies (PHAs) to enter into partnerships in order to pool resources or capacity with each other so as to effectively convert properties through RAD (see Section 1.5.L.);
4. Allows limited rent increases for public housing conversions to Project Based Rental Assistance (PBRA) contracts in certain scenarios, including in designated Opportunity Zones (see Section 1.7.A.5);
5. Modifies the requirements for portfolio awards so as to provide PHAs greater flexibility in staging the conversion of their properties (see Section 1.9.C.);
6. Streamlines Capital Needs Assessment (CNA) requirements to eliminate the submission of the CNA Tool when certain conditions have been met (see Section 1.5.A.);

7. Introduces a “Concept Call” so that PHAs can receive confirmation that project plans are sufficiently advanced to submit a Financing Plan (see Section 1.12.C.);
8. Prohibits PHAs from entering debt into the Earned Income Verification “Debts Owed” module purely as a result of the 50058 End of Participations that is required to be submitted into Public and Indian Housing Information Center (PIC) as part of the conversion (see Section 1.13.B);
9. Broadens the use of “tiered” environmental reviews so that streamlined submissions are needed for certain 24 CFR Part 50 reviews; requires the use of the HUD Environmental Review Online System (HEROS) for Part 50 reviews; and requires radon testing for PBRA and PBV conversions ([see Attachment 1A](#));
10. Establishes policy that RAD rents will be updated every two years and the updated rents will be applied to new awards issued after those established dates (see Attachment 1C);
11. Establishes a priority for “Section 3” employment and other economic opportunities for residents of public housing or Section 8 assisted housing (see Section 1.4.A.18.).

The following additional changes are subject to Notice and Comment because they impact eligibility and selection criteria (see below):

1. Removing restrictions on certain HOPE VI properties that are under 10 years old; and
2. Eliminating the selection of applications based on previously established “Priority Categories” so that HUD reviews applications on a first-come, first serve basis. In the event that a waiting list forms, establishes the priority selection of applications for properties located in designated Opportunity Zones.

Second Component (Section 202 PRAC, Mod Rehab, Mod Rehab SRO, Rent Supp, RAP Conversions)

1. Implements the provision of the 2018 Appropriations Act authorizing the conversion of Section 202 PRAC projects to Section 8 PBRA or PBV contracts
2. Streamlines Capital Needs Assessment (CNA) requirements for Mod Rehab conversion to eliminate the submission of the CNA Tool when certain conditions have been met;
3. Broadens the use of “tiered” environmental reviews so that streamlined submissions are needed for certain Part 50 reviews; requires the use of the HUD Environmental Review Online System (HEROS) for Part 50 reviews; and requires radon testing for PBRA and PBV conversions
4. Streamlines the Conversion Plan (Financing Plan) requirements for Mod Rehab Conversion when certain criteria has been met

5. Creates an ability for Mod Rehab and SRO properties converting to PBRA to utilize contract rents based on the condition of the property following rehabilitation
6. Provides an ability for owners of converting SRO properties serving the homeless to establish a leasing or occupancy preference that facilitates permanent supportive housing;
7. Fully establishes resident right of return and the prohibition against re-screening for existing residents; and
8. Establishes a final date that any remaining RAP properties may make a submission of conversion under RAD.

Notice and Comment for Changes in Eligibility and Selection Criteria

This Notice is effective immediately except with respect to changes in the project eligibility and selection criteria, which are subject to a 30-day comment period commencing on the effective date for the remainder of the Notice. Unless HUD receives comment that would lead to the reconsideration of any of the indicated changes in eligibility and selection criteria, these changes will become effective seven calendar days following expiration of the 30-day comment period. If HUD receives adverse comment that leads to reconsideration, HUD will notify the public in a new revision immediately upon the expiration of the comment period. Please submit all comments to RAD@hud.gov.

PHAs and Project Owners applying to RAD during the 30-day public comment period will be subject to the new eligibility and selection criteria of this Notice. In the event that HUD reconsiders any changes to the eligibility and selection criteria after the 30-day comment period that materially impact an application submitted during the comment period, a PHA or Project Owner may amend an application previously submitted. However, CHAPs and Portfolio Awards for projects satisfying eligibility and selection criteria that are subject to notice and comment will only be issued upon expiration of the comment period.

Notice Organization

The main body of this Notice (Program Instructions) is divided into four sections:

- **Section I**: Provides instructions to PHAs and their development partners, who can convert the assistance of public housing projects under the First Component of the Demonstration.
- **Section II**: Provides instructions to owners of Mod Rehab projects, including SROs, who can convert the assistance of these projects under the Second Component of the Demonstration.
- **Section III**: Provides instructions to owners of Rent Supp and RAP projects, who can convert the assistance of these projects under the Second Component of the Demonstration.

- **Section IV:** Provides instructions to owners of 202 PRAC projects, who can convert the assistance of these projects under the Second Component of the Demonstration.

Please refer to the appropriate section for relevant instructions. A table of contents is provided on pages 6-8 of this Notice for reference.

Demonstration Goals

RAD provides the opportunity to test the conversion of public housing and other HUD-assisted properties to long-term, project-based Section 8 rental assistance to achieve certain goals, including the preservation and improvement of these properties through enabling access by PHAs and owners to private and public debt and equity to address immediate and long-term capital needs. RAD is also designed to test the extent to which residents have increased housing choices after the conversion, and the overall impact on the subject properties.

Evaluation

Each component of RAD will be evaluated separately:

- For conversions under the First Component, HUD is required under the RAD Statute to assess and publish findings regarding the impact of the conversion on: the preservation and improvement of the former public housing units, the amount of private capital leveraged as a result of such conversion, and the effect of such conversion on residents. (The 2012 Appropriations Act does not require an evaluation of the conversion of Mod Rehab under the First Component.) On September 30, 2014 HUD published “A Progress Report on the Rental Assistance Demonstration (RAD) Evaluation,” which provides a summary of early program results and outlines the evaluation underway.² In addition, in September, 2016 HUD published the “Interim Report: Evaluation of HUD’s Rental Assistance Demonstration (RAD).”³
- For conversions under the Second Component, the legislation requires that the Comptroller General of the United States conduct a study of the long-term impact of the fiscal year 2012 and 2013 conversion of TPVs to PBVs on the ratio of tenant-protection vouchers to project-based vouchers. The study, which was completed and published on April 24, 2014, is available at <http://www.gao.gov/products/GAO-14-402>.

Further Information

Please check www.hud.gov/rad for the latest information on RAD or to join the RAD listserv. *Materials referenced in this Notice may be obtained from this RAD website.* Email questions to RAD@hud.gov. Additionally, HUD will develop informational materials to address various program elements that HUD will post on the RAD website.

Paperwork Reduction Act

² http://www.huduser.org/portal/RAD_Evaluation.html

³ http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_InterimRpt_Final.pdf

Approved

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0612, 2529-0013, and 2506-0087. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Pending

The information collection requirements contained in this document are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0118. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

R. Hunter Kurtz,
Principal Deputy Assistant Secretary
for Public and Indian Housing

Brian D. Montgomery,
Assistant Secretary for Housing –
Federal Housing Commissioner

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DEFINITIONS

The Act. The United States Housing Act of 1937.

Administering PHA. A PHA that administers rental assistance under the Act, which may include the HCV, Mod Rehab, or PBV programs.

Affordable Housing Purposes. Activity that supports the pre-development, development or rehabilitation of other RAD conversions, public housing, housing assisted under Section 8 of the Act, properties subject to Low-Income Housing Tax Credits (LIHTC) use restrictions, or other federal or local housing programs serving households with incomes at or below 80% of area median income, or that provide services or amenities that will be used primarily by low-income households as defined by the Act.

Anniversary of the HAP Contract. The annual recurrence of the date of the first day of the term of the HAP Contract.

Annual Contributions Contract (ACC). The written grant agreement between HUD and a PHA under which HUD agrees to provide funding for a program (e.g., public housing or HCV) under the Act, and the PHA agrees to comply with HUD requirements for the program.

Capital Needs Assessment (CNA). A detailed physical inspection of a property to determine critical repair needs, short- and long-term rehabilitation needs, market comparable improvements, energy efficiency, unmet physical accessibility requirements, and environmental concerns, including lead-based paint. In accordance with Chapter 5 of the MAP Guide, the CNA identifies “Critical repairs,” which include 1) “Life Safety” repairs that, in HUD’s determination, are needed to address hazards to life and health and must be completed before residents can occupy or continue to occupy the affected units and 2) “Accessibility” repairs that are needed to correct accessibility deficiencies. The correction of accessibility deficiencies must take the minimum time reasonably possible given the physical characteristics of the repairs and construction process and given the reasonably anticipated impact of the deficiencies and the repairs on the tenants, including disruption or displacement of their occupancy and their safe and full enjoyment of the property.

Choice-Mobility. For residents of Covered Projects, the option to obtain an HCV from a PHA after a defined period of residency. (See Section [1.7.C.5](#) of this Notice for PBRA conversions, and 24 CFR § 983.261 and Section [1.6.D.8.](#) for PBV conversions, for further details on the Choice-Mobility component.)

Closing. The event during which the applicable transaction documents are entered into. “Conversion” does not occur prior to Closing. (See Section [1.13](#) for further details on closing.)

Combined Agency. A PHA that either directly, or through an affiliate, administers both an HCV program and public housing.

Commitment to enter into a Housing Assistance Payments Contract (CHAP). Conditional commitment provided to the PHA for units that have been selected under the First Component of the Demonstration that describes the terms under which HUD would enter into a HAP Contract with the Project Owner once the project complies with all requirements in the CHAP, this Notice, and other statutory and regulatory requirements applicable to the project.

Contract Administrator. HUD or a PHA under ACC with HUD that either executes a HAP Contract with a Project Owner or, in PBRA, to which HUD may assign the HAP Contract and which upon assignment, the assignee becomes responsible for administering the HAP Contract.

Contract Rent. The total amount of rent specified in the HAP Contract as payable to the Project Owner for a unit occupied by an eligible family. In PBV, the contract rent is referred to as “Rent to Owner.”

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

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

Current Funding. Applicable to public housing conversions, the combination of Federal subsidy and tenant rents for which a project is eligible under the public housing program in the fiscal year of conversion. (See Sections [1.6.B.5.](#) and [1.7.A.5.](#), and Attachment 1C for further details on current funding.)

Date of Full Availability (DOFA). Per 24 CFR § 905.108, the last day of the month in which substantially all (95 percent or more) of the units in a public housing project are available for occupancy.

Declaration of Restrictive Covenants (DORC). The restrictive covenants covering a public housing mixed-finance project that obligate the Project Owner to operate a project in accordance with the Act, HUD regulations, the ACC, the Mixed Finance ACC Amendment, the HOPE VI Grant Agreement (if applicable), and the Choice Neighborhoods Implementation Grant Agreement (if applicable).

Declaration of Trust (DOT). The restrictive covenant on projects assisted through a public housing ACC that obligates PHAs to operate public housing projects in accordance with the ACC, the Act, and HUD regulations and requirements. In some cases, a Declaration of Restrictive Covenants is used in lieu of a Declaration of Trust, which Declaration of Restrictive Covenants obligates the owner of the property to operate certain units as public housing in accordance with the ACC, the Act and HUD regulations and requirements. For purposes of this Notice, the defined term Declaration of Trust (DOT) shall refer to a Declaration of Trust and/or a Declaration of Restrictive Covenants, as applicable to the specific site.

Distributions. Any withdrawal or taking of Surplus Cash by the Project Owner (see definition for “Surplus Cash”, below). Surplus Cash, once determined pursuant to applicable HUD requirements, is not subject to further federal restrictions.

Enhanced Vouchers (EVs). A type of tenant protection voucher provided pursuant to an eligibility event under Section 8(t) of the Act. EVs differ from regular vouchers in three significant ways: (1) the payment standard used to calculate the voucher housing assistance payment for EVs may exceed a PHA’s ordinary payment standard; (2) an EV provides residents with a right to remain in the project as long as the units are used for rental housing and are otherwise eligible for voucher assistance; and (3) the household must pay for rent no less than the rent the household was paying on the date of the eligibility event (minimum rent). If the household elects to move, the voucher is administered as a regular voucher. HUD provides EVs and funding to a voucher agency that has jurisdiction over the area in which the property that the eligibility event occurred is located.

Fair Market Rent (FMR). The cost in a particular housing market area of privately owned, decent, safe and sanitary rental housing. HUD establishes and publishes in the Federal Register FMRs for dwelling units of varying sizes for each metropolitan area. FMRs are gross rent estimates, i.e., they include the cost of tenant-paid utilities. See 24 CFR part 888 subpart A. The use of the term “FMR” on its own refers to the metropolitan area-wide FMR.

Faircloth-to-RAD. The process by which PHAs develop additional public housing units pursuant to the Faircloth Limit using the public housing development process at 24 CFR Part 905, Subpart F with conditional pre-completion approval to convert these units to a long-term Section 8 contract through RAD following completion of construction, rehabilitation, or acquisition under the public housing development process.

Faircloth Limit. The limitation on the number of new public housing units a PHA may develop as described in Section 9(g)(3) of the Act.

Family Self-Sufficiency (FSS). FSS is a program authorized under section 23 of the Act and designed to promote self-sufficiency of assisted families through the coordination of services. Residents enter into a five-year contract of participation which outlines goals related to seeking, obtaining, and maintaining employment. During the period of participation, residents may earn an escrow credit, based on increased earned income. FSS Coordinator funding may be available to PHAs to pay for the salary and benefits of a program coordinator who links residents with training opportunities, job placement organizations, and local employers.

Financing Plan. Documentation submitted to HUD for review to demonstrate that the Covered Project can be sustained physically and financially for the term of the HAP Contract at the rent levels permitted under the Demonstration. The Plan must show how the project's immediate and long-term capital needs will be addressed.

Good-Cause Exemption. An allowance made by HUD exempting a PBRA Covered Project from the Choice-Mobility component. (See Sections [1.7.C.5](#) and 2.6.I for further details on good-cause exemptions.)

Green Building. An approach to building, rehabilitation, repairs, maintenance, and property operations that is more sustainable than traditional approaches to such activities and results in a project that is more energy efficient, costs less to operate, has better indoor air quality, and reduces its overall impact on the environment. (See Section [1.4.A.2](#) for further details on green building.)

Gross Rent. The Gross Rent shall equal the contract rent plus any utility allowance for the unit.

HOTMA Implementation Notice. Federal Register Notice Housing Opportunities Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provision, published January 18, 2017 at 82 FR 5458.

Housing Assistance Payment (HAP). The payment made by the Contract Administrator to the Project Owner of an assisted unit as provided in the HAP Contract. Where the unit is leased to an eligible household, the payment is the difference between the contract rent for a particular assisted unit and the tenant rent payable by the family.

Housing Quality Standards (HQS). Standards set forth in 24 CFR § 982.401 that must be met by all units in the HCV program before assistance can be paid on behalf of a household. The HQS in 24 CFR § 982.401 apply to PBV, in accordance with 24 CFR § 983.101. Generally, Voucher Agencies must conduct HQS inspections of PBV projects not less than biennially during the term of the HAP Contract.

HAP Contract. The contract entered into by the Project Owner and the Contract Administrator that sets forth the rights and duties of the parties with respect to the Covered Project and the payments under the contract.

Identity of Interest (IOI). A relationship where two parties have closely related business operations or other activities. An identity of interest must be disclosed and may be prohibited. Examples of Identity of Interest relationships include, but are not limited to, a financial or family relationship between the PHA or owner (which includes but is not limited to an officer, director, or partner of the PHA or owner) and general contractor, subcontractor, seller of the land or property, any consultants, or other parties to the transaction.

MAP Guide. Housing Guidebook 4430.G “Multifamily Accelerating Processing (MAP) Guide”

Mixed-Finance Project. A public housing project developed in accordance with 24 CFR part 905 subpart F using public housing, nonpublic housing, or a combination of public housing and nonpublic housing funds, where the public housing units are owned in whole or in part by an entity other than the PHA, pursuant to 905.604(a). A mixed-finance project may include 100 percent public housing (if there is an Owner Entity other than the PHA) or a mixture of public housing and non-public housing units.

Notice of Anticipated RAD Rents (NARR). Conditional commitment provided to the PHA for units the PHA proposes to develop under Faircloth-to-RAD that describes the terms under which HUD will issue a CHAP to the PHA once the units are developed and accepted into the public housing program.

Operating Cost Adjustment Factor (OCAF). An operating cost adjustment factor established by HUD that is applied to the current contract rent, less the portion of the rent paid for debt service.

Ownership or Control. The RAD Statute provides requirements for the ownership or control of Covered Projects under the First Component. See [Section 1.4.A.11](#) for a description of how to satisfy those requirements for PBV and PBRA conversions.

Prepayment. The satisfaction (i.e., payment in full) of the underlying mortgage prior to its maturity date. Prepayment is one of the eligibility triggering events for RAD conversion under Section III of this Notice.

Project. For purposes of determining a RAD transaction, a “project” is a structure or group of structures that in HUD’s determination are appropriately managed as a single financial asset. In most cases, this corresponds to a grouping of residential units that are managed and marketed as a single entity and are geographically proximate. In determining whether multiple structures

constitute a project, HUD will take into account types of buildings, occupancy, location, market influences, management organization, financing structure or other factors as appropriate. For a RAD PBV conversion, the definition of “project” in 24 CFR 983.3 continues to apply for all references to the term in 24 CFR 983.⁴

Project-Based Voucher (PBV). A component of a PHA’s HCV program, where the PHA attaches voucher assistance to specific housing units through a PBV HAP Contract with an owner, pursuant to 24 CFR 983. Unlike a tenant-based voucher, the PBV assistance remains attached to the unit when the family moves, and assists the next eligible family to move into the PBV unit. The PBV program is administered by HUD’s Office of Public and Indian Housing.

Project-Based Rental Assistance (PBRA). Rental assistance under Section 8(C) of the Act provided by HUD to owners according to the terms of a HAP Contract for the provision of housing to eligible tenants. The PBRA program is administered by HUD’s Office of Housing.

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

Public Housing Agency (PHA). A Public Housing Agency that administers programs under the Act, which could include public housing, Mod Rehab and HCVs. In addition to this general definition, the term PHA, as used in this Notice, refers to the owner of a First Component Converting Project (even if the project is a mixed finance project and the PHA does not own the ACC units).

Public Housing Assessment System (PHAS). The current system used to measure the performance of PHAs administering the public housing program, per 24 CFR part 902, or any successor system.

Public Housing Project. Per 24 CFR § 905.108 the term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under the Act, other than assistance under 42 U.S.C. § 1437f of the Act (section 8). The term “public housing” includes dwelling units in a mixed finance project that are assisted by a PHA with public housing Capital Fund assistance or Operating Fund assistance. The term “public housing project” means housing

⁴ For instance, 24 CFR § 983.202 provides, in part, “With the exception of single family scattered site projects, a HAP contract shall cover a single project. If multiple projects exist, each project shall be covered by a separate HAP contract.” The definition of “project” in 24 CFR § 983.3 is used to determine how many PBV HAP Contracts must be entered into.

developed, acquired, or assisted by a PHA under the Act, and the improvement of any such housing. Each public housing project has a project identification number in the Public and Indian Housing Information Center (PIC), though a PHA may propose to convert individual sites within the public housing project..

RAD Conversion Commitment (RCC). For the First Component, the contract executed by HUD, the PHA and, as applicable, the pre-conversion owner (if not the PHA), and the post-conversion Project Owner. The RCC follows completion of HUD’s review of the Financing Plan and describes the terms and conditions under which HUD will approve the proposed conversion and execute closing documents. (See [Section 1.12](#) and [Attachment 1A](#) for further details on the RCC.)

RAD Fair Housing, Civil Rights, and Relocation Checklist or Checklist. The Accessibility and Relocation Checklist or its successor, the RAD Fair Housing, Civil Rights, and Relocation Checklist (when available) used in First Component transactions.

RAD Fair Housing, Civil Rights, and Relocation Notice. The “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions,” Notice H 2016-17; PIH 2016-17 (HA), as may be amended from time to time.⁵

RAD Use Agreement. Applicable to the First Component, the document specifying the affordability and use restrictions on the Covered Project, which will be coterminous with the HAP Contract and must be recorded in a superior position to any new or existing financing or other encumbrances on the Covered Project. (See Sections [1.6.B.4](#) and [1.7.A.4](#) for further details on the RAD Use Agreement.)

REAC. HUD’s Real Estate Assessment Center.

Resident Opportunity and Self-Sufficiency Service Coordinators (ROSS-SC). Funding under this program is made available for Service Coordinators to assess the needs of residents of public housing and coordinate community resources to meet those needs. These services should enable participating families to make progress toward achieving economic independence and housing self-sufficiency, or, in the case of elderly or disabled residents, improve living conditions and enable residents to age-in-place.

Section Eight Management Assessment Program (SEMAP). The current system used to measure the performance of PHAs administering the Section 8 HCV program, per 24 CFR part 985, or any successor system.

⁵ https://www.hud.gov/sites/documents/16-17HSGN_16-17PIHN.PDF.

Small Area FMR. The FMR established on a zip-code basis per 81 FR 80678, as published annually in the Federal Register.

Surplus Cash. For both PBV and PBRA, following completion of the Work, the amount determined to be available at the end of an annual fiscal year period after payment, or after funds have been set aside for payment, of (i) operating expenses, (ii) mortgage payments, and (iii) all amounts required to be deposited in the replacement reserve or other restricted accounts essential to the Covered Project's operations.

Tenant Protection Vouchers (TPVs). Vouchers issued to eligible tenants of certain properties when an event at the property would otherwise expose tenants to a loss of rental assistance, resulting in an increase in their housing costs. Such events include when a Rent Supp or RAP contract terminates due to expiration, prepayment of the underlying mortgage, or an enforcement action; the termination or expiration of a Mod Rehab or SRO contract; or HUD approval of public housing unit demolitions, dispositions, and conversions under Section 18, Section 22, or Section 33 of the Act. HUD provides TPVs and funding to a voucher agency that has jurisdiction over the area in which the property is located. TPVs may be regular HCVs, which are administered in accordance with all HCV program requirements, or EVs, as described above.

Tenant Rent. The amount payable monthly by the household as rent to the unit owner as defined in 24 CFR Part 5.634 (public housing and PBRA) and 983.353 (PBV),

TTP. The total tenant payment as calculated pursuant to 24 CFR Part 5.

Uniform Physical Condition Standards (UPCS). Protocols used for HUD Real Estate Assessment Center (REAC) physical inspections in accordance with 24 CFR part 5, subpart G.

Uniform Relocation Act (URA). The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 U.S.C. 4601 et seq.) and its implementing regulations (49 CFR part 24).

Utility Allowance. As defined in 24 CFR Part 5, the amount that a PHA or Project Owner determines is reasonable for tenant-paid utility costs. In the case where the utility allowance exceeds the Total Tenant Payment (as defined at 24 CFR § 5.613), the tenant is reimbursed in the amount of such excess.

Voucher Agency. A PHA that administers an HCV program.

Work or Scope of Work. The improvements required by HUD to be performed within a defined period following the conversion and specified in the RCC or other RAD conversion documents.

SECTION I: PUBLIC HOUSING PROJECTS

1.1 Purpose

Section 1 of this Notice provides instructions to PHAs and their development partners seeking to convert assistance of a public housing property.

1.2 General Program Description

Under the First Component of RAD, 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. As such, initial contract rents are established based on public housing funding levels, and are subject to applicable program rent caps. Applications may be submitted for a specific project (using the RAD Application) or a PHA-defined portfolio of projects (which may include a multi-phase conversion of a pre-existing public housing site). If a PHA applies for a portfolio award, HUD will reserve RAD conversion authority for the number of units covered by the award, and the PHA will be required to submit a RAD Application for each individual project. Following review and selection of a RAD Application, HUD will provide the PHA with a Commitment to enter into a Housing Assistance Payment (CHAP), after which the PHA will have to present a Financing Plan for HUD to approve. After HUD approval of the Financing Plan, issuance of an RCC and successful closing of the conversion, a project will receive a long-term Section 8 HAP Contract. Upon conversion, units whose assistance has been converted pursuant to RAD will be removed from the public housing program. Converting Projects will be released from the public housing Declaration of Trust (DOT) and the Declaration of Restrictive Covenants (DORCs), if applicable, and a RAD Use Agreement will be placed on the Covered Project.

- A. **PBV Conversions.** Where the PHA converts assistance of a public housing project to Section 8 PBVs, the HAP Contract will be administered by the agency with which HUD has entered into the applicable Voucher ACC (which in many cases will be the same agency that is converting assistance). Contract rents will be established according to the terms described in this Notice and will be adjusted annually by HUD's published OCAF on each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract (see [Section 1.6.B.5](#) and [Attachment 1C](#)) and the rent reasonableness requirement discussed later in this Notice. The initial contract will be for a period of at least 15 years (up to 20 years upon approval of the administering Voucher Agency). At or prior to the expiration of the initial contract and each renewal contract thereafter, the Voucher Agency shall offer, and the Project Owner shall accept, a renewal contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the Project Owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Each project with a PBV HAP Contract will also be subject to a RAD Use

Agreement that will renew with the HAP Contract on the property assisted by the HAP Contract. Further, the administering Voucher Agency (i.e., the Contract Administrator) will provide a Choice-Mobility option to residents of Covered Projects in accordance with [section 1.6.D.8](#). With the exception of provisions identified in this Notice (as well as retained flexibilities of Moving to Work (MTW) agencies), all regulatory and statutory requirements of the PBV program in 24 CFR part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

- B. PBRA Conversions.** Where the PHA converts assistance of a public housing project to Section 8 PBRA, the HAP Contract will generally be administered by HUD's Office of Housing, unless later assigned to a PHA that is under ACC with HUD for the purpose of administering project-based Section 8 HAP Contracts. Contract rents will be established according to the terms described in this Notice and will be adjusted annually by HUD's published OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract ([see Section 1.7.A.](#) and [Attachment 1C](#)). The initial contract will be for a period of 20 years and will be subject to annual appropriations. At expiration of the initial contract and each renewal contract, HUD shall offer, and the Project Owner shall accept, a renewal contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the Project Owner and subject to HUD approval, at another site through a future transfer of assistance. The initial contract shall be eligible for renewal under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA). Each Covered Project with a PBRA HAP Contract will be subject to a 20-year RAD Use Agreement that will renew with the HAP Contract on the property assisted by the HAP Contract. Further, Project Owners must offer a Choice-Mobility option to residents of Covered Projects, as specified in [Section 1.7.C.5.](#) of this Notice, unless exempted from this requirement. With the exception of provisions identified in this Notice, all regulatory and statutory requirements of the PBRA program in 24 CFR part 880, and applicable standing and subsequent Office of Housing guidance, including related handbooks, shall apply (as modified and published in [Appendix I](#) of this Notice).
- C. Waivers.** A major goal of the First Component of RAD is to test the conversion of the public housing assistance to long-term, project-based Section 8 assistance available to Project Owners of assisted multifamily housing in order to generate additional sources of private financing. Consequently, HUD is applying its waiver authority and ability to establish limited alternative requirements for the effective conversion of assistance on a limited basis to facilitate the major goals of the Demonstration and maintain existing distinctions between the PBV and PBRA forms of contract assistance. Such distinctions will enable a PHA or Project Owner to choose the form of assistance that best meets its needs. It will also enable HUD and

Congress to assess how effective each form of assistance proves to be in meeting such varied circumstances and needs.

- D. Resident Rights and Relocation.** Equally important for the success of RAD are meaningful resident participation, procedural and relocation rights, and mobility, which are addressed in detail in various sections of the Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice and summarized in [Attachment 1B](#).
- E. Fair Housing Requirements.** RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. See HUD’s general regulations at 24 CFR § 5.105. For example, the Fair Housing Act prohibits discrimination in housing (see 42 U.S.C. §§ 3601, et seq., and 24 CFR part 100) and requires all Federal executive departments and agencies to “administer their programs and activities relating to housing and urban development . . . in a manner affirmatively to further” fair housing (42 U.S.C. § 3608(d) and (e)). All Federally assisted programs and activities are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin (see 42 U.S.C. §§ 4000d, et. seq., and HUD regulations in 24 CFR part 1) and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that federally assisted programs make each activity “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities (see 29 U.S.C. §§ 701, et seq., and 24 CFR part 8), as well as Titles II and III of the Americans with Disabilities Act (12 U.S.C. §§ 12101, et seq., and 42 CFR parts 35). Executive Order 11063 (24 CFR part 107) was issued to prevent discrimination based on race, color, religion, sex, or national origin in Federally assisted housing property or facilities and to require program participants to provide information on race, color, religion, sex, or national original of applicants for and participants in Federally assisted housing.

HUD has issued a separate notice, the RAD Fair Housing, Civil Rights, and Relocation Notice, to provide more detailed guidance regarding certain civil rights requirements of RAD transactions. This Notice has been updated to remove civil rights guidance and requirements that are duplicative of the provisions of the RAD Fair Housing, Civil Rights, and Relocation Notice. The removal of this language does not modify any of the requirements contained in the RAD Fair Housing, Civil Rights, and Relocation Notice. PHAs should consult the RAD Fair Housing, Civil Rights, and Relocation Notice early in the planning process so that they are aware of RAD’s civil rights related requirements for project construction and operation, site selection, submission of information to HUD, and HUD approval.

RAD conversions that include one or more of the circumstances described in the RAD Fair Housing, Civil Rights, and Relocation Notice must undergo a Front-End Civil Rights Review. The purpose of the review is early identification of the risk that elements of proposed RAD projects will be out of compliance with certain fair housing and civil rights requirements. When such circumstances are present, the PHA must obtain written approval from HUD.⁶

1.3 Eligibility

Only PHAs may apply under this section of the Notice. However, PHAs may consider enlisting partners to facilitate recapitalization and development of its projects. Additionally, while public housing mixed-finance projects are eligible for conversion under the Demonstration (see Section 1.9 of this Notice), the application for conversion of assistance must be submitted by the PHA on whose ACC the units are included. This requirement also applies to directly-funded Resident Management Corporations (RMCs).

A RAD Application may be rejected, or a CHAP or RCC revoked, if HUD determines an applicant or PHA to be ineligible.

To be eligible for the Demonstration, a PHA must:

1. Have public housing units under an ACC or have available authority to develop units pursuant to the Faircloth Limit;
2. Be classified as a Standard or High Performer under the Public Housing Assessment System (PHAS). If classified as “troubled” (Troubled) the PHA may still be eligible if the PHA is making substantial progress under its Recovery Agreement, Action Plan, Corrective Action Plan (CAP) or Memorandum of Agreement (MOA) or proposes a revision to such agreement or plan that incorporates conversion under RAD and that is acceptable to HUD. HUD must have determined that the factors resulting in the PHA’s Troubled status will not affect its capacity to carry out a successful conversion under this Demonstration.
3. Be classified as a Standard or High Performer under the Section Eight Management Assessment Program (SEMAP) if the PHA will be administering the PBV contract under RAD. If classified as Troubled, the PHA must be making substantial progress under the CAP and HUD must have determined that the factors resulting in the PHA’s Troubled status will not affect its capacity to carry out a successful conversion under this Demonstration;

⁶ Properties being redeveloped with funding under a Choice Neighborhoods Implementation (CNI) grant are not subject to the RAD Fair Housing, Civil Rights, and Relocation Notice, including the RAD front-end and civil rights transaction reviews.

4. Be in substantial compliance with HUD reporting and programmatic requirements and/or satisfactorily in compliance with any CAP or MOA related to any 1) program finding or 2) failure to carry out, to the satisfaction of the Department, management decisions relating to an audit by the Office of Inspector General;
5. Not have a debarment, suspension, or Limited Denial of Participation (LDP) in Federal programs lodged against the applicant, PHA Executive Director, Board members, or affiliates, unless HUD has determined that the RAD conversion is likely to place the property under the control of a more capable entity;
6. Submit a completed application that complies with all RAD Application instructions.
7. Resolve to HUD's satisfaction any outstanding civil rights matters prior to conversion. All pending legal processes must have been satisfied to meet this standard. If eligibility would be denied on this basis, HUD will notify the applicant of its determination and any actions necessary to permit a finding of eligibility.

Additionally, a PHA may be required to demonstrate that its proposed activities under RAD are consistent with and will not hinder or delay satisfaction of any applicable fair housing or civil rights VCA, conciliation agreement, consent order or consent decree, final judicial ruling, or administrative ruling or decision. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or VCA (see Section 1.12 of this Notice).

1.4 Project Conversion Requirements and Financing Considerations

One of the main purposes of RAD is to demonstrate how the conversion of current public housing assistance to long-term, project-based Section 8 rental assistance contracts can generate access to private and public debt and equity to address immediate and long-term capital needs through rehabilitation or new construction. HUD therefore expects that the majority of projects undergoing conversion of assistance through RAD will do at least some rehabilitation or reconstruction. The following include requirements related to conversion plans more broadly, including those involving rehabilitation and construction:

A. Conversion Planning Requirements.

1. **Capital Needs Assessment (CNA).** Except as noted below, each project selected for award will be required to perform a detailed physical inspection to determine both short-term rehabilitation needs to be included as a Scope of Work that will be completed as part of the RAD conversion and long-term capital needs to be addressed through a Reserve for Replacement Account. A CNA must be submitted with the Financing Plan and must have been completed no earlier than 180 days prior to submission of the Financing Plan, except with HUD approval.

- **CNA eTool.** The CNA eTool is required as part of any RAD Financing Plan (or application for FHA Firm Commitment), except as described below. The CNA eTool contains two major components – the narrative (the description of each component and its condition and may include an energy audit) and the financial model (the 20-year schedule and associated determination of the Initial Deposit to Replacement Reserve, or IDRR, and the Annual Deposit to Replacement Reserve, or ADRR).
- **Contractor Qualifications.** The CNA must be completed by a qualified, independent third-party professional as required by the MAP Guide.
- **Exemptions.** HUD may exempt the transaction types set forth below from CNA requirements, provided that the proposed exemption is confirmed with HUD prior to submission of the Financing Plan and eligibility for the exemption confirmed in HUD’s review of the Financing Plan. Exemptions may apply to some or all portions of the CNA, including the assessment of immediate needs and the portions of the CNA eTool necessary to produce the 20 Year Reserve Schedule.
 - a. For non-FHA transactions, neither component of the CNA will be required as long as the Annual Deposit to the Replacement Reserve is no less than \$450 per unit (or a lower amount if justified by an alternate form of CNA acceptable to HUD, typically one performed for an investor or lender), and the Project:
 - i. Has been newly constructed or financed with 9% LIHTC within the last five years, as calculated from the date the final certificate of occupancy was issued,⁷ or
 - ii. Qualifies as new construction or will be financed with 9% LIHTC;
 - b. For non-FHA transactions, the narrative will not be required where the transaction will be financed with 4% LIHTC;
 - c. For non-FHA transactions, neither component of the CNA will be required where the total assisted units (e.g., RAD units and other PBV units) at the project will constitute less than 20% of the total units at the project (or a higher percentage at HUD’s discretion, taking into consideration the absolute number of RAD units at the project).
 - d. For FHA transactions, PHAs should follow applicable requirements in the MAP Guide governing exemptions.
- **Utility Consumption Baseline.** No utility consumption baseline analysis is necessary as part of the CNA conducted for the RAD conversion.

⁷ Prior to confirming an exemption from the CNA HUD will require a disclosure of any construction defects and a PHA certification that it conducted a site review/inspection of the project with respect to accessibility for persons with disabilities and that the property complies with federal accessibility requirements

- 2. Energy Efficiency and Climate Resilience.** For all projects retrofitted under a RAD conversion, if systems and appliances are being replaced as part of the Work identified in the approved Financing Plan and RCC, PHAs shall utilize the most energy- and water-efficient options that are financially feasible and that are found to be cost-effective by the CNA described above. The CNA will provide detailed analyses of energy-saving alternatives and other green building components, including payback and cost/saving analyses. The use of Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances replacements, if any such designation is available for the applicable system or appliance, is presumed to be the minimum threshold for meeting such requirement.⁸ Where the CNA indicates a component will improve indoor air quality and/or reduce overall environmental impact at little or no cost premium, the PHA shall use such component consistent with the principles and best practices of the green building industry.

Where a PHA is planning to use a RAD conversion in conjunction with new construction, projects shall at a minimum meet or exceed the 2021 International Energy Conservation Code (IECC) for single family or low-rise multifamily properties (three stories or fewer) or the ASHRAE 90.1-2019 standard for mid to high-rise multifamily projects, or any successor codes that are adopted by HUD under the requirements of the Energy Independence and Security Act of 2007. Additionally, all new construction projects are encouraged to meet or exceed the requirements for Energy Star for New Homes or Energy Star for Multifamily New Construction. Further, in new construction and applicable retrofit projects, HUD strongly encourages the use of industry-recognized, green building certifications that support net-zero and net-zero ready construction, such as DOE Zero Energy Ready Homes - Multifamily, Enterprise Green Communities Plus, Passive House Core or Zero, International Living Future Institute Core Green Building Certification or Zero Energy and Zero Carbon, National Green Building Standard with net zero energy badge, and LEED Zero Energy or Zero Carbon.

As noted in Section 1.4.B.6, numerous state and local governments offer other funding programs which can be used as sources in financing plans, particularly if a scope of work includes “green retrofitting” or weatherization components. In many localities, utility companies and appliance manufacturers offer grants related to

⁸ For Energy Star®, see <http://www.energystar.gov/>. For WaterSense®, see <http://www.epa.gov/watersense/>. For FEMP, see <http://www1.eere.energy.gov/femp/>.

energy-saving retrofit components. (<http://www.dsireusa.org/> is one source of information on incentives and policies state.)

Renewable Energy. PHAs are also strongly encouraged to assess the viability and potential cost savings of renewable energy sources for the site and design roofs and other systems accordingly. For example, PHAs can use the National Renewable Energy Laboratory (NREL) REopt tool to evaluate the economic viability and cost savings of multiple renewable energy options.

Climate Resilience. All PHAs must:

1. Analyze likely hazard risk by entering property addresses into FEMA's [National Risk Index \(NRI\)](#) and identifying which hazards are "relatively high" or "very high" for their census tract. If a census tract hazard does not apply to their specific site (e.g., a site located on top of a hill may not face riverine flooding risk), the PHA should explain the non-applicability of the NRI rating. Applicants may also consider hazards identified in climate projection tools as applicable: [Climate Explorer](#), [Flood Factor](#), [NOAA Sea Level Rise Viewer](#), [Climate Central Coastal Risk Screening Tool](#) (by year and/or water level), and [Climate Mapping for Resilience and Adaptation \(CMRA\)](#).
2. Provide a narrative description detailing how the scope of work addresses or mitigates against the identified climate hazard risks. PHAs are strongly encouraged to consider strategies to reduce the risk of resident injury and property damage when hazards strike. Hazard-specific resilience strategies to consider include, but are not limited to:
 - Potable water storage (one gallon per person for five to seven days);
 - Back-up power (generators or battery back-up for critical loads) to last five to seven days;
 - Indoor air quality: sensors and purifiers;
 - Flood protection: flood vents, water-resistant materials, roof sealing/water barrier, flood gates, flood doors, sandbags and other deployable barriers;
 - Floodwater control: backwater valves, sump pumps, permeable pavement, green roof, bioswales, dry wells;
 - Heat control: multi-pane and/or low-e coated windows, window shading, cool roofing products, enhanced roof and wall insulation;
 - Fire protection: compliance with 2021 International Wildland-Urban Interface Code, class A roof, noncombustible or fire-resistant materials, fine mesh vent screens, enclosed decks and eaves, tempered glass for first-floor windows; and

- Winter and Rain Storm protection: impact-rated windows, FORTIFIED Roof™, buried utility lines.
3. Informed by the climate hazard risks, PHAs must also create a property-wide disaster plan including an evacuation plan that describes safe egress route(s), plans for evacuating residents with disabilities and special needs, and clear communication of the evacuation plan and safety resources for residents. For residents with disabilities and special needs, this must include a plan for emergency evacuation and relocation, including discussion of facilities of like capacity that are equipped to provide critical needs-related care and services at a level like the originating facility.
 3. **Environmental Review.** Under Federal environmental review requirements, proposed RAD projects are subject to environmental review under either Part 50 or Part 58, as applicable, and environmental documents are required to be submitted no later than the applicant's Financing Plan.⁸ HUD will not issue an RCC if the project plan does not meet the environmental review requirements described in [Attachment 1A](#). Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.⁹
 4. **Substantial Conversion of Assistance.** Conversions may not result in a reduction of the number of assisted units, except by a de minimis amount. A de minimis reduction of units may include any of the following:
 - a. The greater of five units or the number of units (rounded to the nearest whole number) corresponding to five percent of the number of ACC units in the Project (or RAD-converted portfolio, if both the portfolio and de minimis units are counted in the aggregate) immediately prior to conversion;

⁸ Under Part 58 Review, the PHA submits a Request for Release of Funds (HUD-7015.15) or the local responsible entity's finding of exempt activity to the HUD Field Office. When the PHA submits a Request for Release of Funds, the HUD Field Office provides environmental clearance, using Form HUD-7015.16, if no valid objections are made and HUD has no knowledge of deficiencies cited in 24 CFR § 58.72(b). PHAs submit only the Form HUD-7015.16 with the Financing Plan, not the full environmental review record. Under Part 50, HUD staff complete the review in conjunction with the Financing Plan review and therefore the PHA should submit full environmental review documentation no later than the Financing Plan submission. HUD may require earlier submission in order to ascertain whether a conversion has sufficiently advanced (see Section 1.12 for discussion of the Concept Call).

⁹ A choice limiting action means an action that may have an adverse impact on the environment or limit the choice of reasonable alternatives. A choice limiting action may include, but is not limited to, real property acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation or clearance, ground disturbance, and leasing. For more information see the Environmental Review Requirements for RAD Conversions Quick Reference Guide: <https://www.hudexchange.info/resource/4216/environmental-review-requirements-for-rad-transactions/>

- b. Any unit that has been vacant for more than 24 months at the time of RAD Application; and
- c. Units that, if removed from assistance, will allow the PHA to more effectively or efficiently serve assisted households through: 1) reconfiguring apartments (e.g., converting efficiency units to one-bedroom units); or 2) facilitating social service delivery (e.g., converting a basement unit into community space), subject to HUD approval.

Otherwise, a PHA may not reduce the number of ACC units at a project without Section 18 Demolition or Disposition approval from the Special Applications Center (SAC).

In all cases, the PHA shall submit within its PIC removal application (See [Section 1.12](#)) a narrative explanation of the proposed reduction, including a description of the units to be removed, an explanation of why the project meets the exclusion criteria, and any supporting evidence. HUD may approve any reduction of units by project or portfolio. Any de minimis reduction request must be included in the approved Financing Plan prior to closing of the associated transaction.

The de minimis allowance may be calculated across portfolio conversions, but the number of de minimis units allowed must be calculated based on the RAD conversions closed prior to or simultaneous with the execution of the de minimis reduction. For example, a PHA that is converting 200 units across three properties is permitted to replace 190 RAD-assisted units (i.e. 95% of 200) across its portfolio and apply the unit reductions to a single property. However, the property that would have 10 fewer units assisted under a RAD HAP Contract must convert simultaneous with or after the first two properties, not before.

A PHA must demonstrate that any reduction in units better serves residents, the Covered Project, or the operating viability of the PHA's RAD or public housing portfolio, will not result in the involuntary permanent displacement of any tenant family, and will not result in discrimination based on race, color, religion, national origin, sex, disability, or familial status.

Any property or the proceeds received from the sale of any property that is released from the DOT under the de minimis exception must be used for Affordable Housing Purposes.

5. Relocation Requirements.

a. RAD Fair Housing, Civil Rights, and Relocation Notice. Relocation

requirements related to public housing conversions under RAD are described in the RAD Fair Housing, Civil Rights, and Relocation Notice.¹⁰ The RAD Fair Housing, Civil Rights, and Relocation Notice provides PHAs and their development partners with information and resources on RAD program requirements, Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended (Section 104(d)) when planning for or implementing resident moves in connection with a RAD conversion under the First Component of RAD. Specifically, the RAD Fair Housing, Civil Rights, and Relocation Notice provides guidance on relocation planning, resident right to return, relocation assistance, resident notification, initiation of relocation, and the fair housing and civil rights requirements applicable to these activities.

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

- b. Right to Return.** Any resident that may need to be temporarily relocated to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery. Where the transfer of assistance to a new site is warranted and approved (see [Section 1.4.A.12](#)), residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or

¹⁰ For properties being redeveloped with funding under a Choice Neighborhoods Implementation (CNI) grant, the RAD Fair Housing, Civil Rights, and Relocation Notice is superseded by requirements regarding relocation included in the applicable CNI NOFA and applicable CNI Grant Agreement.

construction is complete. For more information on how to implement these provisions see the RAD Fair Housing, Civil Rights, and Relocation Notice.

- c. **Ineligibility of Tenant Protection Vouchers.** Conversion of assistance is not an event that triggers the issuance of Tenant Protection Vouchers to residents of public housing projects going through a RAD conversion.¹¹

- 6. **Accessibility Requirements.** Federal accessibility requirements apply to all conversions, whether they entail new construction, alterations, or existing facilities. See the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17 PIH 2016-17 (HA)) for a full description of the applicability of accessibility requirements in RAD and the situations under which HUD will perform an up-front review.

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

- 7. **Site Selection and Neighborhood Standards.** Where a PHA is planning to convert assistance under RAD, the PHA must comply with all applicable site selection requirements as set forth in this Notice and in accordance with any additional applicable guidance provided by HUD. Site selection requirements set forth at 24 CFR § 983.57 shall apply to RAD conversions to PBV assistance and site selection requirements set forth at Appendix III shall apply to RAD conversions to PBRA assistance. Site selection must be consistent with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964 including implementing regulations at 24 CFR § 1.4(b)(3), Section 504 of the Rehabilitation Act of 1973 including implementing regulations at 24 CFR § 8.4(b)(5), and the Americans with Disabilities Act. Choice Neighborhoods Implementation projects are subject to the site and neighborhood standards published in the applicable NOFA. See the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17 PIH 2016-17 (HA)) for a full description of Site and Neighborhood Standards requirements in RAD and the situations under which HUD will perform an up-front review.

¹¹ This provision does not preclude a PHA from receiving tenant protection vouchers for a property that has also received a Choice Neighborhoods Implementation grant.

8. **Additional Design Considerations.** Applicants are also strongly encouraged to demonstrate contemporary best practices in rehabilitation and construction, utilizing a long-term and holistic view of costs and benefits and a decision-making process which includes current and future stakeholders. Planning and design should include building lifecycle costs, energy and water-efficiency, social inclusion and connectivity, broadband infrastructure, senior fall prevention and aging in place design, occupant health and welfare, basic environmental stewardship, and climate change resilience.¹²
9. **Demolition.** Conversion plans may include the partial or complete demolition of the Covered Project and replacement of assistance on-site or off-site. Unless approved in writing by HUD,¹³ a PHA may not demolish and/or dispose of units until after the closing of construction financing for the Covered Project.¹⁴ Both the demolition action and new construction or rehabilitation (either on-site or off-site) are considered as part of a single Environmental Review. PHAs should be aware that the CDBG and HOME programs have additional requirements regarding demolition if those sources of funds are used.¹⁵
10. **Change in Unit Configuration.** Where a PHA is proposing to change the unit configuration as part of the conversion, the PHA must demonstrate that the change in bedroom distribution will not result in the involuntary permanent displacement of any resident and will not result in discrimination based on race, color, national origin, religion, sex, disability, or familial status. For example, if three and four-bedroom units are replaced with one and two-bedroom units, the conversion may, but not in all cases, result in discrimination against families with children. See the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17 PIH 2016-17 (HA))

¹² PHAs may wish to reference additional product certifications and standards in their building specifications and can find additional guidance via the US Green Building Council's Leadership in Energy and Environmental Design (LEED) Rating System. Most of these programs build on the Energy Star certification and the IECC / ASHRAE standards for ease of coordination.

¹³ Demolition prior to replacement is common in transactions utilizing Choice Neighborhood Implementation grants. Whenever approval is granted, a PHA cannot begin demolition before entering into a Converting Awaiting Transfer (CAT) agreement, which converts the public housing assistance and reserves the PHA's ability to place it under a HAP contract at a future date.

¹⁴ Section 18 of the Act does not apply to RAD Conversions and is not needed for conversion plans involving demolition. Demolition approval pursuant to Section 18 is not sufficient to permit demolition of units under RAD and may cause the Converting Project to be ineligible for conversion under RAD. In rare cases, Section 18 approval (including an approval letter from the Special Application Center) is required for elements of certain transactions which cannot be implemented under RAD authority. See Section 1.5.B.

¹⁵ The most relevant requirements are contained in Section 104(d) of the Housing and Community Development Act of 1974, as amended.

for a full description of the situations under which HUD will perform an up-front review when a PHA proposes to change the unit configuration of a project.

- 11. Ownership and Control.** Except where permitted to facilitate the use of tax credits, during both the initial term and all renewal terms of the HAP Contract, HUD will require ownership or control of the Covered Project by a public or non-profit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the Covered Project, but only if HUD determines that the PHA or a non-profit entity preserves an interest in the property.

Public or non-profit ownership or control, or preservation of an interest by a PHA or non-profit in a property owned by a tax-credit entity controlled by a for-profit entity, may be satisfied if the PHA, public entity or non-profit entity (or entities), directly or through a wholly owned affiliate: (1) holds a fee simple interest in the real property of the Covered Project; (2) is the lessor under a ground lease with the Project Owner; (3) has the direct or indirect legal authority (via contract, partnership share or agreement of an equity partnership, voting rights, or otherwise) to direct the financial and legal interests of the Project Owner with respect to the RAD units; (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.

Control rights referenced in the examples above include control over the leasing of the Covered Project, such as exclusively maintaining and administering the waiting list for the Covered Project, including performing eligibility determinations, and consent rights over certain acts of the Project Owner (including, for example, disposition of the Covered Project, changing the number of affordable units or the affordability targeting, setting utility allowances or any unregulated tenant fees for the affordable units, selecting the management agent, setting the operating budget and making withdrawals from the reserves). Control may be established through the terms of the Project Owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD. Ownership and control structures are subject to HUD review to ensure compliance with statutory requirements.

If HUD, in its sole discretion, determines intervention is necessary in situations involving foreclosure, bankruptcy, or termination and transfer of assistance for material violations of, or default under, the HAP Contract, HUD will first seek to require ownership or control of assisted units by a capable public or non-profit entity before considering another capable entity, as determined by the Secretary.

All current and future ownership entities are subject to the eligibility requirements of Section 1.3 of this Notice, including the civil rights threshold requirements. Furthermore, if a PHA or project is subject to a Voluntary Compliance Agreement (VCA), conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision (hereafter referred to as “VCA and related agreements”), it must ensure that the ownership agreement or other appropriate document makes the new owner subject to the remedial provisions contained in such documents to the extent required by Federal, state, and local law to ensure continued applicability of appropriate provisions of the VCA and related agreements to the property and its operations. It is the PHA’s obligation to disclose such VCA and related agreements to the prospective owner. The extent of the new owner’s responsibilities, including whether the responsibilities are appropriately limited to the development, maintenance, or operation of the particular RAD project, must be appropriately documented. The PHA will follow any applicable requirements for the modification of such VCA or related agreements. If HUD is a party to the VCA and related agreements, the RAD project will not close without HUD’s express approval of the transfer of obligations to the new owner.

- 12. Transfer of Assistance.** In order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, there are three scenarios under which assistance converted pursuant to RAD may be transferred off of the existing parcel of land (for the purposes of this sub-section, unless specifically stated otherwise, transfer of assistance does not include transfers to an adjacent site): (1) where the PHA requests assistance to be transferred as part of the conversion from Converting Project to Covered Project; (2) post-conversion where a Project Owner requests a partial or full transfer of assistance, or (3) where, as a result of a default of the Use Agreement or HAP Contract, HUD terminates the HAP Contract. In all cases, the transfers of assistance will be subject to the ownership and control provisions described in this Notice.

Approvals of a PHA or owner’s request to transfer assistance will be determined in HUD’s sole discretion considering the condition and needs of the Converting Project, the nature of the proposed Covered Project, and the impact on the Converting

Project's residents. The transfer shall not place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the Act.¹⁶ The transfer shall comply with all applicable fair housing and civil rights requirements and all requirements detailed in this Notice, including environmental review (see [Section 1.4.A.3](#) and [Attachment 1A](#)), Site and Neighborhood Standards (see [Section 1.4.A.7](#)), Changes in Unit configuration (see [Section 1.4.A.10](#)), and Accessibility requirements (see [Section 1.4.A.6](#)). See the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17 PIH 2016-17 (HA)) for a full description of the an up-front civil rights review HUD will perform when a PHA proposes a transfer of assistance. Further, unless otherwise approved by HUD, a PHA may transfer units from a public housing project to an existing low-income housing tax credit project within its 15-year tax credit compliance period only if the transfer is necessary to help with the de-concentration of poverty and/or the de-densification of a public housing project. PHAs should be aware that acquisition of the transfer of assistance site for a Federally-funded project is generally subject to the URA and the commercial or residential occupant of such site may be eligible for relocation payments and assistance.

The project to which assistance is transferred will be subject to all of the contract terms as described in the HAP Contract, RCC, and RAD Use Agreement.

- a. Transfer at Conversion.** Where a PHA proposes assistance to be transferred to a new site as part of the conversion, this information must be included in the PHA's Five Year, Annual, or MTW Plan, or as an amendment to the Five Year or MTW Plan or significant amendment to the Annual Plan and must be consistent with the Consolidated Plan. In a conversion where residents will remain in the Converting Project (i.e., the current public housing site) until the rehabilitation or construction of the Covered Project (i.e., the receiving site) is complete, the PHA and Project Owner must submit a request with their Financing Plan to either a) enter into the HAP contract at the close of construction financing at the Covered Project and, if residents will continue to occupy the former public housing units until construction is complete, execute a Master Lease between the Project Owner (Lessee) and PHA (Lessor) for the units with lease payments made from Rehab Assistance Payments or other available funds or b) with HUD approval, enter into

¹⁶ The analysis can be found in Section VIII B.1 of H-2015-03 "Transferring Budget Authority of Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act." A copy of the criteria is available at www.hud.gov/rad. At a minimum, projects that are located in neighborhoods that meet these criteria will meet the requirement under this Notice that transfers not occur to neighborhoods of concentrated poverty. HUD may modify these criteria as appropriate to fit the purposes of RAD and will post the applicable criteria at www.hud.gov/rad.

a contractual agreement regarding delayed conversion (“Delayed Conversion Agreement”), pursuant to which the Converting Project will remain as public housing while occupied by public housing residents during construction of the new site and the entire HAP Contract will be executed and effective as construction is completed and units are ready for occupancy. Please note that a Delayed Conversion cannot accommodate “staged” effective dates for distinct clusters of units.¹⁷ HUD will approve such requests in its sole discretion, based on sufficient demonstration that it is necessary to facilitate conversion.

When the assistance will be transferred at execution of the HAP Contract (including to an adjacent site), the PHA must submit as part of the Financing Plan a brief narrative describing its plans for the Converting Property. Generally, a PHA’s plans must propose for HUD’s review one of the following:

- i. Release the Declaration of Trust and place the property under an alternative restrictive covenant at closing that, generally, will:
 - a) Be recorded in a superior position to all other liens on the property that could compromise the applicability or enforceability of the alternative restrictive covenant;
 - b) Run for a period of twenty years after which it will extinguish by its terms;
 - c) Require that either:
 - i) the use of the property be restricted to Affordable Housing Purposes, which restriction shall apply to any successor owners of the property, or
 - ii) where the property is not used for Affordable Housing Purposes, any net income generated from the property, including through lease agreements, be restricted to Affordable Housing Purposes, which restriction shall apply to any successor owners of the property; Require that for the duration of the use restriction, HUD approve any changes in ownership to confirm ongoing compliance with the use restriction;
 - d) Require that, for the duration of the 20-year use restriction period or until the property is sold at Fair Market Value (whichever is shorter), the PHA retain records of and annually report to its board regarding the use of the property (including any use for Affordable Housing Purposes) and any proposed sale of the property; and further require that until any proceeds from the property are fully expended, the PHA retain records of and annually report to its board the net income generated from the

¹⁷ Please see guidance available on www.RADresource.net “Master Lease vs. Delayed Conversion Agreement”

property, the proceeds of any sale of the property, and the use of such funds for Affordable Housing Purposes. HUD will require such records whenever HUD approval is needed for sale or transfer of the property or upon request; and

- e) Permit a subsequent removal of the alternative restrictive covenant with HUD approval under the following situations:
 - i) for sale of the property at Fair Market Value (or equivalent market valuation, e.g., negotiated sale) as long the as proceeds are restricted to Affordable Housing Purposes, or
 - ii) when replaced with an alternative restrictive covenant (e.g., LIHTC extended use agreement) that, in HUD's determination, satisfies the Affordable Housing Purposes requirement.
- ii. Retain the Declaration of Trust and separately demolish and/or dispose of the Converting Property under section 18 of the Act or dispose of (retain) the Converting Property under 2 CFR part 200 (see Notice PIH 2016-20); or
- iii. Release the Declaration of Trust at conversion in order to imminently sell the original property at Fair Market Value (FMV) (or equivalent market valuation) with a plan to use the proceeds from the sale for Affordable Housing Purposes.

Until expended, the PHA must place any proceeds in an account subject to a HUD-51999, General Depository Agreement which specifies the insurance and security investment requirements.

- b. Transfer After Conversion.** In general, a Project Owner may only request a transfer of assistance to HUD after 10 years from the effective date of the initial HAP Contract. A Project Owner may submit a transfer request sooner if it is needed as a result of eminent domain proceedings, natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD provided approval of a future transfer prior to conversion). HUD may consider, and approve with such conditions as HUD determines appropriate, a partial or complete transfer of assistance to a new location if the new location complies with applicable site selection standards. Substantially all units covered by the initial HAP Contract must remain or be replaced as a result of the transfer. Residents of the original location at the time of the transfer request shall not experience a loss of rental assistance. PBV-assisted families living at the property upon termination of a PBV HAP Contract have a statutory right to receive a

tenant-based voucher and to certain tenancy protections.¹⁸ (A family may voluntarily decline the tenant-based voucher and accept a PBV unit at the new location but may not be required to do so.) Termination of a PBV contract is not cause for issuance of additional tenant-based voucher assistance from HUD. PHAs and owners contemplating RAD PBV transfers after conversion must take the PBV families' right to tenant-based voucher assistance into consideration and ensure that there will be sufficient resources available to the PHA to both effectuate the transfer and meet the PHA's obligation to provide tenant-based vouchers to those families that wish to receive them. Subject to the availability of appropriations, PBRA-assisted families living at the property upon termination of a PBRA HAP Contract that meet the eligibility requirements for voucher assistance may receive tenant-based tenant protection vouchers (TPVs) in the event the termination of the original PBRA HAP Contract qualifies for issuance of such vouchers. If applicable, any lender to and/or investor in the Covered Project must approve the transfer of the assistance. In the event of a transfer of all RAD units, a RAD Use Agreement will be recorded encumbering the new location to which assistance is transferred and the original RAD Use Agreement on the Covered Project will be released. In the event of a partial transfer, a RAD Use Agreement will be recorded encumbering the new location to which assistance is transferred and HUD shall consider appropriate modifications to the original RAD Use Agreement.

- c. **Transfers as a Result of Default.** In the event of default of a Covered Project's Use Agreement or HAP Contract, HUD may terminate the HAP Contract and transfer the assistance to another location. HUD will determine the appropriate location and owner entity for such transferred assistance consistent with the statutory goals and requirements of the Demonstration. As to the events of breach of the RAD Use Agreement, HUD will avail itself of such legal actions as described in the RAD Use Agreement.

13. RAD Use Agreement. Pursuant to the RAD Statute, a Covered Project shall have a RAD Use Agreement that will be in such a form as prescribed by HUD including but not limited to the following:

¹⁸ See the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices including the "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21. Pursuant to applicable Housing Choice Voucher program requirements, upon PBV HAP Contract termination the family must be given the option to remain in their unit with HCV assistance if the unit remains rental housing, the rent is reasonable, and the unit meets housing quality standards.

- a. Be recorded in a superior position to all other liens on the property that could compromise the applicability or enforceability of the RAD Use Agreement.¹⁹ The Use Agreement shall be recorded prior to the Security Instrument or any other mortgage or security instrument relating to an FHA-insured loan or a Risk-share loan;
- b. Run until the conclusion of the initial term of the HAP Contract, automatically renew upon extension or renewal of the HAP Contract for a term that coincides with the renewal term of the HAP Contract, and remain in effect even in the case of abatement or termination of the HAP Contract, unless the Secretary approves termination of the RAD Use Agreement in the case of a transfer of assistance;
- c. Provide that in the event that the HAP Contract is removed due to breach, non-compliance or insufficiency of Appropriations, for all units previously covered under the HAP Contract new tenants must have incomes at or below eighty percent (80%) of the area median income (AMI) at the time of admission and rents may not exceed thirty percent (30%) of eighty percent (80%) of AMI for an appropriate-size unit for the remainder of the term of the RAD Use Agreement; and
- d. Require compliance with all applicable fair housing and civil rights requirements, including the obligation to affirmatively further fair housing.

14. Davis-Bacon prevailing wages. The Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements) apply to all Work, including any new construction, that is identified in the Financing Plan and RCC to the extent that such Work qualifies as development. “Development,” as applied to work subject to Davis-Bacon requirements on Section 8 projects, encompasses work that constitutes remodeling that alters the nature or type of housing units in a PBV or PBRA project, reconstruction, or a substantial improvement in the quality or kind of original equipment and materials, and is initiated within 18 months following the effective date of the HAP Contract. Development activity does not include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Davis-Bacon requirements apply only to projects with nine or more assisted units.

¹⁹ For projects being developed under a Choice Neighborhoods Implementation grant, the Choice Neighborhoods Declaration of Restrictive Covenants (DORC) may be recorded in a superior position to the RAD Use Agreement.

15. Section 3 of the Housing and Urban Development Act of 1968 (Section 3). Section 3 is codified at 12 U.S.C. 1701u and implemented by regulation at 24 CFR part 135 or successor part.

- a. Pursuant to such requirements, all pre-development conversion costs funded by public housing program funds pursuant to Section 1.5.A are subject to 12 U.S.C. 1701u(c)(1) and (d)(1), which sets forth Section 3 requirements applicable to public housing activities.
- b. While most RAD conversions do not utilize funding covered by Section 3, HUD has established the alternative requirement that any Work required by the conversion after the RAD Closing that involves housing rehabilitation or housing construction is subject to the Section 3 requirements applicable to housing and community development activities as set forth in 12 U.S.C. 1701u(c)(2) and (d)(2) and the regulations derived from such provisions, except that, with the exception of transactions receiving HUD housing and community development assistance, such as CDBG (24 CFR part 570) or HOME (24 CFR part 92), first priority for employment and other economic opportunities shall be given to residents of public housing or Section 8 assisted housing. Otherwise, the receipt of Section 8 rental assistance does not, in itself, trigger the applicability of Section 3.
- c. The Project Owner shall report Section 3 compliance through the post-closing completion certification to HUD described in Section [1.13.B.7](#) of this Notice upon completion of the Work. In addition, for any housing rehabilitation or housing construction assisted with HUD housing and community development assistance, such as CDBG (24 CFR part 570) or HOME (24 CFR part 92), Section 3 compliance shall be reported consistent with such program requirements.

16. Lead Based Paint Hazards. A property constructed before 1978 may contain lead-based paint and lead-based paint hazards unless abatement was previously completed, or a lead-based paint inspection determined that it was lead-based paint free. Pursuant to 24 CFR part 35 subpart L, a PHA is required to conduct a lead-based paint inspection and a lead risk assessment on a pre-1978 public housing property, and, subsequently, conduct ongoing lead-based paint maintenance and periodic re-evaluation for lead-based paint hazards. The PHA shall provide any documentation available to the PHA regarding lead-based paint and lead-based paint hazards to the firm preparing the CNA, if applicable, and to the Project Owner. The Project Owner must evaluate and control lead-based paint hazards in the Covered Project pursuant to 24 CFR Part 35 subpart H, including, among other things, completing a risk assessment if the multifamily property will receive more than \$5,000 per unit in rental assistance subsidy. If the PHA has provided the report of a current risk assessment

(less than 12 months old), or an older risk assessment and reports of all subsequent periodic re-evaluations, that documentation shall satisfy the Project Owner's requirement to have completed a risk assessment under subpart H. If applicable, the CNA must incorporate the work necessary to meet the Project Owner's requirements to treat lead-based paint hazards under subpart H. (See subpart H if the multifamily property will receive \$5,000 per unit or less in rental assistance subsidy.)

- 17. Current PHA Employees.** HUD encourages PHAs and their partners to grant current workers whose employment positions are eliminated during conversion the right of first refusal for new employment openings for which they are qualified.

B. Financing Requirements and Considerations.

To the extent that a PHA lacks recent experience in accessing various forms of debt and/or equity capital, it may wish to consider engaging technical assistance offered by local or national development intermediaries, professional financing advisors, consultants, and/or development partners to augment its capacities. In reviewing the Financing Plan for final approval, HUD assesses the capacity of the development team.

- 1. Debt Financing.** Covered Projects are eligible for financing from private and public lending sources. All loans made that are secured by Covered Projects must be subordinate to a RAD Use Agreement. See [Attachment 1A](#) for full financing underwriting requirements. Except where public housing funds are used in the transaction (see paragraph 2 below), RAD does not prohibit excess loan proceeds from being used to support other purposes consistent with the PHA's mission, e.g., renovations to other properties, though other financing sources may impose such restrictions.

Sources of private and public debt financing to consider include any and all sources that are commonly used in other low-income, use-restricted developments. In addition to commercial lenders, applicants should consider facilities – both construction and permanent – offered by Community Development Financial Institutions (CDFIs), Government Sponsored Enterprises (GSEs), Federal Home Loan Banks, and applicable private foundation financing. Other funding sources that may be available include Community Development Block Grants (CDBG), the Housing Trust Fund (HTF), and state housing agency-provided financing. Many municipalities offer infrastructure and other forms of development financing through tax-increment financing (TIF) initiatives or other comparable public finance programs. In some cases, transit-oriented development programs may prove accessible. Additionally, HOME funds can be used to assist RAD projects. The participating jurisdiction providing the HOME funds is responsible for ensuring that both the RAD project and

the specific use of the HOME funds meet the requirements of 24 CFR Part 92. Eligible costs that may be paid with HOME funds are established at 24 CFR § 92.206. However, PHAs and participating jurisdictions should be aware of the statutory prohibition on using HOME funds for public housing and must ensure that HOME funds are not expended for any cost of public housing (e.g., legal fees related to the release of the public housing declaration of trust or declaration of restrictive covenants).

2. **Public Housing Capital and Operating Program Funds.** PHAs are permitted under the Demonstration to use available public housing funding, including Operating Reserves (as defined in Notice PIH 2011-55) and unobligated Capital Funds, as a source of capital to support conversion (see [Section 1.5](#) of this Notice for more details). With written HUD approval, PHAs may also use Section 18 disposition proceeds upon confirmation that the proposed use meets the Section 18 requirements. MTW agencies may use certain public housing and voucher funds authorized under their funding flexibilities (“MTW funds”) as an additional source of capital to support conversion. These funds, whether provided as a loan, a grant, or a capital contribution, must be identified in the Financing Plan. If funds are contributed as a loan, except in extraordinary circumstances, the loan must be structured as a “soft” second mortgage payable from project cash flow. Financing proceeds in excess of transaction costs will not be allowed when public housing Capital, Operating, or MTW funds are contributed to the project conversion.

3. **Existing PHA Indebtedness and Contractual Obligations.** A PHA must address in its Financing Plan the amount of project debt associated with the Converting Project prior to conversion, including energy performance contracts, Capital Fund Financing (CFFP), Operating Fund Financing, Public Housing Mortgage Program, program debt (including ongoing repayment agreements related to audits or compliance reviews), or other debt. The PHA may refinance existing debt obligations as part of conversion. Conversion alone does not relieve the PHA of these or other obligations. RAD does not constitute a waiver of any CFFP requirements and is not treated as a CFFP ACC Amendment, including any provisions restricting the removal of units from the inventory that would affect the debt service coverage ratio through diminished Capital Funding or requiring defeasance or prepayment, arising from program regulations or contractual relationship with the secured party. PHAs should be aware that any new first mortgage lender, to the extent permissible within the existing financing documents, may require that existing indebtedness be paid off or subordinated in connection with the refinancing and conversion of the Covered Project.

- 4. Federal Housing Administration (FHA) Insured Financing.** FHA mortgage insurance provides high leverage and long-term, fully amortizing fixed-rate financing at competitive interest rates. For more information, PHAs should contact an approved FHA Multifamily Lender:
<http://portal.hud.gov/hudportal/documents/huddoc?id=aprvlend.pdf>.

Some properties converting under RAD may qualify for financing under section 223(f) of the National Housing Act, which provides mortgage insurance for a permanent financing and may include project repairs. If the scope of required property repairs indicates “substantial rehabilitation,” as defined by the FHA Multifamily Mortgage Insurance Program in the MAP Guide, the appropriate FHA-insured financing may instead be section 221(d)(4) of the National Housing Act. FHA has released separate guidance detailing how HUD has modified the policy and processing of FHA insurance programs to accommodate RAD conversions and minimize duplicative requirements (See Notice H 2012-20, “Underwriting Instructions for Projects Converting Assistance as part of the Rental Assistance Demonstration (RAD) Program”).

Risk sharing programs offered by state housing financing agencies, Freddie Mac, and/or Fannie Mae should be considered. Secondary financing, tax credits, and other public sources can be used in conjunction with FHA-insured financing and risk-sharing programs. All of the above financing options may be used to credit-enhance tax-exempt bonds.

- 5. Low-Income Housing Tax Credits (LIHTCs), Historic Tax Credits (HTCs), and Opportunity Zones.** Applicants are encouraged to use LIHTCs and, if eligible, historic preservation tax credits, opportunity zones and state or local tax incentive structures, to support recapitalization. Covered Projects may be eligible for HUD’s Multifamily Low Income Housing Tax Credit Pilot Program (Notice H 2012-1), which offers a distinct application platform and a separate processing track under the FHA Section 223(f) program described above.²⁰ RAD does not prohibit excess equity proceeds from being used to support other Affordable Housing Purposes.

Many states face excessive demand on an annual basis for allocations of 9% LIHTCs and routinely do not fully allocate their supply of 4% as-of-right credits coupled with tax-exempt bond financing allowed under their annual Private Activity Bond Volume Cap. Applicants are encouraged to assess local demand and supply considerations if proposing to utilize LIHTCs and to discuss their interest in applying for LIHTCs as

²⁰ Notice H 2012-1 can be found at <http://portal.hud.gov/hudportal/documents/huddoc?id=12-01hsgn.pdf>.

soon as possible with state or local tax credit issuing agencies to obtain guidance on how to compete for awards most effectively.

While the applicant must indicate in its application if it intends to use tax credits, there is no requirement to have secured these credits prior to submitting an application.

6. **Grant Funding or Cash Flow Financing.** There are many sources of funding at the local, state, and federal level, which may be structured as grants or as debt with repayment only required from cash flow.²¹ State and local CDBG and HOME funds may be utilized as “gap” financing for affordable housing developments.²² Numerous state and local governments offer other funding programs which can be used as sources in financing plans, particularly if a scope of work includes “green retrofitting” or weatherization components. In many localities, utility companies and appliance manufacturers offer grants related to energy-saving retrofit components. (<http://www.dsireusa.org/> is one source of information on incentives and policies state by state.) Several private foundations and corporate social investment funds offer funding in support of affordable housing development. Finally, the Federal Home Loan Bank’s “Affordable Housing Program” has been a significant source of gap funding in affordable housing projects, including many public housing mixed-finance and HOPE VI developments, and may prove a generally-available source of gap funding for properties converting under RAD. Note that in LIHTC transactions, these funds are often structured as debt or granted to a sponsor entity and loaned from the sponsor to the Project Owner.
7. **Acquisition Proceeds.** For transactions involving the transfer of ownership from a PHA administering the public housing program to a new entity, a PHA is permitted to receive cash acquisition proceeds in excess of any seller take-back financing unless the PHA is using public housing Capital, Operating, or MTW funds as a source of funds for the transaction.²³ All such proceeds must be used for Affordable Housing Purposes. Until expended, the PHA must place the proceeds in an account subject to a

²¹ PHAs and the source of the grant funds shall determine, based on local conditions, whether funds are structured as grants or as loans pursuant to the terms of Section 1.4(B)(1). The same source, such as CDBG funds, could be structured in either manner.

²² For relocation requirements specific to CDBG and HOME-funded activities, see the applicable CDBG and HOME program regulations at 24 CFR part 570 and 24 CFR part 92. CDBG grantees, HTF grantees, and HOME participating jurisdictions must ensure that their relocation requirements are followed regardless of whether the PHA is fulfilling their requirements in accordance with the RAD Fair Housing, Civil Rights, and Relocation Notice.

²³ Where a PHA is using public housing funds as a source for the transaction, a de minimis level of cash acquisition proceeds in excess of any seller take-back financing is permitted with good cause.

HUD-51999, General Depository Agreement which specifies the insurance and security investment requirements.

1.5 Waivers, Alternatives, and Other Public Housing Requirements

Under the Demonstration, HUD has the authority to waive or specify alternative public housing requirements, or to establish requirements for converted assistance under the Demonstration upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the Demonstration. Additionally, the RAD Statute imposes certain unique requirements. To facilitate the conversion of assistance, HUD is waiving or imposing the following alternative and other public housing program requirements for public housing projects converting assistance (Sections 1.6 and 1.7 list the waivers and alternative and other requirements of programs into which assistance is being converted):

- A. Use of Public Housing Program Funds to Support Conversion.** PHAs are permitted under the Demonstration to use available public housing funding, including Operating Reserves, Capital Funds, and Replacement Housing Factor (RHF) funds (see 24 CFR 905.400(i)), and Demolition and Disposition Transitional Funding (DDTF) (see 24 CFR 905.400(j)), as a source of capital in the development budget to support conversion, whether for rehabilitation or new construction, as well as to increase initial contract rents. Eligible conversion-related uses for these funds include pre-development, development, or rehabilitation costs of the Covered Project, establishment of a capital replacement reserve or operating reserve, payment of Capital Fund Financing Program (CFFP), Operating Fund Financing Program (OFFP), or Energy Performance Contract (EPC) debt, and increase of the initial contract rent pursuant to Sections 1.6.B.5 and 1.7.A.5. In order to use such funds on a Covered Project, these funds must be identified in the Financing Plan and RCC. See also [Section 1.4.B.2.](#)

HUD may extend the PHA's obligation end date for Capital Funds used in the conversion for up to thirty-six months from the previous obligation end date. By extending the obligation end dates, the expenditure end dates will be correspondingly extended. Any such extensions must remain within the boundaries of the account closing law, including preserving sufficient time for administrative close-outs. Such extensions will prevent PHAs from otherwise losing their unobligated Capital Funds prior to conversion.

Prior to the approval of a Financing Plan, a PHA may expend up to \$100,000 in public housing program funds on pre-development conversion costs per CHAP without HUD approval. Predevelopment assistance may be used to pay for materials and services related to proposed rehabilitation or development and may, with HUD approval, also be used for

preliminary development work, including critical repairs.²⁴ Public housing program funds spent prior to Closing as contemplated in the RCC are subject to public housing procurement rules.

Execution of Closing documents consistent with the RCC (as it may be amended) constitutes approval to use public housing funds in the conversion as referenced in the final approved Sources and Uses.

In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the Covered Project(s) through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing. In the case where the PHA will continue to maintain other units in its inventory under public housing ACC, a contribution of Operating Funds to the Covered Project that exceeds the average amount the project has held in Operating Reserves over the past three years will trigger a subsidy layering review under 24 CFR § 4.13. Similarly, any contribution of Capital Funds, including RHF or DDTF, will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the Capital Funds or Operating Reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

Following execution of the HAP Contract, PHAs are authorized to use Operating and Capital Funds to make HAP payments for the remainder of the first calendar year in which the HAP Contract is effective ([See Section 1.13](#)). Otherwise, a PHA may not contribute public housing program funds to the Covered Project unless those funds have been identified in the RCC and converted at Closing for Section 8 RAD purposes.

Where a PHA has used public housing funds to support the development budget and structured the contribution as a loan, any repayment of the loan must be used for Affordable Housing Purposes. However, any prepayment of principal on such a loan that occurs within the first 10 years shall be considered program income and may only be used for public housing or Section 8 purposes.

B. Special Applications Center (SAC) Applications and RAD.

²⁴ Please note that certain predevelopment activity may be considered a choice limiting action and cannot be completed before completion of an environmental review.

1. **General.** HUD encourages PHAs to consider RAD as well as other tools that may be available to them to reposition and preserve their public housing inventories. Other available tools include application to the Special Applications Center (SAC) for Demolition or Disposition under Section 18 of the Act, Voluntary Conversion under Section 22 of the Act, including Streamlined Voluntary Conversion as described in Notice PIH 2019-05, Required Conversion under Section 33 of the Act, and Homeownership under Section 32 of the Act.
2. **Joint RAD and Section 18 applications.** A PHA may be able to combine RAD and Section 18 activities towards the preservation of a project. In certain circumstances as determined by HUD (for additional details see PIH Notice 2021-07, or any successor Notice), HUD will offer the PHA a streamlined process for securing HUD approval for the units eligible for Section 18 applications.
 - a. If a PHA is combining the use of RAD and Section 18 activities at a project, all RAD relocation requirements (such as the resident notice and meeting requirements, the right to return and relocation assistance and payments as described in the RAD Fair Housing, Civil Rights, and Relocation Notice) shall apply to residents of the Section 18 units in lieu of the relocation requirements under 24 CFR part 970.21. The PHA may not provide different relocation rights and benefits to residents of the project on the basis of whether they will reside in a RAD Section 8 PBV or PBRA unit or a Section 18 unit to be assisted under Section 8 PBV.
 - b. If, at a converting project, a PHA is using 24 CFR 970.17(b) or 970.17(c) to dispose of other units at the project justified on the grounds that disposition allows more efficient or effective on-site or off-site development (970.17(b)) or to dispose for reasons and goals of the PHA in its PHA plan (970.17(c)) (see Notice PIH 2021-07, as may be amended or succeeded, for more details), HUD may disapprove the conversion if HUD determines that the PHA's use of both RAD and disposition under sections 970.17(b) or 970.17(c) in a single project undermines the unit replacement requirements of the RAD program.
 - c. Notice PIH 2021-07 provided that any PBV HAP contract created under a RAD/Section 18 Small PHA Blend must be administered by an HCV contract administrator with at least 250 HCV units under its HCV Consolidated ACC prior to the creation of such PBV contract. This Notice revises the 250-unit standard and instead provides that the proposed HCV contract administrator must have at least 250 units under its HCV Consolidated ACC prior to the creation of the PBV HAP contract unless the field office determines that the proposed contract administrator has sufficient capacity to administer the PBV contract. The field office will consider factors such as the proposed contract administrator's prior SEMAP scores, recent HCV-related

audit findings for the contract administrator, whether the contract administrator has updated its Section 8 Administrative Plan to administer project-based vouchers, and whether the proposed contract administrator will have sufficient voucher authority, (in addition to any existing RAD or Non-RAD PBV HAP Contracts) to adequately serve the tenant-based waiting list and provide mobility options for the PBV residents.

- d. This Notice revises Section 3(A)(2)(e)(1)(a) of Notice PIH 2021-07, which defines high cost areas used for the purposes of defining the percentage of units that may be disposed of through Section 18 pursuant to a RAD/Section 18 Construction Blend, to state that if the hard construction costs are equal to or exceeds ninety percent (90%) of the Housing Construction Costs (HCC) as published by HUD for the given market area, at the PHA's discretion, up to sixty percent (60%) of the units in the Converting Project may be disposed of under Section 18. For high-cost areas, defined as those where HCC exceeds one hundred and twenty percent (120%) of the national average HCC or where the amount of construction necessary to convert the units from their current condition to the condition proposed as a result of the Work would cost in excess of two hundred percent (200%) of the national average HCC, at the PHA's discretion up to eighty percent (80%) of the units in the Converting Project may be disposed of under Section 18.

3. Switching applications. In some cases, after initiating a RAD or SAC application, a PHA may determine to pursue an alternative tool.

- a. After submitting a RAD Application or receiving a CHAP, a PHA must request to suspend its CHAP before submitting a SAC Application for the same units. HUD may subsequently reinstate the CHAP without the resubmission of a complete application described in [Section 1.10](#).
- b. If a PHA that has submitted a SAC application decides to pursue RAD for eligible units, the PHA must first withdraw its SAC application, in writing with a Board Resolution to support the withdrawal.
- c. If a PHA that has been approved for a SAC application decides to pursue RAD for eligible units, the PHA must request that SAC rescind or conditionally rescind its approval of the application. If applicable, the SAC will conditionally rescind its SAC application approval contingent on the successful completion of the RAD transaction and will modify IMS/PIC accordingly. Units for which a PHA has received a SAC approval are ineligible for RAD if the PHA has taken any of the following actions to implement the SAC approval:
 - i. executed a demolition contract;

- ii. completed a disposition (i.e., transferring title and/or executing a ground lease);
- iii. received TPVs from HUD as a result of an approval;²⁵ or
- iv. Taken any steps to implement relocation under the approval (i.e., issuing the 90-day notice to residents).

C. Ineligibility for Asset Repositioning Fee (ARF), Replacement Housing Factor (RHF), or Demolition Disposition Transition Funding (DDTF). PHAs will be ineligible to receive ARF, Capital Fund RHF or DDTF grants (see 24 CFR § 990.190(h) and 24 CFR § 905.400(i) and (j), respectively) for Converting Projects that are removed from public housing ACC. RAD does not affect ARF, RHF, or DDTF for other public housing projects either previously receiving those funds or which would otherwise be eligible to receive such funding in the year in which the HAP Contract becomes effective. RAD does not affect the PHA's continued receipt of ARF, RHF, or DDTF for projects that were previously receiving these funds.

D. Effect of Conversion on PHA's Faircloth Limit. Section 9(g)(3) of the Act limits the construction of new public housing units, referred to as the "Faircloth Limit." Under the Faircloth Limit, a PHA may not use funds allocated under the Capital or Operating Funds for the purpose of constructing any new public housing units if the construction of those units would result in a net increase in the number of units the PHA owned, assisted, or operated as of October 1, 1999.

A PHA's Faircloth Limit will be reduced by the number of public housing ACC units removed from the public housing inventory as part of a RAD conversion. For example, a PHA with a pre-RAD Faircloth Limit of 1,000 public housing units would have its Faircloth Limit reduced to 900 units if it processed 100 ACC units through RAD, resulting in 95 Section 8 units and 5 units removed from inventory under the de minimis authority.

Please note that prior versions of the RAD Notice excluded any de minimis units from the Faircloth Limit reduction. The change made in this Notice to include all public housing ACC units from the Faircloth reduction is retroactive to include all completed RAD conversions. However, any PHA that wishes to retain those de minimis units under its Faircloth Limit must contact HUD (PIHOCI@hud.gov) within 90 days of publication of this Notice.

E. Conversion is a Significant Action under a PHA's Annual/Five Year Plan. Conversion of assistance under the Demonstration is considered a significant action by the PHA. If not fully

²⁵ This does not apply to any dispositions approved or any TPVs received in conjunction with a Choice Neighborhood award.

discussed in a PHA's Five-Year Plan, Annual Plan or MTW Plan, the conversion of assistance must be presented in an amendment to the PHA's Five-Year Plan for qualified and non-qualified PHAs, a significant amendment to the Annual Plan for non-qualified PHAs, and an amendment to the MTW Plan for MTW PHAs with Standard MTW Agreements.²⁶ MTW PHAs subject to the MTW Operations Notice for the Expansion of the Moving to Work Demonstration Program, 83 Fed. Reg. 51474, ("Operations Notice") will include the conversion of assistance as a significant amendment to their Annual Plan or Five-Year plan, consistent with requirements applicable to non-MTW PHAs. Qualified and non-qualified PHAs, as well as MTW PHAs, are subject to the Consolidated Plan requirements and the public notice and Resident Advisory Board consultation requirements outlined in 24 CFR part 903. MTW PHAs with Standard MTW Agreements must follow the MTW Plan Amendment and public process requirements outlined in the Standard MTW Agreement in lieu of the requirements in 24 CFR part 903. If the conversion will require changes to the PHA's Admissions and Continued Occupancy Policy (ACOP) and/or Section 8 Administrative Plan, these changes must also be addressed in the PHA Five-Year Plan, Annual Plan, or MTW Plan, or submitted with the significant amendment to the PHA Plan or amendment to the MTW Plan. In addition to the information already required by 24 CFR part 903 for PHA Plan amendments, all PHAs must provide the information listed in Attachment 1D. A PHA may fulfill this requirement by including the RAD-related provisions in its Five-Year Plan, Annual Plan, MTW Plan, or Significant Amendment (as applicable), or provide the information in any successor forms produced by HUD.

The Financing Plan must include a letter from HUD's Office of Public and Indian Housing approving the Five-Year Plan, Annual Plan, MTW Plan or Significant Amendment.

In addition, any substantial change to the conversion plan is required to undergo the significant amendment process or other HUD review if the substantial change involves a transfer of assistance, a change in the number of assisted units, or a change in eligibility or preferences for new applicants.

- F. Moving To Work (MTW) Agencies.** If an MTW agency chooses to convert assistance to PBRA under this Demonstration, the Covered Project(s) will no longer be included as part of the PHA's MTW program.

If an MTW agency chooses to convert assistance to PBV, the Covered Project(s) will continue to be included in the PHA's MTW program. (See [Section 1.6](#) for a discussion on

²⁶ 39 MTW PHAs are subject to the Standard MTW Agreement, which outlines their terms of participation in the MTW Demonstration. For more information, see https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/mtwsa

provisions a MTW agency may not alter for properties converting under RAD).

Further, prior to conversion, MTW agencies with Standard MTW Agreements will be required to amend Attachment A of their MTW Agreement to the extent HUD determines is necessary to meet the statutory requirements of RAD. The PHA must request the amended Attachment A language from its MTW coordinator and follow provided instructions to return an executed Attachment A amendment to HUD no later than the Financing Plan submission.

G. Resident Opportunities and Self Sufficiency Service Coordinators (ROSS-SC) and Family Self-Sufficiency (FSS). In order to allow public housing residents currently participating in ROSS-SC or FSS to continue to do so following conversion, HUD is waiving provisions in section 34 of the Act that limit ROSS-SC to Public Housing and provisions in Section 23 of the Act that limits FSS to residents of public housing and the housing choice voucher program.

H. Public Housing Assessment System (PHAS). After the PHA submits an application in the PIC Inventory Removals Module (or successor module), as either “RAD Conversion PBV” or “RAD Conversion PBRA,” for all units covered by the CHAP (see [Section 1.12](#)), the Converting Project shall not be issued PHAS scores beginning with the fiscal year in which the PIC removal application was accepted and continuing through subsequent fiscal years until conversion to Section 8. In order for the project to be excluded from PHAS scoring, HUD must accept the application in PIC by the fiscal year end for the project.

After HUD’s acceptance of the application in PIC, but prior to conversion, all projects remain subject to the four PHAS assessments but will not be issued scores for the assessments. “Subject to the four PHAS assessments” means that the PHA must timely submit the required financial data schedule for each project and that the project will be subject to a physical inspection, a management assessment based on the financial submission, and a Capital Fund Program assessment. However, these scores will not be issued. If a PHA has at least one project without an accepted application in PIC by the fiscal year end, the PHA will receive a PHAS score and designation for that fiscal year. If HUD revokes the CHAP, HUD reserves the right to issue the PHAS scores (or reassess and rescore all PHAS indicators, in its sole discretion) and issue the PHAS designation for the projects under the revoked CHAP for all fiscal years during which the application was pending in PIC.

HUD is waiving 24 CFR part 902, Subpart A, to effectuate this treatment. After conversion, all converted units will be subject to the applicable Section 8 program requirements.

- I. Energy Performance Contract (EPC).**²⁷ A PHA may convert all units or a subset of units within an EPC. If a PHA plans to convert a subset of units within an EPC the remaining EPC must be financially viable and permitted under the current financing documents. The EPC must generate sufficient savings to cover debt service and other EPC project costs without counting the savings from the converting units. Unless otherwise approved by HUD, in order to demonstrate this the PHA must submit updated EPC documentation to HUD's Energy Center to reflect the costs and performance of the remaining units, including:
1. Updated HUD Cost Summary Sheet.
 2. Updated HUD Cash Flow.
 3. Other documents as requested by the Energy Center staff.

The Energy Center will review these documents within 45 days and provide a draft amended EPC approval letter specifying the impact of the RAD conversion and the minimum amount of debt that will need to be addressed in the conversion. As a result, HUD recommends that PHAs submit the updated EPC documentation as early as possible. The PHA's Financing Plan must demonstrate how the PHA will address the debt identified in the draft amended EPC approval letter. HUD will issue an amended EPC approval letter to the PHA.

- J. Capital Fund Education and Training Community Facilities (CFCF) Program.** CFCF provides Capital Funds to PHAs for the construction, rehabilitation, or purchase of facilities to provide early childhood education, adult education, and job training programs for public housing residents based on an identified need. Where a community facility has been developed under CFCF in connection with or serving the residents of a Converting Project, residents of the Covered Project will continue to qualify as "PHA residents" for the purposes of CFCF program compliance and must have continued access to the facility. The community facility must continue to be available to public housing residents including "PHA residents."
- K. Lease Termination at Conversion is Not an Adverse Action.** 24 CFR § 966.4(e)(8)(i) classifies lease terminations as an adverse action for which a tenant can seek a hearing under the PHA's grievance procedure. Public housing lease terminations that occur as part of a RAD conversion do not qualify as an adverse action, provided that the tenants are provided with a notice of termination in accordance with 24 CFR § 966.4(l)(3) as well as information on when and how they will receive their new Section 8 lease, which must be effective the same date the HAP Contract becomes effective. Grievance procedure requirements do not apply to these lease terminations.
- L. PHA Partnerships.** Two or more PHAs may coordinate efforts and pool resources or capacity with each other pursuant to a contractual agreement among the PHAs towards the

²⁷ HUD will issue further guidance on the intersection of RAD and EPCs that will be available at www.hud.gov/rad

effective conversion of assistance of a public housing project. Section 1, below, describes new authorities created under RAD and Section 2, below, describes existing tools available to PHAs notwithstanding the use of RAD authorities.

1. Where the PHAs demonstrate to HUD mutual agreement under terms acceptable to HUD, participating PHAs may:
 - a. Contribute Capital Funds, RHF, DDTF, and public housing Operating Reserves towards the conversion of another PHA's property consistent and in accordance with Section 1.5;
 - b. Forego any anticipated RHF/DDTF funding (funds that have not been awarded and/or funds that have been awarded but not yet disbursed) to boost another PHA's RAD rents consistent and in accordance with [Section 1.6.B.5.c.](#) and [1.7.A.5.c.](#);
 - c. Rent bundle across the PHAs' RAD projects consistent and in accordance with Section [1.6.B.5.b.](#) and [1.7.A.5.b.](#) (PHA partnership rent bundles may not include non-RAD PBV projects);
 - d. Transfer available land currently under DOT if the land is needed to facilitate the conversion; and/or
 - e. Propose other partnership arrangements extending provisions permissible in this Notice which HUD may approve on a case-by-case basis.

2. In structuring such arrangements, PHAs may consider other resources already at their disposal, including the ability to:
 - a. For PBV conversions, select another PHA with operational jurisdiction to receive the new increment of units under their HCV ACC and to serve as the contract administrator, with the attendant administrative responsibilities and fees, or enter into an agreement to share administrative duties (e.g., Housing Quality Standards inspections vs Subsidy Administration). Where the new increment will be added to the HCV ACC of an MTW agency to administer the PBV contract, the MTW agency may use the authority as detailed in Section 1.6.B.5.b. to augment rents of the property under contract;
 - b. Transfer the RAD PBV or PBRA assistance for the converting project outside of their jurisdiction to a project and owner (including another PHA or its affiliate or instrumentality) that satisfies the ownership and control requirements described in Section 1.4.A.11 and all other RAD transfer of assistance requirements under 1.4.A.12;
 - c. Provide development guarantees using non-federal funds;
 - d. Serve as Developer;
 - e. Serve as Management Agent; and/or

- f. Undertake a voluntary transfer or consolidation of HCV programs (i.e. transferring budget authority and corresponding baseline units for the HCV program in accordance with Notice PIH 2015-22).

As an example, PHA A could seek to convert Property A in partnership with PHA B. PHA B could provide Capital Funds as a source of funds for the conversion and, in exchange, PHA A could agree to have PHA B serve as the PBV administering voucher agency for the Covered Project, even though PHA A might have a voucher program.

M. Section 33 Required Conversion Review.²⁸ While Section 33 of the Act would require that a PHA annually review its inventory to identify projects that should undergo the Required Conversion process, PHAs will not be required to assess projects that have been issued a CHAP or are covered by a Portfolio Award because HUD considers the RAD conversion process to fulfill the requirements of Section 33 of the Act. Accordingly, HUD is waiving 24 CFR part 972, subpart A for projects covered by a CHAP or a Portfolio Award.

1.6 Special Provisions Affecting Conversions to PBVs

Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBV program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration.

Listed below are the “special” requirements applicable to public housing projects converting assistance to long-term PBV assistance under the First Component of the Demonstration, with reference to the affected statute and/or regulation, where applicable. Special requirements are grouped into four categories: Project Selection, Contract Terms, Resident Rights and Participation, and Other Miscellaneous Provisions. All other regulatory and statutory requirements of the PBV program in 24 CFR part 983 and section 8(o)(13) of the Act apply, including environmental review, lead-based paint requirements, Davis-Bacon, and fair housing requirements.

MTW agencies will be able to apply activities impacting the PBV program that are approved in their MTW Plans or included in the MTW Supplement to an approved PHA plan to these properties as long as they do not conflict with RAD requirements. RAD requirements include RAD statutory requirements, provisions of the PBV program specifically addressed in this Notice (including provisions explicitly listed in Section 1.6 of this Notice as provisions of the PBV program that MTW agencies may not alter for properties converting under RAD), other

²⁸ Section 33 of the Act requires PHAs to identify projects that must be removed from the stock of public housing.

conditions and requirements of this Notice, or RAD contract forms or riders. With respect to any existing PBV regulations that are waived or modified in this Section 1.6 pursuant to RAD authority, except where explicitly noted below, MTW agencies may modify these or other requirements of the PBV program if the activity is approved in its MTW Plan or included in the MTW Supplement to an approved PHA plan. All other RAD Requirements listed below or elsewhere in this Notice shall apply to MTW agencies.

So as to facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project shall be subject to the same waivers and alternative requirements where noted below.

Finally, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices²⁹ ("HOTMA Implementation Notice") modified the PBV program in ways that partially or completely obviate the need for certain prior waivers or alternative requirements adopted in RAD. These are noted below.

A. PBV Project Selection.

- 1. PBV Percentage Limitation.** RAD PBV units in Covered Projects do not count against the percentage limitation applicable to the PBV program. The HOTMA Implementation Notice excludes PBV units at formerly federally assisted properties from the percentage limitation, which means neither the RAD PBV units nor the non-PBV RAD units count against the PBV program cap when the Covered Project is located at the same site as the converting public housing project. Furthermore, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6 with respect to RAD PBV units and non-RAD PBV units within a Covered Project when such units are replacing public housing units at the time of the conversion at a new location. However, in such a case any additional PBV units subsequently placed at the former public housing site would not be exempt from the percentage limitation applicable to the PBV program. In other words, the number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a Covered Project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA.

²⁹ See "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21.

2. **Cap on the Number of PBV Units in Each Project.** There is no cap on the number of units that may receive RAD PBV assistance in each project. Under the HOTMA Implementation Notice, certain formerly assisted properties are excepted from the project cap. For any Covered Projects not covered under the HOTMA Implementation Notice, including transfers of assistance to a new location, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR §§ 983.56, 983.257(b), 983.262(a) and (d). Accordingly, units under the contract may not be “excepted” for a specified purpose.
3. **Owner Proposal Selection Procedures.** In addition to situations already covered under the HOTMA Implementation Notice (e.g., cases where a PHA may attach PBV assistance to units in which the PHA has an ownership interest as part of an initiative to improve, develop, or replace public housing), HUD is waiving 24 CFR § 983.51 so that a RAD PBV HAP contract is never subject to competitive selection requirements. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units in the same Covered Project, shall be subject to the terms of this provision.
4. **Site selection – Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2).** HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

B. PBV Contract Terms.

1. **Length of Contract.** Covered Projects shall have an initial HAP Contract term of at least 15 years (up to 20 years upon request of the Project Owner and with approval by the administering Voucher Agency). To implement this provision, HUD is specifying alternative requirements for section 8(o)(13)(F) of the Act (which permits a minimum term of one year) as well as 24 CFR § 983.205(a) (which governs contract term). Project Owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the contract and may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA’s request post-conversion to reduce the number of assisted units under the contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

2. **Mandatory Contract Renewal.** In accordance with the RAD Statute, at or prior to the expiration of the initial contract and each renewal contract, the administering Voucher Agency must offer, and the Project Owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. The renewal contract(s) shall be for the prescribed number and mix of units but may, upon request of the Project Owner and subject to HUD and Contract Administrator approval, be on one or more transfer of assistance sites in lieu of the project site subject to the expiring contract. Consequently, section 8(o)(13)(G) of the Act, as well as 24 CFR § 983.205(b), governing the PHA discretion to renew the contract, will not apply to the extent that these provisions make renewal or extension decisions purely discretionary. However, Contract Administrators and Project Owners may choose to extend the initial HAP Contract term consistent with these provisions and are encouraged to do so a minimum of one year prior to the expiration of the contract so as to avoid unnecessary notice to residents per 24 CFR 983.206. The ability to extend the HAP Contract term consistent with these provisions does not negate, in any way, the mandatory renewal provision detailed in the first sentence of this paragraph. MTW agencies may not alter this requirement.
3. **Ownership or Control.** This section has been moved to Section [1.4.A.11](#)
4. **RAD Use Agreement.** This section has been moved to Section [1.4.A.13](#)
5. **Initial Contract Rent Setting.** No additional or incremental funding is associated with this Demonstration. HUD has calculated initial contract rents for every public housing project based on each project's subsidy under the public housing program. All RAD applications, including applications for Portfolio Awards, will have initial contract rents based on their "RAD rent base year" described in [Attachment 1C](#). PHAs have additional discretion in establishing initial contract rents using the following flexibilities:
 - a. **MTW Fungibility.** MTW agencies may use their MTW funds to set the initial contract rents higher than the normally applicable contract rent cap that is based on the project's public housing subsidy. However, the initial contract rent set by the PHA is still subject to all other applicable program caps. The agency must use existing MTW funds to supplement the initial contract rents; HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy initial rent caps. Any use of MTW funds in setting higher initial contract rents shall

be subject to subsidy layering review and MTW continued service requirements, as calculated using the MTW Baseline Methodology described in Notice PIH 2013-02, or successor notice.

- b. Rent Bundling.** Subject to HUD approval, PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. For example, assume that a PHA is considering bundling two identical projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The PHA could bundle the two projects such that the initial contract rents for both projects will be \$550. This use, which HUD refers to as “bundled” rents, can occur under the following scenarios:
- i. When a PHA is converting two or more properties within its public housing portfolio. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract;
 - ii. When PHAs have formed a Partnership in accordance with Section 1.5.M and are bundling rents between two or more converting projects. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract; and
 - iii. When a PHA bundles rents between a converting project and non-RAD Project-Based Vouchers. In such a case, the PHA must use its own voucher funding to supplement the higher RAD rent that is being offset by the lower PBV rent for the non-RAD PBV project or projects; no additional voucher funding will be provided through RAD. HUD will review the rents proposed for the non-RAD PBV HAP Contract to ensure that the PHA does not exceed the aggregate subsidy otherwise available for all of the rent-bundled projects. Except as provided in section 1.6.B.d below, the execution and effective date of the HAP Contract for the donor project must occur prior to or simultaneous with the effective date of the recipient HAP Contract. The owner of the property with the non-RAD PBV HAP Contract must request an initial rent (or redetermined rent if the contract has already been executed) in accordance with 24 CFR §§ 983.301(b)(3) and 983.302 that reflects the amount approved by HUD. To ensure

that aggregate HAP costs do not exceed the costs incurred absent this provision, the owner of the property with the non-RAD PBV HAP Contract must agree not to request, in accordance with 24 CFR § 983.301(b)(3), a redetermined rent that exceeds the OCAF-adjusted rent. This OCAF limitation is in addition to the existing PBV rent limitations in 24 CFR § 983.301(b) more generally. The donor HAP Contract must have a remaining contract term at least as long as the recipient HAP Contract.

- iv. Where an Agreement to enter into a HAP Contract (AHAP) is used on the non-RAD PBV HAP Contract and the RAD and non-RAD PBV projects are subject to a single financing, the execution and effective date of the AHAP for the donor HAP Contract must occur prior to or simultaneous with the conversion of the recipient HAP Contract. The recipient RAD PBV HAP Contract will include rent schedules for both unadjusted rents and the anticipated rent bundled rents. The unadjusted rents are the initial effective rents for the RAD PBV recipient project. At the completion of rehab/construction of the donor project, where the terms of the AHAP have been satisfied and the PHA and owner of the donor property are ready to execute a HAP contract, the cost-neutral application of the bundled rents will occur. 1) the HAP for the non-RAD PBV HAP Contract will be determined based on the initial rent, which is the PBV rent the project would have been eligible for under the PBV initial rent requirements at 24 CFR § 983.301 reduced by the amount that has been bundled to the RAD HAP Contract. 2) Upon the effective date of the non-RAD PBV donor HAP Contract, the HUD-approved rent bundled rents at the RAD HAP Contract will become effective. For example, assume two 100 unit properties that will be redeveloped under a single financing transaction, one developed under standard PBV through an AHAP and another through RAD. The estimated rents for the standard PBV are \$1,000 while the standard RAD rents are \$500. The PHA plans to rent bundle to increase the RAD rents to \$750. Construction will occur on the same timeline and the RAD PBV HAP Contract will close at the same time as the AHAP is executed. The RAD PBV HAP Contract will include unadjusted, pre-construction rents (\$500) as well as adjusted, post-construction rents (\$750). The AHAP will include estimated PBV rents, adjusted downward by \$250. When construction is completed, the post-construction rents on

the RAD HAP Contract will take effect when the donor non-RAD PBV HAP Contract becomes effective. The PHA will determine the initial contract rents for the non-RAD PBV donor project in accordance with PBV requirements and deduct \$250 from that amount.

Please note that per Section 1.13.B.5, regardless of the initial contract rents for the RAD HAP Contract, including as modified by this provision, in the year of conversion the Covered Project will only be assisted by the Operating and Capital Funds obligated to the PHA for that project.

- c. **Future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF).**³⁰ PHAs that are scheduled to receive ongoing RHF or DDTF funding (funds that have not been awarded and, with HUD permission, funds that have been awarded but not yet disbursed) may choose to forgo any ongoing RHF or DDTF grants for the purpose of offsetting an increase to the RAD rent. See [Attachment 1C](#) for the calculation of how RHF or DDTF funding may offset increased RAD rent.
- d. **PBV Site-Specific Utility Allowances.** PHAs may elect to establish a site-specific Utility Allowance for any Covered Project. HUD is waiving 24 CFR 983.2(c)(6)(iii), which requires the PHA to apply the HCV Utility Allowance schedule for PBV properties, and HUD is establishing an alternative requirement. The Utility Allowance shall be calculated consistent with Notice H 2015-04 unless PIH promulgates guidance specific to the PBV program. The Project Owner may carry out all of the responsibilities associated with Notice H 2015-04, but the PHA must ensure that the Utility Allowance is calculated correctly. This waiver and alternative requirement shall also apply to non-RAD PBV units located at the Covered Project.
- e. **Tenant-Paid Utility Savings.** Where a Covered Project will use a site-specific utility allowance as described in sub-paragraph iv. and the conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance

relative to the utility allowance of the Converting Project (i.e., the public housing project), HUD will permit the RAD contract rent to be increased by a portion of the utility savings. See [Attachment 1C](#) for additional detail.

- f. Faircloth-to-RAD Initial Contract Rents.** The initial contract rents for the Faircloth-to-RAD units will be based on the project's reasonably anticipated subsidy under the public housing program in accordance with a "RAD rent base year" described in Attachment 1C, as set forth in the NARR. In addition to applicable flexibilities as set forth in this Section 1.6.B.5, non-MTW PHAs may use existing HAP reserve funds to set the initial contract rents higher than the contract rent that is set forth in the NARR if the project meets both of the following conditions:
- i. The Faircloth-to-RAD units may not make up more than:
 - a) The greater of 25 units or 25% of the units in the project; or
 - b) The greater of 25 units or 40% of units in the project if it is in census tract where the poverty rate is no greater than 20%.
 - c) The limitations in (a) and (b) above shall not apply to units that are made exclusively available to people who are elderly, eligible for supportive services, or youth receiving HCV Family Unification Program assistance.
 - ii. The Faircloth-to-RAD project is in one of the following locations:
 - a) A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
 - b) A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

When a non-MTW PHA uses existing HAP reserves to supplement the initial contract rents, HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy levels. The initial contract rent is still subject to all other applicable program caps, and any use of the flexibilities referenced above in setting higher initial contract rents shall be subject to subsidy layering review.

- g. Initial PBV Rent Cap.** Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications to the initial contract rent permitted under this Notice, initial PBV contract rents are subject to the statutory and regulatory PBV requirements governing contract rents (see 24 CFR § 983.301), (except where alternative rent caps have been approved in a

MTW Plan or included in an MTW Supplement to the PHA Plan). To this effect, initial contract rents cannot exceed the lower of: (a) the reasonable rent (as defined under 24 CFR § 983.303); (b) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in an MTW Plan or included in an MTW Supplement to the PHA Plan), minus any utility allowance; or (c) the rent requested by the owner.

6. **Method of Adjusting Contract Rents.** Contract rents will be adjusted only by HUD's OCAF (which is applied only to the portion of the rent not attributable to debt service) at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term.³¹ As such, section 8(o)(13)(I) of the Act and 24 CFR §§ 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the Contract Administrator in accordance with 24 CFR § 983.303.³² However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract.³³ MTW agencies may not alter this requirement.
7. **Role of Independent Entity.** Where the Covered Project is PHA-owned in accordance with section 8(o)(11) of the Act as amended by HOTMA (see Attachment A in Notice PIH 2017-21 for guidance on PHA-owned units), in addition to the standard roles described in 24 CFR 983.59(b) (i.e., determining reasonable rents and conducting HQS inspection) the independent entity must also determine the OCAF adjustment.
8. **Transfer of Assistance.** This section has been moved to [Section 1.4.A.12.](#)
9. **Agreement Waiver and RAD Rehab Assistance Payments.** For public housing conversions to PBV there will be no Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the AHAP, including regulations under 24 CFR part 983 subpart D are waived. Instead, the PHA

³¹ OCAFs are calculated and published each year by HUD in the Federal Register in order to calculate the contract rent for the project in the following fiscal year.

³² If the Covered Project is deemed to be PHA-owned pursuant to HUD guidance, an independent entity will need to perform the rent-setting and inspection functions set out in 24 CFR § 983.59.

³³ The rent to owner may fall below the initial contract rent: 1) to correct errors in calculations in accordance with HUD requirements; 2) if additional housing assistance has been combined with PBV assistance after the execution of the initial HAP Contract and a rent decrease is required pursuant to § 983.55 (Prohibition of excess public assistance); or 3) if a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

and Project Owner typically will enter into a HAP Contract before construction begins. During the period of Work identified in the RCC, standard HAP Contract funding procedures will be used for occupied units. Units covered under the HAP Contract that are not occupied at any point during the period of Work identified in the RCC may be eligible, subject to the conditions below, for Rehab Assistance Payments equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents (see [Attachment 1C](#)). During the period of rehabilitation or construction as identified in the RCC, the maximum number of units for which a Project Owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for Operating Fund or Capital Fund subsidy prior to conversion. As a result, some units in the Covered Project may not be eligible for Rehab Assistance Payments.

The Project Owner will no longer be eligible to receive RAD Rehab Assistance Payments upon the earlier of completion of the Work or expiration of the time period identified in the RCC for completion of all Work, which date is specified in the HAP contract. After such date, all units under the HAP Contract will be eligible for payment only for occupied units or for vacancy payments, as applicable. MTW agencies may not alter this requirement.

- 10. HQS Inspections.** Under current regulations at 24 CFR 983.103(b) a unit covered under a HAP Contract must be inspected for compliance with HQS before assistance can be paid on behalf of a household, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions. In addition, section 8(o)(8)(A) of the Act provides that HAP Contract units must be inspected to ensure compliance with HQS prior to payment of any assistance on behalf of a family. When Work is occurring under RAD, HUD requires that all units undergo inspection for HQS no later than the date of completion of the Work as indicated in the RCC. To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP Contract instead of conducting an initial inspection. During the period of the Work, HQS requirements apply. The PHA must enforce the Project Owner's obligations under this paragraph and conduct inspections when needed, for example in response to tenant complaints or other information coming to its attention, and the owner must correct any deficiencies in accordance with HQS requirements (i.e. no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the Work as indicated in the RCC). To effectuate the revised initial inspection requirement for RAD PBV units and non-RAD PBV units within a

Covered Project when such units are replacing public housing units at the time of conversion, HUD is waiving and establishing an alternative requirement to 24 CFR 983.103(b) and section 8(o)(8)(A) of the Act.

11. Floating Units. Upon the request of the owner to the Voucher Agency that will administer the Covered Project, HUD will permit PBV assistance to float among units within the project having the same bedroom size. A unit to which assistance is floated must be comparable in condition to the unit it is replacing (i.e., the unit must be of the same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained. Units that float are not specifically designated under the HAP Contract. Therefore, the requirements in 24 CFR § 983.203(c) that the HAP Contract provide “the location of each contract unit” and “the area of each contract unit” are waived. Instead, the HAP Contract must specify the number and type of units in the property that are designated as RAD units, including any excepted units. From the time of the initial execution of the PBV RAD HAP Contract, the property must maintain the same number and type of UFAS accessible units. Floating units are subject to all of the requirements in this Notice and the PBV regulations, including physical inspections, rent adjustments, and income-mixing requirements. The alternative requirements with respect to floating units do not apply to non-RAD PBV units.

C. PBV Resident Rights and Participation.

1. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.³⁴ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent

³⁴ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

- phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR Part 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.
2. **Right to Return.** See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
 3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

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

amount for Year 1 (the first recertification following conversion), as illustrated below.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP³⁵

Five Year Phase in:

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

Please Note: In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

³⁵ For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TPP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

- 4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program. The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.³⁶ Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.³⁷

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

³⁶ The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

³⁷ Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

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

- iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- b. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

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

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),³⁸ an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - 1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
 - 2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

³⁸ § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

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

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

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

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

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

Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.

- 9. Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the HAP Contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the Gross Rent. (24 CFR § 983.258 and § 983.211).

Pre-Conversion Residents. Since the rent limitation under this Section of the Notice may result in current residents having TTPs that exceed the Gross Rent, 24 CFR §983.53(c) does not apply in order to provide RAD PBV assistance to residents who were living in the Converting Project prior to conversion. As necessary to further implement the alternative requirements described below, HUD is waiving 24 CFR §983.258 and §983.211, as well as the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.

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

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

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

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

After a family has paid the Zero-HAP Rent Cap as set by this Section for a period of 180 days, the PHA shall remove the unit from the HAP Contract and the family's participation in the PBV program ends.³⁹ If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP Contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP Contract unless the PHA previously substituted a different unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP Contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap set by this section and the family is otherwise eligible for PBV assistance. The PHA shall, at the earliest opportunity^{4B-8}, reinstate the family's unit back onto the HAP Contract to provide rental assistance to the family. All PBV requirements with respect to the unit, such as compliance with HQS, apply while the unit is under the HAP Contract or added back to the HAP Contract.

New Admission Families. Unless a PHA requests and receives the waiver described below, any new admission to the Covered Project must meet the eligibility

³⁹ For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance (Gross Rent = \$550). The FMR for the unit size in the area in which the project is located is \$800. Following conversion, the family is responsible for paying \$550 in tenant rent. If the resident's income rises or is subject to a rent increase phase-in and all other conditions remain the same, the family would pay TTP until the tenant rent reached the Zero-HAP Rent Cap of \$830 (\$880, which is 110% of the \$800 FMR, minus the \$50 utility allowance), at which point the family would continue paying \$830, and unless the family's income and TTP subsequently decreases, the unit would be removed from the contract after 180 days. Families paying less than TTP because of the phased in Tenant Rent Increase alternative requirement are not paying the Zero-HAP Rent Cap and are not subject to this 180-day requirement. However, if the family's Calculated PBV TTP under section 1.6.C.3 is more than the Gross Rent, the family is a zero-HAP family and the applicability of the phased in Tenant Rent increase would end when the amount the family would pay under that alternative requirement meets or exceeds the Zero-HAP Rent Cap. At that point in time the family would pay the Zero-HAP Rent Cap and would be subject to all zero-HAP family requirements of this section, including the 180-day requirement.

^{4B-8} If the project was partially assisted and the PHA previously substituted a different unit on the HAP Contract, the PHA shall substitute the family's unit for a vacant unit on the HAP Contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP Contract becomes vacant if there are no vacant units on the HAP Contract at the time of the family request.

requirements at 24 CFR § 982.201 and require a subsidy payment at admission to the PBV program, which means the family's TTP may not equal or exceed the Gross Rent for the unit at that time. Furthermore, a PHA must remove a new admission family's unit from the PBV HAP Contract when no assistance has been paid for 180 days because a new admission family's TTP subsequently increased to equal or exceed the Gross Rent. However, HUD is imposing an alternative requirement in such cases. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit on the HAP Contract and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

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

The PHA may request the waiver during the RAD conversion process or may subsequently request the waiver any time after the effective date of the HAP Contract. In order for the waiver to be approved, the PHA must demonstrate that based on the RAD rent calculated in accordance with Attachment 1C, the monthly two-bedroom RAD Gross Rent is less than: 30% of the monthly income of a family of four at the midpoint between the Very Low Income (VLI) HUD Income Limit and Extremely Low Income (ELI) HUD Income Limit for the area in which the Covered Project is located.

For waivers submitted during the conversion process, the Office of Recapitalization may grant the waiver after review of the Financing Plan and confirmation that the RAD rents meet the waiver rent threshold described above.^{4B-9} The Office of Recapitalization shall document the waiver by adding an additional provision to the RCC before closing. For waivers submitted after the effective date of the HAP Contract, the waiver is submitted through the normal waiver process outlined in

^{4B-9} An example of the waiver rent threshold calculation is as follows. Assume the applicable VLI limit is \$46,850 and the ELI limit is \$28,100. The midpoint income is \$37,475 ($\$46,850 + \$28,100 = \$74,950$; $\$74,950/2 = \$37,475$). To calculate the affordable monthly rent, the midpoint income is divided by 12 and multiplied by 0.30 ($\$37,475/12 = \$3,123$; $\$3,123 \times 0.30 = \$937$). If the RAD Rent is less than \$937, the Covered Project is eligible for the waiver.

Notice PIH 2018-16 (or any successor notice). In both cases, the approved waiver will be for the initial term of the PBV HAP Contract.

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

Further, Covered Projects that receive the waiver shall be subject to an alternative income targeting requirement that at least 75% of new admissions to the PBV units (both RAD and non-RAD PBV units) in the Covered Project in any PHA fiscal year are ELI families.^{4B-10} If there are less than four new admissions to the Covered Project in a PHA fiscal year, the income targeting is determined by combining the new admissions for that fiscal year with the new admissions for the subsequent fiscal year (or years) until the combined total of new admissions equals or exceeds four for those consecutive fiscal years.^{4B-11}

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

D. PBV: Other Miscellaneous Provisions

^{4B-10} This alternative requirement for the Covered Project is in addition to the PHA's HCV/PBV program income targeting requirements at 24 CFR 982.201(b)(2). Admissions to the Covered Project continue to be taken into account when determining income targeting in accordance with 24 CFR 982.201(b)(2).

^{4B-11} For example, assume in fiscal year in which the waiver was granted the Covered Project had one new admission and in following fiscal year had three new admissions. Compliance with the Covered Project income targeting requirement would be determined based on the combined total of the 4 new admissions over the two fiscal years (3 of the 4 new admissions to PBV units the Covered Project must have been ELI families).

1. **Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.
2. **Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.⁴⁰
3. **Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
4. **Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
 - a. Transferring an existing site-based waiting list to a new site-based waiting list.
 - b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
 - c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
 - d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is

⁴⁰ For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

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

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

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).⁴¹

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or

⁴¹ For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
6. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.
7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions

in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

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

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

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

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

9. Reserve for Replacement. The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

10. Initial Certifications and Tenant Rent Calculations. The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).

1.7 Special Provisions Affecting Conversions to PBRA

Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBRA program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration.

For public housing projects converting assistance to PBRA under the First Component of the Demonstration, 24 CFR part 880, Section 8 Housing Assistance Payments Program for New Construction as modified for RAD and as set forth in Appendix I, and applicable existing and

subsequent Office of Housing guidance⁴² will apply, except for the provisions listed below. These “special” provisions are grouped into three categories: Contract Terms, Resident Rights and Participation, and Other Miscellaneous Provisions. Where applicable, reference is made to the affected statute and/or regulation. For additional background purposes, HUD has provided Appendix I, which is a copy of the existing 24 CFR part 880 regulation with the provisions stricken that will not apply to Covered Projects. Additionally, Appendix II includes the specific provisions of the Act that are inapplicable to PBRA conversions. Finally, Appendix III includes the site and neighborhood standards that apply to PBRA.

A. PBRA Contract Terms.

- 1. Length of Contract.** Covered Projects shall have an initial HAP Contract term of 20 years. To implement this provision, HUD is specifying alternative requirements for section 8(d)(2)(A) of the Act, which establishes a maximum term of 15 years for “an existing structure.” Additionally, 24 CFR § 880.502, which imposes maximum contract terms for New Construction projects consistent with statutory authority that was repealed in 1983, does not apply.
- 2. Mandatory Contract Renewal.** Section 524 of MAHRAA and 24 CFR part 402 currently govern renewals of expiring or terminating project-based section 8 HAP Contracts and, in general, require HUD to renew such contracts “at the request of the owner.” Pursuant to the RAD Statute, upon expiration of the initial contract and each renewal contract, the Secretary or Contract Administrator must offer, and the Project Owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal. The renewal contract(s) shall be for the prescribed number and mix of units but may, upon request of the Project Owner and subject to HUD approval, be on one or more transfer of assistance sites in lieu of the project site subject to the expiring contract. Consequently, to the extent that section 524 of MAHRAA and 24 CFR part 402 are in effect upon contract expiration, the various provisions stating or requiring that any renewal of an expiring contract for project-based assistance under Section 8 shall be “at the request of the owner” will not apply.
- 3. Ownership or Control.** This section has been moved to [Section 1.4.A.11.](#)
- 4. RAD Use Agreement.** This section has been moved to [Section 1.4.A.13](#)

⁴² Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1). Future changes to part 880 would apply to RAD as long as the future changes are not provisions that have been stricken in the final Notice.

- 5. Initial Contract Rent Setting.** No additional or incremental funding is associated with this Demonstration. Consequently, HUD is specifying alternative requirements for section 8(c)(1) of the Act, which governs rent setting for project-based Section 8 units, and for section 8(c)(5) of the Act or 24 CFR § 880.503(b), which govern the “project account.” HUD has calculated initial contract rents for every public housing project based on each project’s subsidy under the public housing program. All RAD applications, including applications for Portfolio Awards, will have initial contract rents based on their “RAD rent base year,” described in [Attachment 1C](#). PHAs have additional discretion in establishing initial contract rents using the following flexibility:
- a. **MTW Fungibility.** MTW agencies may use their MTW funds to set the initial contract rents higher than the normally applicable contract rent cap that is based on the project’s public housing subsidy. In addition to the rent cap described below, contract rents cannot exceed comparable market rent, as determined by a Rent Comparability Study. Any use of MTW funding flexibilities in setting initial contract rents shall be subject to subsidy layering review and MTW continued service requirements, as calculated using the MTW Baseline Methodology described in Notice PIH 2013-02, or successor Notice. If an MTW agency converts a project to PBRA and uses this flexibility to increase their initial contract rents, HUD will reduce the agency’s public housing subsidy by the additional amount (in addition to any funding modifications that would occur as a result of the conversion absent the rent increase) required to fund the PBRA HAP (see [Attachment 1C](#)). HUD will limit the number of projects an MTW agency may convert to PBRA if the PHA does not have sufficient public housing subsidy to convert into PBRA assistance.
 - b. **Rent Bundling.** PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. For example, assume that a PHA is considering bundling two identical projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The PHA could bundle the two projects such that the initial contract rents for both projects will be \$550. This use, which HUD refers to as “bundled” rents, can occur under the following scenarios:
 - i. When a PHA is converting two or more properties within its public housing portfolio. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or

simultaneous with the effective date of the recipient HAP Contract; and

- ii. When PHAs have formed a Partnership in accordance with Section 1.5.M and are bundling rents between two or more converting projects. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract;

Please note that per [Section 1.13.B.5](#), regardless of the initial contract rents for the RAD HAP Contract, including as modified by this provision, in the year of conversion the Covered Project will only be assisted by the Operating and Capital Funds obligated to the PHA for that project.

- c. **Future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF).**⁴³ PHAs that are scheduled to receive ongoing RHF or DDTF funding (funds that have not been awarded and, with HUD permission, funds that have been awarded but not yet disbursed) may choose to forgo any ongoing RHF or DDTF grants for the purpose of offsetting an increase to the RAD rent. See [Attachment 1C](#) for the calculation of how RHF or DDTF funding may offset increased RAD rent.
- d. **Tenant Paid Utility Savings.** When conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance, HUD will permit the RAD contract rent to be increased by a portion of the utility savings. See Attachment 1C for additional detail. The Utility Allowance shall be recalculated based on actual consumption within a reasonable period following completion of the work.
- e. **New Construction or Substantial Rehab.** 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

⁴³ RHF and DDTF are provided to PHAs following the demolition or disposition of public housing projects pursuant to Section 18 of the Act. PHAs will not receive RHF or DDTF as a result of and following the conversion of projects converting under RAD.

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.⁴⁴

- f. **Faircloth-to-RAD Initial Contract Rents.** The initial contract rents for the Faircloth-to-RAD units will be based on the project’s reasonably anticipated subsidy under the public housing program in accordance with a “RAD rent base year” described in Attachment 1C, as set forth in the NARR. Additionally, PHAs may use any other applicable flexibility as set forth in this Section 1.7.A.5 to set the initial contract rents higher than the contract rent that is set forth in the NARR.

HUD will evaluate the impact of the rent setting authorities set forth in Section 1.6.B.5.f based on data available as of September 30, 2024. HUD will not accept applications for NARRs for additional units using the rent setting authorities set forth in Section 1.6.B.5.f from September 30, 2024, until the analysis is complete and HUD determines whether to resume accepting applications for NARRs for additional units (communicated on www.hud.gov/rad) or whether to issue revised policy guidance.

Notwithstanding HUD’s calculation or the above-mentioned flexibilities, initial contract rents will be capped at 120 percent of the Section 8 FMR, adjusted by the number of bedrooms, and after subtracting any applicable utility allowance. However, when HUD’s calculation of contract rents exceeds 120 percent of the FMR but where the PHA believes that such rents are below the comparable market rent, the PHA may request an exception under which the project may receive rents in excess of 120 percent of the FMR but not in excess of the lower of comparable market rents or 150 percent of FMR. HUD will grant such a request only when HUD determines that a Rent Comparability Study (RCS), which the PHA must procure and pay for,

⁴⁴ HUD will aggregate for this purpose a limited amount of funds associated with units excluded from conversions through a de minimis reduction pursuant to Section 1.4.A.4 (“Substantial Conversion of Assistance”).

establishes that rents are below comparable market rents.⁴⁵ Any such determination will be made by HUD in its sole and absolute discretion. Where initial contract rents are at or below 120 percent of the FMR, no RCS is required.

- 6. Method of Adjusting Contract Rents.** Contract rents will be adjusted only by HUD's OCAF at each Anniversary of the HAP Contract, subject to (a) the availability of appropriations for each year of the contract term, and (b) the Maximum Rent, as defined below.⁴⁶

The Maximum Rent is the higher of 140% of FMR (less utility allowances) or the market rents, as demonstrated by an RCS procured and paid for by the Project Owner. Where an RCS has been used to establish initial rents or to justify an OCAF adjusted rent that exceeds 140% of the FMR, the RCS will remain valid for five years, the Maximum Rent will not apply for the next four annual rent adjustments, and rents will be adjusted only by the OCAF during such period.

- 7. Distributions.** Regardless of type of financing, Covered Projects will not be subject to any limitation on distributions of Surplus Cash, contingent on the availability of Surplus Cash as determined by year-end audited or certified financial statements. To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require the owner to establish a residual receipts account. Distributions are not considered program or project funds.
- 8. RAD Rehab Assistance Payments.** HUD and the Project Owner typically will enter into a HAP Contract before construction begins. During the period of Work identified in the RCC, standard HAP Contract administration procedures will be used for occupied units. Except where the Section 8 Pass-Through⁴⁷ is used, units covered under the HAP Contract that are not occupied at any point during the period of Work

⁴⁵ The Rent Comparability Study must be prepared consistent with Chapter Nine of HUD's Section 8 Renewal Guide, including any changes to Chapter Nine that HUD publishes while the HAP Contract is in effect. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8.

⁴⁶ OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the contract rent in order to calculate the contract rent for the project in the following fiscal year. For public housing conversions, the OCAF excludes the portion of the contract rent that is committed to debt service payments.

⁴⁷ As fully described in Handbook 4350.1, Chapter 38, Paragraph 38-32, under the Section 8 Pass Through Owners with residents under a project-based Section 8 HAP Contract whose unit was rendered uninhabitable may temporarily lease a unit in another building, which is habitable, under UPCS. The Owner can sign a temporary lease on behalf of the displaced Section 8 resident (i.e., a master lease) and begin to voucher for the contract rent for that temporary unit.

identified in the RCC may be eligible, subject to the conditions below, for Rehab Assistance Payments equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents ([see Attachment 1C](#)). During the period of rehabilitation or construction as identified in the RCC, the maximum number of units for which a Project Owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for Operating Fund or Capital Fund subsidy prior to conversion. As a result, some units in the Covered Project may not be eligible for Rehab Assistance Payments. As necessary to implement this provision, HUD is suspending the applicability of additional provisions in 24 CFR § 880.504(a) until all contract units are made available for occupancy and waiving the applicability of section 8(c)(4) of the Act.

The Project Owner will no longer be eligible to receive RAD Rehab Assistance Payments upon the earlier of completion of the Work or expiration of the time period identified in the RCC for completion of all Work, which date is specified in the HAP contract. After such date, all units under the HAP Contract will be eligible for payment only for occupied units or for vacancy payments, as applicable.

9. Future Statutory or Administrative Changes. Consistent with PBRA HAP Contracts entered into under MAHRAA, any changes in HUD requirements, except to the extent required by statute, that are inconsistent with the PBRA HAP Contract entered into through RAD, shall not be applicable. Further, for any statutory change during the term of the contract affecting contract rents that HUD determines will threaten the physical viability of the property, the Owner may terminate the contract upon notification to HUD. Notwithstanding such termination, the project shall remain subject to the RAD Use Agreement encumbering the property on which the project is located.⁴⁸

10. Floating Units. Upon the request of the Project Owner of a Covered Project that is partially-assisted (i.e., fewer than 100% of the units are covered by the HAP Contract), HUD will permit the Section 8 assistance to float between units within the project that have the same bedroom size and the same contract rent; from the time of the initial execution of the HAP Contract, the property must maintain the same number and type of RAD units. As a condition for granting such request, HUD requires that the unassisted units be inspected with the same frequency as the assisted units are required to be inspected under 24 CFR part 200, subpart P. Assistance may float from a required UFAS unit only to another UFAS unit that has the same

⁴⁸ Until HUD revises the currently approved PBRA HAP Contract for RAD, PHAs may request amendments to the HAP Contract in accordance with this provision.

bedroom size and accessibility features. If assistance floats to a UFAS unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-Section 504 unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained.

11. UPCS (REAC) Inspections. Under current regulations at 24 CFR part 5, subpart G, a unit covered under a PBRA HAP Contract must meet the UPCS before assistance can be paid on behalf of a household. Under RAD, once all units under the HAP Contract become occupied, HUD will order a REAC inspection of the property to ensure conditions meet the UPCS. HUD is hereby waiving and establishing this alternative requirement to 24 CFR part 5, subpart G.

B. PBRA Resident Rights and Participation.

1. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.⁴⁹ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBRA requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Further, so as to facilitate the right to return to the assisted property, this provision shall apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the

⁴⁹ These protections (as well as all protections in this Notice for current households) apply when a household is relocated to facilitate repairs following conversion and subsequently returns to the Covered Project, even if they are considered a “new admission” upon return.

applicable program, specifically 24 CFR § 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.⁵⁰

2. **Right to Return.** See section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return.
3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBRA program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. Eligibility for the phase-in is to be determined at the Initial Certification which occurs at the time the household is converted to PBRA. A phase-in must not be applied after the household's Initial Certification. To implement the phase-in, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 880.201 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years, or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established. For purposes of this section "Calculated Multifamily TTP" refers to the TTP calculated in accordance with regulations at 24 CFR § 5.628 (not capped at Gross Rent) and the "most recently paid TTP" refers to the TTP recorded on the family's most recent HUD Form 50059. If a family in a project converting from Public Housing to PBRA was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP

⁵⁰ For non-RAD PBV households, applicable program requirements includes the requirement that any admission to the project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time.

- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in 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 TTP⁵¹

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 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

- 4. Family Self-Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program once their housing is converted under RAD. Through waiver in this Notice, FSS grant funds may be used to continue to serve such FSS participants. All Project Owners will be required to administer the FSS program or partner with another agency to administer the FSS program in accordance with the requirements of 24 CFR part 984, the participants' contracts of participation, and current and future guidance published by HUD for all FSS participants enrolled in the FSS program prior to RAD conversion. All Project Owners will be required to provide both service coordination

⁵¹ For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TPP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

and payments to escrow until the end of the Contract of Participation for each resident. To ensure that HAP payments are processed correctly, and until TRACS is modified, the Project Owner must notify MF_FSS@hud.gov that there are current FSS participants residing in the Covered Project and adhere to the escrow and reporting requirements in Notice H 2016-08. The Project Owner may enter into a Cooperative Agreement with the PHA (the grantee), allowing the PHA to continue to provide service coordination to RAD-affected PBRA participants until all have completed their Contracts according to 24 CFR § 984.303. The Project Owner must assume responsibility for the administrative duties associated with FSS such as calculating and crediting escrow and reporting. Ultimately, the new Project Owner is responsible for serving the RAD-affected FSS participants until the end of their CoPs. The owner is not required to enroll new participants, but may choose to run its own voluntary FSS program in accordance with Notice H 2016-08.

At the completion of the FSS grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Future FSS NOFAs will identify eligible FSS participants. Until HUD implements provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act that expand eligibility for FSS to PBRA properties, only a PHA that continues to run an FSS program that serves public housing and/or HCV/PBV FSS participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve public housing, HCV and/or RAD-affected PBRA FSS participants. However, if the PHA no longer has a public housing or HCV program, the PHA is not eligible to apply for FSS funding.

Upon conversion, if the PHA has closed out its public housing program in accordance with Notice PIH 2019-13, funds escrowed under the public housing program for FSS participants shall be transferred into the PBRA escrow account and be considered PBRA funds, thus reverting to PBRA if forfeited by the FSS participant.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants nor will its residents be eligible to be served by future ROSS-SC grants, as ROSS-SC, by statute, can serve only public housing residents. At the completion of the ROSS-SC grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be non-profits or local Resident Associations and this consequence of a RAD conversion may impact those entities.

- 5. Resident Participation and Funding.** Residents of Covered Projects with assistance converted to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR part 245 (Tenant Participation in Multifamily Housing Projects). In addition, in accordance with Attachment 1B, residents will be eligible for resident participation funding.
- 6. Resident Procedural Rights.** The information provided below must be included as part of the House Rules for the associated project and the House Rules must be submitted to HUD for review prior to Closing. See Attachment 1E for a sample Addendum to the House Rules.
- 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 be:
 - 1. A reasonable period of time, but not to exceed 30 days:
 - o If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - o In the event of any drug-related or violent criminal activity or any felony conviction;
 - 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 a 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.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act. 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 requires that:

- i. Residents be provided with 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 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 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, residents may copy any documents or records related to the proposed adverse action; and
- 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 shall be bound by decisions from these hearings, except if (x) the hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing, or (y) the 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.** [Pursuant to Section 1.7.C.5](#) and unless the Covered Project received a specific good cause exemption to such provision, families have a choice-mobility right which must be stated in the House Rules as shown in sample in Attachment 1E.

7. **Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID 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 shall not be subject to the rent phase-in provision, as described in Section 1.7.B.3; instead, the rent will automatically be adjusted to the appropriate rent level based upon tenant income at that time.

8. **Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target project(s) under RAD will be able to finish out their Jobs Plus grant unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services offered at the target project that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements.
9. **When Total Tenant Payment Exceeds Gross Rent.** Under normal PBRA rules, any new admission to the PBRA program must require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the Gross Rent for the unit at that time (Section 3-6 F.4 of HUD Handbook 4350.3, REV-1). Further, a resident's eligibility ends and a Project Owner must process a termination of assistance when the family's TTP has risen to a level that is equal to or greater than the Gross Rent and increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy) (24 CFR 880.603(c)(3) and Section 8-5 C and 8-6 A.1 of HUD Handbook 4350.3, REV-1).

Since the rent limitation under this Section of the Notice may prevent the admission to a RAD PBRA Unit of existing residents or new admissions otherwise eligible for PBRA assistance, HUD is establishing an alternative requirement and requiring that families with a TTP that equals or exceeds Gross Rent who would otherwise qualify for assistance in the unit, shall be admitted and allowed to occupy the unit. HUD is also requiring that the units occupied by such families shall be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent.

For residents living in the Converting Project prior to conversion and for all new admissions to the Covered Project during the initial term of the contract, HUD is establishing the alternative requirement that, during any period when the family's TTP is equal to or above the Gross Rent, the zero-HAP family will pay an alternate rent to owner that is the lower of:

- a. the family's TTP less the Utility Allowance, subject to any required phase-in pursuant to Section 1.6.C.3 of this Notice; or
- b. the Zero-HAP Rent Cap, which is the lower of either:
 - i. The applicable FMR less the Utility Allowance; or
 - ii. In the event the units are subject to more restrictive rent setting requirements under another federal, state, or local program (e.g. LIHTC or HOME), the rent to owner set to comply with such requirements.

As necessary to implement this alternative requirement, HUD is waiving 24 CFR 880.603(c)(3) and sections 3-6 F.4, 8-5 C., and 8-6 A.1. of HUD Handbook 4350.3, REV-1. Tenants will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those provided through this Notice. Additionally, tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning reexamination of family income and composition found in 24 CFR part 5 in order to determine the Zero-HAP Rent Cap. When TTP equals or exceeds Gross Rent, the Zero-HAP Rent Cap collected by the Project Owner is considered project funds and must be used for project purposes. Subsidy may subsequently be reinstated if the tenant becomes eligible for subsidy.

The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS) but may be required to do so in the future when a future revision of the TRACS can accept such certifications. All normal actions for the contract rent in TRACS shall continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract, since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental subsidy.

11. Under-Occupied Units. 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 may remain in the unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered 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.

C. PBRA: Other Miscellaneous Provisions.

- 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.
- 2. Davis-Bacon prevailing wages and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13](#) and [1.4.A.14](#).
- 3. Establishment of Waiting List.** The Project Owner can utilize a project-specific or community waiting list. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
 - a. Transferring an existing site-based waiting list to a new site-based waiting list.
 - b. Transferring an existing site-based waiting list to a PBRA program-wide waiting list.
 - c. Transferring an existing community-wide public housing waiting list to a PBRA program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
 - d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

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

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

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).⁵²

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This allows for easier moves between assisted properties. Any such preference must be approved by HUD in accordance with Notice H 2013-21, prior to implementation.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 880.603 regarding selection and admission of assisted tenants. However, after the initial waiting list has been established, the Project Owner shall administer its waiting list for the Covered Project in accordance with 24 CFR § 880.603.

A Project Owner must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

⁵² For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

4. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project.
5. **Choice-Mobility.** HUD seeks to provide all residents of Covered Projects with viable Choice-Mobility options. Unless provided an exemption as described below, PHAs that are applying to convert the assistance of a project to PBRA are required to provide a Choice-Mobility option to residents of Covered Projects in accordance with the following:⁵³
 - a. *Resident Eligibility.* Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 24 months from date of effective date of the HAP or (b) 24 months after the move-in date.
 - b. *Voucher Inventory Turnover Cap.* Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.
 - c. *Project Turnover Cap.* Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the property, in any year, a Project Owner and voucher agency may agree to limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the Project Owner and voucher agency could limit the number of families exercising Choice-Mobility to 15 in any year, but not to less than 15.) While a Project Owner and voucher agency are not required to establish a project turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

⁵³ The Choice-Mobility requirements that apply to covered PBRA projects differ from the requirements that apply to covered PBV projects.

The voucher agency must maintain a written agreement with the owner describing how the Choice-Mobility option will be administered in accordance with these requirements and the process by which households may request a voucher. For example, the written agreement must specify whether the owner will receive requests from families or refer families to the PHA.

HUD's goal is to have all residents in the Demonstration offered a Choice-Mobility option within a reasonable time after conversion. However, as HUD recognizes that not all voucher agencies will have vouchers sufficient to support this effort, HUD will take the following actions:

- Provide voucher agencies that make such a commitment bonus points provided under the Section Eight Management Assessment Program (SEMAP) for deconcentration.⁵⁴
- Grant a good-cause exemption from the Choice-Mobility requirement for no more than 10 percent of units in the Demonstration. HUD will consider requests for good-cause exemptions only from the following types of PHAs:
 - o Public housing–only agencies, defined as agencies that own units under a public housing ACC, but do not administer, directly or through an affiliate, a Housing Choice Voucher program with non special-purpose vouchers; or
 - o Combined agencies that currently have more than one-third of their turnover vouchers set aside for veterans, as defined for the purpose of HUD-VASH, or homeless populations, as defined in 24 CFR § 91.5.⁵⁵ To be eligible for this exemption, the PHA's admission policies must have been formally approved by the PHA's board prior to the time of application.

6. Future Refinancing. Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be

⁵⁴ The sponsoring agency must commit to the full term of the initial HAP Contract, must undergo a significant amendment to its Annual Plan (no later than 60 days after execution of the project's CHAP), and must comply with section 8(o)(6)(A) relating to selection preferences. In order to implement this incentive, HUD is waiving provisions under 24 CFR § 985.3(h) to provide donating agencies with bonus points under the SEMAP for deconcentration.

⁵⁵ A veteran is, for the purpose of HUD-VASH, a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable and is eligible for Veterans Administration health care.

evidenced through the RCC, but HUD review of liens must be performed prior to execution.

7. **Submission of Year-End Financial Statements.** Projects converting assistance to PBRA must comply with 24 CFR part 5, subpart H, as amended, revised, or modified by HUD.⁵⁶

8. **Classification of Converting Projects as Pre-1981 Act Projects under Section 16(c) of the United States Housing Act of 1937.** For purposes of ensuring maximum flexibility in converting to PBRA, all projects converting to PBRA shall be treated as Pre-1981 Act Projects under Section 16(c) of the Act. Section 16(c)(1), which applies to pre-1981 Act projects, restricts occupancy by families that are other than very low-income to 25% of overall occupancy. Thus, Project Owners of projects converting to PBRA may admit applicants with incomes up to the low-income limit. HUD Headquarters tracks the 25% restriction on a nationwide basis. Project Owners of projects converting to PBRA do not need to request an exception to admit low-income families. In order to implement this provision, HUD is specifying alternative requirements for section 16(c)(2) of the Act and 24 CFR § 5.653(d)(2) to require Project Owners of projects converting to PBRA to adhere to the requirements of section 16(c)(1) of the Act and 24 CFR § 5.653(d)(1).

9. **Owner-Adopted Preferences.** Covered Projects are not permitted to establish or, where previously approved under public housing rules, maintain a designation (i.e., a set-aside of units) for elderly families or for disabled families; unlike the statute governing public housing, the Section 8 statute does not authorize designations. However, owners of Covered Projects may adopt a selection preference (e.g., for elderly individuals and/or elderly families) which permits those applicants to be selected from the waiting list and housed before other eligible families. Project Owners who wish to adopt a preference for populations that are not identified in 24 CFR § 5.655(c)(5) (e.g., elderly families, near-elderly single persons, near-elderly families), must obtain HUD approval from the prospective Multifamily Housing Account Executive (field office) prior to execution of the HAP contract to do so in accordance with Notice H 2013-21 (July 25, 2013). This approval must be secured prior to conversion if the owner intends to implement the preference for new admissions immediately following conversion.

⁵⁶ This provision is included to clarify existing requirements for PHAs that own PBRA-assisted projects through Single Asset Entities. Such owners are considered reporting entities under 24 CFR § 5.801 (a)(3) and (a)(4).

10. Initial Certifications and Tenant Rent Calculations. Owners are to use the resident's pre-existing public housing 50058 data and maintain the tenant rent and utility allowance until the resident's next annual or interim certification. To effectuate this provision, HUD is waiving 24 CFR 5.601.

1.8 Resident Engagement

- A. Before Application.** Prior to submitting an application to participate in the Demonstration, the PHA must:
1. Provide written notification of the PHA's intent to pursue a conversion to duly elected resident organizations (in accordance with 24 CFR Part 964) representing the buildings or developments proposed for conversion. Additionally, HUD encourages PHAs to partner with resident leaders to help communicate information about the RAD conversion to the broader resident population through peer-to-peer engagement;
 2. Provide written notification in the form of a RAD Information Notice (RIN) to residents of projects proposed for conversion to inform the residents of the PHA's intent to pursue a conversion, their rights in connection with a proposed conversion (whether or not any relocation is anticipated), the nature of current conversion plans, including at a minimum, a description of the plans that will be discussed at the resident meetings, and a means for contacting HUD.^{4B-4} RINs must be delivered directly to each unit or by U.S. mail to each head of household at the Converting Project, must be posted in a conspicuous place within the Converting Project, and must remain available at the management office during normal business hours for inspection and copying by tenants and by the public;
 3. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, or if relocation is anticipated, another notice known as a General Information Notice (GIN) may also need to be issued simultaneously with the RIN. A GIN is a notice required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and its implementing regulations of 49 CFR part 24. The timing, content and delivery methods for GINs remain unchanged by this Notice. See the RAD Fair Housing, Civil Rights, and Relocation Notice for additional information.
 4. No less than one week following issuance of the RIN and within the six months prior to submission of the application, conduct at least two meetings with residents of projects proposed for conversion to discuss conversion plans and provide opportunities for comment. Discussion at both meetings must include a

^{4B-4} See the RAD Fair Housing, Civil Rights, and Relocation Notice for the required full contents of the RIN. Sample RIN provided at www.radresourcedesk.net

description of resident rights described in Attachment 1B.1 and a description of the PHA's preliminary intentions, to the extent formulated, with respect to: a) whether the conversion will include a transfer of assistance and potential locations to which the assistance would be transferred, b) plans to partner with an entity other than an affiliate or instrumentality of the PHA if such partner will have a general partner or managing member ownership interest in the proposed Project Owner, c) change in the number or configuration of assisted units or any other change that may impact a household's ability to re-occupy the property following repairs or construction, d) de minimis reduction of units which will have been vacant for more than 24 months at the time of RAD Application, e) the scope of work and potential relocation scenarios, f) an overview and projected timeline of the the conversion process, and g) primary differences for residents between public housing and the Section 8 platform (PBV or PBRA) of the conversion;^{4B-5} and

5. Submit the following information with the RAD Application⁶⁰:
 - a. Certification that the RIN and notice of the tenant meetings have been provided to all residents in accordance with this Notice;
 - b. A summary of meeting attendees and participation by residents, PHA staff, and other attendees, e.g. a sign-in sheet or list of registrants or participants for calls or online meetings;
 - c. A description of the PHA's efforts to promote tenant participation in meetings, including the dates and times of meetings to accommodate a variety of schedules, efforts to accommodate residents with disabilities or Limited English Proficiency in accordance with subparagraph H below, the format of meetings (in-person, electronic, or both), location of in-person meetings, efforts to overcome technology barriers for virtual meetings, and other relevant efforts as the PHA determines appropriate (e.g., offering childcare or refreshments);
 - d. Meeting agenda(s) and copies of any handouts or presentation materials;
 - e. A summary of questions and comments asked in the meeting or submitted by residents to the PHA and responses provided to the residents by the PHA to those questions and comments;
 - f. Identification of how residents who were unable to attend meetings are able to access materials or submit questions or comments;
 - g. Identification of materials that were shared with residents to communicate resident protections, which can include but are not limited to the following materials: HUD resident rights brochure; HUD resident fact sheets; HUD

^{4B-5} Resident Education materials on a variety of topics, including the conversion process, the differences between PBV and PBRA, relocation and other topics are available at <https://www.hud.gov/RAD/residents/PublicHousingResidents>.

RAD video; or other resident education materials created by HUD or the PHA; and

- h. Where there is a duly elected resident organization, contact information for at least one elected leader of such organization.

B. Before Concept Call. After a PHA is selected to participate in RAD (i.e., after receipt of the CHAP) but prior to requesting a Concept Call, the PHA must have at least two additional meetings with residents to discuss updated conversion plans covering, at a minimum, the topics listed above, and to clearly describe and solicit feedback on proposed or needed property improvements, management changes, services, or other items as appropriate. Meetings should be spaced to provide meaningful updates to residents on the progress of the conversion, to offer opportunities for residents to provide input, and to permit residents to raise questions and concerns. PHAs are encouraged to meet with residents each calendar quarter and to provide access to written materials describing the conversion prior to each meeting. The PHA shall submit in the Financing Plan a summary of questions and comments received in connection with the required resident meetings and the responses provided to the residents by the PHA. Additional resident meetings may be required by HUD after the Concept Call if HUD determines that they are needed, for example, to provide residents with up-to-date information regarding the conversion.

C. Before Closing. After issuance of the RCC and prior to closing, the PHA must notify residents in writing that conversion of the project has been approved and hold an additional resident meeting following such notification.^{4B-6} In the meeting and in the written notice, the PHA must address, as appropriate, the anticipated timing of the conversion, the anticipated duration of the Work, the revised terms of the lease and house rules, procedures for execution of the new lease, any anticipated relocation, and opportunities and procedures for the exercise of the choice-mobility option. PHAs must also provide access to or copies of the new lease form and any applicable house rules. HUD will require evidence of such notice and meeting(s) prior to closing.

Households in the affected project(s) who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA.

D. Additional RAD Meetings. The required meetings must discuss any substantial change to the conversion plans relative to what was presented in the previous resident meetings. Additional meetings with residents are required if one of the required meetings does not occur within a reasonable time (approximately three months) following a substantial change

to the conversion plan. A substantial change to the conversion plans includes, but is not limited to:

- Introduction or abandonment of a transfer of assistance or a material change in the projected location to which the assistance would be transferred;
- Plans to partner with an entity other than an affiliate or instrumentality of the PHA if such partner will have a general partner or managing member ownership interest in the proposed Project Owner;
- Change in the number or configuration of assisted units or any other change that may impact a household's ability to re-occupy the property following repairs or construction;
- De minimis reduction of units which had been vacant for more than 24 months at the time of RAD Application;
- A substantial change in the proposed scope of the Work or relocation plans;
- A material change in utility allowances; or
- Other scenarios which HUD may prescribe.

- E. Significant Amendment Process.** The requirements for resident notifications and meetings for the RAD program are separate from, and complementary to, the resident notification and consultation requirements under the significant amendment process (24 CFR part 903).
- F. Other Requirements.** A PHA must comply with all applicable relocation requirements (see Section 1.4.A.5) and all applicable resident consultation and notification requirements. Refer to the RAD Fair Housing, Civil Rights, and Relocation Notice for resident consultation requirements regarding relocation.
- G. Meeting Participation.** PHAs must provide adequate notice of meetings, should consider practices to reduce barriers to resident participation in meetings, and should conduct meetings in a place and time to foster participation. PHAs should consider the timing of resident meetings (e.g., times of day, days of the week including weekends) to encourage participation by residents with a variety of preferences and schedules. PHAs must make meeting notifications and meeting materials available in an accessible format (e.g., website, hard copies in the management office). Resident meetings can be offered in various formats including electronically (e.g., Zoom), in person, and/or in a hybrid meeting format. If a resident meeting is offered virtually, PHAs should consider residents' computer and internet access and undertake reasonable measures to address technological barriers. Relevant parties from the PHA or the Project Owner should be available to respond to questions or comments from residents. Additionally, PHAs may not restrict attendance at the meetings unless necessary for the effective conduct of the meeting, for example, restricting attendance to accommodate size constraints of the venue of the meeting.
- H. Accessibility Requirements.** When providing resident notification and meetings, a PHA must use effective communication for persons with hearing, visual, and other

communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act of 1990. Effective communication may include, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type, accessible email or websites), as needed, and providing sign language interpreters and assistive listening devices at resident meetings, as needed (24 CFR § 8.6). Additionally, resident meetings must be held in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, a PHA must use alternative methods to meet with qualified individuals with disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings. Such meetings must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible (28 CFR part 35, appendix B).

Additionally, a PHA must provide meaningful access to its programs and activities for persons who have a limited ability to read, speak, or understand English. For projects undergoing RAD conversion, a PHA must provide language assistance to residents of the project who are Limited English Proficient (LEP) to ensure that they have meaningful access to RAD resident notifications and meetings. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at resident meetings. For guidance on providing language assistance to persons with LEP, please see Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732).

- I. Resident Engagement Requirements in a Faircloth-to-RAD conversion.** In addition to requirements for a PHA to include a Faircloth-to-RAD conversion in its Five-Year Plan, Annual Plan, or MTW Plan, HUD is requiring the following engagement with residents of an impacted property. When a PHA is developing new public housing units under Faircloth-to-RAD, this Section 1.8.I shall apply in lieu of Sections 1.8.A through 1.8.D.
1. If the property is occupied at the time the PHA requests a Notice of Anticipated RAD Rents, Sections 1.8.A through 1.8.D shall apply with the following modifications. The PHA must have complied with Section 1.8.A prior to submitting the request for a Notice of Anticipated RAD Rents. References to the Concept Call in Section 1.8.B shall be deemed to be references to the submission of the public housing acquisition, mixed finance development, or other development proposal pursuant to the applicable provisions of 24 CFR part 905. References to the RCC in Section 1.8.C shall be deemed to be references to HUD

approval of such proposal and references to closing in Section 1.8.C shall be deemed to be the completion of such approved acquisition or development.

2. If tenants are admitted to the property in accordance with admissions requirements after issuance of an RCC and prior to the Closing of the RAD conversion, the PHA shall, prior to the execution of the lease:
 - i. Provide written notification in the form of a RAD Information Notice (RIN) to residents of projects proposed for conversion to inform the residents of the PHA's intent to pursue a conversion and of their rights in connection with a proposed conversion^{4B-7};
 - ii. Provide a written explanation of the leasing and occupancy changes that will occur soon after move-in resulting from the RAD conversion to Section 8; and
 - iii. Meet with each resident household to discuss the conversion, explain the written materials referenced in subparagraph i and ii, above, and provide the residents an opportunity to ask questions. The resident meeting can be conducted on an individual household basis.

J. HUD Participation. At HUD's request, the PHA must provide an opportunity for a representative from HUD to attend resident meetings either in-person or virtually.

K. Contacting HUD. Should residents and/or their advocates have concerns, require clarification on RAD program guidelines, including those focused on resident engagement and protections, or need additional support which cannot be met by the PHA, they may contact HUD at rad@hud.gov.

1.9 Application Requirements

Under the Demonstration, applicants may apply to convert a single project⁵⁷, a phase of a multi-phase rehabilitation or redevelopment, and/or a PHA-defined portfolio of projects (which could include subsequent phases in a multi-phase effort and completely independent projects). The requirements for each type of application are listed below:

A. General Requirements. All applicants must complete the RAD Application, which HUD will make available on the RAD website (www.hud.gov/rad), along with all other required

⁵⁷ In limited cases and with compelling justification, HUD may permit more than one project to be combined as a single transaction in order to facilitate financing as long as the PHA can ameliorate the risk of cross-default and HUD determines that it could maintain individual oversight of each project.

submittals. The RAD Application will include certain pre-populated project data and will require the applicant to input summary information regarding the PHA's tentative plans.

PHAs apply by Project. A Project may consist of an entire Asset Management Project (AMP), a part of an AMP, multiple AMPs, or a project proposed for public housing development under 24 CFR Part 905. If a PHA desires to convert only a portion of a public housing AMP (e.g., only the high-rise portion of a project that is currently combined with scattered sites) and maintain the remaining portion as public housing, the PHA should indicate as such in its application (i.e., the PHA will not need to request a change in configuration for the project in order to submit the application). Similarly, a PHA may indicate in its application if it is applying for multiple public housing AMPs as a single Project. PHAs pursuing a Faircloth-to-RAD conversion must request a Notice of Anticipated RAD Rents (NARR) in lieu of the RAD Application.

The RAD Application must include, where applicable:

1. **Certification of Board Approval** which must be signed by the authorized representative of the PHA. This certification will be required for all submitted applications.
2. **Responses to comments** received in connection with the required resident meetings on the proposed conversion.
3. **A Mixed-Finance Affidavit** is required where the PHA is requesting to convert the public housing assistance in a mixed-finance project. This affidavit must be signed by both the PHA administering the public housing ACC and the Owner Entity of the project. Since only PHAs can apply under the Demonstration (see Section 1.3 of this Notice), the purpose of this affidavit is to ensure that both parties (the Owner Entity and the PHA) agree in principle to the conversion. Please note, however, that the HAP Contract for a mixed-finance conversion will be executed between the Contract Administrator and the mixed-finance Owner Entity, not the PHA administering the public housing ACC. (The PHA may be part of the ownership structure, however.)
4. **A Choice-Mobility Commitment Letter** signed by: (a) the voucher agency that has committed to provide Choice-Mobility vouchers to the covered PBRA project of another PHA for the term of the initial HAP Contract; and (b) the agency that obtains a commitment from a voucher agency to support Choice-Mobility for a specified PBRA project. PHAs that are able to meet the Choice-Mobility requirement through turnover from their own voucher programs do not need to complete this letter.

If a PHA chooses to convert assistance to PBVs, the PHA must identify in the RAD Application the voucher agency that will administer the PBV HAP Contract. If another PHA is proposed as the contract administrator and the project is selected, the PHA will need to

submit a signed letter from the voucher agency evidencing the agency's willingness to administer the PBVs. The PHA may contact the local HUD Office of Public Housing to identify a list of voucher agencies that have appropriate legal jurisdiction to perform this role. If there is no voucher agency with overlapping legal jurisdiction that is willing to administer the PBV contract, the PHA may want to consider converting the project to PBRA. However, in so doing, the PHA would still be required to meet, or receive an exception to, the Choice-Mobility requirement as described above.

- B. Applications for Multi-phase Development.** Prior versions of the Notice distinguished Multi-Phase Awards from Portfolio Awards. With this notice, PHAs that wish to implement a multi-phase rehabilitation or redevelopment of a public housing site may reserve authority to do so under the Portfolio Award structure. As of the effective date of this Notice, existing Multi-Phase Awards are converted to Portfolio Awards, subject to the time frames specified for Portfolio Awards provided that HUD may, in its sole discretion, grant extensions to such deadlines up to September 30, 2024.

HUD recognizes that in certain situations multi-phase development warrants the demolition of a greater number of units than may be replaced in a single phase. HUD will consider individual requests for demolition prior to the construction closing of a phase based on a site plan, the timing and sources & uses for each proposed phase, the capacity of the development team, the impact on residents, and the overall likelihood that units will be successfully redeveloped.

Applicants should keep in mind that the environmental documents submitted with the Financing Plan during the first phase (see Attachment 1A) must be submitted for the entire site, i.e., all of the phases of the multi-phase development, and that the environmental review conducted during the first phase will cover the entire site.

- C. Applications for Portfolio Awards.** A PHA may apply for a Portfolio Award, which allows a PHA to reserve RAD conversion authority for a set of projects (including for multiple phases of a large scale redevelopment effort and for planned projects) and that locks in the applicable contract rent in the year of application. In order to apply for a Portfolio Award, a PHA must submit:

1. The total number of units to be converted; and
2. RAD Applications for the lesser of four projects or 25% of the units identified in the portfolio.

Upon approval of the application submission listed above, HUD will issue, in addition to the provision of CHAPs for the applications submitted, a Portfolio Award Letter covering the

remaining units within the portfolio proposed by the applicant. The Portfolio Award Letter reserves RAD conversion authority for the remaining units in the portfolio and locks in the applicable contract rent for the year of the application submission for the units covered by the Portfolio Award. In order to retain its Portfolio Award, except with HUD approval, a PHA must close, on average starting one year after the issuance of the first CHAP, either two projects per year or 25% of the units identified in the portfolio per year. For purposes of the annual average, conversions which occur in the first year shall be deemed to have occurred in the second year after issuance of the first CHAP. Units held in an existing portfolio award will be held to this standard effective on the date of publication of this Notice. PHAs may count existing CHAPs, in lieu of Applications, in presenting their Portfolio Award requests. The PHA has until September 30, 2024, to submit an application for the final project covered by the Portfolio Award. Recipients of Portfolio Awards shall be required to fulfill all RAD requirements for each CHAP issued by HUD. If at any time HUD determines that a PHA has failed to make sufficient progress towards the submitted conversion of the proposed portfolio, HUD may revoke RAD conversion authority provided under the Portfolio Award for all projects where a CHAP has yet to be issued. With HUD consent, PHAs may substitute projects in the portfolio award, and switch projects between the active and pending portions of the portfolio, provided that the newly substituted projects are subject to all of the requirements of this Notice.

Further, PHAs that have received CHAPs for multiple projects, but that did not request a Portfolio Award, may convert their awards into a Portfolio Award as long as they comply with the requirements for a Portfolio Award.

- D. Application for projects awarded under a Choice Neighborhoods Initiative (CNI) Implementation Notice of Funding Availability (CNI NOFA).** HUD will reserve authority under the statutory cap on public housing conversions for properties covered under CNI implementation grants that submit RAD Applications or Portfolio Award applications and that meet eligibility requirements.
- E. Submission of Letter of Interest When a Waiting List Has Formed.** During any period when HUD is maintaining a waiting list pursuant to Section 1.10, in lieu of a RAD Application, a PHA may submit a letter of interest signed by the PHA's Executive Director to RADapplications@hud.gov that identifies all of the properties (PIC # and name) and associated ACC units that the PHA is proposing for conversion. Such a submission would reserve the PHA's spot on the waiting list under the lowest priority category described in Section 1.11 in the order in which the letter was received. In anticipation of HUD's ability to make additional awards, HUD will notify the PHA that it must submit a complete RAD Application or Portfolio Award application and comply with all the application provisions of this Notice, within 60 days of such notification or forfeit its position on the waiting list.

PHAs may consider submitting complete RAD Applications separately for properties in its conversion portfolio that would fall under a higher priority category so as to achieve a higher position on the waiting list.

1.10 Submission of Applications

All required materials (including attachments and narrative summaries) must be submitted electronically pursuant to instructions available at www.hud.gov/rad. No paper or fax submissions are permitted.

There is no HUD fee for the submission of an application or the withdrawal of an application or award. There also is no cap on the number of project applications that a PHA may submit or resubmit.

Only complete applications will be considered. Rejected applicants will be notified and the PHA may choose to re-submit. If re-submitted, the application will be reviewed in order of the date of the re-submission.

Unless the application process is closed, which HUD would announce through the RAD website, the last date that HUD will accept an application is the final date of the statutory authority, as identified in the Federal Register. This announcement will specify the items related to selection and eligibility that will be required.

1.11 Selection Criteria

This section explains the criteria that HUD will use to select projects for participation under the Demonstration.

- A. Initial Application Period (CLOSED).** As required under the RAD Statute, HUD first conducted an initial competition period to ensure that awards were made to PHAs of various sizes and across geographies. HUD created target pools for awards based on PHA size and in four Census regions and made awards pursuant to those target pools. This initial application period opened on September 24, 2012 (60 days after the initial version of this Notice was issued) and closed on October 24, 2012 (30 days after the initial application period opened).
- B. Second Application Period (CLOSED).** The Second Application Period commenced on October 25, 2012 and closed on July 27, 2015. All applications submitted during the Second Application Period competed on a first-come, first-serve basis, where HUD issues a PHA an award for any Application that meets all eligibility criteria and that was received while HUD had available authority under the statutory cap.

- C. **Third Application Period (CLOSED)**. The Third Application Period commenced on July 28, 2015, and closes 30 days following the publication of this Notice. All applications submitted during the Third Application Period competed on a first-come, first-serve basis subject to the Priority Categories in effect at the time of the issuance of the CHAP in each instance.
- D. **Fourth Application Period**. The Fourth Application Period commences 30 days following the publication of this Notice. Applications that meet all eligibility criteria, and any associated Portfolio Award requests, will be awarded on a first-come, first-serve basis. HUD will reserve units for the Application and any associated Portfolio Award up until the point at which issuing an additional award would exceed the statutory cap. For all applications that meet all eligibility criteria, HUD will rank each qualified application by the date and time the Application was submitted. If the next ranked application cannot be awarded because HUD has reached its available authority under the statutory cap, the application will be placed on the waiting list by the date and time the Application was submitted. While a waiting list has formed, a PHA may submit a Letter of Interest as described in Section 1.9 in lieu of an Application that would serve to reserve a project's or a portfolio's position on the waiting list subject to future submissions of a RAD Application. In administration of awards made off of the waiting list, applications for properties located in designated Opportunity Zones, along with their associated Portfolio Awards, shall be selected prior to all other properties.
- E. **Replacement Awards**. If a CHAP or Portfolio Award issued to a PHA is revoked or withdrawn (including revocations when the PHA fails to comply with the requirements of this Notice), HUD will issue a replacement award to an applicant from the waiting list, if one has formed.
- F. **Online Summary**. HUD will post a summary of applications selected for CHAP, Portfolio, or Multi-phase Awards and waiting list status for all other applicants. The summary will be updated periodically.
- G. **Exemptions from the Choice-Mobility Component**. For PBRA conversions, HUD will allow good-cause exemptions on a first-come, first-served basis up to the 10 percent limit.⁵⁸ An Application that meets all requirements of the Notice, but that cannot be awarded a CHAP because it has requested a good-cause exemption and HUD has reached its 10% cap will be placed on the waiting list. The Application will be passed over if all of the good-cause exemptions as indicated above have been exhausted. An Application may be selected for a

⁵⁸ As of the date of publication of this Notice, the good-cause exemptions have not been allotted up to the 10 percent limit. As a result, HUD will allow good-cause exemptions during the Ongoing Application period on a first-come, first served basis up to the 10 percent limit.

good-cause exemption if a CHAP is terminated for a project that originally received a good-cause exemption. At any point, a PHA may revise its application to certify that it will meet the Choice-Mobility component. If an application is modified in this way, it will retain its place on the waiting list.

- H. Application Denials.** If HUD determines that a PHA does not meet the eligibility requirements in Section 1.3, HUD will issue a letter denying a CHAP to the PHA citing the specific grounds for the denial of its application. The PHA then has 30 days from the date of the letter to appeal the denial in writing. The appeal must include the grounds for appealing the denial and supporting documentation. The Department will review the appeal and will notify the PHA of its decision within 60 days of the appeal. If applicable, the PHA's position on the waiting list will not be adversely affected if a decision is made in favor of the PHA. The appeal should be sent to RADapplications@hud.gov, with the name of the project and the word “Appeal” included in the Subject Line, e.g., “Subject: Lincoln Townhomes, Appeal.” If a PHA’s application or appeal is denied, the PHA may revise the application and resubmit; such resubmittals will be reviewed in the order of date of resubmission.

1.12 CHAP Award and Financing Plan Submission

- A. CHAP Award.** PHAs will be notified of selection via issuance of a CHAP, or Commitment to enter into a Housing Assistance Payment, which shall include the HUD-approved terms and conditions for conversion of assistance. For PBV conversions, the PHA is responsible for ensuring that the rents included in the CHAP do not exceed the Reasonable Rent in accordance with 24 CFR 983.301. The CHAP will not be subject to negotiation.

A PHA must confirm its acceptance of the CHAP by submitting an application (including required attachments) into the Inventory Removals module in PIC identifying the units that will be removed from the public housing Annual Contributions Contract (ACC) when the project completes conversion.⁵⁹

If a PHA applies for a Portfolio Award, HUD will reserve RAD conversion authority for the phases or projects covered by the award. A PHA must fulfill applicable milestones for submission of the applications for the remaining phases or projects.

⁵⁹ Instructions for submitting a Removal Application into PIC are available here: <http://www.radresource.net/output.cfm?id=picremove>. Please note that HUD uses the application in PIC in order to implement the PHAS scoring exemption described in Section 1.5.H. When a CHAP is issued near the PHA’s fiscal year end, the PHAs are advised to submit the application into PIC before that date.

HUD's issuance of a CHAP includes terms on which HUD will later issue the HAP. For this reason, the CHAP should be useful in the PHA's discussions with lenders, investors and other providers of financing.

The CHAP may be revoked by HUD: (1) if, at any time, the PHA or project become ineligible under the provisions of this Notice; (2) upon HUD's determination of financial infeasibility; (3) if the PHA cannot demonstrate to HUD's satisfaction that it is making adequate progress towards Closing; (4) for PHA non-cooperation; (5) for violation of program rules and restrictions, including fraud, (6) if the PHA fails to discuss the conversion plans as a significant action in the PHA's Five-Year Plan, Annual Plan or MTW Plan or submit an approved significant amendment to HUD, and/or (7) if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

HUD will request periodic discussions with the PHA to assess whether the PHA is making adequate progress towards the submission of a Financing Plan. In order to ensure PHAs are making consistent progress towards conversions, within nine months (270 days) of the CHAP award the PHA must submit a Financing Plan or receive an extension from HUD setting forth a project-specific Financing Plan due date, which due date may be further extended by HUD upon reasonable justification. A PHA must hold another meeting to update residents on conversion plans in order to secure an extension greater than six months.

PHAs may request amendments to the CHAP to split or combine CHAPs, modify the units or utility allowances, utilize rent flexibilities in accordance with [Section 1.6.B.5](#) or [Section 1.7.C.5](#), or request a replacement CHAP in order to secure rents based on the applicable RAD rent base year at the time of the request (see Attachment 1C).

Because units under the Demonstration are limited, it is critically important that recipients of a CHAP diligently pursue the Financing Plan and complete conversion or withdraw, so that HUD might award those units to a PHA that is able and willing to convert the assistance of units.

- B. Activities Prior to Financing Plan Submission.** The PHA is responsible for ensuring that up front civil rights reviews and relocation activities are conducted as required in the RAD Fair Housing, Civil Rights, and Relocation Notice.
- C. Concept Call.** Prior to submitting a Financing Plan a PHA must request a "Concept Call" with HUD via the RAD Resource Desk during which the PHA will describe the conversion plan and demonstrate that the plans are sufficiently advanced to warrant review by HUD. If HUD determines, in its sole discretion, that conversion plans are sufficiently advanced and

do not present any program violations, HUD will invite the PHA to submit a Financing Plan as long as it is consistent with the project plans.

- D. Financing Plan.** The PHA must submit a Financing Plan within 60 days of the invitation to submit the Financing Plan unless otherwise approved by HUD. The PHA must request a new Concept Call if it does not submit the Financing Plan timely. See Attachment 1A for Financing Plan Requirements. A Financing Plan must be substantially complete in order for HUD to consider the submission.⁶⁰

HUD's decisions regarding the acceptance of the Financing Plan will be made in HUD's sole discretion. If HUD determines that a Financing Plan is not feasible and/or that the requirements of the Financing Plan as set forth in [Attachment 1A](#) have not been met, HUD will notify the PHA of the deficiencies and request a modified or new submission. If a PHA is unable to submit a complete and viable Financing Plan HUD will revoke the CHAP award.

A PHA will be notified of HUD's acceptance of the Financing Plan by the issuance of an RCC, conditioned upon firm commitment of financing from the lender on substantially the same terms as those presented with the Financing Plan.⁶¹ The RCC will outline the key components of the planned RAD conversion and the conditions that need to be satisfied in order to close the conversion. The RCC will be a template document not subject to negotiation.

The PHA will have 30 calendar days from the date of issuance of the RCC to execute the RCC and return it to HUD. If the RCC is not returned in this time period, it will expire.

Once the RCC is executed, HUD expects that the RAD conversion will close in a timely manner. The RCC will allow 90 calendar days (from the date the RCC is issued to the PHA) in which to close.

The RCC sets out the requirements of the transaction that will ultimately be concluded at Closing. These requirements include such items as: the number of affordable housing units being converted, the HAP Contract rents, the choice of PBRA or PBV HAP Contract,

⁶⁰ HUD will determine whether a Financing Plan is substantially complete in its sole discretion. Generally, a substantially complete Financing Plan cannot lack any major components.

⁶¹ Loan proceeds and other financing sources remain sufficient to cover immediate capital needs and, in comparison to the terms put forth in the original application, the debt service coverage ratio does not decrease by more than 0.05%, the amortization and term (maturity) of financing remain the same, and the interest rates are competitive with the market.

financing terms and Sources and Uses, key features of the Covered Project, and special conditions that must be cleared before closing. The terms of the RCC survive Closing.

1.13 Closing

A. Closing Preparations. Conversion does not occur prior to the Closing.

The RCC sets out the requirements for Closing. Draft closing documents, including those listed in the RCC and in any closing checklist provided by HUD, must be submitted to HUD for review prior to closing. As indicated on the checklists, the closing package must contain financing documentation for programmatic and underwriting review purposes and evidence of title (and copies of title exception documents) and survey satisfactory to HUD. Current HUD forms of the closing documents must be used. Closing shall not occur until all policy and legal issues are addressed to HUD's satisfaction. After closing, HUD must receive fully executed versions of the closing documents, as directed by HUD. To facilitate closing, HUD may send documents to an escrow agent to hold in trust until all of HUD's closing requirements, including the closing of any construction financing, have been met.

In the event that construction or bridge financing will be used as part of the transaction financing, HUD will require evidence before closing of firm commitment for take-out or permanent financing conditioned only on the completion of construction or term of the bridge financing and standard permanent loan financing conditions acceptable to HUD. For transactions utilizing outside financing, HUD will require evidence that financing sources have closed and will be providing the contemplated funding. If the project is being financed with an FHA-insured loan, the closing requirements listed under the MAP Guide will apply in parallel with specific RAD requirements.

The RAD HAP Contract generally becomes effective on the first day of either of the two months following closing, at the Project Owner's discretion.⁶²

B. Preparations for leaving the public housing program.

- 1. 50058 End of Participation (EOP).** In order for properties to be removed from IMS/PIC and for families to formally transition off of the public housing program, PHAs must submit a Form-50058 EOP for every resident at the Converting Project on or before the day before the effective date of the HAP Contract. The EOP may be created by a PHA's software or using Family Reporting Software (FRS) and uploaded

⁶² Where HUD has approved a delayed conversion (see Section 1.4.A.13), after Closing the Converting Project will remain as public housing during the period of construction and the HAP Contract is executed once the Covered Project is ready for occupancy.

- to IMS/PIC, or the PHA may submit an on-line EOP.⁶³ Failure to do so may result in delays in HAP payments to the Covered Project.
2. **Leases.** PHAs must provide residents with notification of public housing lease termination in accordance with 24 CFR § 966.4(l)(3) and in accordance with local law, and shall enter into new Section 8 leases effective as of the effective date of the HAP Contract.
 3. **Earned Income Verification.** For any public housing residents with outstanding debt, PHAs may not enter the debt into the Earned Income Verification “Debts Owed” module as a result of the 50058 End of Participations that is required to be submitted into PIC as part of the conversion. PHAs and Owners must otherwise continue to use EIV in all applicable circumstances.
 4. **Use of Capital Funds or Operating Reserves in the Development Budget.** All Capital Funds, including RHF and DDTF, or Operating Reserves that have been approved in the Financing Plan must be identified on the Sources and Uses and drawn down at closing in accordance with HUD procedures which may include placement in a segregated account. If there is new debt being placed on the Covered Project, these funds can be held by the lender. If no new debt will be utilized, the PHA must place the funds in a separate bank account.
 5. **Preparations for Entering PBV or PBRA.** PHAs should be aware that many tasks must be undertaken well in advance of closing (e.g., preparation of new leases and implementation of new data systems).⁶⁴
 6. **Funding Upon Closing.** For the remainder of the first Calendar Year in which a HAP Contract is effective (the “year of conversion”), Operating Funds and Capital Funds will be obligated to the PHA for the Covered Project at the level of public housing subsidy which that project is eligible to receive regardless of the initial contract rent amount or OCAF.⁶⁵

⁶³ For instructions on submitting an on-line EOP see http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/faq/58view#6

⁶⁴ HUD has developed quick reference guides to assist PHAs in preparing to operate and administer properties assisted under the PBV and PBRA programs, which are available at www.hud.gov/rad

⁶⁵ For example, a closing on December 10 will result in a HAP Contract that is effective on January 1 or February 1, as selected by the Project Owner. For the remainder of the Calendar Year which includes the January 1 or February

a. **Operating Fund.**

- i. PHAs must submit Operating Subsidy tools and follow the normal Operating Subsidy process (including revisions where corrections are needed) for the project for the year in which the project converts.
- ii. The amount of Operating Funds that can be used for HAP payments during the year of conversion is capped at HUD's obligations of Operating Subsidy to the project for the remainder of the year after conversion, pro-rated by the portion of units in the PIC Development that are converting and will be removed from PIC. HUD will periodically publish the cap amount for converted units.
- iii. Projects that complete conversion are not eligible for Operating Subsidy in the subsequent year. For conversions that result in the removal of all public housing units from a PIC Development, the PIC Development will not be eligible for any subsidy in the subsequent funding year.⁶⁶ For partially converted projects, PHAs must remove eligible unit months (EUMs) for units that converted to RAD from the Operating Subsidy tools and must adjust the rolling base to reflect only the units that remain assisted under public housing. Please see the instructions to the Form HUD-52722 for details on adjusting the rolling base.
- iv. The funding guidance provided in this notice supersedes the guidance in Section 9 of the Notice PIH 2016-10.

- b. **Capital Fund.** The amount of Capital Funds that can be used for HAP payments during the year of conversion is based on the PHA's Capital Fund Formula Grant attributable to the project ("Project Amount") in the year of conversion, pro-rated by the number of units in the PIC Development that are converting and then by the months remaining in the year in which the HAP Contract became effective. For the purposes of

1 date, subsidy is paid from public housing funds obligated to the PHA regardless of the RAD HAP Contract rent amount or OCAF. Following conversion, the public housing units that are included in the RAD conversion will be removed from the Public Housing Information Center (PIC). This action will not impact public housing subsidy for the Covered Project for the balance of the Calendar Year.

⁶⁶ If the project is funded in the year after the HAP effective date, the PHA should not draw down funds and should notify the Field Office that the project should not be funded.

RAD, the Project Amount is spread over the Calendar Year, rather than the Fiscal Year. Where HUD has not yet obligated the full FY's Capital Funds to the PHA, HUD shall obligate the remaining funds as soon as available. Capital Fund amounts will be moved into specific RAD Budget Line Items (BLIs) in LOCCS.

Prior to conversion, HUD will provide PHAs with worksheets to assist with the above-mentioned calculations.

Commencing on the effective date of the HAP Contract, the PHA may use no more than the amounts described above to make HAP payments in the “year of conversion.” During this period – the months between the effective date of the HAP Contract and the end of the calendar year – HUD will **not** provide additional subsidy to the project if the amount provided through the public housing Operating Fund and Capital Fund is insufficient to cover the rents listed in the HAP Contract. HUD requires PHAs to estimate any potential deficit and encourages PHAs to establish an Operating Deficit Reserve in their Financing Plan (using Operating Reserves, available Capital Funds, financing proceeds, or any other eligible source), but the PHA is under no HUD-imposed obligation to do so.

In the first full year following conversion, Covered Projects will be funded from the PBRA account or the TBRA account, relative to the form of Section 8 assistance for the Covered Project(s), according to the amount indicated in the HAP Contract, including any applicable OCAF, subject to all terms and conditions of the HAP Contract.

7. **Post-Closing Completion Certification.** Project Owners must submit to HUD a completion certification for all repairs included in the Scope of Work in the RCC and other information about compliance with the requirements of the RCC. Project Owners can fulfill the cost certification element of this requirement by submitting a cost certification required by a lender or investor or, if one is not required by a financing source (or not applicable), another form as prescribed by HUD.
8. **Management fees.** Any management fees earned following conversion are not subject to any federal restrictions.
9. **Additional requirements for PHAs removing all public housing units.** Notice PIH 2019-13 or successor notice provides information and guidance regarding program activities that PHAs must complete regarding removal of the last of their public housing dwelling units from their public housing inventory. Such notice also contains

notification requirements for both PHAs seeking to develop new public housing units in the future (after removing all existing public housing dwelling units from their inventory) and for PHAs seeking to close out their public housing program.

1.14 Developer Fee

HUD recognizes that in order to secure and administer debt and equity sources, and oversee the successful completion of significant rehabilitation, the PHA or Project Owner will have to either dedicate experienced staff, if such experience currently exists on staff, or hire or contract for the expertise necessary to successfully complete rehabilitation on schedule and on budget. The Development Budget included in the Financing Plan may include a developer fee to address these costs according to the following requirements:

- A. For non-LIHTC transactions, the developer fee may be up to 10 percent of the total development budget (all hard costs and reasonable soft costs), less developer fee and reserves and less any acquisition costs in non-arms-length acquisitions, e.g., transfers of property title to related or wholly-owned entities for the purpose of meeting single asset entity ownership requirements. The release of the developer fee will be made on the schedule proposed by the PHA and accepted by HUD in the Financing Plan.

Development cost overruns that exceed funded contingencies may be drawn from any unearned and unreleased portion of the developer fee, and may therefore reduce the ultimate fee paid.

- B. In LIHTC transactions (with or without private debt), the developer fee will be subject to the LIHTC allocating agency's limitations on developer fees and the following HUD-imposed limitation: The undeferred portion of such developer fee (as documented in the LIHTC cost certification) may not, without HUD approval, exceed the greater of:
 1. 15 percent of the total development costs less acquisition payments made to the PHA, developer fee and all reserves; or
 2. The lesser of \$1,000,000 or 15 percent of the total development costs without offset for acquisition payments made to the PHA, developer fee and all reserves.

The limits on developer fee in effect prior to the issuance of this Notice shall apply to all transactions with an RCC issued prior to sixty (60) days after the date of this Notice which also close prior to the later of sixty (60) days after the date of this Notice or sixty (60) days after the date of the RCC.

- C. Where the Contract Administrator agrees to adopt an admissions preference for a) homeless applicants referred to the property by the local Continuum of Care (CoC) and/or b) applicants

exiting permanent supportive housing, which preference shall apply to at least 25% of the property's units, HUD will permit a 25% increase in the allowable development fee limits described above.⁶⁷ The fee will remain subject to the LIHTC allocating agency's limitations, as applicable. The PHA or Project Owner must provide evidence of an agreement to participate in coordinated entry operated by the local CoC and must produce a letter from the CoC affirming, based on current data and local need, that there is expected to be need for affordable housing for these populations for the term of the HAP Contract. In such cases, HUD will require a special provision in the HAP Contract governing the continued existence of this preference through the term of the HAP Contract.

A preference for homeless applicants must fall within the definition of Homeless established by section 103 of the McKinney-Vento Homeless Assistance Act and implemented in the Continuum of Care Program Rule at 24 CFR § 578.3, unless the local CoC provides a letter of support to cover a homeless population not included in that definition.⁶⁸

The developer fee shall be payable on the schedule allowed by the allocating agency and/or equity investor. Earned developer fees are not subject to any federal restrictions. Development cost overruns that exceed funded contingencies may be drawn from any unearned and unreleased portion of the developer fee, and may therefore reduce the ultimate fee paid.

1.15 Streamlined RAD Conversion for Small Public Housing Agencies.

This Section explains the alternative processing requirements that certain very small PHAs may voluntarily adopt.

A. Eligibility for Streamlined Project Conversion. In addition to the eligibility requirements outlined in [Section 1.3](#), a PHA must meet the following criteria to participate in a streamlined RAD conversion as verified by HUD in its existing systems and records. Unless otherwise approved by HUD, a PHA must:

1. Have 50 or fewer units remaining in its public housing inventory and demonstrate that through RAD or other means (e.g., Section 18 Demolition or Disposition) it will remove all of the public housing units under its ACC and close out its public housing program in accordance with Notice PIH 2019-13;

⁶⁷ For guidance on establishing a homeless preference for PBRA, please see H 2013-21. For guidance on establishing a homeless preference for PBV, please see Notice PIH 2013-15.

⁶⁸ The definition of homeless implemented in the Continuum of Care Program can be found at: https://www.hudexchange.info/resources/documents/CoCProgramInterimRule_FormattedVersion.pdf

2. Have an overall PHAS (Public Housing Assessment System) score of 75 or higher; have a PASS (Physical Assessment Sub-System) score of 30 or higher; and not have a PHAS substandard designation or a PHAS Capital Fund troubled designation;
3. Not propose as part of the conversion to perform any construction or rehabilitation on the property, to undertake relocation, or to transfer the assistance.
4. For PBV conversions, select a Contract Administrator that has at least 100 units under its HCV ACC.

B. Streamlined Project Conversion Requirements. The following describes the requirements of the RAD Notice that are modified or do not apply to streamlined RAD conversion.

1. **Application Requirements.** Requirements set forth in [Section 1.9](#) of the RAD Notice are modified for Streamlined RAD conversions (and other classes of conversions as HUD determines) eliminating the need for information on financing, a financing letter of interest, and, for public housing-only PHAs, identification of a partnering voucher agency. To ensure appropriate processing, the subject line of the email submission to RADapplications@hud.gov should include “Small PHA”.
2. **Capital Needs Assessment (CNA).** Requirements set forth in the RAD Notice, Section 1.4.A.1 shall not apply. In lieu of a CNA, see below the required certification that must be included with the “Financing Plan.” The requirements set forth in the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17, PIH 2016-17 (HA)) continue to apply. Notwithstanding this exemption from the requirement to conduct a CNA, the PHA should have certified in its PHA Plan, Significant Amendment to the PHA Plan, or MTW Plan that it conducted a site review/inspection of the project with respect to accessibility for persons with disabilities and that the site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, as required by Section 5.2 of the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17, PIH 2016-17 (HA)).
3. **Environmental Review.** For Environmental Reviews conducted under 24 CFR Part 50 for Streamlined RAD conversions without any rehabilitation, construction, or demolition,⁶⁹ HUD conducted a tiered review of program-wide and site-specific compliance. HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities, and will complete a site-specific compliance review of the following:
 - a. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);

⁶⁹ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

- b. Flood insurance and floodplain management pursuant to the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly section 2(a), and 24 C.F.R. Part 55;
- c. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

Additionally, while Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered review, for conversions that entail no physical activities or only activities that are limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further

obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or other interested parties or the public.⁷⁰

PHAs will be required to submit documentation to facilitate HUD's site-specific review, as defined in Attachment 1A of the RAD Notice. For Environmental Reviews under 24 CFR Part 58, PHA/Owners should reach out to the responsible entity. HUD encourages responsible entities to consider a tiered approach.

- 4. Financing Plan Requirements for Streamlined RAD Conversion.** The following table describes the applicability of the Financing Plan submission requirements set forth in Attachment 1A of the RAD Notice for Streamlined Conversion for small PHAs.⁷¹

Financing Plan Requirements for Streamlined RAD Conversion for Small PHAs	Applies	Does Not Apply	Modified
A. Type of Conversion. The PHA must identify whether the project will convert to PBV or PBRA as described in Attachment 1A of the RAD Notice.	✓		
B. Capital Needs Assessment (CNA). Section 1.4.A.1 of the RAD Notice is waived for Streamlined Conversions. However, the PHA must provide a certification from its Board that: i. The PHA has assessed the property for any exigent health and safety hazards and, if applicable, has completed any necessary repairs. ii. The property can be sustained for 20 years as decent, safe, and sanitary housing at the published RAD contract rents.⁷²			✓

⁷⁰ This Determination is detailed in the "Determination of 'No Potential to Cause Effects' under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50. See <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>.

⁷¹ Please note that while some Financing Plan requirements are not modified under Streamlined Conversion, HUD anticipates that they will very rarely, if ever, be applicable due to the eligibility criteria for Streamlined Conversion. This includes: **E.** RAD Fair Housing, Accessibility & Relocation Checklist; **L.** Pre-Approval of Specific Activities; **N.** Approved Amendment to Attachment A of the MTW Agreement; and **Q.** Transfer of Assistance.

⁷² While the capital needs assessment is no longer required, HUD recommends that the Board complete due diligence appropriate to the property prior to making this certification. Capital needs assessors, architects, consultants, general contractors, building inspectors or, in some cases, PHA staff, may provide relevant analysis using the HUD e-CNA tool as a template, using another CNA template, using the provider's proprietary tool and/or based on the provider's professional judgment. Under this streamlined processing, HUD will rely on the Board's

iii. If the PHA is transferring the property to a new owner (including an wholly controlled single asset entity) and the property has pre-1978 “target” housing, PHA has provided the Owner the records of lead disclosures, lead-based paint inspections, risk assessments, ongoing lead-based paint maintenance, periodic re-evaluations, and the Owner has agreed to evaluate and control lead-based paint hazards.			
C. Scope of Work. Does not apply.		✓	
D. Environmental Review. Section 1.4.A.3. and Attachment 1A of the RAD Notice are modified for Environmental Reviews required under 24 CFR Part 50 to allow for a tiered Environmental Review. See Section 1.15.B.3. above.			✓
E. RAD Fair Housing, Accessibility & Relocation Checklist. As applicable to the proposed conversion plans, the PHA must complete and submit the checklist as described in Attachment 1A of the RAD Notice.	✓		
E. Sources & Uses. Requirements set forth in Attachment 1A of the RAD Notice do not apply except that all of the PHA’s remaining public housing funds must be reflected in a Sources and Uses statement (e.g. used to cover any conversion-related cost or placed into an initial deposit to the replacement reserve), with the exception of any funds needed to address the public housing closeout in accordance with Notice PIH 2019-13. Any public housing funds that are retained under public housing and not used to cover the cost of administrative activities required to terminate the ACC as described in Notice PIH 2019-13 will be remitted to HUD.			✓
G. Development Team. Does not apply.		✓	
H. Proposed Financing. Does not apply.		✓	
I. Operating Pro-Forma. The PHA must submit an operating pro-forma that meets all existing			✓

certification that it has satisfied itself regarding the sustainability of the property at the published RAD contract rents.

requirements except that annual replacement reserve deposits must equal or exceed \$500 per unit, unless otherwise approved by HUD and justified by a third-party assessment report.			
J. Market Study. Does not apply.		✓	
K. Approval of Significant Amendment to PHA Plan. All Requirements for RAD Specific PHA Plan and/or Significant Amendment Submission set forth in Attachment 1D of the RAD Notice shall apply.	✓		
L. Pre-Approval of Specific Activities. Requirements set forth in Attachment 1A of the RAD Notice shall apply.	✓		
M. Approval of Non-Dwelling Real Property. Does not apply. In order to facilitate the complete conversion of the PHA, all non-dwelling property and land possessed by the PHA will be removed from the DOT or DORC and from the ACC and shall be encumbered by the RAD Use Agreement or released under 2 CFR 200.311(c).		✓	
N. Approved Amendment to Attachment A of the MTW Agreement. (only applicable to MTW Agencies subject to the Standard MTW Agreement rather than the MTW Operations Notice) See Footnote in Section 1.15.B.iv	✓		
O. Affirmative Fair Housing Marketing Plan (AFHMP). Applies only for PBRA conversions, as set forth in Attachment 1A of the RAD Notice.	✓		
P. Estimated public housing funds available for HAP subsidy. Submission requirements set forth in Attachment 1A of the RAD Notice shall apply.	✓		
Q. Transfer of Assistance. See Footnote 2.	✓		
R. Resident Comments. Submission requirements set forth in Attachment 1A of the RAD Notice shall apply. Furthermore, All Resident Participation and Funding requirements set forth in Attachment 1B of the RAD Notice shall apply.	✓		

<u>S.</u> Title Report. Submission requirements set forth in Attachment 1A of the RAD Notice shall apply.	✓		

1.16 Additional Information

For additional information on this section of the Notice, please check www.hud.gov/rad or email questions to RAD@hud.gov.

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks for Public Housing Conversions

A Financing Plan will not be reviewed until all required documentation is submitted. HUD will complete an initial review for document completeness within five business days of submission. Once HUD has determined that all required documents have been received, HUD will review the documents submitted.

HUD's purpose in reviewing Financing Plans is to ensure the long-term physical and financial viability of the Covered Project. If a Financing Plan fails one or more feasibility benchmarks, the HUD reviewer may still accept the Financing Plan if HUD determines that, taken as a whole, the Financing Plan is consistent with the long-term physical and financial viability of the property and/or the PHA can adequately support, through historical data or other means, the presented figures. HUD reserves the right to reject any Financing Plan if the information provided is not complete, accurate, or in compliance with the submission requirements listed below. HUD will not accept the Financing Plan if the project does not meet environmental review requirements, as described below.

Below are all the required components of a complete Financing Plan and the requirements of each component. Please note that for RAD conversions that will utilize FHA mortgage insurance, the submission requirements and feasibility benchmarks are primarily found in the MAP Guide as revised by Mortgagee Letter 2012-20. The end of this Attachment lists the submissions that must be made separate and apart from the FHA-insured loan application and uploaded to the RAD Resource Desk.

HUD reserves the right to streamline any or all of these requirements for classes of project, e.g., no debt-transactions, small projects, or transactions using CNI grants.⁷³

- A. Type of conversion.** Identify whether the Covered Project will convert to PBV or PBRA assistance.
- i. For PBV conversions, identify the PHA that will administer the PBV HAP Contract.
 - ii. For PBRA conversions, where the PHA did not receive a good cause exemption for Choice-Mobility, upload a fully executed Choice-Mobility Letter of Agreement signed by the PHA converting units and the PHA that has agreed to administer the vouchers in order to comply with the Choice-Mobility requirement.

B. Capital Needs Assessment (CNA). See section 1.4(A)(1).

⁷³ See <https://www.hud.gov/sites/documents/RAD-CHOICEPROTOCOL.PDF> for RAD/CNI Protocols.

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

C. Scope of Work for Rehabilitation or New Construction. The scope of work must:

1. Identify and address all repairs required in the CNA (including all items identified in the CNA as not functioning at the time of the site visit) or provide a written justification why those items are not included. Briefly discuss any differences between the conclusions / recommendations of the CNA provider; the levels of immediate rehabilitation needs; and the PHA's choices for replacement components.
2. Include quantities and costs. Rehabilitation or new construction estimates must be based upon reasonable market estimates of actual costs, confirmed either by cost estimating completed by the architect/engineer (who is typically distinct from the contractor that conducted the CNA), or through actual competitive bids for major rehabilitation or construction items, in compliance with HUD requirements.
3. Include a summary of environmental issues known at that time, and a discussion of any planned environmental remediation (including post-closing Operations & Maintenance plans). If the property was constructed before 1978, identify the need for interim controls of lead-based paint hazards based on a risk assessment or re-evaluation and discuss planned lead hazard control activities in accordance with LSHR 24 CFR 35. O&M plans covering properties that continue to have lead painted surfaces, even if enclosed or encapsulated, must include training and certifying property maintenance personnel who disturb paint in accordance with the EPA's Renovation, Repair and Painting Rule (40 CFR 745, Subpart E), training and certifying property maintenance personnel who abate the paint in accordance with the EPA's Lead Abatement Rule (40 CFR 745, Subpart L or Q), and training and certifying the employer of the property maintenance personnel to become a certified lead renovation firm or certified lead abatement firm, as applicable.
4. Include a summary of accessibility features that are required pursuant to the Fair Housing Act and implementing regulations at 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Part 8, and Titles II and III of the Americans with Disabilities Act and implementing regulations at 28 CFR Parts 35 and 36, respectively. Please see the instructions for the CNA e-Tool and the RAD Fair Housing, Civil Rights, and Relocation Notice for a complete list of accessibility requirements and resources.
5. Include a description of how all utility consuming components that are past estimated useful life at the time of the RAD application (or that are not functioning at the time of the CNA inspection) will be replaced with the most financially efficient alternative (taking into account initial cost and utility savings), as documented in the CNA.
6. Include a reasonable timeline for completion of all rehabilitation items acceptable to HUD, depending on the scope of rehabilitation funded.
7. Identify which hazards are "relatively high" or "very high" for their county and census tract according to FEMA's National Risk Index (NRI) and provide a narrative

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

description detailing how the scope of work addresses or mitigates against the climate hazard risks.

8. Until such time as regulations promulgated pursuant to Executive Order 13690 become effective, for all buildings that will be newly constructed (including gut rehab, where physically and financially feasible) and will be located in the FEMA 500-year floodplain (or 100-year floodplain where FEMA has not mapped the 500-year floodplain), all relevant building mechanicals (HVAC, cogeneration, hot water heating, and other systems) and all residential units must be designed to be at a height no less than the greater of the 500-year floodplain or two feet above the 100-year floodplain based on FEMA Flood Insurance Rate Maps (FIRMs). Any interior non-residential spaces – such as common areas, community centers, and lobbies – that are not elevated to this level, must at a minimum be floodproofed to at least two feet above the 100-year floodplain. For buildings outside of FEMA floodplains, PHAs are encouraged to consult other sources (e.g., historical flooding of neighboring sites, NOAA Sea Level Rise Viewer, Flood Factor) to consider future flood risk and design accordingly.

D. Environmental Review. HUD cannot approve an applicant’s Financing Plan submission unless and until the required environmental review has been completed for the applicant’s proposed conversion project and found to meet environmental review requirements. The following describes the submission and approval steps for securing a completed environmental review.

A RAD transaction will either be reviewed under 24 CFR Part 50 (“Part 50 Reviews”) or 24 CFR Part 58 (“Part 58 Reviews”). Part 50 applies when HUD conducts the environmental review, and Part 58 applies when a Responsible Entity (RE) conducts the environmental review. The following table shows which review protocol a transaction will follow, along with who will conduct the review:

Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ⁷⁴	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	Responsible Entity (RE)

⁷⁴ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

PBV FHA Risk-Share	Part 58	State Housing Finance Agency or Responsible Entity, as applicable ⁷⁵

Under limited circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV transaction may request HUD to undertake the environmental review under Part 50 if a suitable RE cannot be found or if the local government was not a direct recipient of the funds and refuses to accept responsibility or when HUD determines the local government does not have capacity to act as an RE.⁷⁶ This request must be made in writing and submitted to HUD no later than at the time of the Financing Plan submission.

For multi-phase developments, the environmental documents submitted with the Financing Plan during the first phase must be submitted for the entire site (i.e. all of the phases of the multi-phase development) and the environmental review conducted during the first phase will cover the entire site.

Requests to transfer assistance from the Converting Project to a new location are subject to environmental review.

For transactions receiving funding from other HUD programs (i.e. HOME, CDBG, non-RAD PBV), HUD encourages all parties to complete one review for all programs, even if these programs' environmental reviews are conducted under a different review protocol (Part 50, Part 58). In cases where two Part 58 programs are combined, HUD encourages applicants to work with the Responsible Entity to see if environmental reviews can be combined. However, this is solely the Responsible Entity's determination. In cases where a Part 50 program and a Part 58 program are combined, HUD may determine that it will perform one Part 50 environmental review for both programs under 24 CFR 58.11 if performing an additional Part 58 environmental review is not feasible in the time allotted. HUD must ensure that the Part 50 review considers the full scope of all activities and funding associated with all programs. When one review is used for both programs, the Approving Officials for both programs must certify the review.

⁷⁵ Housing Finance Agencies can act as the Responsible Entity for Housing's Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criteria, it must request another department of the state to act as Responsible Entity. An instrumentality of a city or county government cannot act as a Responsible Entity for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the Responsible Entity.

⁷⁶ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

For all Part 50 reviews, the applicant must submit reports and documentation to HUD in accordance with 24 CFR Part 50, as discussed in Chapter 9 of the MAP Guide, except as follows:⁷⁷

1. For PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) without FHA insurance and without any rehabilitation, construction, or demolition,⁷⁸ HUD conducted a tiered review of program-wide and site-specific compliance. HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities, and will complete a site-specific compliance review of the following:
 - A. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);
 - B. Flood insurance and floodplain management pursuant to the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly section 2(a), and 24 C.F.R. Part 55;
 - C. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

Additionally, while Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered review, for conversions that entail no physical activities or only activities that are limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or other interested parties or the public.⁷⁹

PHAs will be required to submit documentation to facilitate HUD's site-specific review.

2. For all non-FHA PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) that do not meet the requirements under paragraph 1 above, the awardee will follow the guidelines in Chapter 9 of the MAP

⁷⁷ The MAP Guide is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430. Additional guidance on environmental review requirements is available on the HUD Environmental Review website, at <https://www.hudexchange.info/environmental-review/>.

⁷⁸ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

⁷⁹ This Determination is detailed in the "Determination of 'No Potential to Cause Effects' under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50. See <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>.

Attachment 1A – Financing Plan Requirements and Feasibility Benchmarks

guide. Awardees will upload all applicable documentation directly into HEROS at the time of Financing Plan submission. The following exceptions to the MAP Guide apply:

- In lieu of a Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-13 (or the most recent edition)⁸⁰, except for conversions involving substantial rehabilitation or new construction activities, Awardees may submit a more limited report on potential sources of contamination. Where a Phase I ESA is not required (i.e., projects without any associated substantial rehabilitation⁸¹ or new construction), the Awardees can submit a “transaction screen” in accordance with ASTM E 1528-14 (or the most recent edition). A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not meet this requirement, the professional must have either (a) a science degree and at least one year of practical environmental assessment experience in the field, or (b) three years of practical environmental assessment experience in the field performing site assessments for site contamination. If any potential environmental concerns are identified, an ASTM Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided.
- Awardees may submit a Phase I ESA that is up to 5 years old upon submission; however, it must be updated by a Transaction Screen that is up to 1 year old upon submission.

When HUD conducts the environmental review under Part 50, PHAs (or their vendors) must submit environmental reports and documentation⁸² for HUD review into the HUD Environmental Review Online System (HEROS), where HUD will complete its review.

HUD staff will review the submissions and may require additional information in order to complete their review. HUD’s review will result in a determination, which may stipulate the

⁸⁰ The Transaction Screen does not meet the standard for “All Appropriate Inquiries” for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

⁸¹ Substantial rehabilitation is any rehabilitation that does not meet the conditions in 24 CFR § 50.20(a)(2) for exclusion from review under the National Environmental Policy Act. Applications to RAD for conversion assistance involving substantial rehabilitation or new construction will always require a Phase I ESA in accordance with ASTM E 1527-13.

⁸² PHAs and providers should take care to respond to all applicable laws and authorities and MAP-specific requirements when providing documentation for environmental review. For all maps, please clearly indicate where the project site is located. Information about HEROS and how to register can be found at <https://www.hudexchange.info/programs/environmental-review/housing/#heros>.

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rejection of the site for this demonstration or may require the completion of mitigation measures. The RCC will include any conditions required to carry out any and all mitigation measures as may result from the environmental review. Any conditions or mitigation that cannot be satisfied before Closing will survive Closing.

When a Responsible Entity (RE) completes an environmental review under Part 58, the Financing Plan must include either Form 7015.16 or a letter with the Responsible Entity's (RE's) finding of exempt activity in order to consider the environmental review to be complete. The RE should use HUD recommended formats to document the environmental review record.⁸³ The PHA should submit an environmental report to the RE, in such form as prescribed by the RE, to enable the RE to complete their analysis. Once the review is completed, the PHA must submit *either*:

- Form HUD-7015.15, Request for Release of Funds (RROF), to their local PIH field staff.⁸⁴ After the PIH Field Director approves the RROF, the Director sends a completed HUD Form 7015.16 to the PHA, approving the release of funds. The PHA must submit proof of the completed Form 7015.16 (either a copy of the paper form or a screenshot of the completed screen in HEROS) to HUD; or
- If form HUD-7015.15 is not required because the project converts to Exempt under 24 CFR § 58.34(a)(12), the PHA must submit the RE's finding of exempt activity with their RAD Financing Plan. A finding of exempt activity is a statement of the result of the RE's environmental review, and is required even when form HUD-7015.15 is not required. A letter from the RE indicating that the project converts to Exempt under 24 CFR § 58.34(a)(12) is sufficient.

Additionally, the PHA must submit a Radon Report consistent with the requirements of Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

E. RAD Fair Housing, Accessibility and Relocation Checklist. Prior to submission of the Financing Plan, all PHAs shall have completed and submitted the RAD Fair Housing, Civil Rights, and Relocation Checklist provided by HUD. The Checklist shall include a certification that the relocation plan complies with all applicable HUD requirements, including the URA as well as Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (24 CFR §8).⁸⁵ The cost of the relocation must be fully funded in the Development Budget. The Financing Plan submission shall include a copy of HUD's

⁸³ HUD recommended formats are available at <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/> and <https://www.hudexchange.info/resource/3140/part-58-environmental-assessment-form/>.

⁸⁴ Form HUD-7015.15 is available at <https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>.

⁸⁵ For additional information see the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

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approval of the Checklist or a statement that approval is still outstanding. In the event of any changes in the plans described in the Checklist, the PHA shall submit an update to the Checklist.

F. Development Budget (Sources and Uses of Funds). The Development Budget must:

1. Include a reasonable, balanced and comprehensive presentation of sources and uses of funds, entered into the Transaction Log on the RAD Resource Desk, and which is in accordance with all applicable HUD requirements.
2. Include a construction contingency of 10% for rehabilitation or as otherwise allowed by a LIHTC allocating agency for new construction. Note that HUD may require a higher contingency on a case-by-case basis.
3. Demonstrate that existing loans or debt will be paid off at the closing or supported through NOI. For projects covered under an EPC, the PHA must provide a draft amended EPC approval letter from the PIH Energy Center specifying the minimum amount of debt that will need to be addressed in the conversion.
4. Demonstrate that any Identity of Interest (IOI) loans or advances will be converted to unsecured Surplus Cash Notes (IOI loans may not be paid off from the proceeds of new financing), unless otherwise approved by HUD.
5. Include narrative that discusses any aspects of the planned rehabilitation that may result in an initial operating deficit during the rehabilitation and how that deficit will be funded, including any operating deficit escrow or similar fund.
6. Include a Subsidy Layering Review (SLR) if one has been performed by another agency. If no SLR has been performed, HUD will complete a SLR, in accordance with section 102(d) of the HUD Reform Act, whenever multiple federal sources are proposed, when public housing funds are used (see Section 1.5.A.), or when an MTW agency is using MTW funds to set their initial contract rents (see Sections 1.6.B.5. and 1.7.A.5.). A separate SLR will not be conducted by HUD if there is non-RAD PBV or another HUD subsidy at the time of conversion; the SLR performed as part of the RAD conversion will satisfy the requirements under section 102(d) of the HUD Reform Act. The purpose of the subsidy layering review is to ensure that assistance made available by HUD for a specific housing project will not be more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources. The subsidy layering review performed for conversions to either PBV or PBRA will ensure that costs are reasonable and cash flow is not excessive. Given unique circumstances that occur in RAD conversion, other guidance with respect to PBV or PBRA subsidy layering reviews do not apply to financing of Covered Projects at the time of conversion.⁸⁶

⁸⁶ Accordingly, Notice PIH 2013-11 or successor notice shall not apply.

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G. Development Team. Include the following information:

1. Identification of all participants, including the PHA, the general contractor, the legal entity that will own the project, the proposed management agent, and all “principals” of those entities. The submission must disclose any identity of interest between any of the parties. Where fees normally determined by market negotiations (such as general contractor overhead and profit) are being paid among identity of interest parties, HUD may limit such fees to amounts comparable to the market, commonly seen in RAD transactions, commonly permitted in other HUD programs, or permitted by the applicable State’s low income housing tax credit qualified allocation plan.
2. Evidence of recent successful experience with similar rehabilitation or construction projects. For properties requiring substantial rehabilitation or new construction, the Project Owner is required to engage a general contractor, unless recent and comparable experience managing rehabilitation can be demonstrated or if the development team is using the FHA-insured Section 223(f) program or a repair program approved by HUD. If multiple funding sources will be used for the Covered Project, the development team must demonstrate that it has experience with at least three transactions with multiple sources of financing.
3. For PBRA conversions, evidence that all principals have Previous Participation Certification in the Active Partners Performance System (APPS) (formerly the Form 2530) and are not be debarred, suspended, or subject to a Limited Denial of Participation.⁸⁷

H. Proposed Financing. For each proposed loan, equity contribution, or grant, the PHA must include a:⁸⁸

1. Recent lender, investor or grant engagement letter, dated no later than 60 days prior to Financing Plan submission, with key terms identified (including for each amount, repayment terms, interest rate, amortization, maturity, prepayment restrictions, and pay-in schedule) from all financing provider(s). Permanent debt financing with

⁸⁷ The APPS/2530 applies to all FHA transactions and transactions in which 20% of the units in the Covered Project will be covered under a PBRA contract (PBV transactions without FHA financing are exempt). The PHA and any entities wholly owned by the PHA are not subject to 2530/APPS. For LLCs and LPs, non-PHA members and partners, respectively, with 25% or more of the ownership interests are subject to approval provided that for LIHTC transactions, limited partners or investment members are exempt. For non-profit entities, 2530s are required for Board Officers but not Board Members. Management agents are subject to 2530 unless wholly-owned.

⁸⁸ The RAD Resource Desk includes data entry fields that Project Owners and PHAs can use to provide all required information on each loan, equity contribution, and grants.

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monthly payment amounts not conditioned on the availability of cash flow (i.e., “hard” debt) on Covered Projects must:⁸⁹

- a. Be at a fixed rate of interest, for a fixed term, fully amortized over no more than 40 years;
- b. Not have a balloon payment until after the earlier to occur of a) expiration of the term of the HAP Contract or b) 17 years from the date of the permanent debt financing; and
- c. Not have a debt service coverage less than the higher of 1.11 or lender requirements.

All bridge loan or construction financing must be disclosed and approved by HUD. All cash-flow (“soft” debt) and subordinate (or secondary) financing must be disclosed and then approved by the first-mortgage lender as well as HUD in accordance with section 8.9 of the Mortgage Credit and Underwriting and Processing Requirements of the MAP Guide and any subsequent revisions or updates to the MAP Guide.

2. Brief discussion of conditions / milestones to be satisfied prior to closing;
3. Documentation that the first mortgage lender has consented to the Use Agreement and that the lien of the new first mortgage loan will be subordinate to the Use Agreement;
4. Estimation of projected closing date for all proposed financing. Discuss any known impediments to closing within the timeframe required under the Notice. Include a discussion of key milestones with estimated milestone completion dates. The terms for all seller take-back financing must also be disclosed.

I. Operating Pro Forma. The Operating Pro-Forma must:

1. Be entered into the Transaction Log of the RAD Resource Desk (stabilized cash flow)
2. In a PHA provided template, project out for the term of the initial contract.
3. Include an attached discussion of the extent of energy and water savings that are anticipated as a result of the rehabilitation or construction and the basis for those estimates. The discussion must explain to what extent anticipated savings in utility costs have been included in the pro forma operating expenses.
4. Include an attached Rent Comparability Study for projects converting to PBRA where current funding⁹⁰ is greater than 120 percent of the FMR and where the PHA believes current funding is below the market rent. The Rent Comparability Study must be

⁸⁹ A conversion may entail multiple hard-debt mortgages as long as, viewed together, they comply with these conditions.

⁹⁰ Current Funding, for purposes of this Attachment, is the funding determined using Attachment 1C of this Notice.

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prepared in accordance with Chapter 9 of HUD's Section 8 Renewal Guide. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8

5. Be consistent with local standards for Federally-assisted housing and otherwise comply with at least the following feasibility benchmarks:
 - a. Rents shall not exceed the amounts permitted under program rules
 - b. All other sources of income must be supported with a narrative or must not exceed the average for the last three years (other income should not include interest income on the replacement reserve account, which must remain in the reserve and is not available for other purposes).
 - c. Vacancy loss shall be no less than the greater of the average over the past three years or 3 percent.
 - d. Allowance for bad debt should be not less than the greater of the average over the past three years or 2 percent.
 - e. Where the PHA indicates continuation of a Payment In Lieu of Taxes (PILOT), provide a legal opinion based upon state and local law of continuation of PILOT post conversion. If the PILOT will not be continued after conversion, the PHA must provide documentation of real estate tax estimates.
 - f. Insurance costs must be documented, such as quotes from an insurance agent based on actual recent premiums for similar projects.
 - g. All other operating expenses shall be no less than 85 percent of the average for the last three years, unless justified.
 - h. The annual replacement reserve deposit should be equal to that amount which, if deposited annually, will be sufficient to fund all capital needs, as identified in the CNA, arising during the first 20 years and otherwise not addressed upfront in either the rehabilitation or an initial deposit to the replacement reserve account. The PHA should use reasonable estimates in the inflation but in doing so the rate for escalating the increase in repair costs should not exceed the rate of interest on reserve deposits by more than 1%. HUD may consider alternative arrangements with respect to the initial deposit to the replacement reserve if risks to the Covered Project can be adequately mitigated.
 - i. For non-leveraged transactions (i.e. transactions that will not be taking on any new hard debt as part of the conversion), the stabilized cash flow should not be less than \$12 per unit monthly. For leveraged transactions (i.e. transactions that will be taking on new hard debt as part of the conversion), the debt-coverage ratio should not be less than 1.11 over a ten year period using 2% growth in revenue and 3% growth in expenses.

J. Market Study. A market study will only be required at HUD's request, e.g., in cases where the project is currently experiencing a high vacancy rate, or when project plans include unit reconfiguration or inclusion of market-rate units. For projects using an FHA insured

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mortgage, please see the MAP Guide for instruction on when a market study is, and is not, required.

K. Approved Significant Amendment to the PHA Plan. Provide a letter from HUD approving the Significant Amendment, Five-Year Plan, Annual Plan, or MTW Plan.

L. Front-End Civil Rights Reviews. Any necessary approvals described in the RAD Fair Housing, Civil Rights, and Relocation Notice must have been secured.

M. Approval of Non-dwelling Real Property. The PHA provides information on the units, non-dwelling property and land it wishes to remove from the Declaration of Trust (DOT) or Declaration of Restrictive Covenants (DORC) and from the ACC in the RAD PIC Removal Application. Information is provided both in the removal application form and by attaching the CHAP, a site map, and a written explanation of units and property to the removal application. Based on information the PHA provides in the RAD PIC Removal Application, the PIH Field Office will review the removal application and approve any non-dwelling real property that can be released from public housing use restrictions (DOT or DORC), under RAD authority, as part of a RAD transaction, provided it is encumbered under a RAD Use Agreement. The following non-dwelling real property can be included:

1. Buildings that contain units to be converted under RAD, including:
 - units designated as “non-dwelling units” in IMS/PIC (laundry facilities, storage, management offices);
 - community and common space;
 - units that are not public housing, but are part of a mixed-income community amongst mixed-finance public housing units and are documented in IMS/PIC as “non-ACC” units;⁹¹ and
 - underlying land at those buildings;
2. Necessary appurtenances for the RAD units (e.g., parking lots, playgrounds);

⁹¹ The DORC on a mixed-finance public housing project covers both land and improvements constituting that project. Since public housing units may “float”, the property description and unit count in IMS/PIC covers both public housing and non-public housing units. Therefore, when HUD approves public housing units to be released from DORC and removed from IMS/PIC based on a RAD conversion, HUD automatically approves the release of the other non-public housing units from DORC.

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3. Non-dwelling structures (e.g., sheds, community buildings) that will be demolished as part of the conversion, provided such demolition is included in the approved RAD RCC;
4. Free standing non-dwelling buildings or other non-dwelling real property that will be used primarily to “support” the RAD units (e.g., project-specific community centers, maintenance building, management office building), provided such property is contiguous, adjacent or in close proximity to the RAD dwelling units parcel, and the PHA evidences the property will support the RAD units through either direct supportive services for residents or direct administrative and/or management support for RAD units. Such property may also serve other residents or projects of the PHA provided the property primarily serves and supports the RAD units; and
5. Vacant land and other real property necessary to support the RAD units (e.g., landscaping, community gardens, or reasonable green-space that is required for zoning).

HUD, in its sole discretion, will determine whether property proposed for release falls into any of the categories above and can therefore be removed from the DOT or DORC at closing.

In order for HUD to release the DOT or DORC from any public housing property⁹² not referenced above, a PHA must submit a request in accordance with the applicable requirements of other HUD programs and federal authorities, such as disposition under Section 18 of the Act or PHA retention of the property under 2 CFR Part 200.

- N. Approved Amendment to Attachment A of the MTW Agreement.** For MTW agencies that have not completed this step as part of a previously completed conversion, the PHA must provide an executed amendment to Attachment A of their MTW Agreement with language provided by the PHA’s MTW coordinator.
- O. Affirmative Fair Housing Marketing Plan (AFHMP).** For PBRA conversions, evidence that a completed AFHMP (HUD 935.2A) has been submitted for approval to the local Multifamily Regional Center. If a PHA is converting more than one project to PBRA, a separate AFHMP must be submitted for each project. Typically, the management agent or the entity responsible for marketing (if different) is responsible for completing and submitting

⁹² Note that “public housing property” includes all real property that has been acquired, developed, modernized, maintained or operated with assistance under Section 9 of the Act or other previous forms of public housing assistance and may include property that is not recorded in IMS/PIC and/or is not encumbered by a valid DOT.

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the AFHMP. If a Project Owner plans to adopt any local or residency preference(s), the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4). The purpose of affirmative marketing is to ensure that individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Market or leasing includes the solicitation, distribution, or acceptance of applications or development of a waiting list.

P. Estimate of public housing funds available for HAP subsidy. The PHA shall provide an estimate of the public housing subsidy that will be used to support payments under the HAP Contract in accordance with [Section 1.13.B.5](#). HUD will provide tools for PHAs to make such estimates.

Q. Transfer of Assistance. For all conversions involving a transfer of assistance to a new site, the PHA must have secured HUD approval of the site (Covered Project). The PHA must also identify proposed plans for the pre-conversion public housing site (Converting Project), including how the PHA proposes to treat the DOT at the effective date of the HAP contract in compliance with [Section 1.4.A.12](#).

R. Resident Participation and Comments. Provide:

- a. A summary of meeting attendees and participation by residents, PHA staff, and other attendees;
- b. A description of the PHA's efforts to promote tenant participation in meetings, including the dates and times of meetings to accommodate a variety of schedules, efforts to accommodate residents with disabilities or Limited English Proficiency in accordance with Section 1.8.H, the format of meetings (in-person, electronic, or both), location of in-person meetings, efforts to overcome technology barriers for virtual meetings, and other relevant efforts as the PHA determines appropriate (e.g., offering childcare, refreshments);
- c. Meeting agenda(s) and copies of handouts or presentation materials;
- d. A summary of questions and comments asked in the meeting or submitted by residents to the PHA and responses provided by the PHA to those questions and comments;
- e. Identification of how residents who were unable to attend meetings are able to access materials or submit questions or comments and receive responses;
- f. Identification of materials that were shared with residents to communicate resident protections, which can include but are not limited to the following materials: HUD

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resident rights brochure; HUD resident fact sheets; HUD RAD video; or other resident education materials created by HUD or the PHA; and

- g. Where there is a duly elected resident organization, contact information for at least one elected leader of such organization.

S. Title Report. Submit a complete title report including information on whether the Converting Project is currently subject to a DOT or DORC and any other liens, encroachments, easements or other encumbrances on the property.

Financing Plan Requirements for Transactions Utilizing FHA-Insurance

For RAD conversions that will utilize FHA mortgage insurance, the submission requirements and feasibility benchmarks are primarily found in the MAP Guide as revised by Mortgagee Letter 2012-20. In addition to submissions made in an FHA insured loan Application for Firm Commitment, PHAs must also upload the following items to the RAD Resource Desk. (Unless otherwise indicated, the PHA must submit all of the items listed in the cited paragraph):

- A. Type of Conversion
- E. Fair Housing, Accessibility and Relocation Checklist or Update
- F. Development Budget (Sources and Uses of Funds).
 - Lender Narrative
 - Sources and Uses submitted with the FHA Application must be entered into the Transaction Log on the RAD Resource Desk.
 - For projects covered under an EPC, the PHA must provide a draft amended EPC approval letter from the PIH Energy Center specifying the minimum amount of debt that will need to be addressed in the conversion.
 - Subparagraph 5. Subsidy Layering Review, if completed by an HFA (tax credits) or by another agency. If no SLR is been performed, HUD will complete a SLR whenever multiple federal sources are proposed, when public housing funds are used ([see Section 1.5.A.](#)), or when an MTW agency is using MTW funds to set their initial contract rents (see [Section 1.6.B.5.](#) and [1.7.A.5.](#)).
- H. Proposed Financing
- I. Operating Pro Forma.
- J. Market Study
- K. Approved Significant Amendment to the PHA Plan.
- L. Front End Civil Rights Reviews (if applicable)
- M. Approval of Non-dwelling Real Property
- N. Approved Amendment to Attachment A of the MTW Agreement (if applicable)
- P. Estimate of public housing funds available for HAP subsidy
- Q. Transfer of Assistance

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- R. Resident Comments
- S. Title Report

**Attachment 1B – Resident Provisions in Conversions of Assistance
from Public Housing to PBRA and PBV**

This Attachment contains two sections, describing:

- 1B.1 Summary of Resident Provisions
 - 1B.2 Resident Participation and Funding
-

1B.1 Summary of Resident Provisions

The following is a summary of special provisions and alternative requirements related to tenants of public housing projects converting under RAD (including for those that will reside in non-RAD PBV units in the Covered project):

- Conversion will be considered a significant action requiring discussion in the PHA's Five-Year Plan, Annual Plan or MTW Plan or requiring a significant amendment to a PHA Plan (see [Section 1.5.E](#) of this Notice);
- Notification of proposed conversion, meetings during the conversion process, written response to residents comments on conversion, and notification of conversion approval and impact (see [Section 1.8](#) of this Notice);
- No rescreening at conversion (see [Section 1.6.C.1](#) of this Notice for conversions to PBV and [Section 1.7.B.1](#) for conversions to PBRA);
- A right to return, which covers the right to return to the rent-assisted property after temporary relocation (when temporary relocation is necessary to facilitate rehabilitation or construction), or the right to occupancy of the new unit if the rental assistance is transferred to a new unit. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Phase-in of tenant rent increases (see [Section 1.6.C.3](#) of this Notice for conversions to PBV and [Section 1.7.B.3](#) for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see [Sections 1.6.C.5 and 1.6.C.9](#) of this Notice, for conversions to PBV and [Section 1.7.B.4](#) for conversions to PBRA);
- Continued Earned Income Disregard (see [Section 1.6.C.8](#) of this Notice, for conversions to PBV and [Section 1.7.B.7](#) for conversions to PBRA);

Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

- Continued recognition of and funding for legitimate residents organizations (see [Section 1.6.C.6](#) of this Notice for conversions to PBV, [Section 1.7.B.5](#) of this Notice for conversions to PBRA, and below in Attachment 1B.2 for additional requirements for both programs);
- Procedural rights consistent with section 6 of the Act (see [Section 1.6.C.7](#) of this Notice for conversions to PBV and [Section 1.7.B.6](#) of this Notice for conversions to PBRA); and
- Choice-mobility option allowing a resident to move with a tenant-based voucher after tenancy in the Covered Project (see 24 CFR § 983.260 for conversions to PBV and Section 1.7.C.5 of this Notice for conversions to PBRA).

The foregoing is a summary of special provisions and alternative requirements relating to residents of public housing projects converting to RAD and does not attempt to capture all program requirements and details. For additional information, refer to the full text of this Notice and to the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

1B.2 Resident Participation and Funding⁹³

The following provisions contain the resident participation and funding requirements for public housing conversions to PBRA and PBV, respectively.

A. PBRA: Resident Participation and Funding

Residents of Covered Projects converting assistance to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR Part 245 (Tenant Participation in Multifamily Housing Projects). In addition, a Project Owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization at the covered property. Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation. These funds must be used for resident education, organizing around tenancy issues, and training activities.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible uses of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the HUD Field Office for intervention only after documented efforts to at direct resolution have proven unsuccessful.

B. PBV: Resident Participation and Funding

To support resident participation following conversion of assistance, residents of Covered Projects converting assistance to the PBV program will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living

⁹³ For the purposes of this Attachment, HUD uses the term “Project Owner” to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- 1. Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

- 2. Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:
 - a. Distributing leaflets in lobby areas;
 - b. Placing leaflets at or under residents' doors;
 - c. Distributing leaflets in common areas;
 - d. Initiating contact with residents;
 - e. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
 - f. Posting information on bulletin boards;
 - g. Assisting resident to participate in resident organization activities;
 - h. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
 - i. Formulating responses to Project Owner's requests for:
 - i. Rent increases;
 - ii. Partial payment of claims;
 - iii. The conversion from project-based paid utilities to resident-paid utilities;
 - iv. A reduction in resident utility allowances;
 - v. Major capital additions; and

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vi. Prepayment of loans.

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- 3. Meeting Space.** Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
- a.** Residents or a resident organization and used for activities related to the operation of the resident organization; or
 - b.** Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

- 4. Resident Organizers.** A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- 5. Canvassing.** If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- 6. Funding.** Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property.⁹⁴ These funds must be used for resident education, organizing around tenancy issues, and training activities. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible use of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the Contract Administrator for intervention only after documented efforts to at direct resolution have proven unsuccessful.

⁹⁴ Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation.

**Attachment 1C – Calculation of HAP Contract Rents for Conversions
of Assistance from Public Housing to PBRA or PBV**

This attachment explains the method by which HUD calculated the contract rents for each project and provides additional detail on contract rent setting, including a demonstration of the application of applicable rent caps for PBRA and PBV conversions. These instructions apply only to public housing conversions under Section 1 of the Notice.

RAD Rent Base Years. All RAD applications, including applications for Portfolio or Multi-Phase awards, will have initial contract rents based on their “RAD rent base year.” Prior to conversion, these rents will be adjusted by HUD’s published OCAF until they are established in the HAP Contracts at the time of conversion.

For example, for CHAPs awarded based on the FY 14 RAD rent base year that closed in 2017, the initial contract rents were based on 2014 funding, with an OCAF adjustment for 2015, 2016, and 2017.

Every two years, beginning January 1, 2021, the RAD Rent Base Year shall be reset, based on the funding levels of the immediately preceding fiscal year (for example FY 20 funding levels for CHAPs issued in 2021 and 2022, FY 22 funding levels for CHAPs issued in 2023 and 2024). These rents will be adjusted each year by HUD’s published OCAF starting in the calendar year after the base year and established in the HAP Contracts at the time of conversion. This policy is illustrated in *Table 2: RAD Rent Base Years and OCAFs based on Award Date* below, but is not limited to the dates shown.

<i>Table 2: RAD Rent Base Years and OCAFs based on Award Date</i>			
Applicable Universe	Awards made between	RAD Rent Base Year	Year in which an OCAF adjustment is first applied
Properties awarded new RAD authority under the original 60,000 unit cap		FY 12	2014
Properties awarded new RAD authority above HUD's original 60,000 unit cap but subject to the increased 185,000 cap		FY 14	2015
Properties awarded new RAD authority above the 185,000 unit cap but subject to the increased 225,000 cap		FY 16	2017
Properties awarded new RAD authority above the 225,000 unit cap where the award is made prior to January 1, 2019	7/2/18 – 12/31/18	Modified FY 16*	2019
Properties awarded new RAD authority January 1, 2019 through December 31, 2020	1/1/19 – 12/31/20	FY 18	2019
Properties awarded new RAD authority January 1, 2021 through December 31, 2022	1/1/21- 12/31/22	FY 20	2021
Properties awarded new RAD authority January 1, 2023 through December 31, 2024	1/1/23 – 12/31/24	FY 22	2023

**The Modified FY 16 RAD Rent Base Year utilizes the FY 16 RAD Rent base Year, but for the Capital Fund component of the rent replaces FY 16 figures with FY 18 figures.*

When a PHA returns RAD authority to HUD by submitting a voluntary withdrawal of a project and subsequently requests new RAD authority for the same project within one month thereafter, provided that HUD has authority to make awards under the statutory cap, HUD may approve issuance of a replacement CHAP, via a CHAP amendment, without the requirement that the PHA submit the application materials that would otherwise be required. The replacement CHAP will include the original CHAP issuance date, but will have rents based on the applicable RAD rent base year as described above. For example, a withdrawal of a CHAP and subsequent request for new RAD authority that occurs in September of 2018 would have rents based on Modified FY 16 rent levels.

Actual initial contract rents may vary from the calculation described above as a result of actual rent caps in effect at the time of conversion (e.g. the most recently published Fair Market Rents), OCAF rent increases, and rent flexibilities described in Sections 1.6(B)(5) and 1.7(A)(5).

Construction of Rents for the RAD Rent Base Year

1. Step One – Determine Current Funding⁹⁵

Current funding will be determined based on the sum of the following for each project:

- Per unit monthly (PUM) subsidy eligibility at full occupancy under the Operating Fund program, based on the current year's Operating Fund appropriation (incorporating any pro-ration and excluding Asset Repositioning Fee).⁹⁶
- The amount of the PHA's Capital Fund Formula Grant attributable to the standing units at the project (i.e., excluding DDTF), divided by the units recognized under the Capital Fund formula, i.e., "standing units", divided by twelve, and
- PUM adjusted formula income under the Operating Fund program, i.e. tenant rent.⁹⁷

Thus, if the operating subsidy eligibility for a project is \$340 PUM (adjusted for proration), the Capital Fund formula grant attributable to the project is \$135 PUM, and adjusted formula income is \$308 PUM, then current funding totals \$783 PUM.⁹⁸

2. Step Two – Apply Bedroom Adjustment Factor

The weighted average current funding amount will then be adjusted by a bedroom adjustment factor to arrive at bedroom-specific rent schedule, which would apply to the bedroom configuration of the Covered Project. The following is an illustration:

Current Funding: Bedroom Adjusted Based on FMR

⁹⁵ HUD reserves the right to update or correct calculated contract rents based on technical corrections and to modify the methodology for properties for which this information is unavailable at the time rents were initially calculated.

⁹⁶ Operating Subsidy was derived from Form-52723 from 2012 or 2014 (depending on a projects applicable RAD Rent Base Year), taking the following steps:

Step 1: Combine 1) PEL [Section 3 Part A, Line 03 (PUM inflated PEL)] + 2) UEL [Section 3 Part A, Line 05 (PUM inflated UEL)] + 3) Add-Ons [Section 3 Part A, Line 07-15] (excluding Asset Repositioning Fee [Line 14] and Resident Participation Funding [Line 11], divided by Total Unit Months + 4) Resident Participation Funding [\$25, divided by 12] + 5) Transition Funding [Section 3 Part C Line 02] + Other [Section 3, Part C, Line 03], divided by Total Unit Months. The result is a PUM amount.

Step 2: Subtract Adjusted Formula Income [Section 3 Part B, Line 03 (PUM adjusted Formula Income)]

Step 3: Multiply the result by the current year's pro-ration

The Result is the derived PUM Operating Subsidy under RAD. Note that in this calculation the Operating Subsidy Allocation Adjustment is added back in for properties converting based on FY 2012 funding..

⁹⁷ Section 3, Part B, Line 03 of HUD Form-52723.

⁹⁸ The calculation of contract rents for MTW agencies with an alternative subsidy calculation under the public housing program differs from the approach illustrated above because their Operating subsidy is not currently allocated at a project level. For these agencies, HUD used data provided in the Form HUD-50058 MTW to derive tenant rents. For Operating Fund subsidy, the project's Operating subsidy is determined based on a pro rata share of the agency's Operating Fund grant.

Bedroom Size	0BR	1BR	2BR	3BR	4BR	5BR	TOTAL
PIC Units	0	20	50	30	0	0	100
Metropolitan FMRs	\$550	\$650	\$775	\$900	\$1,000	\$1,150	
FMR Bedroom Adjustments	0.710	0.839	1.000	1.161	1.290	1.484	
Bedroom Adjusted Rent		\$646	\$770	\$894			\$783

3. Step Three – Apply Rent Caps

Finally, HUD would compare the Current Funding Rents calculated in Step Two with the applicable rent caps to determine the HAP Contract Rent for conversions to either PBRA or PBV (see Sections 1.6.B.5. and 1.7.A.5. of this Notice for a discussion of rent caps), as illustrated in the continuing example below.

Conversion to PBRA			
<i>Bedroom Size</i>	<i>1BR</i>	<i>2BR</i>	<i>3BR</i>
Current Funding Rents (Step Two)	\$646	\$770	\$894
120% of FMR	\$780	\$930	\$1,080
- Utility Allowance	\$50	\$60	\$70
FMR Rent Cap	\$730	\$870	\$1,010
Market Rent	\$640	\$740	\$830
-- Lower of Current Funding Rent and FMR rent cap --			
PBRA Contract Rent	\$646	\$770	\$894

When converting to PBRA, the contract rent is the lower of 120 percent of FMR or current funding. In this case, the Current Funding rents are below 120 percent of FMR (minus the Utility Allowance) and so the contract rent is unchanged from the current funding rent calculated in Step Two. (The market rent does not have any impact since current funding does not exceed 120 percent of the FMR)

Conversion to PBV			
<i>Bedroom Size</i>	<i>1BR</i>	<i>2BR</i>	<i>3BR</i>
Current Funding Rents (Step Two)	\$646	\$770	\$894
Reasonable Rent	\$640	\$740	\$830
110% of FMR	\$715	\$853	\$990

- Utility Allowance	\$50	\$60	\$70
FMR Rent Cap	\$665	\$793	\$920
-- Lower of Current Funding Rent, Reasonable Rent, or FMR rent cap--			
PBV Contract Rent	\$640	\$740	\$830

When converting to PBV, the contract rent is the lower of the Reasonable Rent or 110 percent of the FMR (minus the Utility Allowance). In this case, the Current Funding rents exceed the Reasonable Rents. As a result, the contract rents for this project would be capped at the Reasonable Rent.

Utility Allowances The contract rents defined above are net of any utility allowances. Except for cases described below, the utility allowances used in the HAP Contract at closing must be the actual utility allowances that are in effect for each public housing unit type prior to conversion. The CHAP, which includes the rent schedule, must be updated prior to conversion to reflect current utility allowances.

Tenant-Paid Utility Savings. Where conversion plans will result in energy and water efficiency improvements and, for PBV, where the Covered Project will utilize a site-specific utility allowance (see Section 1.6.B.5.e.), PHAs can submit UA projections performed by a professional engineer, based on the project's plans and specifications that, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The projections must be submitted in the RAD UA Projections Template. If approved by HUD, these UAs will be used to modify the initial contract rents (for new construction) or post-rehab rents (for rehab) in the HAP Contract. The rents will be adjusted in the following way:

- a. Where post-construction the property will have the same provisions and configuration of utilities as the original property, HUD will increase the contract rents by 75% of the approved reduction in Utility Allowance.

Example 1: Configuration of Utilities remains the same; Tenant-paid utility savings

CHAP Rent Schedule

BR	Contract Rent	Utility Allowance	Gross Rent
1-BR	\$500	\$130	\$630

RAD Utility Allowance Projections Template

	Current: Tenant pays gas, electric; and water	Future: Tenant pays gas, electric and water	Impact on Contract Rent
Gas	\$50	\$40	+\$10 x 75%= + \$7.5
Electric	\$40	\$30	+\$10 x 75%= + \$7.5

Water	\$40	\$20	$+\$20 \times 75\% = +\$15$
UA	\$130	\$90	Total = +\$30

Revised CHAP Rent

BR	Contract Rent	Utility Allowance	Gross Rent
1-BR	\$530	\$90	\$620

- b. Where post-construction the new property will have a provision and configuration of utilities different from the original property, HUD will assess each utility. For utilities that will shift from project-paid to tenant-paid or vice versa, an increase or decrease in the utility allowance as a result of a new configuration will cause an equal and opposite change to the contract rent. For utilities that will remain tenant-paid, HUD will increase the contract rents by 75% of the approved reduction in Utility Allowance.

Example 2: Configuration of Utilities changes; Tenant-paid utility savings

CHAP Rent Schedule

BR	Contract Rent	Utility Allowance	Gross Rent
1-BR	\$500	\$50	\$550

RAD Utility Allowance Projections Template

	Current: PHA pays Gas and electric; tenant pays water	Future: Tenant pays gas, electric and water	Impact on Contract Rent
Gas	\$0	\$30	-\$30
Electric	\$0	\$30	-\$30
Water	\$50	\$30	$+\$20 \times 75\% = +\$15$
UA	\$50	\$90	-\$45

Revised CHAP Rent

BR	Contract Rent	Utility Allowance	Gross Rent
1-BR	\$455	\$90	\$545

At conversion the HAP Contract will include a pre-construction and post-construction rent schedule.

To be eligible for this provision, a PHA must submit Utility Consumption Baseline data into EPA's Portfolio Manager

Notes

1. For MTW PHAs converting to PBV that are augmenting RAD rents using voucher reserves, as described in [Section 1.6](#), the agency will use MTW funds to supplement rents (no incremental voucher funding will be provided). For MTW agencies converting to PBRA that are utilizing MTW Fungibility, as described in [Section 1.7](#), HUD will permanently reduce the agency's public housing funds (in addition to any funding modifications that would occur as a result of the conversion absent the rent increase) by the additional amount established for the HAP Contract.

For example, assume that an MTW agency that is closing effective July 1, 2014 is considering using fungibility for a project of 100 units whose contract rent is \$500 PUM and whose subsidy is \$200 PUM. In order to make the deal feasible, the MTW must make the contract rent \$550 PUM and receive a subsidy of \$250 PUM. In order to do this, the MTW agency must agree to an additional permanent reduction in its Operating and Capital Fund subsidy (in addition to any funding modifications that would occur as a result of the conversion absent the rent increase) by a combined \$60,000 a year (\$50 PUM for 100 units for 12 months) starting in CY 2015. During the remainder of CY 2014, the PHA can use its available public housing or other funds to make up any gap in rental subsidy as a result of Operating and Capital Fund allocations to a RAD project that are lower than the HAP subsidy. In the year following, the HAP Contract rent provided will be \$550 PUM.

2. For applications where the PHA proposes a de minimis reduction of units, projects will not be permitted to retain the subsidy of any units that are not included in the conversion application. Instead, HUD will reallocate the subsidy to other conversions in accordance with Section 1.7.A.5.vi. An exception is made when the PHA is proposing a de minimis reduction in dwelling units, but certain units will be designated for special purpose uses or units are being reconfigured through rehab to improve marketability (e.g. combining efficiencies. The project will retain the subsidy attributable to those units and the contract rents for the dwelling units will increase by a share of the foregone subsidy (i.e., the Operating Fund and Capital Fund portion of the weighted Contract Rent).
3. When a project's funding is reduced as a result of a program cap on contract rents, a PHA may request that HUD transfer the excess subsidy to the PHA's voucher program in order to facilitate Choice-Mobility.
4. PHAs that are scheduled to receive ongoing Replacement Housing Factor, or Demolition Disposition Transition Funding subsidy (including funds that have not been awarded as well as funds that have been awarded but not yet disbursed) may choose to forego any ongoing RHF/DDTF grants for the purpose of offsetting an increase to the initial RAD rent. At a

PHA's request HUD will provide a forecast of total Anticipated RHF/DDTF grants. The RAD rent may then be increased by the following amount:

$$[\text{Total Anticipated RHF/DDTF Grants or Undisbursed RHF/DDTF}] \div 20 \div \text{Number of Units converting under RAD} \div 12 = \text{PUM RAD Rent Increase}$$

The PUM RAD Rent Increase would be reflected in the initial rents established in the HAP Contracts. The contract rents will still be subject to applicable rent caps. PHAs electing to utilize this flexibility must acknowledge through a certification that HUD will cancel all affected obligations of Replacement Housing Factor (RHF) funds or Demolition and Disposition Transition Funding (DDTF).

5. **Resident Paid Utilities.** For projects with an existing EPC using the Resident Paid Utility (RPU) Incentive, HUD will allow an amendment to the posted RAD rent to add the Per Unit Month (PUM) EPC Resident Paid Utility Incentive. Further, if a converting project currently has surcharges for excess consumption of PHA-supplied utilities (in accordance with 24 CFR § 965.506), HUD will allow an amendment to the posted RAD rent by the amount in Row 19 of the HUD-52722 (Calculation of Utility Expense Level) divided by Total Unit Months (Section 2 Column A Line 15) of the HUD-52723 used in the Fiscal Year in which the RAD contract rents were calculated.

**Attachment 1D – Requirements for RAD-Specific PHA Plan and/or
Significant Amendment to the PHA Plan Submissions**

Until such time as the required elements may be provided in a HUD-provided form, the following items must be covered in a request for a RAD-Specific PHA Plan Submission, Significant Amendment to the PHA Plan, MTW Plan, or MTW's revision to the MTW plan:

1. A description of the units to be converted. The description should include the following:
 - a. The number of units;
 - b. The bedroom distribution of units, and
 - c. The type of units (e.g., family, elderly/disabled, or elderly-only);
2. Any change in the number of units that is proposed as part of the conversion, including:
 - a. De minimis unit reductions and
 - b. Unit reductions that are exempt from the de minimis cap;
 - c. Any change in the bedroom distribution of units that is proposed as part of the conversion;
3. Changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted.
 - a. If Converting to PBV: This includes any waiting list preferences that will be adopted for the Covered Project as well as the Resident Rights and Participation, Tenant Protections for residents stated in [Section 1.6](#), [Attachment 1B](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice - Notice H 2016-17, PIH 2016-17 (HA) . (See Table 1 below for more specific guidance).
 - b. If Converting to PBRA: This includes any waiting list preferences that will be adopted for the Covered Project as well as the Resident Rights and Participation, Tenant Protections for residents stated in [Section 1.7](#) and [Attachment 1B](#) of this Notice and RAD Fair Housing, Civil Rights, and Relocation Notice - Notice H 2016-17, PIH 2016-17 (HA) . (see Table 1 below for more specific guidance).
4. If there will be a transfer of assistance at the time of conversion, the significant amendment must include:
 - a. The location to where the assistance is being transferred
 - b. The number of units to be transferred;
 - c. The bedroom distribution of the units in the new building(s), and
 - d. The type of units, if changed (e.g., family, elderly/disabled, or elderly-only); and

- e. Any reduction or change in the number of units and what reduction category they fall under (i.e. de minimis)
 - f. How the waiting list will be transferred and how households will be selected for the transfer, where applicable (please see Table 2 below for more specific guidance).
 - g. What the PHA plans to do with the original site following the transfer of assistance, consistent with allowable uses described in Section [1.4.A.12.](#)
5. An indication of whether the PHA is currently under a voluntary compliance agreement, consent order or consent decree or final judicial ruling or administrative ruling or decision and an assurance that compliance will not be negatively impacted by conversion activities.
 6. A statement that meets the requirements of Section 5.2 of the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17/PIH 2016-17 (HA)) certifying that the RAD conversion complies with all applicable site selection and neighborhood reviews and that all appropriate procedures have been followed.
 7. All other required information and certifications necessary to submit a Significant Amendment to the PHA Plan, including Resident Advisory Board comments and responses, challenged elements, and all required certifications.
 8. For MTW PHAs augmenting the RAD rents using voucher reserves as described in Section 1.6 or 1.7, as applicable, a statement explaining how the PHA will be able to maintain continued service level requirements.

Additionally, in accordance with 24 CFR Part 903, during the PHA Plan submission and/or significant amendment stage, a PHA shall notify the public that the current and future Capital Fund Program Grants Budgets will be reduced as a result of any projects converting to RAD.

- a. The PHA should provide an estimate of the amount of the current Capital Fund grant that is associated with the proposed project(s) and the impact on the PHA's current Five-Year PHA Plan and Five-Year Capital Fund Action Plan.
- b. If the RAD conversion will impact an existing CFFP or EPC, or it proposes to utilize RHF funds to facilitate conversion, the PHA should also indicate the estimated impact of those activities.

Finally, to avoid the need for a possible subsequent significant amendment, the PHA should examine its definition of "Substantial Deviation". The PHA may want to redefine its definition of Substantial Deviation in Section 10 of the PHA Plan to exclude the following items:

1. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;

2. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
3. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
4. Changes to the financing structure for each approved RAD conversion.

Please Note: Approval of a PHA's Financing Plan may be delayed if a PHA has made a substantial change to its plans, as defined locally, and the PHA has not completed a new PHA Plan or Significant Amendment to its PHA Plan submission. In addition, if HUD determines that there has been a significant change to the Significant Amendment involving transfers of assistance, changes in the number of assisted units, or a change in eligibility or preferences, HUD may require that a PHA resubmit their Significant Amendment.

Table 1: List of RAD Program Elements Affecting Resident Rights and Participation, Waiting List and Grievance Procedures for PBV and PBRA

Below, please find a table listing out each of the provisions affecting residents' rights and participation, waiting list and grievance procedures that must be included in a PHA's Significant Amendment. The table lists out the provisions applicable to the type of conversion (PBV or PBRA) that the PHA is proposing. This list is not a substitute for providing a copy of the relevant tenant protections listed below. PHAs should either provide reference to these tenant protections or place the tenant protections cited in this table directly into their Plan submission.

Project Based Voucher Requirements (Section 1.6 of Notice H 2019-xx, PIH 2019-xx; and Notice H 2016-17, PIH 2016-17)	Project Based Rental Assistance Requirements (Section 1.7 of Notice H 2019-xx, PIH 2019-xx; and Notice H 2016-17, PIH 2016-17)
Tenant Protections Under Notice H 2016-17; PIH 2016-17	
1. Right to Return and Relocation Assistance	1. Right to return and Relocation Assistance
Tenant Protections Under Section 1.6.C (PBV) or Section 1.7.B (PBRA)	
1. No rescreening of tenants upon conversion	1. No rescreening of tenants upon conversion
2. Under-Occupied Unit	2. Under-Occupied Unit
3. Phase-in of tenant rent increase	3. Phase-in of tenant rent increase
4. FSS and ROSS-SC programs	4. FSS and ROSS-SC programs
5. Resident Participation and Funding	5. Resident Participation and Funding
6. Termination notification	6. Termination notification
7. Grievance process	7. Grievance process
8. Earned Income Disregard.	8. Earned Income Disregard
9. Jobs Plus	9. Jobs Plus

10. When Total Tenant Payment Exceeds Gross Rent.	10. When Total Tenant Payment Exceeds Gross Rent.
Tenant Protections Under Section 1.6.D (PBV) or Section 1.7.C (PBRA)	
1. Establishment of Waiting List	1. Establishment of Waiting List
2. Choice-Mobility	2. Choice-Mobility

By way of summary and not as a modification of the program requirements set forth in the Notice provisions referenced, please note that the foregoing tenant protections for RAD PBV residents apply to non-RAD PBV residents of the same Covered Project with the exception of Choice Mobility. Standard PBV Choice Mobility requirements apply to non-RAD PBV residents.

Sample PHA Plan Amendment

Below, is a sample PHA Plan Amendment. It is intended as an attachment to the PHA Plan that would cover all the required elements for RAD. Please note: The PHA Plan must be submitted with all appropriate forms and certifications to be acceptable to HUD, this includes the HUD Form 50075; HUD Form 50077 (or HUD Form 50077-CR as applicable); HUD Form 50077-SL; and any form that may be required to perform PHA Plan activities in the future.

Attachment R – Rental Assistance Demonstration (RAD)

The (insert PHA name here) is amending its (annual and/or 5-year) PHA Plan because it was a successful applicant in the Rental Assistance Demonstration (RAD). As a result, the (insert PHA name here) will be converting to (Project Based Vouchers or Project Based Rental Assistance) under the guidelines of H 2019-xx/PIH 2019-xx, REV-4 and any successor Notices. Upon conversion to (Project Based Vouchers or Project Based Rental Assistance) the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in *(For conversions to PBV: Section 1.6 of H 2019-xx/PIH 2019-xx, REV-4; and H-2016-17/PIH-2016-17; For conversions to PBRA: Section 1.7 of H 2019-xx/PIH 2019-xx, REV-4; and H-2016-17/PIH-2016-17)*. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, the (insert PHA name here) certifies that it is currently compliant with all fair housing and civil rights requirements, [insert only if applicable] including those imposed by any remedial orders or agreements, namely [specify the name and date of the consent decree, order, voluntary compliance agreement, or other remedial order or agreement].

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing (insert PHA name here) with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, the Authority's Capital Fund Budget will be reduced by the pro rata share of Public Housing Developments converted as part of the Demonstration, and that (insert PHA name here) may also borrow funds to address their capital needs. [Insert only if applicable: The (insert PHA name here) will also be contributing Operating Reserves in the amount of \$XXX, Capital Funds in the amount of \$XXX towards the conversion, and/or Replacement Housing Factor (RHF) Funds in the amount of \$XXX towards the conversion.] [Insert only if applicable: The (insert PHA name here) currently has debt under the Capital Fund Financing Program and will be working with (insert lender or bond trustee name) to address outstanding debt issues, which may result in additional reductions of Capital Funds.] [Insert only if applicable: The (insert PHA name here) currently has debt under an Energy Performance Contract and will be working with (insert EPC provider's name) to address outstanding debt issues, which may result in additional reductions of Capital or Operating Funds.] [For MTWs only, insert the following: Regardless of any funding changes that may occur as a result of conversion under RAD, (insert MTW name here) certifies that it will maintain its continued service level at (insert continued service level).]

Below, please find specific information related to the Public Housing Development(s) selected for RAD:

Development #1

<u>Name of Public Housing Project:</u>	<u>PIC Development ID:</u>	<u>Conversion type (i.e., PBV or PBRA):</u>	<u>Transfer of Assistance:</u> (if yes, please put the location if known, and # of units transferring)
<u>Total Units:</u>	<u>Pre- RAD Unit Type (i.e., Family, Senior, etc.):</u>	<u>Post-RAD Unit Type if different (i.e., Family, Senior, etc.):</u>	<u>Capital Fund allocation of Development:</u> (Annual Capital Fund Grant attributable to the Project, if known) OR, (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project)
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.)

Studio/Efficiency			
One Bedroom			
Two Bedroom			
Three Bedroom			
Four Bedroom			
Five Bedroom			
Six Bedroom			
(If performing a <u>Transfer of</u> <u>Assistance</u>):	(Explain any changes in in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted)		

Resident Rights, Participation, Waiting List and Grievance Procedures

If converting to PBV: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.6.C & Section 1.6.D, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan)

If converting to PBRA: (Insert H 2019-xx/PIH 2019-xx, REV-4 Section 1.7.B & Section 1.7.C, and H-2016-17/PIH-2016-17, as a whole, into this Attachment to your PHA Plan)

.....

Significant Amendment Definition

If your PHA is changing its definition for substantial deviation to the PHA Plan, below find a suggested version:

As part of the Rental Assistance Demonstration (RAD), (insert PHA name here) is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
- b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- d. Changes to the financing structure for each approved RAD conversion.

Attachment 1E - House Rules: Addendum A – Resident Procedural Rights

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.

- 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 a 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

- 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 PHA must promptly notify the resident in writing 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.

SECTION II: MODERATE REHABILITATION PROJECTS

2.1 Purpose

This Section provides RAD program instructions to owners of Section 8 Moderate Rehabilitation projects, including Single Room Occupancy (SRO) dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act. Collectively, these projects will be referred to as “Mod Rehab” projects unless otherwise noted.

All Mod Rehab conversions are processed under the Second Component. While the Second Component does not have the broad statutory waiver authority that the First Component does, the Second Component does provide that participation is subject to the “requirements established by the Secretary.” HUD has used this authority to waive regulatory provisions and develop alternative requirements to fulfill the purposes of the Demonstration as described in this Notice and only to the extent described in this Notice.

2.2 General Program Description

Owners may choose between two forms of long-term Section 8 Housing Assistance Payment (HAP) Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). Conversions may be prospective (when an owner still has an active Mod Rehab contract at the project) or retroactive (when the Mod Rehab contract has already expired at the project). Owners pursuing a prospective conversion may choose from either a PBV contract or a PBRA contract. Owners who are pursuing a retroactive conversion will be limited to PBV conversions only.

A. PBV Conversions. An owner may request to enter into a Section 8 PBV HAP Contract with an eligible PHA to administer the contract. With the exception of provisions identified in this Notice (as well as retained flexibilities of Moving to Work (MTW) agencies), all regulatory and statutory requirements of the PBV program in 24 CFR Part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

- 1. Prospective Conversions.** Projects are eligible for prospective conversions if the Mod Rehab contract has not yet expired or been terminated. In a prospective conversion, the project will receive PBV assistance in lieu of the TPV assistance that would have been otherwise provided to project residents. Prospective conversions may be suspended in a particular fiscal year if HUD does not have sufficient TPV appropriations to fund all of the demands on the TPV account, in which case the Mod Rehab contract would be renewed until funds become available.

Owners must comply with the resident consultation procedures described in this Notice and must submit a request to HUD to confirm that the PHA that currently administers the Mod Rehab contract is willing to administer the PBV contract. If that PHA declines to consent, HUD will make a reasonable effort to find a PHA with operational jurisdiction willing to enter into a PBV contract with the owner.

Following resident consultation and submission and approval of a Conversion Plan, the project will close when any new financing closes, the Mod Rehab contract is terminated (or expires), and the new HAP Contract is executed. The PHA that has agreed to administer the PBV HAP Contract will have the vouchers added to its Annual Contributions Contract (ACC).

2. **Retroactive Conversions.** Where contract expiration has occurred and TPVs or EVs have already been issued to project residents,⁹⁹ projects may be eligible for a retroactive conversion to PBV assistance. The contract expiration and issuance of EVs or TPVs must have occurred on or after October 1, 2006.

Only the units occupied by eligible low-income residents that received TPV or EV assistance at the time of contract expiration or termination, who continue to reside in the project, and who consent to the conversion may be assisted under the PBV HAP Contract. For retroactive conversions, as required under the RAD Statute, the Administering PHA must approve a request for a retroactive conversion to a PBV HAP Contract. If the Administering PHA does not consent to long-term conversion of the contract to PBV assistance, the project is not eligible for retroactive conversion.

- B. **PBRA Conversions.** An owner may request to enter into a 20-year Section 8 PBRA HAP Contract (subject to annual appropriations). The HAP Contract will be executed by HUD's Office of Housing. Initial contract rents will be determined by an RCS and be limited to 110% of FMR (unless a higher limitation not exceeding any applicable statutory maximum is approved by HUD pursuant to [Section 2.6.C](#)) and will be adjusted only by an OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term and the requirements of section 2.6.D. At expiration of the initial contract, the owner is eligible to renew the contract under section 524 of MAHRAA, subject to the terms and conditions applicable at the time of renewal and to the availability of

⁹⁹ Where TPVs or EVs have been requested by the PHA and processed by HUD but none of the TPVs or EVs have been issued to a project resident (i.e., the PHA's ACC has been amended reflecting the new increment of TPVs or EVs), HUD will amend the ACC a second time to remove the new increment of TPVs or EVs and the transaction will be processed as a prospective conversion. The first issuance of a TPV or EV shall make a project ineligible for a prospective conversion.

appropriations for each year of such renewal. Regulatory requirements of the PBRA program in 24 CFR Part 880, with the exception of provisions identified in this Notice, and applicable standing and subsequent Office of Housing guidance, including handbooks, shall apply.

2.3 Eligibility

Owners of Mod Rehab projects that meet all eligibility requirements described below may submit a Conversion Plan to convert assistance under the Second Component of RAD.

2.3.1 Eligible Owners

- A. Compliance with HUD and PHA Requirements.** Owners must be in good standing with HUD and the PHA. The owner must not have a history of non-compliance with program and contractual requirements, including maintaining units in a decent, safe, and sanitary manner. If a proposed conversion is in the context of an acquisition the purchaser must provide evidence of successful experience owning and operating HUD or other affordable multifamily housing properties.¹⁰⁰
- B. Fair Housing and Civil Rights Compliance for PBV and PBRA Conversions.** An owner must resolve to HUD's satisfaction any outstanding civil rights matters prior to conversion. All pending legal processes must have been satisfied to meet this standard. If eligibility would be denied on this basis, HUD will notify the applicant of its determination and any actions necessary to permit a finding of eligibility.

Additionally, an owner may be required to demonstrate that its proposed activities under RAD are consistent with any applicable VCA, conciliation agreement, consent order or consent decree, final judicial ruling, or administrative ruling or decision. HUD may terminate an approval if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or VCA. Furthermore, if a project is subject to a VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision, it must ensure that the ownership agreement or other appropriate document makes the new owner subject to the remedial provisions contained in such documents. It is the owner's obligation to disclose such documents to the prospective owner. The extent of the owner's responsibilities, including whether the responsibilities are appropriately limited to the development, maintenance, or operation of the particular RAD project, must be appropriately documented.

¹⁰⁰ If the acquisition occurs prior to the expiration or termination of the Mod Rehab Contract, the Administering PHA must consent to the assignment of the contract in accordance with the provisions of the Mod Rehab Contract.

The owner will follow any requirements for the modification of such VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision. If HUD is a party to the such document, the RAD project will not close without HUD's express approval of the transfer of obligations to the new owner.

2.3.2 Eligible Properties and Units

- A. Eligible Properties.** A project is eligible for a prospective conversion if the project is currently receiving assistance through a Mod Rehab contract that is either in its initial or renewal term. For retroactive conversions, a project is eligible to convert if the project previously had a Mod Rehab contract that expired or terminated on or after October 1, 2006. Properties that were previously assisted under a Mod Rehab contract where the HAP Contract has been terminated by the Administering PHA due to non-compliance are ineligible to participate under this Notice.
- B. Physical Condition.** For PBRA conversion, unless provided explicit approval by HUD, the owner must provide evidence that the project meets the minimum threshold requirements of “decent, safe, and sanitary” housing. An owner must submit the project’s most recent HQS or REAC score as evidence that the project meets this minimum threshold requirement.

For PBV conversions, the converting units must qualify as existing housing in order to be selected for conversion under the Second Component of RAD. The PHA must ensure that the units substantially meet HQS, as defined in the PHA’s Section 8 administrative plan, prior to project selection. Prior to entering into a PBV HAP Contract, the Administering PHA will inspect the units proposed for conversion to ensure that the units fully comply with HQS. The HAP Contract will not be executed until and unless the converting units fully meet HQS, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹⁰¹

All PBRA and PBV conversions of properties constructed before 1978 must provide evidence that the project meets the lead paint evaluation and remediation requirements in 24 CFR 35.

- C. Eligible Units.** For prospective PBRA conversions, all units on the original Mod Rehab contract are eligible for conversion under RAD. Retroactive conversions to PBRA are not authorized.

¹⁰¹ See Notice PIH-2017-20

For prospective PBV conversions, all units on the Mod Rehab contract that are eligible for TPVs at the expiration or termination of the Mod Rehab contract under PIH's HCV funding Appropriations Act notices (or successor PIH notices regarding TPV allocations) are eligible for conversion under RAD. The PHA makes the final determination of unit eligibility to be included in the PBV HAP Contract.

For retroactive PBV conversions, eligible Mod Rehab contract units are those that are occupied at the time of the RAD conversion by households who received TPV assistance as the result of the expiration or termination of the contract.

2.4 Conversion Planning Requirements

A. Capital Needs Assessment (CNA).¹⁰² Except as noted below, each project selected for award will be required to perform a detailed physical inspection to determine both short-term rehabilitation needs and long-term capital needs to be addressed through a Reserve for Replacement Account. A CNA must be submitted with the Conversion Plan.

1. For FHA transactions, owners must use the CNA eTool and follow applicable requirements in the MAP Guide governing exemptions. The CNA must be completed by a qualified, independent third-party professional.
2. For all non-FHA transactions using equity sources of financing, the equity provider will determine the scope of work and required Initial Deposits to the Reserve for Replacement (IDRR) and Annual Deposits to the Reserve for Replacement (ADRR), as long as the ADRR is not less than \$450 per unit per year. Submission of a CNA to HUD is not required unless the owner proposes an ADRR below this minimum threshold.
3. For all other transactions (i.e., without any FHA-insured debt or equity financing sources):
 - a. The Project Owner must provide a copy of a CNA completed within 12 months of RAD Conversion Plan submission by a qualified, independent third-party professional.
 - b. A CNA will not be required to include an assessment of critical or immediate needs if the project:
 - i. was built within the last 5 years; or

¹⁰² Notice PIH 2012-32 REV-1 used the terminology "Physical Condition Assessment," or PCA. This terminology has been changed with this revised Notice to "Capital Needs Assessment," or CNA.

- ii. qualifies as new construction or “substantial rehabilitation” (generally defined as meeting Level 3¹⁰³ Alterations per the 2012 International Building Code for Existing Buildings).
- iii. HUD will use the component replacement and reserve schedule from the submitted CNA to verify that the IDRR and ADRR are in accordance with HUD requirements.

HUD may exempt projects from submitting a CNA where the project has 20 or fewer units or where the total assisted units (e.g., RAD units and other units supported by PBV) at the project will constitute less than 20% of the total units at the project (or a higher amount at HUD’s discretion).

Any proposed exemptions must be confirmed with the Transaction Manager assigned to the RAD conversion.

No utility consumption baseline analysis is necessary as part of the CNA conducted for the RAD conversion.

HUD may, at its discretion, conduct a site visit to substantiate that site conditions established in the CNA are as reported.

B. Healthy Housing and Energy Efficiency. For all projects retrofitted under a RAD conversion, if systems and appliances are being replaced as part of the Work identified in the approved Conversion Plan, Owners shall utilize the most energy- and water-efficient options that are financially feasible and that are found to be cost-effective. The use of Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances replacements, if any such designation is available for the applicable system or appliance, is presumed to be the minimum threshold for meeting such requirement.¹⁰⁴ Owners are strongly encouraged, for all RAD conversion projects, to scope rehabilitation and ongoing replacements that utilize components that will improve indoor air quality and/or reduce overall environmental impact where those components have little or no cost premium, consistent with the principles and best practices of the green building industry.

¹⁰³ Level 1 is removal and replacement or covering of existing materials, elements, equipment, or fixtures using new materials, elements, or equipment. that serve the same purpose. Level 2 includes reconfiguration of space, addition or elimination of any door/window, reconfiguration or extension of any system, or installation of additional equipment. Level 3 applies where the work area exceeds 50% of the aggregate area of the building. Level 3 must also meet the provisions of level 1 and level 2 alterations.

¹⁰⁴ For Energy Star®, see <http://www.energystar.gov/>. For WaterSense®, see <http://www.epa.gov/watersense/>. For FEMP, see <http://www1.eere.energy.gov/femp/>.

- C. Financing.** An owner's Conversion Plan (as described in Section 2.8.4 below) must demonstrate the availability of resources adequate to address all current and ongoing capital needs identified in the CNA.
- D. Environmental Reviews.** Under Federal environmental review requirements, proposed RAD projects are subject to environmental review. Environmental documents are required to be submitted as part of the applicant's overall Conversion Plan. A Conversion Plan cannot be approved by HUD if the project plan does not meet environmental review requirements. Please see Attachment 2A for a discussion of the environmental review requirements applicable to RAD transactions, including transactions that will not result in the alteration of the physical condition of the property. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.¹⁰⁵
- E. Lead Safety.**
- A CNA performed for a project built before 1978, and the scope of the rehabilitation that follows, must address lead safety with respect to paint, dust, soil (including compliance with 24 CFR 35, subparts B – R), and water (including lead service line replacement).
 - For a project built before 1978 for which a CNA is not performed, the scope of the rehabilitation must address lead safety with respect to paint, dust, soil (including compliance with 24 CFR 35, subparts B – R), and water (including lead service line replacement).

¹⁰⁵ A choice limiting action means an action that may have an adverse impact on the environment or limit the choice of reasonable alternatives. A choice limiting action may include, but is not limited to, real property acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation or clearance, ground disturbance, and leasing. For more information see the Environmental Review Requirements for RAD Conversions Quick Reference Guide: <https://www.hudexchange.info/resource/4216/environmental-review-requirements-for-rad-transactions/>.

F. Relocation and Right to Return. Any person who is legally on the lease or otherwise in lawful occupancy at the Converting Project at or after the time of submission of the Conversion Plan has a right to remain in or, in the event that rehabilitation will result in the relocation of residents, a right to return to an assisted unit at the Covered Project. Any relocation as a direct result of acquisition, demolition, or rehabilitation is subject to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) which are found at 49 CFR part 24. Proper notices including the General Information Notice (GIN), when applicable, must be sent in accordance with URA regulations and other applicable relocation regulations. Additionally, relocation and one-for-one replacement requirements under section 104(d) of the Housing and Community Development Act of 1974 may apply when CDBG or HOME funds are used in connection with a RAD conversion. Section 104(d) requirements are found at 24 CFR part 42, subpart C, and program-specific relocation requirements for CDBG and HOME projects are found at 24 CFR 570.606 and 24 CFR 92.353, respectively. The applicability of URA or section 104(d) requirements to a RAD conversion is fact-specific and must be determined in accordance with the applicable URA and section 104(d) regulations. Permanent involuntary displacement of residents may not occur as a result of a Project's conversion of assistance. If proposed plans for a Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, the Project Owner must alter the Project plans in order to house the resident in the Covered Project. If a resident agrees to the plans which would preclude the resident's return, the Project Owner must ensure that the resident's decision is fully informed, voluntary, and well documented. To be fully informed, at a minimum the resident must be notified in writing of a) his or her right to return; b) his or her right to object to plans which would preclude the resident from returning; c) the Project Owner's obligation to accommodate the resident's right to return; and d) a description of the short and long-term implications of both the right to return arrangements (e.g., temporary relocation) and the resident's options if the resident agrees to such plans. The resident must be provided counseling regarding the resident's rights and options. To be voluntary, a resident must be informed of their right to return, potential for relocation, and temporary and permanent housing options 30 days before making a decision. In addition, under the URA regulation, residents must be provided notice of relocation at least 90 days before the relocation. The Project Owner cannot employ any tactics to pressure the resident into relinquishing his or her right to return or accepting permanent relocation assistance and payments. To be well documented, evidence of a resident's decision must be retained by the Project Owner. At a minimum such evidence must include copies of notices informing the resident of their options, records of any counseling or assistance provided, and the resident's informed, written consent, including an acknowledgement that acceptance of such assistance terminates the resident's right to return to the Covered Project. If the resident agrees to the Project Owner's plans, the permanent relocation is considered voluntary, but must include, at a

minimum, any relocation assistance and payments required under the URA and Section 104(d), as applicable. The Project Owner may not propose or request that residents waive their rights or entitlements to relocation assistance under the URA or Section 104(d).

- G. Accessibility Requirements.** Federal accessibility requirements apply to all conversions. The laws that most typically apply to rehabilitation include Section 504 of the Rehabilitation Act of 1973 (Section 504), and in some cases, the Americans with Disabilities Act (ADA). Although the requirements of each of these laws are somewhat different, Owners must comply with each law that applies. Section 504 and the ADA apply to substantial alterations and other alterations as defined in 24 CFR § 8.23 and to existing, unaltered facilities (24 CFR § 8.24). See also 28 CFR § 35.151(b) and 28 CFR § 36.

When a project's rehabilitation meets the definition of a "substantial alteration" under 24 CFR § 8.23, the PHA or Project Owner, as applicable, must comply with all applicable accessibility requirements under Section 504 and HUD's implementing regulations. For some projects undertaking repairs, "other alterations" described at 8.3 are made over time. If other alterations, considered together (such as improvements to the kitchen and bathroom), amount to an alteration of an entire dwelling unit, the entire dwelling unit shall be made accessible.

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

- H. Site Selection and Neighborhood Standards.** Where an owner is planning to convert assistance under RAD, the owner must comply with all applicable site selection requirements, including those of 24 CFR § 983.57 for PBV conversions and of Appendix III of this Notice for PBRA conversions, and of the Fair Housing Act and Title VI of the Civil Rights Act of 1964, including implementing regulations at 24 CFR § 1.4(b)(3), and of Section 504 of the Rehabilitation Act of 1973, including implementing regulations at 24 CFR § 8.4(b)(5).

- I. Change in Unit Configuration.** Owners may change the unit configuration in conjunction with conversion (e.g., combine SRO units into efficiencies or one-bedroom apartments). However, the Owner must ensure that the change in bedroom distribution will not result in the involuntary permanent displacement of any resident (see Section 2.4.F. on Relocation and Right to Return) and will not result in discrimination based on race, color, national origin, religion, sex, disability, or familial status. Where the change in unit configuration will result in a reduction of assisted units, PHAs may request Tenant Protection Vouchers (TPVs) for any eligible residents that elect not to return to the property upon completion of the change in unit configuration (see Section 2.4.F. regarding Right to Return requirements). For SRO projects that are converting, such changes will require a letter of support from the CoC in which the project participates. See [Section 2.7.B.](#) of this Notice.
- J. Transfer of Assistance.** In order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, there are three scenarios under which assistance converted pursuant to RAD may be transferred off of the existing parcel of land (for the purposes of this paragraph, transfer of assistance does not include transfers to an adjacent site): (1) where the Owner requests assistance to be transferred as part of the conversion from Converting Project to Covered Project; (2) post-conversion where a Project Owner requests a partial or full transfer of assistance, or (3) where, as a result of a default of the HAP Contract, HUD terminates the HAP Contract.

Absent compelling circumstances, HUD will assess that the transfer does not occur in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under 8(bb) of the Act.¹⁰⁶ Further, HUD will consider whether conversion on-site is economically non-viable; whether the Converting Project is physically obsolete or severely distressed; how the transfer would affect the Converting Project's residents; and all applicable fair housing and civil rights requirements.¹⁰⁷ Owners are strongly encouraged to request HUD approval of the proposed site prior to submission of the Conversion Plan.

For PBV transfers of assistance to a new site, the Mod Rehab contract will remain in effect at the original site and will not be terminated until the units at the new site are ready for

¹⁰⁶ The analysis can be found in Section VIII B.1 of H-2015-03 "Transferring Budget Authority of Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act." A copy of the criteria is available at www.hud.gov/rad. At a minimum, projects that are located in neighborhoods that meet these criteria will meet the requirement under this Notice that transfers not occur to neighborhoods of concentrated poverty. HUD may modify these criteria as appropriate to fit the purposes of RAD and will post the applicable criteria at www.hud.gov/rad.

¹⁰⁷ Any transfers of assistance must comply with requirements detailed in this Notice on Site and Neighborhood Standards (see Section 2.4G), Changes in Unit configuration (see Section 2.4H), and Accessibility requirements (see 2.4F). For PBV conversions, PHAs will be responsible for this determination.

occupancy and the new HAP Contract is executed. For PBRA transfers of assistance, the new HAP Contract can be executed at the close of construction financing and the Project Owner can use the Section 8 Pass-Through.¹⁰⁸

After initial conversion, in general, a Project Owner may only request a transfer of assistance to HUD after 10 years from the effective date of the initial HAP Contract. A Project Owner may submit a transfer request sooner if it is needed as a result of eminent domain proceedings, natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD provided approval of a future transfer prior to conversion). HUD may consider, and approve with such conditions as HUD determines appropriate, a partial or complete transfer of assistance to a new location if the new location complies with applicable site selection standards. If applicable, any lender to and/or investor in the Covered Project must also approve the transfer of the assistance. Substantially all units covered by the initial HAP Contract must remain or be replaced as a result of the transfer. Residents of the original location at the time of the transfer request shall not experience a loss of rental assistance. PBV-assisted families living at the property upon termination of a PBV HAP Contract have a statutory right to receive a tenant-based voucher and to certain tenancy protections.¹⁰⁹ (A family may voluntarily decline the tenant-based voucher and accept a PBV unit at the new location but may not be required to do so.) Termination of a PBV contract is not cause for issuance of additional tenant-based voucher assistance from HUD. PHAs and owners contemplating RAD PBV transfers after conversion must take the PBV families' right to tenant-based voucher assistance into consideration and ensure that there will be sufficient resources available to the PHA to both effectuate the transfer and meet the PHA's obligation to provide tenant-based vouchers to those families that wish to receive them. Subject to the availability of appropriations, PBRA-assisted families living at the property upon termination of a PBRA HAP Contract that meet the eligibility requirements for voucher assistance may receive tenant-based tenant protection vouchers (TPVs) in the event the termination of the original PBRA HAP Contract qualifies for issuance of such vouchers.

¹⁰⁸ As fully described in Handbook 4350.1, Chapter 38, Paragraph 38-32, under the Section 8 Pass Through, Owners with residents under a project-based Section 8 HAP Contract whose unit was rendered uninhabitable may temporarily lease a unit in another building, which is habitable, under UPCS. The Owner can sign a temporary lease on behalf of the displaced Section 8 resident (i.e., a master lease) and begin to voucher for the contract rent for that temporary unit.

¹⁰⁹ See the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices including the "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21. Pursuant to applicable Housing Choice Voucher program requirements, upon PBV HAP Contract termination the family must be given the option to remain in their unit with HCV assistance if the unit remains rental housing, the rent is reasonable, and the unit meets housing quality standards.

K. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.¹¹⁰ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV or PBRA requirements regarding continued occupancy. Under PBV, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the Act and 24 CFR § 982.201, concerning income eligibility and income targeting of tenants at initial occupancy, will not apply for current households. Under PBRA, a household that would not be income eligible for initial occupancy of a Section 8 unit at the time of conversion would still be placed on a Section 8 lease and eligible for assistance under the provisions governing continued occupancy. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the Project Owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions. Additionally, any owner-adopted preference shall not apply to any current resident.

2.5 Special Provisions Affecting Conversions to PBVs

Certain PBV statutory provisions have been waived or altered consistent with the authority Congress has provided for Second Component conversions. In these cases, HUD also notes the corresponding regulatory provisions that are waived or altered. Additionally, HUD has waived certain regulatory provisions (that are not statutorily based) and established alternative requirements in order to prevent displacement of certain residents and otherwise serve the purposes of this Demonstration. All other regulatory and statutory requirements of the PBV program in 24 CFR Part 983 and section 8(o)(13) of the Act shall apply, including resident choice, environmental review, and fair housing requirements.

The modified or alternative requirements that pertain solely to PBV conversions under the Demonstration are described below.

¹¹⁰ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

- A. Length of Contract.** Section 8(o)(13)(F) of the Act provides, in part, that the HAP Contract may have an initial term of up to 20 years. In addition, 24 CFR § 983.205(a) provides the PHA with discretion to set the contract term, for a minimum period of one year and a maximum period of twenty years. By choosing to participate in the RAD program, the PHA and owner agree to an initial HAP Contract term of 20 years. A PHA may enter into an extension of the initial HAP Contract term with the Owner at any time during the initial term. The PBV HAP Contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.
- B. PBV Percentage Limitation.** Per the RAD statute, Section 8(o)(13)(B) of the Act (and, by extension, 24 CFR § 983.6) does not apply and covered projects do not count against the percentage limitation applicable to the PBV program. As a result, a PHA that is administering RAD PBV assistance does not take the RAD PBV into consideration when calculating the percent limitation for any non-RAD PBV actions that are subject to the percent limitation. In other words, RAD PBV is excluded from both the numerator and the denominator when calculating the percent of the PHA's voucher portfolio that may be project-based for non-RAD PBV.
- C. Cap on the Number of PBV Units in Each Project.** There is no cap on the number of units that may receive RAD PBV assistance in each project. Under the HOTMA Implementation Notice, certain formerly assisted properties are excepted from the project cap. For any Covered Projects not covered under the HOTMA Implementation Notice, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR §§ 983.56, 983.257(b), and 983.262(a) and (d).
- D. Site selection –Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2).** HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site.
- E. Owner Proposal Selection Procedures, 24 CFR § 983.51.** Projects are selected in accordance with program requirements detailed in this Notice. HUD is waiving 24 CFR § 983.51. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice.

- F. Initial Contract Rent Setting.** Initial rents for PBV contracts are determined by the PHA, in accordance with 24 CFR Part 983 Subpart G. Such rents generally cannot exceed the lowest of: (i) an amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance; (ii) the reasonable rent; or (iii) the rent requested by the owner. (See 24 CFR § 983.301 for program requirements on establishing initial rents). For RAD conversions, HUD is waiving 24 CFR § 888.113(f)(2) and establishing the alternative requirement that the applicable FMR used for SRO units for initial and re-determined rents shall be the zero bedroom (efficiency) FMR.
- G. Re-Determined Rents.** The rent to owner will be redetermined in accordance with 24 CFR § 983.302.
- H. Under-Occupied Units.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in the unit until an appropriately-sized unit becomes available in the Covered Project.¹¹¹ When an appropriately-sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriately-sized unit within a reasonable period of time, as determined by the PHA. In order to allow the family to remain in the under-occupied unit until an appropriately-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived.¹¹²
- I. Davis-Bacon Prevailing Wages.** Execution of a PBV contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including, without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements.

¹¹¹ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹¹² As the later enacted statute, the RAD Statute, as amended by the FY 2018 Appropriations Act to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

- J. Replacement Reserve.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected needs. Replacement reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the mortgagee or, where there is no financing, by the Project Owner and may be drawn from the reserve account and used subject to HUD guidelines.

2.6 Special Provisions Affecting Conversions to PBRA

For Mod Rehab projects converting assistance to PBRA under the Demonstration, 24 CFR Part 880, Section 8 Housing Assistance Payments Program for New Construction (and applicable standing and subsequent Office of Housing guidance¹¹³) will apply, except for the provisions listed below. Where applicable, reference is made to the affected statute and/or regulation. For additional background purposes, HUD has provided Appendix I, which is a copy of the existing Part 880 regulation with the provisions stricken that will not apply to covered projects. Appendix III provides the site and neighborhood standards applicable to RAD conversions to PBRA.

- A. Length of Contract.** Pursuant to the RAD Statute, covered projects shall have an initial HAP term of 20 years. Additionally, 24 CFR § 880.502, which imposes maximum contract terms for New Construction projects consistent with statutory authority that was repealed in 1983, will not apply.
- B. Contract Renewal.** Pursuant to the RAD Statute, after the initial term of the HAP Contract, the owner is eligible for renewal of the contract under section 524 of MAHRAA, subject to the terms and conditions applicable at the time of renewal and the availability of appropriations for each year of such renewal.
- C. Initial Contract Rent Setting.** Based on the requirements of section 8(c)(1) of the Act, the initial contract rents will be established at the lesser of the following rent levels: (a) the comparable market rent, as determined by a Rent Comparability Study (RCS), which must be prepared in accordance with the requirements of Chapter Nine of the Section 8 Renewal Policy Guidebook¹¹⁴ and submitted with the request for prospective conversion; and (b) 110 percent of the applicable FMR, less utility allowances or 120 percent of the applicable FMR,

¹¹³ Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1).

¹¹⁴ See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8.

less utility allowances, in the case of projects that (i) preserve project-based rental assistance in communities with high percentages of rent-burdened households and where it is particularly hard to utilize tenant-based assistance, (ii) serve to expand housing opportunities in communities with poverty rates less than 30%, and/or (iii) support revitalization activities that are resulting in material private investment in the surrounding neighborhoods. For RAD conversions, HUD is waiving 24 CFR § 888.113(f)(2) and establishing the alternative requirement that the applicable FMR used for SRO units at initial contract rent setting and when adjusting contract rents shall be the zero bedroom (efficiency) FMR. Further, with HUD approval, the Project Owner may use the Small Area FMR in place of the FMR in the computation of rents. To implement this provision HUD is implementing an alternative requirement to 24 CFR §888.113(h) so as to permit the use of a Small Area FMR by project for initial contract rent setting and when adjusting contract rents.

For projects with units that will be undergoing Work, the contract rents will be established at the lesser of the following rent levels: (1) the “post-rehabilitation” rents, as determined by an RCS; and (2) 110 percent of the applicable FMR, less utility allowances (or 120 percent of the applicable FMR, less utility allowances, per the criteria described above). For owners who wish to establish rents using this method, the owner must submit an RCS that includes both “as-is” rents at the project and “post-rehab” rents at the project. The contract will include both an “as-is” rent schedule and a “post-rehabilitation” rent schedule in one or more exhibits to the PBRA contract. The HAP Contract will reflect a date for the completion of the Work. The owner will be required to submit for HUD approval a cost-certification prepared for the third-party financing source once the Work has been completed.

If the Work is not completed by the date reflected in the HAP Contract, unless HUD agrees to extend the deadline for completion of the Work, on the first day of the month following the date for the completion of the Work as reflected in the HAP Contract, HUD will reduce the rents to those reflected in the “as-is” rent schedule starting on the first day of the month when the Work was to have been completed. Further, HUD will consider the difference between the “as-is” and the “post-rehab” rents from the date of the effective date of the HAP Contract until the date by which the Work was to have been completed as an overpayment and will offset future HAP payments until the overpayment has been repaid. Effective on the date the Work is completed and the cost-certification accepted by HUD, HUD will resume providing the rents that are reflected in the “post-rehab” rent schedule. For transactions where initial rents will be set at the “post-rehab” rents, the PBRA HAP Contract will be effective on the first day of the month following the closing on the construction financing. Owners will be required to submit evidence that they have successfully closed on the construction financing to their transaction manager.

- D. Method of Adjusting Contract Rents.** Contract rents will be adjusted by the OCAF at each Anniversary of the HAP Contract, subject to (a) the availability of appropriations for each year of the initial term of the HAP Contract, and (b) the Maximum Rent, as defined below.¹¹⁵

The Maximum Rent is the higher of 120% of FMR (less utility allowances) or the market rents, as demonstrated by an RCS procured and paid for by the Project Owner. Where an RCS has been used to justify an OCAF adjusted rent that exceeds 120% of the FMR, the RCS will remain valid for five years, the Maximum Rent will not apply for the next four annual rent adjustments, and rents will be adjusted only by the OCAF. The applicable FMR used for SRO units shall be the zero bedroom (efficiency) FMR. Further, where HUD has approved the use of Small Area FMR by project, the Small Area FMR will continue to serve as the applicable FMR when determining the rent cap.

- E. Distributions.** Covered Projects will not be subject to any limitation on distributions, contingent on the availability of Surplus Cash as determined by year-end audited or certified financial statements. To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require not-for-profit and certain for-profit owners to establish a residual receipts account.
- F. Davis-Bacon Prevailing Wages.** Execution of a PBRA contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including, without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements. In such cases, Davis-Bacon applies to a PBRA conversion to the same extent it would apply if the conversion were a PBV conversion.

¹¹⁵ OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the portion of a contract rent that is not committed to debt service in order to calculate the contract rent for the project in the following fiscal year.

- G. Under-Occupied Units.** If at the time of conversion, an eligible family assisted under the Mod Rehab contract is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriately-sized unit becomes available in the Covered Project.¹¹⁶ When an appropriately-sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriately-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 Covered 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.¹¹⁷
- H. Physical Inspection.** Under current regulations at 24 CFR Part 5 Subpart G, a unit covered under a PBRA HAP Contract must meet the UPCS before assistance can be paid on behalf of a household. Under RAD, however, only after the PBRA HAP Contract is executed and the Work completed, HUD will order a REAC inspection of the project to ensure conditions meet the UPCS. HUD is waiving and establishing this alternative requirement to 24 CFR Part 5 Subpart G.
- I. Choice-Mobility.** HUD seeks to provide all residents of covered projects with viable Choice-Mobility options. Unless provided an exemption as described below, owners that are applying to convert the assistance of a project to PBRA are required to provide a Choice-Mobility option to residents of covered projects (through a voucher agency willing to provide vouchers to covered projects) in accordance with the following:
- 1. Resident Eligibility.** Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of (a) 24 months from date of execution of the HAP Contract or (b) 24 months after the move-in date.
 - 2. Voucher Inventory Turnover Cap.** Recognizing the limitation on the availability of turnover vouchers from year to year, the voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if implemented, the voucher agency must create and maintain

¹¹⁶ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹¹⁷ As the later enacted statute, the RAD Statute, as amended by the FY 2018 Appropriations Act to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

a waiting list in the order in which the request from eligible households were received.

3. **Project Turnover Cap.** Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the project, in any year, an owner may limit the number of Choice-Mobility moves exercised by eligible residents to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the owner could limit the number of families exercising Choice-Mobility to 15 in any year, but not less than 15.) While a voucher agency is not required to establish a project turnover cap, if implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

HUD recognizes that not all Mod Rehab Owners will have access to sufficient vouchers to support this effort. HUD will provide voucher agencies that make a commitment to converting properties bonus points under the Section Eight Management Assessment Program (SEMAP) for deconcentration. Additionally, HUD will grant a good-cause exemption for no more than 10 percent of units in the Demonstration. All Mod Rehab owners are eligible to request a good-cause exemption in their Conversion Plan, unless the project owner administers, directly or through an affiliate, a Housing Choice Voucher program.

Unless exempt, project owners should include in their Conversion Plan their intention to provide Choice-Mobility at the Project and include the following as part of the House Rules for the associated project: “Family Right to Move. 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.”

2.7 Special Provisions Affecting Conversion of SROs

As the purpose of the conversion of SRO assistance to assistance under a long-term PBV or PBRA HAP Contract is to place the properties on a more sustainable footing while retaining and preserving the original purpose of SRO properties to serve the homeless, the following

requirements apply specifically to SRO conversions:

- A. Homeless Preference.** All properties converted shall follow procedures under the PBV and PBRA programs to establish an admissions preference for converted properties for homeless individuals or families. The preference for the homeless must apply to individuals or families that fall within the definition for homeless established by the McKinney-Vento Homeless Assistance Act and contained in the Continuum of Care Interim Rule at 24 CFR § 578.3. For PBV, the preference shall be established by the PHA. For PBRA, the Owner shall establish the preference consistent with 24 CFR § 5.655(c)(5), Housing Handbook 4350.3 REV-1, Chapter 4; and Notice H 2013-21 (July 15, 2013). The preference shall not apply to current residents because these residents will continue to be assisted after conversion, but will otherwise be an absolute preference with higher priority than any other preference that the owner adopts (for PBRA) or that the PHA establishes (for PBV). For PBV, the PHA must establish the preference in their Administrative Plan, pursuant to 24 CFR § 982.54. For PBRA, the owner must establish the preference through their Tenant Selection Plan as described in Notice H 2013—21. This requirement shall apply for the term of the contract and any renewal contract.¹¹⁸
- B. Consultation with CoC.** Owners must meet with their CoC to discuss the conversion of assistance, project rehabilitation plans, the ongoing requirement for a preference for homeless individuals or families, coordinated entry for new homeless participants, and any plans to modify the means by which the project will provide housing for homeless individuals or families (e.g., reconfiguring SRO units into efficiency or 1-bedroom units). To the extent that project plans entails a reconfiguration of units, owners must secure a letter of support from the CoC for these actions.
- C. Admission of Homeless Participants.** The Administering PHA or Project Owner is strongly encouraged to follow the CoC's established coordinated entry process to identify new homeless participants for converted SRO properties prior to screening. The Administering PHA or Project Owner must apply **all** mandatory screening criteria to homeless individuals and families that are new admissions (e.g., sex offender screening under 24 CFR § 982.553(a)(2)(i) or 24 CFR § 5.856).

For PBV properties, the Administering PHA may establish screening requirements for new admissions to the SRO project which are distinct from those in place for its HCV program, provided that such screening requirements do not conflict with the prohibition on screening

¹¹⁸ The intent of the preference is simply to ensure that the group that these conversions are designed to benefit (namely homeless individuals and families) are the recipients of converted SRO assistance.

of pre-conversion residents upon conversion (see Section 2.4.K.). Specifically, the PHA may choose not to apply discretionary screening criteria (see in particular 24 CFR § 982.552 and 24 CFR § 982.553) to admission policies for converting SRO properties. If the PHA chooses to exercise this discretion, it must have a consistent policy in its administrative plan with respect to all SRO projects converting to PBV under RAD. In administering its regular PBV program, PHAs generally may not choose to apply different screening criteria to different properties within its HCV program. HUD is authorizing this limited exception for SRO conversions under RAD. (Project Owners under PBRA already have the discretion to apply distinct screening requirements for any individual assisted project).

All discretionary admission policies must be applied to all applicants to a converted SRO property uniformly.

Administering PHAs and Project Owners should be aware that some discretionary criteria can have the effect of screening out homeless individuals or families, who may be more likely to have past convictions, past evictions, or previous debts. HUD strongly encourages Administering PHAs and Project Owners to carefully consider their discretionary admission policies and ensure that they are free of such barriers. **Further, as a condition of participation in RAD, Administering PHAs and Project Owners are prohibited from adopting discretionary screening requirements that have the effect of circumventing the homeless preference described above such that no homeless individuals or families would be eligible for admission.**

D. Data Submission Requirements. In order to maintain data on the project's ongoing housing of formerly homeless persons, the project will continue to be required to participate in the CoC's Homeless Management Information System (HMIS) and the annual Housing Inventory Count (HIC). Collaboration with the CoC will be critical in meeting these requirements.

E. Tenant Selection in Permanent Supportive Housing.

1. In setting preferences for new admissions following accommodation of current residents pursuant to Section [2.4.E](#), the Administering PHA or Project Owner may not deny admission to or otherwise discriminate against or among any federally protected classes, including among different groups of persons with disabilities. Although an owner or PHA may adopt a preference for admission of families that include a person with disabilities, the owner or PHA may not adopt a preference for admission of persons with a specific disability.¹¹⁹ However, an owner or PHA may

¹¹⁹ 24 C.F.R. § 5.655(c)(3); 24 C.F.R. §982.207(b)(3).

- provide a suite of supportive services, and a preference for admission to assisted units for households containing individuals who would qualify for the supportive services offered, such as, for example, by having Medicaid reimbursement authority for the supportive services provided. Any preference for admission to assisted units may not discriminate based on the type of disability and any individual who would qualify to receive the services offered under the service's nondiscriminatory eligibility requirements may not be excluded from the preference.
2. For Mod Rehab projects converting SRO assistance to PBV under the Demonstration, the Administering PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that the preference is consistent with the PHA plan. The voluntary services may be designed to be particularly beneficial for specific subpopulations, pursuant to PBV program requirements. Voluntary services can consist of a variety of activities, including for example, meal service adequate to meet nutritional needs, housekeeping assistance, personal assistance, transportation services, case management, child care, education services, employment assistance and job training, counseling services, life skills training, and other services designed to help the recipient live in the community as independently as possible. Voluntary services can also include disability-specific services, such as mental health services, assistance with activities of daily living, personal assistance services, outpatient health services, and the provision of medication, which are provided to support a person with a disability. Such services may also include, for example, services provided by State Medicaid programs to promote community-based settings for individuals with disabilities. To implement such a preference, such housing, aid, services, benefits, and accommodations must be provided in the most integrated setting appropriate to the needs and choices of qualified individuals with disabilities, participation cannot be designed to deny participation in housing, programs, or activities that are not separate or different, participation in such housing, aids, benefits, or services cannot be required, and such preference must comply with and be implemented in accordance with applicable anti-discrimination requirements. This type of preference must be implemented in accordance with the requirements in Federal Register Notice 82 FR 5458 "Housing Opportunities Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions" and any successor regulations, notices and guidance. As part of the PHA plan review process, the Office of Fair Housing and Equal Opportunity, in consultation with the Office of General Counsel, will review the proposed preference. However, HUD's limited review and authorization to implement a preference is not a determination by HUD of compliance with such requirements.

3. For Mod Rehab projects converting SRO assistance to PBRA under the Demonstration, the following provisions shall apply.
 - a. The Project Owner may establish a preference for admission of households including a person that qualifies for the services provided at the site, including services, aids, benefits, and accommodations which are designed to be particularly beneficial for specific subpopulations, if it is determined that all of the following criteria are met:
 - i. The housing, aid, benefits, services, and accommodations will serve the resident population in the most integrated setting appropriate to the needs and choices of qualified individuals with disabilities in accordance with Section 504 and Title II of the ADA. For example, the housing's design, location, and/or operational policies and procedures must mitigate the effects of segregation or concentration of individuals with a specific disability or diagnosis.
 - ii) The preference is limited to the population of families that include an individual where that individual's need for services significantly interfere with the family's ability to obtain and maintain housing.
 - iii) Such families will not be able to obtain or maintain themselves in housing without the availability of such supportive services.
 - iv) Participation in such services is voluntary. Families are not required to accept the housing, aids, benefits, accommodations, or services offered at the project. The Project Owner may not condition admission into the project on the basis of utilizing services offered at the project. The Project Owner may not deny the opportunity for continued occupancy at the project on the basis that an individual chooses to no longer participate in a service or that the individual no longer qualifies for a service.
 - v) The preference will not be used to exclude a family or individual based on disability.
 - b. The determination required in Section 2.7.E.3(a), above, shall be made by the Project Owner. The Project Owner shall consult with the state and county Medicaid authorities, health services agencies, and other state officials implementing Olmstead settlements, as applicable, regarding how the project and the proposed preference fits with the state system of care and expands individual choice.

- i. The Project Owner's determination with respect to subsection (a)(i), above, shall consider factors at a minimum including the number of units and bedroom distribution of units eligible to be filled pursuant to the proposed preference relative to the number of units in the property (including whether the preference applies to more than the greater of five units or 25% of the total units at the project), whether any other units at the project are subject to a preference for persons with disabilities, the overall size of the property, whether the location of units appropriate for persons admitted under the proposed preference are dispersed throughout the property, the availability of cooking facilities in the units, access and egress to the units, the ability of residents with disabilities to interact with residents who do not have disabilities, the property location, access to public transportation, access to other neighborhood amenities, the nature of the services provided, and the qualifications of the provider. The Project Owner must also consider standards for proposed integrated settings that are specific to the state where the property is located (e.g., Olmstead settlements, Qualified Allocation Plans, state transition plan under the Home and Community Based Services settings rule,¹²⁰ and state and local guidelines governing the concentration of persons with disabilities within a property, for various disability types). The Project Owner's determination may rely heavily on whether the proposed setting is consistent with such state standards for integrated settings, but Project Owners are cautioned to conduct appropriate due diligence regarding whether the state standards are appropriate for such reliance.
- ii. In evaluating whether the factors in subsections (a)(ii) and (a)(iii), above, are met in a particular case, the Project Owner may look to whether payment for the services for the individuals that qualify for the preference is provided through a federal agency, state, or local program implementing home- and community-based supportive services for people with significant and long-term service needs, which program is established to mitigate the risk of institutionalization or

¹²⁰ 42 C.F.R. § 441.301(c)(4).

homelessness pursuant to authorities such as, but not limited to, (i) Sections 1115, 1115a, 1915(i), 1915(k), and 1915(j)(3) of the Social Security Act of 1935; (ii) a Home and Community Based Services Waiver pursuant to Section 1915(c) of the Social Security Act of 1935; (iii) the Money Follows the Person Demonstration and (iv) a state or local plan for implementing the “most integrated setting” mandate of *Olmstead v. L.C.*¹²¹

- c. The Project Owner may not implement a preference as described in this Section [2.7.E.3](#) absent notice to and authorization from HUD. Compliance with all applicable fair housing and civil rights requirements is the responsibility of the Project Owner, and HUD’s limited review and authorization to implement a preference is not a determination by HUD of compliance with such requirements. Prior to or contemporaneous with the RAD Conversion Plan submission, a request for review of a preference must be submitted through the applicable Office of Multifamily Housing Programs regional asset management office pursuant to Notice H 2013-21. The request must include a certification from the Project Owner regarding the determinations set forth in Section 2.7.E.3(a), above, and must include the information and documentation to support the certification, a description of how the Project Owner reached the determinations, and any appropriate additional documentation. The request must be accompanied by appropriate ancillary documents such as a description of the property (including of the services offered and the provider), a tenant selection plan (which must identify all tenant screening and selection preferences at the property), and an affirmative fair housing marketing plan. The Office of Multifamily Housing Programs will document authorization to implement the preference following a finding by regional asset management staff and by the Office of Fair Housing and Equal Opportunity staff, in consultation with Office of General Counsel staff in the applicable HUD Region, that the Project Owner’s determination documentation is adequate for purposes of HUD’s limited review. HUD may request that the Project Owner provide additional documentation necessary to review the adequacy of the Project Owner’s determination.

¹²¹ See <https://www.medicaid.gov/medicaid/ltss/money-follows-the-person/index.html> and https://www.ada.gov/olmstead/olmstead_about.htm.

2.8 Conversion Requirements

Conversion of a Mod Rehab project will generally entail:

- An initial submission of interest
- Resident consultation
- CoC consultation (for SROs only)
- Selection of PHA (PBV conversions only)
- Conversion Plan submission and conditional approval
- Closing of financing and HAP Contract execution consistent with conditional approval

2.8.1 Initial Submission of Interest to HUD

Prior to submitting a Conversion Plan, an owner must make an initial submission to HUD indicating the owner's interest in conversion under this Notice. The submission must include:

- Project name;
- Project address;
- Project Owner's name;
- Project Owner's contact information;
- The Mod Rehab Contract number(s);
- Mod Rehab Contract expiration date
- Total number of units covered under the Mod Rehab Contract(s), by bedroom size;
- Property Type (Mod Rehab or Mod Rehab SRO) and
- Conversion Type (PBRA or PBV)

HUD has developed an electronic form submission for Project Owners to make the initial submission. To access the electronic submission template, Project Owners must request access to the RAD Resource Desk at www.radresource.net where users will be prompted to provide the information listed above.

HUD will provide the Project Owner a confirmation of successful submission. HUD will use the initial submission in order to:

1. Assign a Transaction Manager, who will make contact to discuss the conversion process and the Project Owner's goals for the Project; and
2. For PBV conversion, initiate the process to identify a PHA willing to administer the new PBV contract (usually this is the current PHA administering the Mod Rehab contract).

There is no fee associated with the initial submission, and there is no cap on the number of Mod Rehab Projects for which a Project Owner may make a submission. HUD will take no adverse

action against an owner who makes an initial submission, but does not later submit a Conversion Plan.

2.8.2 PHA Administration of the PBV Contract

1. **Selection of a PHA.** For PBV conversions only, HUD will need to identify a PHA able and willing to administer the PBV contract, and the PHA will need to accept the responsibility. For prospective conversions, HUD will generally select the PHA that currently administers the Mod Rehab contract, unless HUD finds the PHA to be unfit for this role, the PHA is uninterested in administering the contract, or there is a strong business justification for selecting an alternative PHA. In such cases, HUD will make a reasonable effort to find a PHA, in consultation with the Project Owner, with operational jurisdiction willing to enter into a PBV contract with the Project Owner for eligible units at the Project. For retroactive conversions, only the PHA whose ACC the vouchers are under may administer the PBV contract.

Within 30 days of the Conversion Plan submission, HUD will identify an eligible PHA and request that the PHA provide written consent to administer the PBV contract or to decline the request within 30 days of HUD's request. HUD will communicate the PHA's response to the Project Owner. If no PHA consents to enter into the PBV contract, the Project cannot convert to PBV, and the Project Owner may consider conversion to PBRA instead. Applicants must wait until a PBV HAP Contract Administrator has been identified before submitting their Conversion Plan, as the PHA who will act in this capacity must be identified in that plan.

2. **Role of Administering PHA.** The PHA that agrees to administer the PBV contract is responsible for administrative duties described in 24 CFR Part 983 and this Notice. Prior to conversion, the PHA's key roles include:
 1. **Pre-Selection Inspection.** The PHA must ensure that the units substantially meet HQS, as defined in the PHA's Section 8 administrative plan, prior to submission of the Conversion Plan.
 2. **Initial contract rent setting.** The PHA will determine the initial contract rents pursuant to Section [2.5.G.](#)
 3. **Number of Vouchers.** The PHA will request vouchers based on the number of units on the Mod Rehab contract that are eligible for TPVs at the expiration or termination of the Mod Rehab contract under PIH's HCV funding Appropriations Act notices (or successor PIH notices regarding TPV allocations) .
 4. **HQS inspections.** Prior to execution of the HAP Contract, the PHA must inspect the Converting Project proposed for conversion to ensure that the units fully comply with

HQS, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹²²

2.8.3 Resident Notification and Consultation

A. Resident Notification – All conversions.

For all conversions, a Project Owner is required to notify residents in writing of its intent to participate in the Demonstration.¹²³ The Notification letter must:

1. Be delivered to all Project residents, including each Mod Rehab–assisted household, as well as posted in the Project office or other common area, and at no fewer than three prominent locations on the Project site;
2. Include the date and time of resident briefings;
3. Include an estimated (for prospective) or actual (for retroactive) date of contract expiration or termination and the units that would be covered under a new PBV or PBRA HAP Contract;
4. Include a description of any proposed rehabilitation or construction at the property;
5. State the Project Owner’s plan for relocation, if applicable as a result of rehabilitation or construction, including the expected length of the relocation, household’s right to return, and the owner’s responsibility for covering relocation costs; and
6. Supply information on the method to submit comments to the Project Owner and provide for a 30-day comment period.

The Project Owner must conduct two resident meetings with all affected residents and provide the residents with an opportunity to comment on the conversion. The purpose of the resident meetings is to provide residents with greater detail related to the conversion, including rehabilitation plans (if applicable), relocation (if applicable), and PBV or PBRA program rules that may differ from Mod Rehab rules. The Project Owner must hold an additional meeting when there has been a material change that was not already discussed in a previous meeting.

When providing resident notification and meetings, a Project Owner must use effective communication for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act of 1990. Effective communication includes, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type), as needed, and providing sign language interpreters and assistive listening devices at

¹²³ This notification letter does not replace or obviate any other applicable notification letters, such as those that may be required under the URA. Sample resident notification letters are available at www.hud.gov/rad.

resident meetings, as needed (24 CFR Part 8.6). Additionally, resident meetings must be held in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, an Owner must use alternative methods to meet with qualified individuals with disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings. Such meetings must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities in a setting that enable individuals with disabilities to interact with nondisabled persons to the fullest extent possible (28 CFR part 35, Appendix B).

Additionally, a Project Owner must provide meaningful access to its programs and activities for persons who have a limited ability to read, speak, or understand English. For projects undergoing RAD conversion, a Project Owner must provide language assistance to residents of the project who are Limited English Proficient (LEP) to ensure that they have meaningful access to RAD resident notifications and meetings. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at resident meetings. For guidance on providing language assistance to persons with LEP, please see Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732).

The Project Owner must submit a copy of all comments received with their Conversion Plan, along with a description of how the residents' comments will be addressed in the conversion. HUD will consider all resident comments and the Project Owner's plan to address the comments before approving the Conversion Plan. For prospective conversions, if more than 50 percent of written resident comments disapprove of the conversion of assistance, HUD will contact the Project Owner to discuss options for proceeding with the conversion request or may decline the request.

Upon conditional approval of the Conversion Plan, the Project Owner must notify each affected family that the project has been approved for conversion.

B. Resident Notification — Additional Requirements Specific to Retroactive PBV

Conversions. For retroactive conversions, where families have EV or TPV assistance and have decided to remain at the project, the additional purpose of the resident meeting is to inform the households that only if they voluntarily relinquish their EV or TPV assistance can the owner place their unit under the PBV contract. Units occupied by households that consent to the conversion are eligible for PBV assistance, provided all other requirements are satisfied. Whether to relinquish their assistance is solely the decision of the assisted household. As such, the owner must explain and provide written documentation that completely and accurately describes how the proposed conversion will affect resident rights,

rent payments, and mobility. Households must be made aware that if they elect to remain in the unit with EV or TPV assistance, the unit would be ineligible for the conversion. A household currently assisted with an EV would retain the right to move from the project with tenant-based voucher assistance. Further, if the household were to move prior to the execution of the PBV HAP Contract, the unit would not receive PBV assistance.

The owner must provide each household that would be affected by a retroactive conversion with a form that they can use to indicate their consent or non-consent to the conversion. The owner must give families at least 30 calendar days from the date of the briefing to submit the completed form. The form must be signed by the head of household and returned to the PHA. Units occupied by households that affirmatively withhold consent are ineligible for conversion and shall not be included in the PBV contract. If a household does not reply within the timeframe outlined, the PHA must attempt to contact the household; if the PHA is unsuccessful at obtaining the household's consent, the unit shall not be included in the PBV contract.

The owner may not employ any tactics to pressure a household during the notification and comment period and may not terminate a household's lease based on a household's comments or failure to submit a completed form.

C. Compliance with Applicable Notices Regarding Contract Expiration or Termination.

Section 8(c)(8)(A) of the Act requires that not less than one year before the termination or expiration of any contract under which assistance payments are received under section 8, which includes Mod Rehab Contracts (including SRO properties), the owner must provide written notice of the impending Mod Rehab Contract expiration to residents assisted under the Mod Rehab Contract. An owner requesting conversion under this Section of the Notice must comply with this requirement. However, conversion under this Notice will adequately protect residents from displacement and from an increase in the resident portion of the rent. Consequently, conversion may be processed and completed during the one-year notification period. If the owner has not provided residents with the one-year statutory notification at the time of the owner's request to convert assistance under this Notice, the owner must provide such notice prior to submitting its application for conversion. If the owner subsequently decides not to pursue a RAD conversion, they are still subject to compliance with 8(c)(8)(A). Section 8(c)(8)(a) also requires that the owner submit the notice to HUD; however, since local PHAs administer the Mod Rehab program, the owner shall submit the notice to the appropriate PHA instead of HUD.

2.8.4 Conversion Plan, RAD Approval, and Closing

- A. Conversion Plan.** The Owner must submit to HUD through the RAD Resource Desk a complete Conversion Plan that satisfies all HUD underwriting standards and program requirements. (See [Attachment 2.A](#) for Conversion Plan Requirements). HUD will have 60 calendar days from the date of submission of the Conversion Plan to conditionally approve or reject the plan, or request additional information. HUD's decisions regarding the acceptance of the Conversion Plan will be made in HUD's sole discretion. If HUD determines that a Conversion Plan is not feasible or that the requirements of the Conversion Plan as set forth in Attachment 2A have not been met, then the owner may either make corrections that satisfactorily address HUD's concerns or appeal the decision to HUD within 30 days of notification. If a Conversion Plan is disapproved, HUD's letter of disapproval will discuss changes, if any, that would result in an acceptable Conversion Plan.
- B. Conversion Approval.** An owner will be notified of HUD's acceptance of the Conversion Plan via issuance of an approval letter, conditioned upon a firm commitment(s) of financing on substantially the same terms as those presented with the Conversion Plan.¹²⁴ The approval letter will outline the key components of the planned RAD conversion and will discuss the conditions that need to be satisfied in order to close the conversion.

Once the conditional approval letter is issued, HUD expects that the RAD conversion will close in a timely manner. The conditional approval letter will allow 90 calendar days (from the date the conditional approval letter is issued to the owner) in which to close the RAD conversion transaction, unless extended by HUD. The owner and financing partners will need to work diligently to achieve closing within the timeframe required under this Notice in order to avoid rescission of the conditional approval.

- C. Closing.** Conversion under RAD, and execution of the new PBV or PBRA HAP Contract occurs when the financing is closed. In the event that construction or bridge financing will be used as part of the transaction financing, HUD will require evidence at closing of firm commitment of take-out or permanent financing conditional only to the completion of construction or term of the bridge financing and routine processing conditions acceptable to HUD. In transactions with outside financing, a successful closing will also include evidence that financing sources have closed and will provide the contemplated funding. If the project

¹²⁴ "Substantially the same terms" means that loan proceeds and other financing sources remain sufficient to cover immediate capital needs and, in comparison to the terms put forth in the original application, the debt service coverage ratio does not decrease by more than 0.05%, the amortization and term (maturity) of financing remain the same, and the interest rates are competitive with the market.

is being financed with an FHA-insured loan, the closing requirements listed under the MAP Guide will apply.

2.9 Additional Information

For additional information on this section of the Notice, please check www.hud.gov/rad or email questions to RAD2@hud.gov.

Attachment 2A: Conversion Plan Requirements and Feasibility Benchmarks for Mod Rehab Conversions

A Conversion Plan will not be reviewed until all required documentation is submitted electronically to the RAD Resource Desk at www.radresource.net. HUD will complete an initial review for document completeness within five business days of submission and will notify the Project Owner of deficiencies. Once HUD has determined that all required documents appear to have been received, HUD will review the submission.

HUD's purpose in reviewing Conversion Plan is to ensure the long-term physical and financial viability of the Covered Project. If a Conversion Plan fails one or more feasibility benchmarks, the HUD reviewer may still accept the Financing Plan if HUD determines that, taken as a whole, the Financing Plan is consistent with the long-term physical and financial viability of the project and/or the owner can adequately support, through historical data or other means, the presented figures. HUD reserves the right to reject any Conversion Plan if the information provided is not complete, accurate, or in compliance with the submission requirements listed below. HUD will not accept the Conversion Plan if the Covered Project does not meet environmental review requirements, as described below.

Below are all the required components of a complete Conversion Plan and the requirements of each component.¹²⁵ Please note that for RAD conversions that will utilize FHA mortgage insurance, the submission requirements and feasibility benchmarks are primarily found in the FHA Multifamily Accelerating (MAP) Guide, as revised by Mortgagee Letter 2012-20. Owners must upload their Conversion Plan as outlined below, following submission of the FHA insured loan application for Firm Commitment.

HUD reserves the right to streamline any or all of these requirements for classes of project, e.g., no debt-transactions or small projects.

- A. Conversion Overview.** A narrative summary of the Covered Project and the Project Owner's conversion goals. Include details such as a description of the physical Project, the number of proposed units of each bedroom type, project history, identification of immediate capital needs of the Project, identification of other properties to be held within the same ownership entity, anticipated financing that will be obtained to meet the capital needs, anticipated relocation, and circumstances such as new construction, Transfer of Assistance, scattered site, and reconfiguration of units.

¹²⁵ Additional guidance in preparing the Financing Plan is available in The Mod Rehab Processing Guide located at http://www.radresource.net/2c_library.cfm.

- B. HQS or REAC Inspections.** Submit the project's most recent Housing Quality Standards (HQS) or Real Estate Assessment Center (REAC) score as evidence that the project meets this minimum threshold requirement.
- C. Mod Rehab Contract.** Submit a copy of the fully executed original and current Mod Rehab Contract(s), including all exhibits.
- D. Statement of Compliance with Fair Housing and Civil Rights.** The Project Owner must submit a written statement certifying that it will comply with the requirements identified in section 2.3.1.B of this Notice.
- E. Type of conversion.** Identify whether the Covered Project will convert to PBV or PBRA assistance. For PBV conversions, identify the PHA that will administer the PBV HAP Contract.
- F. Choice- Mobility Letter of Agreement.** For PBRA conversions, include a fully executed Choice- Mobility Letter of Agreement signed by the owner converting units and the PHA that has agreed to administer the vouchers in order to comply with the Choice- Mobility requirement or a request for a good-cause exemption for Choice-Mobility.
- G. Resident Notification.** The Project Owner must provide proof of written notification informing residents of the intent to participate in RAD. Include a PDF attachment of all **comments received from residents** as described in Section 2.8.3. Owners must provide a certification that they have held the required meetings with residents and have provided residents with a reasonable time period to submit comments on the conversion. The Project Owner must also provide a description of how the residents' comments will be addressed in their plan for conversion.
- H. Capital Needs Assessment (CNA).** A CNA is required in order to identify the short-term and long-term capital needs of the property, which will factor into the Scope of Work and both the Initial and Annual Deposits to the Replacement Reserve. See Paragraph 2.4.A. for additional information on CNA requirements.
- I. Initial Contract Rent Setting.**
1. For PBV conversions, submit evidence that the Project Owner's proposed rents are in accordance with the PHA's rent setting. See [Section 2.5.F.](#) for additional information

on Initial Contract Rent Setting for PBV.

2. For PBRA conversions, submit a Rent Comparability Study, including the Owner's RCS Cover Letter. The rents cannot exceed the limits set forth in Section 2.6.C.

J. Scope of Work. The Conversion Plan must include a Scope of Work that accompanies the CNA. The Scope of Work must:

1. Identify and address all repairs identified in the CNA as critical or immediate, (including all items identified in the CNA as not functioning at the time of the site visit) or provide a written justification why those items are not included. Briefly discuss any differences between the proposed Work and the conclusions and recommendations of the CNA provider; additional scope items not identified in the CNA; and the Project Owner's choices for replacement components.
2. Identify replacement quantities and costs. Rehabilitation cost estimates must be based upon reasonable market estimates of actual costs, confirmed either by cost estimating completed by the architect/engineer, or through actual competitive bids for major rehabilitation or construction items, in compliance with HUD requirements.
3. Include a summary of environmental issues and corresponding remediation activities known at that time, and a summary of accessibility features that are required pursuant to applicable accessibility standards and other accessibility requirements. Other accessibility requirements include, but are not limited to, physical features that need to be provided as reasonable accommodations for qualified persons with disabilities.
4. Include a reasonable timeline for completion of all rehabilitation items acceptable to HUD, from the date of Conversion Closing and any financing, depending on the scope of rehabilitation needed.

For Conversions using FHA financing or equity sources of financing, submit a copy of the Scope of Work included with the FHA Application for Firm Commitment, or submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source.

K. Environmental Review. HUD cannot approve an applicant's Conversion Plan unless and until the required environmental review has been completed for the applicant's proposed conversion Project and found to meet environmental review requirements. The following describes the submission and approval steps for securing a completed environmental review.

A RAD transaction will either be reviewed under 24 CFR Part 50 ("Part 50 Reviews") or 24 CFR Part 58 ("Part 58 Reviews"). Part 50 applies when HUD conducts the environmental review, and Part 58 applies when an RE conducts the environmental review. The following table shows which review protocol a transaction will follow, along with who will conduct the

review:

Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ¹²⁶	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	Responsible Entity
PBV FHA Risk-Share	Part 58	State Housing Finance Agency or Responsible Entity, as applicable ¹²⁷

Under limited circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV transaction may request HUD to undertake the environmental review under Part 50 if a suitable RE cannot be found or if the local government was not a direct recipient of the funds and refuses to accept responsibility or when HUD determines the local government does not have capacity to act as an RE.¹²⁸ This request must be made in writing and submitted to HUD no later than at the time of the Conversion Plan submission.

For multi-phase developments, the environmental documents submitted with the Conversion Plan during the first phase must be submitted for the entire site (i.e. all of the phases of the multi-phase development) and the environmental review conducted during the first phase will cover the entire site.

Requests to transfer assistance from the Converting Project to a new location are subject to environmental review.

¹²⁶ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

¹²⁷ Housing Finance Agencies can act as the Responsible Entity for Housing's Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criteria, it must request another department of the state to act as Responsible Entity. An instrumentality of a city or county government cannot act as a Responsible Entity for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the Responsible Entity.

¹²⁸ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

For transactions receiving funding from other HUD programs (i.e. HOME, CDBG, non-RAD PBV), HUD encourages all parties to complete one review for all programs, even if these programs' environmental reviews are conducted under a different review protocol (Part 50, Part 58). In cases where two Part 58 programs are combined, HUD encourages applicants to work with the Responsible Entity to see if environmental reviews can be combined. However, this is solely the Responsible Entity's determination. In cases where a Part 50 program and a Part 58 program are combined, HUD may determine that it will perform one Part 50 environmental review for both programs under 24 CFR 58.11 if performing an additional Part 58 environmental review is not feasible in the time allotted. HUD must ensure that the Part 50 review considers the full scope of all activities and funding associated with all programs. When one review is used for both programs, the Approving Officials for both programs must certify the review.

For all Part 50 reviews, the applicant must submit reports and documentation to HUD in accordance with 24 CFR Part 50, as discussed in Chapter 9 of the MAP Guide, except as follows:¹²⁹

1. For PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) without FHA insurance and without any rehabilitation, construction, or demolition,¹³⁰ HUD conducted a tiered review of program-wide and site-specific compliance. HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities, and will complete a site-specific compliance review of the following:
 - A. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);
 - B. Flood insurance and floodplain management pursuant to the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly section 2(a), and 24 C.F.R. Part 55;
 - C. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

Additionally, while Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered review, for conversions that entail no physical activities or only activities that are

¹²⁹ The MAP Guide is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430. Additional guidance on environmental review requirements is available on the HUD Environmental Review website, at <https://www.hudexchange.info/environmental-review/>.

¹³⁰ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or other interested parties or the public.¹³¹

Owners will be required to submit documentation to facilitate HUD's site-specific review.

For Environmental Reviews under 24 CFR Part 58, PHAs and/or proposed Owners should reach out to the responsible entity.

2. For all non-FHA PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) that do not meet the requirements under paragraph 1 above, the owner or vendor will follow the guidelines in Chapter 9 of the MAP guide. Owners or vendors will upload all applicable documentation directly into HEROS at the time of Conversion Plan submission. The following exceptions to the MAP Guide apply:

- In lieu of a Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-13 (or the most recent edition)¹³², except for conversions involving substantial rehabilitation or new construction activities, Awardees may submit a more limited report on potential sources of contamination. Where a Phase I ESA is not required (i.e., projects without any associated substantial rehabilitation¹³³ or new construction), the Awardees can submit a "transaction screen" in accordance with ASTM E 1528-14 (or the most recent edition). A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not meet this requirement, the professional must have either (a) a science degree and at least one year of practical environmental assessment

¹³¹ This Determination is detailed in the "Determination of 'No Potential to Cause Effects' under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50. <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>

¹³² The Transaction Screen does not meet the standard for "All Appropriate Inquiries" for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

¹³³ Substantial rehabilitation is any rehabilitation that does not meet the conditions in 24 CFR § 50.20(a)(2) for exclusion from review under the National Environmental Policy Act. Applications to RAD for conversion assistance involving substantial rehabilitation or new construction will always require a Phase I ESA in accordance with ASTM E 1527-13.

experience in the field, or (b) three years of practical environmental assessment experience in the field performing site assessments for site contamination. If any potential environmental concerns are identified, an ASTM Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided.

- Awardees may submit a Phase I ESA that is up to 5 years old upon submission; however, it must be updated by a Transaction Screen that is up to 1 year old upon submission.

When HUD conducts the environmental review under Part 50, PHAs (or their vendors) must submit environmental reports and documentation¹³⁴ for HUD review into the HUD Environmental Review Online System (HEROS), where HUD will complete its review.

HUD staff will review the submissions and may require additional information in order to complete their review. HUD's review will result in a determination, which may stipulate the rejection of the site for this demonstration or may require the completion of mitigation measures. The RAD approval will include any conditions required to carry out any and all mitigation measures as may result from the environmental review. Any conditions or mitigation that cannot be satisfied before Closing will survive Closing.

When a Responsible Entity (RE) completes an environmental review under Part 58, the Conversion Plan must include either Form 7015.16 or a letter with the Responsible Entity's (RE's) finding of exempt activity in order to consider the environmental review to be complete. The RE should use HUD recommended formats to document the environmental review record.¹³⁵ The PHA should submit an environmental report to the RE, in such form as prescribed by the RE, to enable the RE to complete their analysis. Once the review is completed, the PHA must submit *either*:

- Form HUD-7015.15, Request for Release of Funds (RROF), to their local PIH field staff.¹³⁶ After the PIH Field Director approves the RROF, the Director sends a completed HUD Form 7015.16 to the PHA, approving the release of funds. The PHA must submit proof of the completed Form 7015.16 (either a copy of the paper form or a screenshot of the completed screen in HEROS) to HUD; or

¹³⁴ PHAs and providers should take care to respond to all applicable laws and authorities and MAP-specific requirements when providing documentation for environmental review. For all maps, please clearly indicate where the project site is located. Information about HEROS and how to register can be found at <https://www.hudexchange.info/programs/environmental-review/housing/#heros>

¹³⁵ HUD recommended formats are available at <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/> and <https://www.hudexchange.info/resource/3140/part-58-environmental-assessment-form/>.

¹³⁶ Form HUD-7015.15 is available at <https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>.

- If form HUD-7015.15 is not required because the project converts to Exempt under 24 CFR § 58.34(a)(12), the PHA must submit the RE's finding of exempt activity with their RAD Conversion Plan. A finding of exempt activity is a statement of the result of the RE's environmental review, and is required even when form HUD-7015.15 is not required. A letter from the RE indicating that the project converts to Exempt under 24 CFR § 58.34(a)(12) is sufficient.

Additionally, the PHA must submit a Radon Report consistent with the requirements of the Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

L. Accessibility and Relocation Plan Checklist. All Project Owners shall complete and submit the Accessibility and Relocation Plan Checklist provided by HUD on the RAD Resource Desk. The checklist shall include a certification that anticipated relocation activities comply with all applicable HUD requirements, including the URA as well as applicable accessibility standards, including, but not limited to those under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (24 CFR §8). The cost of accessibility improvements and relocation must be fully funded in the Development Budget. Project Owners are encouraged to use HUD's guidance on relocation planning for persons with disabilities in HUD Handbook 1378.0, Exhibit 3-1 and the RAD Fair Housing, Civil Rights, and Relocation Notice.

M. Proposed Financing

- a. For all conversions using financing, the following must be addressed:
 1. Provide a brief discussion of conditions/milestones to be satisfied prior to closing including any known impediments to closing within the timeframe required under the Notice;
 2. Estimated closing date(s) for all proposed financing;
 3. For each proposed loan, equity contribution, or grant, the Conversion Plan must include a recent lender, investor or grant commitment letter, dated no more than 60 days prior to Conversion Plan submission, with key terms identified (including amount, repayment terms, interest rate, amortization, maturity, prepayment restrictions, and pay-in schedule) from all financing provider(s);
- b. For conversions not using FHA financing or equity sources, the following requirements must be addressed in addition to the requirements set forth in Attachment 2A, Section M.a. 1-3 above:
 1. Permanent debt financing with monthly payment amounts not conditioned on the availability of cash flow (i.e., "hard" debt) on Covered Projects must:

8. Be at a fixed rate of interest, for a fixed term, fully amortized over no more than 40 years;
 9. Not have a balloon payment until after the earlier to occur of a) expiration of the term of the HAP Contract or b) 17 years from the date of the permanent debt financing; and
 10. Not have a debt service coverage less than the higher of 1.11 or lender requirements.
2. All subordinate (or secondary) financing must be disclosed and then approved by the first-mortgage lender;
 3. The terms for all seller take-back financing must also be disclosed;
 4. If project revenue or existing reserves will be a source of funding, submit evidence of the current account balances.

N. Development Budget (Sources and Uses of Funds). All owners must submit a Development Budget.

- c. For Conversions using FHA financing or equity sources of financing, submit a copy of the Development Budget included with the FHA Application for Firm Commitment, or submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source. The Project Owner must submit the FHA Application for Firm Commitment review before the RAD conversion is submitted to the Office of Recapitalization. Include a Subsidy Layering Review (SLR) if one has been performed by another agency. If no SLR is provided, HUD will complete an SLR whenever multiple federal sources are proposed.
- d. **For all other Conversions with new financing:**
 1. Include a reasonable, balanced, and comprehensive presentation of both construction period and permanent sources and uses of funds.
 2. Identify existing loans or debt that will be paid off at the closing, if applicable.
 3. Include a construction contingency of 10 percent (HUD may require a higher contingency on a case-by-case basis) if the Project Owner plans to obtain new financing simultaneous with the Conversion.
 4. Demonstrate that any Identity of Interest (IOI) loans or advances will be converted to unsecured Surplus Cash Notes (Project's cash remaining, after debt service, project operational costs and other permitted payments) unless otherwise approved by HUD.
 5. If applicable, identify the initial operating deficit during the construction period and how that deficit will be funded, such as an operating deficit escrow or similar fund.

6. Include a Subsidy Layering Review (SLR) if one has been performed by another agency. If no SLR is provided, HUD will complete a SLR whenever multiple federal sources are proposed.

O. Proposed Development Team. The Project Owner must identify the proposed legal entity that will own the Covered Project following conversion, the proposed management agent following conversion, and the “principals” of both entities. In addition, the Project Owner shall provide the following:

1. For all conversions with a proposed change in ownership entity, the new Project Owner must provide evidence of successful experience owning and operating HUD or other multifamily housing properties. New Project Owners may be required to demonstrate that the criteria specified in [HUD Handbook 4350.1, Chapter 13, Change in Ownership: Transfer of Physical Assets](#) have been met in part or in whole.
2. For PBRA conversions with a proposed change in ownership entity or a material proposed change in ownership of the existing ownership entity, the new Project Owner must submit evidence that all new principals have a Previous Participation Certification in the Active Partners Performance System (APPS) (formerly referred to as Form HUD-2530) and are not be debarred, suspended, or subject to a Limited Denial of Participation.
3. For all conversions with a proposed change in management agent the new agent must provide evidence of successful experience managing and operating HUD or other multifamily housing properties.
4. For all conversions in which Work is proposed, the Project Owner must submit the identity of the general contractor or construction manager or a statement that the Project Owner will be managing construction directly, together with evidence of the general contractor’s, construction manager’s or Project Owner’s recent and successful experience with similar rehabilitation or construction projects.

P. Operating Pro Forma. The Operating Pro-Forma must:

1. **For all FHA transactions or Conversions using equity sources of financing:**
 - a. Provide a copy of the Operating Pro Forma that was submitted with the FHA Application for Firm Commitment or submitted to the lender, equity provider (including LIHTC, historic tax credit, or Opportunity Zone equity providers), LIHTC allocating agency, or comparable funding source.
2. **For all other Conversions:**
 - a. Provide a 20-year Operating Pro Forma in an owner-provided template.

- b. Include columns capturing the average amount for the past three years for all line items listed in the Pro Forma. Provide explanations and/or supporting documentation for any major deviations of the historical average from the year 1 data entered on the Pro Forma.
- c. Include an attached discussion of the extent of energy and water savings that are anticipated as a result of the rehabilitation or construction and the basis for those estimates. The discussion must explain to what extent anticipated savings in utility costs have been included in the pro forma operating expenses.
- d. Ensure the Pro Forma complies with at least the following feasibility benchmarks unless otherwise approved by HUD:

Revenue:

- i. Rents shall not exceed the amounts permitted under program rules;
- ii. All other sources of income must not exceed the average for the last three years (other income should not include interest income on the replacement reserve account, which must remain in the reserve and is not available for other purposes);
- iii. Vacancy loss shall be no less than the greater of the average over the past three years or 3 percent;
- iv. Allowance for bad debt should be not less than the greater of the average over the past three years or 2 percent;

Expenses:

- i. All other operating expenses shall be no less than 85 percent of the average for the last three years;
- ii. The ADRR should be equal to that amount which, if deposited annually, will be sufficient to fund all capital needs, as identified in the CNA, arising during the first 20 years and otherwise not addressed upfront in either the rehabilitation or an initial deposit to the replacement reserve account. The Owner should use reasonable estimates for inflation, but in doing so, the rate for escalating the increase in repair costs should not exceed the rate of interest on reserve deposits by more than 1%. HUD may consider alternative arrangements with respect to the Initial Deposit to the Replacement Reserve (IDRR) if risks to the Covered Project can be adequately mitigated. The ADRR must be sufficient to maintain a minimum balance at the end of each year during the initial 20-year HAP Contract term in accordance with the HUD MAP Guide Appendix 5g Section VII.C.3D, Minimum Balances; and
- iii. For non-leveraged transactions, the stabilized cash flow should not be less than \$12 per unit monthly. For leveraged transactions, the

debt-coverage ratio should not be less than 1.11 over a ten-year period using 2% growth in revenue and 3% growth in expenses.

- Q. Market Study.** A market study or net demand analysis may be required if the project is currently experiencing a high vacancy rate or if the Project Owner is requesting a reconfiguration of units. The Project Owner should consult with the Transaction Manager to determine if a market study is necessary before procuring one.
- R. Certification of Compliance with Site and Neighborhood Standards.** The Project Owner (for PBRA) or the PHA (for PBV) shall evaluate and include a certification that the site complies with applicable Site Selection and Neighborhood Standards (see Section 2.4.H).
- S. Affirmative Fair Housing Marketing Plan and Tenant Selection Plan.** For PBRA conversions, evidence that a completed AFHMP (Form HUD-935.2A) has been submitted for approval to the local Multifamily Regional Center. Typically, the management agent or the entity responsible for marketing (if different) is responsible for completing and submitting the AFHMP. If a Project Owner plans to adopt any preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4) for review. Please note that in accordance with Notice H 2013-21, if a Project Owner plans to adopt any preferences that are not authorized in 24 CFR 5.655(c), it must obtain HUD approval. The AFHMP and any owner-adopted preferences may not conflict with any special condition arising from the RAD conversion or any provision in a remedial order or agreement. Each Covered Project must have a HUD-approved AFHMP prior to closing.
- The purpose of affirmative marketing is to ensure that individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.
- T. Transfer of Assistance.** For all conversions involving a transfer of assistance to a new site, the PHA must have secured HUD approval of the site (Covered Project). See Section 2.4.J.

- U. **Coordination with CoC.** SRO projects converting under RAD must provide a certification with their Conversion Plan that the local CoC has been consulted with regards to the RAD conversion and that it will participate in the CoC's Homeless Management Information System (HMIS) and the annual Housing Inventory Count (HIC). To the extent that project plans entail a reconfiguration of units or include a transfer of assistance, owners must also secure a support letter from the CoC.

SECTION III: RENT SUPPLEMENT AND RENTAL ASSISTANCE PAYMENT PROJECTS

3.1 Purpose

Section III of this Notice provides instructions to owners of Rent Supplement (Rent Supp) and Rental Assistance Payment (RAP) projects seeking to convert assistance of a Rent Supp or RAP project under RAD.

3.2 Last date of Submission

Except with HUD approval, any request under this Section must be submitted by September 30, 2019, and the conversion must be completed no later than November 30, 2019.

3.3 General Program Description

Owners may choose between two forms of long-term Section 8 Housing Assistance Payment (HAP) Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). Conversions may be prospective (when an owner still has an active Rent Supp or RAP contract at the project) or retroactive (when the Rent Supp or RAP contract has already expired at the project). Owners pursuing a prospective conversion may choose from either a PBV contract or a PBRA contract. Owners who are pursuing a retroactive conversion will be limited to PBV conversions only.

A. PBV Conversions. An owner may request to enter into a Section 8 PBV HAP Contract with an eligible PHA to administer the contract. With the exception of provisions identified in this Notice (as well as retained flexibilities of Moving to Work (MTW) agencies, all regulatory and statutory requirements of the PBV program in 24 CFR Part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

1. Prospective Conversions Projects are eligible for prospective conversions if the Rent Supp or RAP contract expiration or termination has not yet occurred. To be considered a prospective conversion, the expiration or termination date of the contract must be at least 60 days after the owner's conversion request to HUD (see [Section 3.7.1](#)). In a prospective conversion, the project will receive PBV assistance in lieu of the TPV assistance that would be otherwise provided to project residents. Prospective conversions to PBV may be suspended in a particular fiscal year if HUD does not have sufficient TPV appropriations to fund all of the demands on the TPV account due to conversions.

Short-term extensions have been used in conjunction with RAD to provide adequate time for an owner to prepare and submit a request under RAD before the contract reaches its expiration date. Short-term extension requests are made directly to the

Office of Recapitalization. The short-term extension contract may be terminated early if the RAD conversion occurs prior to the short-term extension contract expiration. If a Rent Supp or RAP contract extension is not provided, the Rent Supp or RAP contract will expire, and the provision of TPVs will occur. The owner may, subject still to the final date of conversion in [Section 3.2](#), then proceed with a retroactive conversion.

In accordance with HUD policy and subject to the availability of appropriations, special administrative fees will be provided to PHAs in connection with the administration of TPVs for a Housing Conversion Action, (e.g., mortgage prepayment, or expiration of a Rent Supp or RAP contract). In order to obtain such fees, the PHA must submit the information requested in Notice PIH 2015-03 or any successor notice regarding the implementation of funding provisions for the Housing Choice Voucher program.

At the closing of the conversion of assistance: the Rent Supp or RAP contract will be terminated (due to prepayment or expiration), the PHA that has agreed to administer the PBV HAP Contract will have the vouchers added to its Annual Contribution Contract (ACC), and the PBV HAP Contract will be executed.

2. **Retroactive Conversions:** Where contract expiration has occurred and TPVs or EVs have already been issued to project residents or where TPVs or EVs have been requested and processed for project residents (i.e., the PHA's ACC has been amended reflecting the new increment of TPVs or EVs), projects may be eligible for a retroactive conversion to PBV assistance. The contract expiration and issuance of EVs or TPVs must have occurred on or after October 1, 2006.

As described above, HUD will not process prospective conversions in projects where the contract termination will occur in fewer than 60 days following the owner's initial submission to HUD. If the contract termination will be fewer than 60 days from the owner's initial submission, or if TPV funding has been requested by the Office of Public and Indian Housing on behalf of eligible project residents and processed, (i.e., the PHA's ACC has been amended reflecting the new increment of TPVs) TPVs will be issued to the eligible residents, and the conversion request will be processed as a retroactive conversion to PBVs.

Only the units occupied by eligible low-income residents who either are receiving TPV or EV assistance at the time of contract expiration or termination, who continue to reside in the project, and who consent to the conversion, may be assisted under the PBV HAP Contract. For retroactive conversions, as required under the RAD Statute,

Section III: Rent Supplement and Rental Assistance Payment Projects

the “Administering PHA” must approve a request for retroactive conversion to a PBV HAP Contract. If the actively Administering PHA does not consent to long-term conversion of the contract to PBV assistance, the project is not eligible for retroactive conversion.

The table below summarizes key characteristics of prospective and retroactive conversions.

Conversion Type	Characteristics Determining Conversion Type
Prospective	1. Termination or expiration occurs at least 60 days after the owner’s request; or 2. Termination or expiration occurs less than 60 days after the owner’s request, but the owner receives a short-term extension from the Office of Recapitalization and the new expiration date is 60 days or more after the owner’s request.
Retroactive	1. Termination or expiration occurred on or after 10/1/2006 and TPVs were issued to eligible project residents; 2. Termination or expiration occurs within 60 days of the owner’s request for conversion, and the owner does not receive a short-term contract extension to pursue a prospective conversion; or 3. Funding for TPVs has been requested on behalf of eligible project residents and processed by the Office of Public and Indian Housing.

- B. PBRA Conversions.** An owner may request to enter into a 20-year Section 8 PBRA HAP Contract (subject to annual appropriations); the HAP Contract will be executed by HUD's Office of Housing. Initial contract rents will be determined by an RCS and be limited to 110% of FMR (unless a higher limitation not exceeding any applicable statutory maximum is approved by HUD pursuant to [Section 3.6.C](#)) and will be adjusted only by an OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term and the requirements of section 3.6.D. At expiration of the initial contract, the owner is eligible to renew the contract under section 524 of MAHRAA, subject to the terms and conditions applicable at the time of renewal and to the availability of appropriations for each year of such renewal. Regulatory and statutory requirements of the PBRA program in 24 CFR Part 880, with the exception of provisions identified in this Notice, the site and neighborhood standards in Appendix III of this Notice, and applicable standing and subsequent Office of Housing guidance, including handbooks, shall apply. Retroactive conversions are not permitted under PBRA.
- C. Relocation and Right to Return.** Any person who is legally on the lease or otherwise in lawful occupancy at the Converting Project at or after the time of submission of the Conversion Plan has a right to remain in or, in the event that rehabilitation will result in the relocation of residents, a right to return to an assisted unit at the Covered Project. Any relocation as a direct result of acquisition, demolition, or rehabilitation is subject to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) which are found at 49 CFR part 24. Proper notices including the General Information Notice (GIN), when applicable, must be sent in accordance with URA regulations and other applicable relocation regulations. Additionally, relocation and one-for-one replacement requirements under section 104(d) of the Housing and Community Development Act of 1974 may apply when CDBG or HOME funds are used in connection with a RAD conversion. Section 104(d) requirements are found at 24 CFR part 42, subpart C, and program-specific relocation requirements for CDBG and HOME projects are found at 24 CFR 570.606 and 24 CFR 92.353, respectively. The applicability of URA or section 104(d) requirements to a RAD conversion is fact-specific and must be determined in accordance with the applicable URA and section 104(d) regulations. Permanent involuntary displacement of residents may not occur as a result of a Project's conversion of assistance. If proposed plans for a Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, the Project Owner must alter the project plans in order to house the resident in the Covered Project. If a resident agrees to the plans which would preclude the resident's return, the Project Owner must ensure that the resident's decision is fully informed, voluntary, and well documented. To be fully informed, at a minimum the resident must be notified in writing of a) his or her right to return; b) his or her right to object to plans which would preclude the resident from returning; c) the Project Owner's obligation

to accommodate the resident's right to return; and d) a description of the short and long-term implications of both the right to return arrangements (e.g., temporary relocation) and the resident's options if the resident agrees to such plans. The resident must be provided counseling regarding the resident's rights and options. To be voluntary, a resident must be informed of their right to return, potential for relocation, and temporary and permanent housing options 30 days before making a decision. In addition residents must be provided notice of relocation at least 90 days before the relocation. The Project Owner cannot employ any tactics to pressure the resident into relinquishing his or her right to return or accepting permanent relocation assistance and payments. To be well documented, evidence of a resident's decision must be retained by the Project Owner. At a minimum such evidence must include copies of notices informing the resident of their options, records of any counseling or assistance provided, and the resident's informed, written consent, including an acknowledgement that acceptance of such assistance terminates the resident's right to return to the Covered Project. If the resident agrees to the Project Owner's plans, the permanent relocation is considered voluntary, but must include, at a minimum, any relocation assistance and payments required under the URA and Section 104(d), as applicable. The Project Owner may not propose or request that residents waive their rights or entitlements to relocation assistance under the URA or Section 104(d).

3.4 Eligibility

Owners of Rent Supp and RAP projects that meet all eligibility requirements described below may submit a request to convert under the Second Component of RAD.

3.4.1 Eligible Owners

- A. Compliance with HUD and the PHA.** For prospective conversions, the owner must either demonstrate a rating of Satisfactory or higher on the most recent Management and Occupancy Review or certify that the management company is being replaced by a management agent with a record of successful operation of HUD-assisted multifamily housing. The HUD Departmental Enforcement Center must have no active referrals attributable to the owner. If a contract terminates due to an enforcement action, then the project is ineligible, unless the request is in the context of an acquisition. If the request to enter into a PBV or PBRA contract is in the context of an acquisition, the purchaser must provide evidence of successful experience owning and operating HUD-assisted or other affordable multifamily housing properties. Examples of the standard for this review may be found in HUD Handbook 4350.1, Chapter 13 Transfer of Physical Assets.
- For retroactive conversions, the owner must be in good standing with the PHA administering the TPVs at the project and must receive the consent of the PHA and affected residents to convert the TPV assistance to PBV.

B. Fair Housing Compliance for PBV and PBRA Conversions.

An owner must be in compliance with all fair housing and civil rights requirements at 24 CFR §5.105(a). An owner will not be eligible to participate in RAD if it has any of the charges, cause determinations, lawsuits, or letters of findings referenced in sub-paragraphs (1)-(5) below against the owner, its transferees, proposed development partners, or sub-recipients, unless they have been resolved to HUD's satisfaction.:

1. A charge from HUD concerning a systemic violation of the Fair Housing Act or a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex, national origin, disability or familial status;
2. A Fair Housing Act lawsuit filed by the Department of Justice (DOJ) alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public interest pursuant to 42 U.S.C. § 3614(a);
3. A letter of findings or lawsuit filed by DOJ identifying systemic noncompliance under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974;
4. A cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law proscribing discrimination in housing based on sexual orientation or gender identity; or
5. A cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a state or local law proscribing discrimination in housing based on lawful source of income.

Applicants may still be eligible for conversion under RAD if such a charge, cause determination, lawsuit, or letter of findings referenced in subparagraphs 1, 2, 3, 4, or 5 above has been resolved to HUD's satisfaction. However, if the matter has not been so resolved, then the applicant is ineligible to participate in RAD.

HUD will determine if actions to resolve the charge, cause determination, lawsuit, or letter of findings are sufficient to resolve the matter. Examples of actions that would normally be considered sufficient to resolve the matter include, but are not limited to current compliance with a:

- C. Voluntary compliance agreement (VCA) signed by all the parties;
- D. HUD-approved conciliation agreement signed by all the parties;
- E. Conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter;
- F. Consent order or consent decree; or
- G. Final judicial ruling or administrative ruling or decision.

Additionally, an owner may be required to demonstrate that its proposed activities under RAD are consistent with any applicable VCA, conciliation agreement, consent order or consent decree, final judicial ruling, or administrative ruling or decision. HUD may terminate an approval if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or VCA. Furthermore, if a project is subject to a VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision, it must ensure that the ownership agreement or other appropriate document makes the new owner subject to the remedial provisions contained in such documents. It is the owner's obligation to disclose such documents, to the prospective owner. The extent of the owner's responsibilities, including whether the responsibilities are appropriately limited to the development, maintenance, or operation of the particular RAD project, must be appropriately documented. The owner will follow any requirements for the modification of such VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision, etc. If HUD is a party to the such a document the RAD project will not close without HUD's express approval of the transfer of obligations to the new owner.

3.4.2 Eligible Properties and Units

- A. Eligible Properties for PBV and PBRA Conversions.** Eligible properties are those with an active Rent Supp or RAP assistance contract at the project, or for retroactive conversions the project must have previously received Rent Supp or RAP assistance that expired or terminated within two years of the request. In addition, the project must have experienced (on or after October 1, 2006) an event that triggered the provision of TPVs, or anticipate a triggering event that would provide TPVs to eligible residents at the project. Under RAD, a triggering event is defined as the termination (or expiration) of a Rent Supp or RAP contract, at which time regular Housing Choice Vouchers will be or have been provided, or in some cases EVs will be or have been provided in the context of certain prepayments (discussed in Section 3.4.2.D.2, below).

Typically, when the underlying mortgage on a Rent Supp or RAP project is prepaid, the prepayment terminates the Rent Supp or RAP contract. In some cases, however, the underlying mortgage may have been prepaid, but the contract may not have been terminated. This happens, for example, when an owner intends to undertake an Interest Reduction Payment (IRP) decoupling and requests a waiver from HUD to leave the Rent Supp or RAP contract in place. Otherwise-eligible projects that have received such a waiver are eligible for RAD, but only if HUD and the owner agree to terminate the existing Rent Supp or RAP contract, thereby triggering issuance of TPVs.

B. Physical Conditions for PBV Conversions. The owner must provide evidence that the project meets one of the following standards:

1. **For prospective conversions**, the most recent Real Estate Assessment Center (REAC) score at the project must be 60 or above.

Unless provided explicit approval by HUD, the converting units must qualify as existing housing in order to be selected for conversion under Second Component of RAD. The PHA must ensure that the units substantially meet HQS, as defined in the PHA's Section 8 administrative plan, prior to project selection. Prior to entering into a PBV HAP Contract, the Administering PHA will inspect the units proposed for conversion to ensure that the units fully comply with HQS. The HAP Contract will not be executed until and unless the converting units fully meet HQS, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹³⁷.

2. **For retroactive conversions**, units to be converted must meet HUD's HQS as determined by the PHA. The PBV contract will not be executed until and unless the units meet HQS.

C. Physical Conditions for PBRA Conversions. The owner must provide evidence that the project has received a score of 60 or above on the most recent Real Estate Assessment Center (REAC) inspection at the project. Those properties that do not meet this minimum threshold will not be eligible to convert under this notice.

D. Eligible Units for PBV Conversion.¹³⁸ Units eligible for conversion may include a combination of units under a Rent Supp or RAP contract and other (i.e., unassisted) units at the project. Eligibility of Rent Supp or RAP contract units and other units is discussed below. All owners who wish to include other units at the project within their RAD conversion will receive a determination from OGC to ensure that the prepayment at the project will trigger the issuance of Enhanced Vouchers.

1. **Rent Supp and RAP contract units.** For prospective conversions, all units on the original Rent Supp or RAP contract that are eligible for TPVs at the expiration or termination of the contract under PIH's HCV funding Appropriations Act notices (or successor PIH notices regarding TPV allocations) are eligible for conversion to PBV

¹³⁷ See Notice PIH-2017-20

¹³⁸ Please note that for PBV conversions, the PHA makes the final determination of eligibility to be included on the PBV HAP Contract; this includes a determination that the household is income eligible for the PBV program and that the tenant's total payment (TTP) of rent does not exceed the contract rent at the project.

under RAD. Note that the number of units on the original contract may be higher than the number of units “actively billing” at the project.¹³⁹

For retroactive conversions, eligible Rent Supp or RAP contract units are those that are occupied at the time of the RAD conversion by households who received TPV assistance as the result of the expiration or termination of the contract.

- 2. Other Units at the Rent Supp or RAP project.** In certain cases, the prepayment of a mortgage on a project with a Rent Supp or RAP contract may trigger the provision of EVs to *assisted* (in the case of HCV participants) and *unassisted* project residents. Conversions of assistance under the Second Component may not be the basis of re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration and such a family shall not be considered a new admission for any purpose, including compliance with income targeting. Other units occupied by such residents qualify for conversion to PBV under RAD. These units are eligible to include in the PBV conversion only if the prepayment meets all conditions of Notice PIH 2001-41, Section 8 Tenant Based Assistance (Enhanced and Regular Housing Choice Vouchers) for Housing Conversion Actions – Policy and Processing Guidance, and if the project falls within the definition of “eligible low-income housing” set out in section 229 of the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA), or is treated as such under Section 201(p) of the Housing and Community Development Amendments of 1978 as discussed below, which means that the prepayment or other transaction triggers provision of EVs to eligible families residing in the unassisted units at the project. This includes units that are not assisted by a Section 8 HAP contract, or a Rent Supp or RAP contract. To be included as eligible units in the RAD conversion, the EVs must be provided or already have been provided in the context of a qualifying preservation-eligible prepayment.

Qualifying preservation-eligible transactions in eligible low-income housing, for the purposes of Rent Supp and RAP properties, include only the following cases:

- Prepayment of an underlying FHA-insured mortgage at a RAP project;¹⁴⁰

¹³⁹ In some cases, the amount of units that are actively billing on a Rent Supp or RAP contract has decreased over time. For example, a Rent Supp or RAP contract may have been funded for 40 units originally, but over time the amount of units that this funding can support has decreased. HUD will allow the conversion to cover all occupied units indicated on the original Rent Supp or RAP contract.

¹⁴⁰ Please note: for properties with FHA-insured mortgages, this applies only to properties assisted with RAP contract, not Rent Supp contracts. Prepayment of an FHA-insured mortgage on a Rent Supp property does not

- Prepayment of a mortgage held by a state agency as a result of a sale by HUD without insurance, which immediately before the sale would have been eligible for low-income housing under LIHPRHA; which mortgage (1) for LIHPRHA projects is, or is within 2 years of being, eligible for prepayment by contract or regulation in effect before February 5, 1988 without HUD's prior approval; or (2) for Emergency Low Income Housing Preservation Act (ELIHPA) projects is, or is within 1 year of being, eligible for prepayment under regulation or contract in effect before February 5, 1988;
- Prepayment of a mortgage for a state-assisted project that is eligible for preservation assistance under LIHPRHA or ELIHPA¹⁴¹; or
- A project that has received a Flexible Subsidy Loan and is the subject of a transaction under which the project is preserved as affordable housing as determined by the Secretary under Section 201(p) of the Housing and Community Development Amendments of 1978.

3. Timing concerning the issuance of EVs. In the case of a retroactive conversion, the PBV contract may include those units occupied at the time of the RAD conversion by families that received EV assistance as the result of a preservation eligible prepayment in eligible low-income housing described in paragraph 2.i above. These families must have accepted the EVs at the time of the mortgage prepayment, and the families must be in residence at the project and receiving the EV assistance at the time of the RAD conversion. However, the conversion may also include units occupied by residents who have been offered and accepted vouchers, have not leased up with such vouchers, and the PHA has not used the allocated funds to assist other applicants on the PHA's HCV waiting list.

4. Housing Choice Voucher (HCV) program participant residing at the project. A resident who is already receiving housing choice voucher assistance on the date of the eligibility event may be included in the PBV contract, but only if the triggering event for the RAD conversion provides the opportunity for the HCV assistance to become enhanced (e.g. a prepayment) and if the resident consents to convert their assistance to PBV assistance. In the case of a RAD conversion where a prepayment occurs, the resident has several options. The resident may accept the enhanced voucher protections (See Part II, Paragraph D of Notice PIH 2001-41); the resident may

trigger the provision of EVs and therefore no units beyond the Rent Supp units would be eligible for the RAD conversion.

¹⁴¹ Rent Supp or RAP contracts must be expiring or in the process of being terminated in order for state-held mortgages to be eligible under RAD.

choose to reject the enhanced voucher protections and retain its regular HCV assistance, or the resident may agree to relinquish their voucher after being briefed by the PHA and only if they provide written consent to convert their HCV assistance to PBV assistance under RAD. Notice PIH 2001–41 addresses circumstances under which an HCV program participant residing in a project undergoing a preservation prepayment may remain in the project and receive enhanced voucher assistance.

E. Eligible Units for PBRA Conversion. All units that are currently covered by a Rent Supp or RAP contract may be included in the PBRA conversion. Additionally, all units that would receive TPVs in the form of EVs after a qualifying prepayment, as discussed in Section 3.4.2.D.2 above, may also be included in the PBRA conversion. HCV holders at the project will be allowed to be included in the PBRA contract, but only if the triggering event for the RAD conversion provides the opportunity for the HCV assistance to become enhanced (e.g. a qualifying prepayment) and if the resident consents to convert their assistance to PBRA assistance. Owners should follow the procedures discussed in Section 3.4.2.D.4 above in order to include HCV assistance on their PBRA contract.

3.5 Special Provisions Affecting Conversions to PBVs

As discussed above in [Section 3.3](#) of this Notice, certain PBV statutory provisions have been waived or altered consistent with the authority Congress has provided for Second Component conversions. In these cases, HUD also notes the corresponding regulatory provisions that are waived or altered. Additionally, HUD has waived certain regulatory provisions (that are not statutorily based) and established alternative requirements in order to prevent displacement of certain residents and otherwise serve the purposes of this Demonstration. All other regulatory and statutory requirements of the PBV program in 24 CFR Part 983 and section 8(o)(13) of the Act shall apply, including resident choice, environmental review, and fair housing requirements.

The modified or alternative requirements that pertain solely to PBV conversions under the Demonstration are described below.

A. Length of Contract. Section 8(o)(13)(F) of the Act provides, in part, that the HAP Contract may have an initial term of up to 20 years. In addition, 24 CFR § 983.205(a) provides the PHA with discretion to set the contract term, for a minimum period of one year and a maximum period of twenty years. By choosing to participate in the RAD program, the PHA and owner agree to a minimum 15-year initial term for the HAP. A PHA may agree to enter into an extension of the initial HAP Contract term with the Owner at any time during the initial term. The PBV HAP Contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.

- B. PBV Percentage Limitation.** Per the RAD statute, Section 8(o)(13)(B) of the Act (and, by extension, 24 CFR § 983.6) does not apply and covered projects do not count against the percentage limitation applicable to the PBV program. As a result, a PHA that is administering RAD PBV assistance does not take the RAD PBV into consideration when calculating the percent limitation for any non-RAD PBV actions. In other words, RAD PBV is excluded from both the numerator and the denominator when calculating the percent that may be project-based for non-RAD PBV.
- C. Cap on the Number of PBV Units in Each Project.** There is no cap on the number of units that may receive RAD PBV assistance in each project. Under the HOTMA Implementation Notice, certain formerly assisted properties are excepted from the project cap. For any Covered Projects not covered under the HOTMA Implementation Notice, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR §§ 983.56, 983.257(b), 983.262(a) and (d).
- D. Site selection –Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2).** HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site. However, HUD reserves the right to assess and consider as part of the RAD request the impact of the proposed RAD conversion on deconcentration of poverty or concentration of assistance in properties where the RAD conversion would result in an increase in the number of units at the project receiving project-based rental assistance.
- E. Owner Proposal Selection Procedures, 24 CFR § 983.51.** Projects are selected in accordance with program requirements detailed in this Notice. HUD is waiving 24 CFR § 983.51. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice.
- F. Adding contract units.** 24 CFR § 983.207(b) does not apply. A PHA may only add units to the converted project as described in Section 3.4D.
- G. No Screening of Residents upon conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will

be subject to any ongoing eligibility requirements for actions that occur after conversion.¹⁴² Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy. A unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning income eligibility and income targeting of tenants at initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreeing, and the Project Owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions. Additionally, any owner-adopted preference shall not apply to any current resident.

- H. Initial Rents.** Initial rents for PBV contracts are determined by the PHA, in accordance with 24 CFR Part 983 Subpart G. Such rents generally cannot exceed the lowest of: (i) an amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance; (ii) the reasonable rent; or (iii) the rent requested by the owner. (See 24 CFR § 983.301 for program requirements on establishing initial rents).
- I. Re-Determined Rents.** The rent to owner will be redetermined in accordance with 24 CFR § 983.302.
- J. Decoupled Projects and PBV Rents.** Many owners who pursue a RAD Second Component conversion also prepay and decouple their underlying 236 mortgage in conjunction with their RAD Second Component conversion. To facilitate a prepayment of their 236 mortgage, owners obtain new financing to pay off their 236 mortgage and to rehabilitate the project. The increased debt service often necessitates an increase in the 236 rents at the project, which are determined by a budget-based calculation. Section 219(b) of the 1999 Appropriations Act (the Wellstone Amendment) prohibits rent increases on a prepaid 236 mortgage for 60 days following prepayment.

24 CFR § 983.304(c) prohibits the PBV contract rent from exceeding the 236 basic rent at the project in decoupled projects. This causes an inherent conflict when owners convert to a PBV contract in a RAD Second Component conversion. Owners are expected to execute

¹⁴² These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

their PBV HAP at the time of the triggering event, but at the time of the triggering event basic rents cannot yet be increased.

The procedures described above create a special problem for projects subject to a Rent Supp or RAP contract, which would terminate at the time of the prepayment of the 236 mortgage, and owners of these projects would not be able to sign a PBV HAP with the appropriate rents for the transaction. To address this situation, HUD is waiving 24 CFR § 236.725 for all projects with Rent Supp or RAP that are pursuing a decoupling in conjunction with their RAD Second Component conversion. This waiver will allow the Rent Supp or RAP contract to remain in place after prepayment during the 60 days following prepayment. The PBV HAP must be signed when the basic rent increase goes into effect, and the Rent Supp or RAP contract will be terminated at the time of PBV HAP execution. Note: The PBV contract rents will still be subject to the initial determination of rents as described above.

K. Under-Occupied Units Converting to PBV. If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project.¹⁴³ When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the PHA. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived.¹⁴⁴

L. Davis-Bacon Prevailing Wages. Execution of a PBV contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including,

¹⁴³ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹⁴⁴ As the later enacted statute, the RAD Statute, as amended by the FY 2018 Appropriations Act to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements.

M. Transfers after conversion. After initial conversion, in general, a Project Owner may only request a transfer of assistance to HUD after 10 years from the effective date of the initial HAP Contract. A Project Owner may submit a transfer request sooner if it is needed as a result of eminent domain proceedings, natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD provided approval of a future transfer prior to conversion). Absent compelling circumstances, HUD will assess that the transfer does not occur in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under 8(bb) of the Act and how the transfer would affect project residents. HUD may consider, and approve with such conditions as HUD determines appropriate, a partial or complete transfer of assistance to a new location if the new location complies with applicable site selection standards. If applicable, any lender to and/or investor in the Covered Project must also approve the transfer of the assistance. Substantially all units covered by the initial HAP Contract must remain or be replaced as a result of the transfer. Residents of the original location at the time of the transfer request shall not experience a loss of rental assistance. PBV-assisted families living at the property upon termination of a PBV HAP Contract have a statutory right to receive a tenant-based voucher and to certain tenancy protections.¹⁴⁵ (A family may voluntarily decline the tenant-based voucher and accept a PBV unit at the new location but may not be required to do so.) Termination of a PBV contract is not cause for issuance of additional tenant-based voucher assistance from HUD. PHAs and owners contemplating RAD PBV transfers after conversion must take the PBV families' right to tenant-based voucher assistance into consideration and ensure that there will be sufficient resources available to the PHA to both effectuate the transfer and meet the PHA's obligation to provide tenant-based vouchers to those families that wish to receive them.

3.6 Special Provisions Affecting Conversion to PBRA

For Rent Supp and RAP projects converting assistance to PBRA under the Second Component of RAD, 24 CFR Part 880, Section 8 Housing Assistance Payments Program for New Construction (and applicable standing and subsequent Office of Housing guidance) will apply, except for the

¹⁴⁵ See the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices including the "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21. Pursuant to applicable Housing Choice Voucher program requirements, upon PBV HAP Contract termination the family must be given the option to remain in their unit with HCV assistance if the unit remains rental housing, the rent is reasonable, and the unit meets housing quality standards.

provisions listed below.^{146,147} Where applicable, reference is made to the affected statute and/or regulation. For additional background purposes, HUD has provided Appendix I, which is a copy of the existing Part 880 regulation with the provisions stricken that will not apply to covered projects. Appendix III provides the site and neighborhood standards applicable to RAD conversions to PBRA.

- A. Length of Contract.** Pursuant to the RAD Statute, covered projects shall have an initial HAP term of 20 years. Additionally, 24 CFR § 880.502, which imposes maximum contract terms for New Construction projects consistent with statutory authority that was repealed in 1983, will not apply.
- B. Contract Renewal.** Pursuant to the RAD Statute, after the initial term of the HAP Contract, the owner is eligible for renewal of the contract under section 524 of MAHRAA, subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal.
- C. Initial contract rent setting.** Initial rent levels for the PBRA contract are subject to section 8(c)(1) of the Act. For projects that will not undergo Work, the initial contract rents will be established at the lesser of the following rent levels: (1) the comparable market rent, as determined by a Rent Comparability Study (RCS), which must be prepared in accordance with the requirements of Chapter Nine of the Section 8 Renewal Policy Guidebook¹⁴⁸ and submitted with the request for prospective conversion; and (2) 110 percent of the applicable fair market rent (FMR), less utility allowances or 120 percent of the applicable FMR, less utility allowances, in the case of projects that (i) preserve project-based rental assistance in communities with high percentages of rent-burdened households and where it is particularly hard to utilize tenant-based assistance, (ii) serve to expand housing opportunities in communities with poverty rates less than 30%, and/or (iii) support revitalization activities that are resulting in material private investment in the surrounding neighborhoods. With HUD approval, the Project Owner may use the Small Area FMR in place of the FMR in the computation of rents. To implement this provision HUD is implementing an alternative requirement to 24 CFR §888.113(h) so as to permit the use of a Small Area FMR by project for initial contract rent setting and when adjusting contract rents. Properties that are located in

¹⁴⁶ Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1).

¹⁴⁷ These include fair housing requirements related to planning, siting, admissions and occupancy, accessibility for persons with disabilities, nondiscrimination and equal opportunity and affirmatively furthering fair housing.

¹⁴⁸ See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8

High Cost Areas as identified in Notice H 2017–06 shall have initial rents set at comparable market rents, without regard to any Fair Market Rent (FMR) cap.

For projects with units that will be undergoing Work, the contract rents will be established at the lesser of the following rent levels: (1) the “post-rehabilitation” rents, as determined by an RCS; and (2) unless located in a High Cost Area, 110 percent of the applicable FMR, less utility allowances. For owners who wish to establish rents using this method, the owner must submit the following: (1) An RCS that includes both “as-is” rents at the project and “post-rehab” rents at the project and (2) A proposed scope of work. The contract will include both an “as-is” rent schedule and a “post-rehabilitation” rent schedule in one or more exhibits to the PBRA contract. The HAP Contract will reflect a date for the completion of the repairs. The owner will be required to submit for HUD approval a cost-certification prepared for the third-party financing source once the repairs have been completed.

If the repairs are not completed by the date reflected in the HAP Contract, unless HUD agrees to extend the deadline for completion of repairs, on the first day of the month following the date for the completion of repairs as reflected in the HAP Contract, HUD will reduce the rents to those reflected in the “as-is” rent schedule starting on the first day of the month when the repairs were to have been completed. Further, HUD will consider the difference between the “as-is” and the “post-rehab” rents from the date of the effective date of the HAP Contract until the date by which the repairs were to have been completed as an overpayment and will offset future HAP payments until the overpayment has been repaid.¹⁴⁹ Effective on the date repairs are completed, HUD will resume providing the rents that are reflected in the “post-rehab” rent schedule. For transactions where initial rents will be set at the “post-rehab” rents, the PBRA HAP Contract will be effective on the first day of the month following the closing on the construction financing. Owners will be required to submit evidence that they have successfully closed on the construction financing to their transaction manager.

D. Method of Adjusting Contract Rents. For properties located in a High Cost Area, Over the 20-year term of the HAP contract, contract rents will be adjusted using the processes

¹⁴⁹ For example: a project has established a timeframe of completing construction within 12 months of the effective date of the PBRA HAP Contract with \$1,000 post-rehab rents and \$800 as-is rents for 10 units. At the end of 12 months, construction is not completed, and HUD does not grant an extension. The contract rents will be reduced to the rents reflected in the “as-is” rent schedule, and the owner will owe HUD \$24,000, which will be repaid by offsetting future HAP payments. Once the construction is completed in accordance with the scope of work and the owner has submitted evidence of such completion that HUD determines is acceptable, HUD will resume providing the rents as reflected in the “post-rehabilitation” rent schedule, subject to the required offsetting until the full \$24,000 is repaid to HUD.

described in the HUD Section 8 Renewal Policy Guidebook under Option 1A: Mark-Up-To-Market.

Otherwise, contract rents will be adjusted by HUD's OCAF at each Anniversary of the HAP Contract, subject to (a) the availability of appropriations for each year of the initial term of the HAP Contract and (b) the Maximum Rent, as defined below.

The Maximum Rent is the higher of 110% of FMR (or 120% if approved at initial rent-setting), less utility allowances, or the market rents, as demonstrated by an RCS procured and paid for by the Project Owner. Where an RCS has been used to establish initial rents or to justify an OCAF adjusted rent that exceeds 110% of the FMR (or 120% as applicable), the RCS will remain valid for five years, the Maximum Rent will not apply for the next four annual rent adjustments, and rents will be adjusted only by the OCAF. Where HUD has approved the use of Small Area FMR by project, the Small Area FMR will continue to serve as the applicable FMR when determining the rent cap.

- E. Distributions.** Covered Projects will not be subject to any limitation on distributions of Surplus Cash, contingent on the availability of Surplus Cash as determined by year-end audited or certified financial statements. To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require not-for-profit and certain for-profit owners to establish a residual receipts account. Note: Although the PBRA contract will have no limits on distributions, owners will still be subject to any limits on distributions that are established in other governing documents at the project (e.g. a 236(e)(2) Use Agreement).
- F. No Rescreening of Residents upon conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.¹⁵⁰ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBRA requirements regarding continued occupancy. A household that would not be income eligible for initial occupancy of a Section 8 unit at the time of conversion would still be

¹⁵⁰ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

placed on a Section 8 lease and eligible for assistance under the provisions governing continued occupancy. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the Project Owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions. Additionally, any owner-adopted preference shall not apply to any current resident.

G. Davis-Bacon Prevailing Wages. Execution of a PBRA contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including, without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements. In such cases, Davis-Bacon applies to a PBRA conversion to the same extent it would apply if the conversion were a PBV conversion.

H. Under-occupied Units Converting to PBRA. If at the time of conversion, an eligible family assisted under the Rent Supp or RAP (and if applicable Section 236) is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project.¹⁵¹ When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered 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.¹⁵²

¹⁵¹ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹⁵² As the later enacted statute, the RAD Statute, as amended by the FY 2018 Appropriations Act to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this

- I. Transfers after conversion.** After initial conversion, in general, a Project Owner may only request a transfer of assistance to HUD after 10 years from the effective date of the initial HAP Contract. A Project Owner may submit a transfer request sooner if it is needed as a result of eminent domain proceedings, natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD provided approval of a future transfer prior to conversion). Absent compelling circumstances, HUD will assess that the transfer does not occur in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under 8(bb) of the Act and how the transfer would affect project residents. HUD may consider, and approve with such conditions as HUD determines appropriate, a partial or complete transfer of assistance to a new location if the new location complies with applicable site selection standards. If applicable, any lender to and/or investor in the Covered Project must also approve the transfer of the assistance. Substantially all units covered by the initial HAP Contract must remain or be replaced as a result of the transfer. Residents of the original location at the time of the transfer request shall not experience a loss of rental assistance. Subject to the availability of appropriations, PBRA-assisted families living at the property upon termination of a PBRA HAP Contract that meet the eligibility requirements for voucher assistance may receive tenant-based TPVs in the event the termination of the original PBRA HAP Contract qualifies for issuance of such vouchers.

3.7 Processing Requirements for Prospective Conversions

Prospective Conversions generally entail the following steps, described in further detail below (see Section 3.8 for Retroactive Conversions):

- Initial contact with HUD
- Resident consultation and notification
- Selection of PHA (PBV conversions only)
- Conversion request submission and approval
- Funding request and reservation
- Verification of expiration or termination of Rent Supp/RAP contract and HAP Contract execution

- A. Initial Contact with HUD.** For conversions to PBRA and prospective conversions to PBV, the first step is for the owner to contact HUD's Office of Recapitalization to express interest in a RAD conversion by registering an account on the RAD Resource Desk at www.radresource.net, and submitting your initial interest. For PBV conversions, the owner is

override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

not responsible for locating a PHA to administer the PBV contract. Upon initial contact with HUD's Office of Recapitalization, the transaction manager will work with the local Public Housing field office to identify an appropriate PHA to administer the PBV assistance.

In the owner's initial contact, the owner or owner's representative will discuss the RAD conversion with a member of HUD's Office of Recapitalization's staff and will develop a strategy for a successful conversion at the project.

B. Resident Notification. After making contact with HUD's Office of Recapitalization, the owner must complete the following: resident briefing, resident notification and resident comment activities prior to submission of the RAD conversion request. The owner is required to notify all project households and legitimate resident organizations (as defined in Section 1B.2 of this Notice) of the owner's request to provide PBV or PBRA assistance in lieu of TPV assistance. This notification must be done through a notification letter that meets all of the following requirements¹⁵³:

1. The notification letter must offer the residents a description of the anticipated contract termination, the date of the termination, the units that are affected by the termination of the Rent Supp or RAP contract, and the units that would receive PBV (or PBRA) assistance in lieu of TPV assistance. The notification letter must also include a description of the different rights under the affected programs (Rent Supp or RAP, TPVs, and PBVs (or PBRA)) and how these programs impact resident rent payments and resident mobility.
2. The notification letter must provide a 30-day comment period, during which time residents and legitimate resident organizations will have the opportunity to comment. The letter must contain instructions on how to submit written comments (by email, in person etc.) and to whom to submit the comments. This 30-day comment period must begin within 5 days following the resident briefing.
3. The notification letter must specify which units are proposed for conversion and must be delivered to each unit in the project, with a copy to all legitimate resident organizations; it must also be posted in the project office and at least three prominent locations on the project site.
4. If relocation of households will be required due to rehabilitation, the notification letter must state the owner's plan for relocation, including the expected length of the relocation, and it must specify that all relocation costs will be the responsibility of the owner. All relocating households will have a right of first return.

¹⁵³ A sample notification letter for both PBV and PBRA conversions can be found at <http://www.hud.gov/RAD>

5. The notification letter must indicate a date and time for the required residents' briefing and provide a contact name and method of contact for questions and comments.

The owner or owner's representative is also required to schedule two residents' briefings; the first will involve HUD staff and the second can be held only by the owner. For PBV conversions, the resident briefing will be held by Public Housing field office staff with participation from HUD Multifamily field office staff. For PBRA conversions, the briefing will be held by HUD Multifamily field office staff. The briefing is designed to fully inform residents and legitimate resident organizations of the features of TPV and PBV (or PBRA) assistance. The briefing will include information on the anticipated contract termination, the date of the termination, the units that are affected by the termination of the Rent Supp or RAP contract, and the units that would receive PBV (or PBRA) assistance in lieu of TPV assistance. The owner or owner's representative must attend the briefing and be available to respond to residents' questions and comments.

When providing resident notification and meetings, an Owner must use effective communication for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act of 1990. Effective communication includes, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type), as needed, and providing sign language interpreters and assistive listening devices at resident meetings, as needed (24 CFR Part 8.6). Additionally, resident meetings must be held in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, an Owner must use alternative methods to meet with qualified individuals with disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings. Such meetings must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible (28 CFR part 35, Appendix B)..

Additionally, an Owner must provide meaningful access to its programs and activities for persons who have a limited ability to read, speak, or understand English. For projects undergoing RAD conversion, an Owner must provide language assistance to residents of the project who are Limited English Proficient (LEP) to ensure that they have meaningful access to RAD resident notifications and meetings. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at resident meetings. For guidance on providing language assistance to persons with LEP, please see Final Guidance to Federal Financial Assistance

Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732).

3.7.1 Owner Submissions for Prospective Conversions

The owner must submit the items listed below to the RAD Resource Desk at www.radresource.net at least 60 days, but no more than 12 months, prior to the anticipated termination of the Rent Supp or RAP Contract. The owner is advised that early planning is critical to ensure the PBV or PBRA contract is effective upon termination of the Rent Supp or RAP Contract. If the Rent Supp or RAP contract is anticipated to expire or terminate fewer than 60 days following the date of application for the RAD conversion, the owner may request a short-term extension of the contract.

HUD will carefully review the owner's request to ensure it is eligible under the Notice and complies with RAD requirements. The owner's electronic application must include the following information:

- A. Statement Requesting PBV or PBRA Assistance in lieu of TPV Assistance.** This narrative statement must include:
- 1. Project Information.** The Owner's submission request must contain a general project description (e.g. project name, project address, date project was built, total number of units)
 - 2. Transaction Description.** The owner's submission request must contain a description of the overall transaction for the PBV or PBRA Conversion that includes the information listed below:
 - i. Triggering Event.** Description of the event that will trigger the termination of the Rent Supp or RAP contract (contract expiration, contract termination, or mortgage prepayment) including the Rent Supp or RAP contract number, expiration date, number of units on the original contract, and the number of actively billing units under the Rent Supp or RAP contract; as well as mortgage information, such as whether the existing mortgage is FHA insured or state-financed, and the mortgage maturity date.
 - ii.** If the owner is prepaying the underlying mortgage, the statement must provide detail on the anticipated prepayment, including proposed closing date of the transaction, whether the transaction is an acquisition or a refinance, a summary of the proposed conversion plan and must identify any external financing deadlines, for example Low Income Housing Tax Credit (LIHTC) bond closing or placed-in-service deadlines.
 - iii.** HUD Approvals Needed. If the RAD conversion is part of a larger preservation transaction – i.e. the prepayment of a Section 236 mortgage in

conjunction with a Decoupling, the 236 application must be submitted electronically via www.hudmfpreservation.net, with an indication on their 236 application that the owner is pursuing RAD. The RAD application should also indicate the nature of the preservation transaction and any anticipated approvals from HUD's Office of Recapitalization that will be needed in order to trigger the termination of the Rent Supp or RAP contract at the project.

- iv. **LIHTC Award or Allocation Information** - If the proposed conversion request will involve LIHTC equity investment, the owner must submit with the RAD conversion request scanned, PDF copies of all award or allocation letters from the state LIHTC allocating agency evidencing the award/allocation, and information on related LIHTC deadlines affecting the project.
- v. **Rehabilitation Information.** If any Rehabilitation will occur in conjunction with the site's proposed RAD conversion request, the following information must be provided: Per unit cost of rehabilitation, scope of work, and a relocation plan. If rehabilitation will occur on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction, the project description must include a certification by the Owner that Davis-Bacon wages will be paid on rehabilitation of such units.

3. Number of Units Proposed for the Conversion. The statement must identify the number of units proposed for the RAD conversion. This includes project residents that would be eligible for TPVs due to a termination of the Rent Supp or RAP contract. To correctly identify the units eligible for conversion to PBV or PBRA assistance, the owner should refer to the following points:

- i. **Number of Rent Supp or RAP contract units.** The owner should review the original Rent Supp or RAP contract to obtain the correct number of TPVs that would be provided. This is the total number of Rent Supp or RAP units on the original rental assistance contract that are currently occupied by income-eligible (low-income) households. The final determination of income eligibility will be performed by the PHA. If the Rent Supp or RAP contract provides assistance to a project, it is likely that the number of actively billing Rent Supp or RAP units is less than the total number of Rent Supp or RAP units authorized in the original assistance contract. This is because, over time, the amount of Rent Supp or RAP funding has stayed constant while costs have increased, so the owner has reduced the number of units actively billing under the Rent Supp or RAP program.
- ii. **Number of non-Rent Supp/RAP units at the project.** If the conversion involves a qualifying prepayment in an eligible low-income housing project,

Section III: Rent Supplement and Rental Assistance Payment Projects

as defined above in Section 3.4(C), "Eligible Units," the RAD request may include units occupied at the time of the RAD conversion by residents who would otherwise receive EVs as a result of the mortgage prepayment. The request must list the total number of units proposed for conversion.

- iii. **Number of Housing Choice Voucher (HCV) Units at the project.** If the conversion request involves units occupied by HCV holders, PBV assistance may be attached to units in the project only when the triggering event is an eligible prepayment and the conditions outlined in Notice PIH 2013-27: Voluntary Relinquishment of Enhanced or Regular Voucher in Exchange for PBV in Multifamily Conversion Actions are followed.

- B. Resident Notification and Comment .** The owner must provide evidence that resident notification and comment procedures described in 3.7.B, above, have been met. *The RAD conversion request must include a copy of the notification letter, the date of the resident briefing and the names and titles of participating HUD staff, copies of all comments received, and a description of how the owner has considered the comments and addressed them in the plan for the conversion of TPV assistance to PBV assistance.* HUD will carefully consider the comments from residents and legitimate resident organizations as part of the review of the proposal, as discussed below.
- C. Statement of Compliance.** A statement of compliance with business practices detailed in [Section 3.4\(A\)](#) of this Notice for owner eligibility, along with evidence of the most recent REAC score and Management and Occupancy Review ratings that comply with Sections 3.4(E) and 3.4(A) of this Notice must be included in the materials as part of the conversion request to HUD. If the project does not meet the required Management and Occupancy Review standards, the statement should provide evidence that the transaction will put in place a qualified owner and management entity to successfully operate the project as affordable housing. If the project does not meet the required REAC score standards, the project will not be eligible for conversion.
- D. Project Agreements and Contracts.** Scanned, PDF copies of all relevant and applicable project legal agreements and documents, including: Rent Support RAP original contract documents; mortgage note; Use and/or Regulatory Agreement; IRP Agreement; and, other information necessary to evaluate the application that HUD may request at its discretion.
- E. Environmental Review.** HUD cannot issue an approval to convert assistance until and unless an environmental review has been completed and found to meet environmental review

requirements. The following describes the submission and approval steps for securing a completed environmental review.

A RAD transaction will either be reviewed under 24 CFR Part 50 (“Part 50 Reviews”) or 24 CFR Part 58 (“Part 58 Reviews”). Part 50 applies when HUD conducts the environmental review, and Part 58 applies when an RE conducts the environmental review. The following table shows which review protocol a transaction will follow, along with who will conduct the review:

Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ¹⁵⁴	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	Responsible Entity
PBV FHA Risk-Share	Part 58	State Housing Finance Agency or Responsible Entity, as applicable ¹⁵⁵

Under limited circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV transaction may request HUD to undertake the environmental review under Part 50 if a suitable RE cannot be found or if the local government was not a direct recipient of the funds and refuses to accept responsibility or when HUD determines the local government does not have capacity to act as an RE.¹⁵⁶ This request must be made in writing and submitted to HUD no later than at the time of the conversion plan request.

For transactions receiving funding from other HUD programs (i.e. HOME, CDBG, non-RAD PBV), HUD encourages all parties to complete one review for all programs, even if these programs’ environmental reviews are conducted under a different review protocol (Part 50,

¹⁵⁴ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

¹⁵⁵ Housing Finance Agencies can act as the Responsible Entity for Housing’s Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criteria, it must request another department of the state to act as Responsible Entity. An instrumentality of a city or county government cannot act as a Responsible Entity for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the Responsible Entity.

¹⁵⁶ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

Part 58). In cases where two Part 58 programs are combined, HUD encourages applicants to work with the Responsible Entity to see if environmental reviews can be combined. However, this is solely the Responsible Entity's determination. In cases where a Part 50 program and a Part 58 program are combined, HUD may determine that it will perform one Part 50 environmental review for both programs under 24 CFR 58.11 if performing an additional Part 58 environmental review is not feasible in the time allotted. HUD must ensure that the Part 50 review considers the full scope of all activities and funding associated with all programs. When one review is used for both programs, the Approving Officials for both programs must certify the review.

For all Part 50 reviews, the applicant must submit reports and documentation to HUD in accordance with 24 CFR Part 50, as discussed in Chapter 9 of the MAP Guide, except as follows:¹⁵⁷

1. For PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) without FHA insurance and without any rehabilitation, construction, or demolition,¹⁵⁸ HUD conducted a tiered review of program-wide and site-specific compliance. HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities, and will complete a site-specific compliance review of the following:
 - A. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);
 - B. Flood insurance and floodplain management pursuant to the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly section 2(a), and 24 C.F.R. Part 55;
 - C. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

Additionally, while Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered review, for conversions that entail no physical activities or only activities that are limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or

¹⁵⁷ The MAP Guide is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430. Additional guidance on environmental review requirements is available on the HUD Environmental Review website, at <https://www.hudexchange.info/environmental-review/>.

¹⁵⁸ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

other interested parties or the public.¹⁵⁹

PHAs will be required to submit documentation to facilitate HUD's site-specific review.

For Environmental Reviews under 24 CFR Part 58, PHAs and/or proposed Owners should reach out to the responsible entity.

2. For all non-FHA PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) that do not meet the requirements under paragraph 1 above, the awardee will follow the guidelines in Chapter 9 of the MAP guide. Awardees will upload all applicable documentation directly into HEROS at the time of conversion plan request. The following exceptions to the MAP Guide apply:
 - In lieu of a Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-13 (or the most recent edition)¹⁶⁰, except for conversions involving substantial rehabilitation or new construction activities, Awardees may submit a more limited report on potential sources of contamination. Where a Phase I ESA is not required (i.e., projects without any associated substantial rehabilitation¹⁶¹ or new construction), the Awardees can submit a "transaction screen" in accordance with ASTM E 1528-14 (or the most recent edition). A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not meet this requirement, the professional must have either (a) a science degree and at least one year of practical environmental assessment experience in the field, or (b) three years of practical environmental assessment experience in the field performing site assessments for site

¹⁵⁹ This Determination is detailed in the "Determination of 'No Potential to Cause Effects' under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50. <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>

¹⁶⁰ The Transaction Screen does not meet the standard for "All Appropriate Inquiries" for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

¹⁶¹ Substantial rehabilitation is any rehabilitation that does not meet the conditions in 24 CFR § 50.20(a)(2) for exclusion from review under the National Environmental Policy Act. Applications to RAD for conversion assistance involving substantial rehabilitation or new construction will always require a Phase I ESA in accordance with ASTM E 1527-13.

contamination. If any potential environmental concerns are identified, an ASTM Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided.

- Awardees may submit a Phase I ESA that is up to 5 years old upon submission; however, it must be updated by a Transaction Screen that is up to 1 year old upon submission.
3. For all PBRA conversions (or where HUD has determined to conduct the PBV conversion review under Part 50), PHAs are not required to follow the radon testing requirements of HN 2013-03. However, HUD strongly recommends radon testing for all projects and mitigation of any structures with elevated levels of radon (4 pCi/L or above).

When HUD conducts the environmental review under Part 50, PHAs (or their vendors) must submit environmental reports and documentation¹⁶² for HUD review into the HUD Environmental Review Online System (HEROS), where HUD will complete its review.

HUD staff will review the submissions and may require additional information in order to complete their review. HUD's review will result in a determination, which may stipulate the rejection of the site for this demonstration or may require the completion of mitigation measures. The RCC will include any conditions required to carry out any and all mitigation measures as may result from the environmental review. Any conditions or mitigation that cannot be satisfied before Closing will survive Closing.

When a Responsible Entity (RE) completes an environmental review under Part 58, the Conversion Plan must include either Form 7015.16 or a letter with the Responsible Entity's (RE's) finding of exempt activity in order to consider the environmental review to be complete. The RE should use HUD recommended formats to document the environmental review record.¹⁶³ The PHA should submit an environmental report to the RE, in such form as prescribed by the RE, to enable the RE to complete their analysis. Once the review is completed, the PHA must submit *either*:

¹⁶² PHAs and providers should take care to respond to all applicable laws and authorities and MAP-specific requirements when providing documentation for environmental review. For all maps, please clearly indicate where the project site is located. Information about HEROS and how to register can be found at <https://www.hudexchange.info/programs/environmental-review/housing/#heros>

¹⁶³ HUD recommended formats are available at <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/> and <https://www.hudexchange.info/resource/3140/part-58-environmental-assessment-form/>.

- Form HUD-7015.15, Request for Release of Funds (RROF), to their local PIH field staff.¹⁶⁴ After the PIH Field Director approves the RROF, the Director sends a completed HUD Form 7015.16 to the PHA, approving the release of funds. The PHA must submit proof of the completed Form 7015.16 (either a copy of the paper form or a screenshot of the completed screen in HEROS) to HUD; or
- If form HUD-7015.15 is not required because the project converts to Exempt under 24 CFR § 58.34(a)(12), the PHA must submit the RE's finding of exempt activity with their RAD Conversion Plan. A finding of exempt activity is a statement of the result of the RE's environmental review, and is required even when form HUD-7015.15 is not required. A letter from the RE indicating that the project converts to Exempt under 24 CFR § 58.34(a)(12) is sufficient.

F. Rent Comparability Study. In order to establish initial rents for a PBRA contract a Rent Comparability Study will be required.

G. Capital Needs Assessment (CNA). Except as noted below, each project that is applying for a PBRA conversion will be required to undergo a detailed physical inspection to determine short-term rehabilitation needs and long-term capital needs to be addressed through a Reserve for Replacement Account. A CNA must be submitted with the conversion request. The assessment will be used to size ongoing reserve deposits and may inform the timeline for any future refinancing.

- 1. Transition to CNA eTool.** HUD is in the process of developing a standardized CNA eTool for multifamily housing that will also be required of all PBRA RAD conversions under this section. This new CNA eTool will be required as part of any prospective conversion request that wishes to convert to PBRA that is submitted six months after publication of the CNA eTool. Prior to the publication of the CNA eTool, an owner may submit any alternative form of CNA completed by a qualified, independent third-party professional.
- 2. Exemptions.** HUD will exempt the following transaction types from completion of a Capital Needs Assessment described in Paragraph 1:
 - i. For non-FHA transactions:
 1. Projects that are undergoing rehabilitation and are providing a scope of work and an RCS to establish PBRA contract rents. The Project Owner must provide a copy of the CNA used to develop the Scope of Work, which HUD will use to establish reserve for replacement requirements.

¹⁶⁴ Form HUD-7015.15 is available at <https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>.

2. Projects that have had a PCA or CNA done in the last ten years will not have to produce a new CNA. However, the existing CNA should be included with their conversion request, which HUD will use to establish reserve for replacement requirements;
 3. Projects where the total assisted units (e.g., RAD units and other PBV units) at the project will constitute less than 20% of the total units at the project (or a higher percentage at HUD's discretion).
- ii. For FHA transactions, owners should follow applicable requirements in the MAP Guide governing exemptions.
3. **Expiring Rent Supplement or RAP contracts.** For owners where the Rent Supp or RAP contract is expiring within six months of the RAD conversion request, there is no requirement to complete the CNA prior to conversion. However, HUD will require a rider to the PBRA contract that indicates that the owner must procure and submit a CNA within six months of the execution of the PBRA HAP Contract.

3.7.2 PBV: HUD Review of Prospective Conversion Request, Selection of PHA, and Funding and Execution of HAP Contract

- A. HUD Review.** HUD will review the owner's request to verify that the conditions of this Notice are met. Specifically, the review will verify the following:
1. The owner has correctly identified the number of eligible units proposed for conversion and inclusion in the HAP Contract to be executed by the PHA and the owner . This includes verifying that the owner has correctly identified all units that are currently covered by a Rent Supp or RAP contract, as well as any other units that may be eligible to convert their assistance following the requirements of Section 3.4(C) "Eligible Units for PBV Conversion;"
 2. The owner has complied with the resident notice and briefing requirements in this Notice, and satisfactorily addressed resident comments;
 3. The project and owner meet all eligibility requirements listed in Section 3.4 of this Notice;
 4. If more than 50 percent of written comments from unique residents express disapproval for the conversion of assistance, HUD must contact the owner to discuss options for proceeding with the conversion request.
 5. HUD reserves the right to deny the conversion request if the conditions of this Notice are not met, or if the owner does not satisfactorily address concerns raised in residents' comments.

B. Selection of PHA. Once a transaction manager determines that the project meets all requirements outlined in this notice and that the project is eligible for conversion, HUD will forward the RAD project request to the HUD Public Housing Field Office Director. The field office will determine the appropriate PHA to administer the PBVs in accordance with established criteria for selection of PHA administration of TPVs, including, but not limited to, jurisdiction to administer the voucher program in the area where the project is located and PHA administrative capacity (including any experience with operating a PBV program). The PHA will have the opportunity to accept or reject the offer to enter into a PBV HAP Contract for eligible units at the project. In the case that the initially-selected PHA does not wish to enter into a PBV HAP Contract, the HUD Public Housing Field Office Director will make a reasonable effort to find a PHA willing to enter into a PBV HAP Contract with the owner for eligible units at the project. If no PHA consents to enter into the PBV HAP Contract, the owner's conversion request will not be approved. The selected PHA must inform the local HUD Public Housing Field Office within 30 days of the date of its selection whether the PHA consents or does not consent to enter into the PBV contract at the Rent Supp or RAP project. Once a PHA has consented to administer the PBV contract, the local HUD Public Housing Field Office will inform the transaction manager in HUD's Office of Recapitalization that a PHA has been identified.

C. Funding and Execution of the PBV HAP Contract. Once the transaction manager has received confirmation that there is a PHA willing to administer the PBV HAP Contract at the project, the transaction manager will begin the process of finalizing the PBV HAP Contract at the project.

The transaction manager will also be responsible for identifying the anticipated number of converting units at the project and preparing the Housing Conversion Action worksheet to send to the Financial Management Division (FMD) to request funding for the conversion. The transaction manager will use the anticipated date of the triggering event as the anticipated effective date for the funding request. Once the funding request has been made, the FMD will work closely with the transaction manager to ensure that the correct number of vouchers has been requested before approving the funding request. Once the funding request has been approved, HUD will then amend the PHA's ACC, to provide tenant-protection funding for the conversion.

The PHA will also determine which units will be included in the PBV contract. In some cases, the number of actively billing Rent Supp or RAP units has reduced over time, so the number of units on the contract exceeds the number of actively billing units. The original contract specified the number of units to receive Rent Supp or RAP assistance, but did not specify which units were covered by the contract. This can create confusion in determining which families may receive assistance. For example, a 100-unit project may have a Rent

Supp contract that covers 50 units, but may have only 30 actively billing units. The 30 families that reside in the actively billing units will receive PBV assistance (provided they are income-eligible), and an additional 20 households at the project would be eligible for PBV assistance (provided there are 20 income-eligible families). Once the Owner's submission is accepted by HUD and a PHA is selected to administer the PBV HAP Contract, the PHA must determine which 20 families of the 70 families residing in units not actively billing under the Rent Supp contract will receive voucher assistance. To determine which households will receive assistance, the PHA will perform income verification on all households that do not reside in the actively billing Rent Supp or RAP units, and will then hold a lottery among the income-eligible residents to select the families who will receive the vouchers. Subsequent to conversion, the PHA administering the contract shall enter data into the Form HUD-50058, in accordance with Notice PIH 2011-065 and Appendix IV.

For PBV conversions with environmental reviews conducted under 24 CFR Part 58, the Transaction Manager will ensure that either Form 7015.16 or a letter with the Responsible Entity's finding of exempt activity has been submitted with the application for prospective conversion. If the PBV conversion is FHA-financed or HUD has determined to conduct the environmental review under 24 CFR Part 50, the Transaction Manager will conduct the environmental review utilizing the environmental reports and analyses submitted as part of the application for prospective conversion and ensure the environmental review meets the standards of Part 50.¹⁶⁵

Subsequent to the amendment of the PHA's ACC, confirmation of the environmental review being completed, and confirmation that the Rent Supp or RAP contract has been terminated or has expired, the PHA and owner will enter into a PBV HAP Contract for projects that qualify as existing housing under the PBV program.¹⁶⁶ However, prior to the execution of the HAP Contract, the units proposed for conversion must meet HQS (unless the PHA is using HOTMA non-life threatening and alternative inspection provisions¹⁶⁷), all income certifications must have been made, and the triggering event must have occurred. If the units do not meet HQS, the project will not be able to execute HAP until the units substantially comply with HQS.

3.7.3 PBRA: HUD Review of PBRA Request and Execution of Contract

HUD will review the owner's request to verify that the conditions of this Notice are met. Specifically, the review will verify the following:

- The owner has correctly identified the number of units proposed for conversion and inclusion

¹⁶⁵ See Section 3.7.1.E. for more information on environmental review.

¹⁶⁶ The HAP Contract and Rider can be found at www.hud.gov/rad

¹⁶⁷ See Notice PIH-2017-20 for guidance on HOTMA non-life threatening and alternative inspection provisions.

in the PBRA HAP Contract to be executed by HUD and the owner. This includes verifying that the owner has correctly identified all units that are currently covered by a Rent Supp or RAP contract and all unassisted project units following the requirements of [Section 3.4\(D\)](#), “Eligible Units for PBRA Conversion”.

- The owner has complied with the resident notice and briefing requirements in this Notice, and satisfactorily addressed resident comments;
- The project and owner meet all eligibility requirements listed in Section 3.4 of this Notice; and
- If more than 50 percent of written comments from unique residents express disapproval for the conversion of assistance, HUD must contact the owner to discuss options for proceeding with the conversion request.
- The RCS meets the standards set forth in Chapter 9 of the Section 8 Renewal Guide.
- If “post-rehab” rents are being utilized, evidence that the Owner has secured sources to finance the scope of work that would result in post-rehab rents.
- The Transaction Manager will conduct the environmental review utilizing the environmental reports and analyses submitted as part of the application for prospective conversion and ensure the environmental review meets the standards of 24 CFR Part 50.¹⁶⁸
- Certification of Davis-Bacon wages if rehabilitation is being carried out on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction.
- HUD reserves the right to deny the conversion request if the conditions of this Notice are not met, or if the owner does not satisfactorily address concerns raised in residents’ comments.

After reviewing the Owner’s submission, the Office of Recapitalization will send a letter to the owner informing them of its initial approval to convert assistance under PBRA. Recap staff will then begin the process of reserving funding for the PBRA contract. Conversion of assistance under PBRA will be conditioned on expiration or termination of the Rent Supp or RAP contract at the project. Once funds have reserved for the PBRA contract and the expiration or termination of the Rent Supp or RAP contract has occurred, the PBRA contract will be executed by the owner and the local HUD multifamily office.

3.8 Processing Requirements for Retroactive Conversions

Retroactive conversions are conversions of TPVs that have already been issued to project residents as a result of a Rent Supp or RAP contract expiration or the termination of a Rent Supp or RAP contract due to prepayment of a mortgage. Retroactive conversions will be limited to PBV Conversions only. The contract expiration or termination must have occurred on or after October 1, 2006. These TPVs may include EVs provided to eligible residents at the Rent Supp or

¹⁶⁸ See Section 3.7.1.E. for more information on environmental review.

RAP-assisted project as the result of a mortgage prepayment, as detailed in Section 3.4(C). In such cases, EVs provided to all project residents as part of the mortgage prepayment may be converted to PBV assistance as part of the RAD proposal, provided that households that received these EVs are still residing at the project and are eligible for PBV assistance. To be eligible for the PBV program, project residents with EV assistance must be very low income (or low-income if the PHA allows admission of low-income tenants in accordance with their administrative plan) as described in 24 CFR § 982.201, and meet all program eligibility requirements of the PBV program.

For retroactive conversions, the owner will submit a conversion request directly to the PHA that administers the TPVs that were issued in response to the Rent Supp or RAP contract termination, with a complete copy to HUD Headquarters through the RAD Resource Desk at www.radresource.net. Only the TPVs originally provided to eligible residents at the time of contract termination, expiration, or prepayment are eligible for conversion to PBV assistance, and only the units occupied by households that received TPVs and are still residing at the project are eligible to have their assistance converted to PBV assistance.

As described in Section 3.3 A.1 General Program Description-Prospective Conversions, an owner may not submit a request for a prospective conversion if the Rent Supp or RAP contract is anticipated to expire or terminate fewer than 60 days following the date of application for the RAD conversion. If the Rent Supp or RAP contract is expected to expire or terminate within 60 days, the owner must pursue a retroactive conversion unless a short-term extension is approved. In these instances, eligible residents will receive TPVs in accordance with current practice described in Notice PIH 2001-41 or any subsequent guidance issued by the Office of Public and Indian Housing governing Multifamily Housing Conversion Actions. After the TPVs are issued to eligible residents, the owner may apply for a retroactive conversion of assistance.

Residents that were previously issued TPVs will be considered continuing participants and no re-certification must be done at the time of conversion, provided that the PHA has completed an income re-certification within the past 12 months from the date of conversion. However, if the assistance was provided as EVs due to a preservation-eligible mortgage prepayment, the PHA will perform income verification to determine whether the families that received EV assistance meet the low-income requirements for the PBV program.

The owner is advised that the final number of units where assistance is converted is determined after the receipt of resident consent and/ or non-consent, resident move out, or where voucher holders have decided not to relinquish their vouchers. Any household that has consented must relinquish its voucher at the time of conversion. However, residents retain the right to move from the project with voucher assistance or remain with EV assistance, up until the time the PBV HAP Contract is executed. If a household with a TPV moves from the project prior to the execution of the PBV HAP Contract, the unit that was occupied by that household will not be included in the PBV HAP Contract. Only income-eligible households that consent to the conversion and who

reside in the project at the time of PBV HAP Contract execution will receive assistance PBV assistance.

3.8.1 Submission of Requests for Retroactive Conversions

A Rent Supp or RAP project owner must submit their request to the PHA administering the TPVs to convert such assistance to PBV assistance, and submit a complete copy to HUD Headquarters through the RAD Resource Desk at www.radresource.net. Owners are strongly encouraged to contact the PHA early in the process to determine if the PHA administering the TPVs is interested in approving the PBV RAD request. The owner may request conversion of TPVs that were issued to residents of the project following a contract termination that occurred on or after October 1, 2006, or expires within 60 days of an owner's RAD conversion request, but did not receive an extension. The owner's request must include the following information:

A. Statement Requesting Conversion of TPV Assistance to PBV Assistance. This narrative statement must:

1. Identify the households for which a conversion of TPVs to PBV assistance is requested. The owner must list the specific households, by name and unit number, that received or will have received TPVs because of a contract termination due to prepayment or contract expiration that occurred on or after October 30, 2006 and who still reside at the project with HCV assistance. The PHA will verify the owner's list against the PHA's records. Additionally, the owner must supply supporting documentation that these households have consented to conversion of the TPV assistance to PBV assistance, as described below.
2. A statement verifying that the date of the contract termination/expiration was no earlier than October 1, 2006.

B. Documentation of Resident Consent. The owner is required to notify affected households of its plans to request conversion of TPV assistance to PBV assistance.¹⁶⁹ Additionally, the activities below must be documented and submitted with the owner's request:

1. The notification letter must be delivered to all project residents and legitimate resident organizations, including each eligible unit occupied by an eligible household; it must also be posted in the project office, the PHA office, and at least three prominent locations on the project site.

¹⁶⁹ Sample Resident Notification language can be found on the RAD website.

Section III: Rent Supplement and Rental Assistance Payment Projects

2. The notification letter must include a list of the potentially-affected units and must indicate that consent by each affected household must be obtained prior to any such conversion. The notification letter must also indicate that the administering PHA will schedule and hold resident briefings; the time and date of such briefings must be stated in the letter.
3. The administering PHA must conduct a briefing for affected residents and legitimate resident organizations, during which the PHA must explain and provide written documentation that completely and accurately describes the different rights under the affected programs, TPVs and PBV assistance, and the impact each type of assistance may have on the tenant portion of the rent and resident mobility. Households must be made aware that they may remain in the unit with the voucher assistance, and, if a household does not consent to the conversion of their voucher assistance to PBV assistance, they must not be made to move out of the unit. The owner cannot employ any tactics to pressure the household into relinquishing its HCV and may not terminate a household's lease on such a basis.
4. If relocation of households will be required due to rehabilitation, the notification letter and briefing must state the owner's plan for relocation, including the expected length of the relocation, and must specify that all relocation costs will be the responsibility of the owner. All relocating households will have a right of first return.
5. During the briefing, each affected household must be provided with a form to complete and return to the PHA to acknowledge their consent or non-consent; each household must be provided at least 30 days from the date of the PHA briefing to make the decision. The form must be signed by the head of household and returned to the PHA, with a copy to the owner.
6. TPV assistance will be converted to PBV assistance only for units where the household has signed a document consenting to the conversion of assistance. Households that do not provide consent will continue to receive HCV assistance and shall not be forced to relocate. Non-consent to the conversion is not grounds for lease termination by the owner.

C. Statement of Compliance. A statement of compliance with business practices for owner eligibility detailed in paragraph Section 3.4(A) of this Notice must be submitted, along with evidence that the project meets HQS. Note: if TPVs have not been issued, HQS inspections will be included in the TPV issuance process.

D. Environmental Review. See Section 3.7.1.E. for the Environmental Review submission requirements applicable to PBV.

3.8.2 Review and Consent of PHA and Execution of PBV HAP Contract

The PHA will review the request of the owner and decide whether it is interested in participating in RAD and a retroactive conversion. The PHA must inform HUD within 15 days of the date of the owner's request to the PHA if the agency does not consent to the conversion. The consent or non-consent must be submitted to the RAD Resource Desk at www.radresource.net. If the PHA determines it will participate, the PHA will review the request of the owner to verify whether or not the owner has complied with all required resident notification and consent procedures, and to ensure that the PBV contract will only cover those units where residents have consented to the conversion.

Upon receipt of the PHA's consent, HUD will review the owner's submission as required under section 3.7.1 to ensure that it meets all Notice requirements and will notify the owner and the PHA within 15 calendar days whether the conversion request is approved. If the PHA does not consent, the conversion of assistance will not be authorized, and a rejection will be sent. Per the RAD Statute, the PHA that is actively administering the TPVs for the project must consent to the conversion.

Following HUD approval, the PHA and owner will enter into a PBV HAP Contract if the units meet the PBV regulatory requirements for existing housing. The term of the HAP Contract is 15 years; by choosing to participate in the RAD program, the PHA agrees to enter into 15-year HAP Contract. The owner is advised that the PBV HAP Contract will only cover eligible units as described in Section 3.4. A PBV HAP Contract will not be entered into unless the units substantially meet HQS.

Subsequent to conversion, the PHA administering the contract shall enter data into the Form HUD-50058, in accordance with Notice PIH 2011-65 and Appendix IV.

3.9 Additional Information

For additional information on this Section of the Notice, please check www.hud.gov/rad or email questions to RAD2@hud.gov.

SECTION IV: SECTION 202 PROJECT RENTAL ASSISTANCE CONTRACT (PRAC) PROJECTS

4.1 Purpose

Section 237 of the General Provisions – Department of Housing and Urban Development in the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) authorized RAD conversion of

Project Rental Assistance Contracts (PRACs) under Section 202(c)(2) of the Housing Act of 1959. This Section provides RAD program instructions to owners of these Section 202 Housing for the Elderly Capital Advance properties with PRACs. These properties are referred to as “202 PRAC Projects” unless otherwise noted.

While the Second Component of RAD does not have the broad statutory waiver authority that the First Component does, the Second Component does provide that participation is subject to “requirements established by the Secretary.” HUD has used this authority and standard regulatory waiver authority to develop alternative requirements, and to waive purely regulatory provisions where necessary in order to fulfill the purposes of the Demonstration.

4.2 General Program Description

Under the Second Component of RAD, a 202 PRAC Project Owner may convert an eligible PRAC to one of two forms of long-term Section 8 Housing Assistance Payment (HAP) Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). The selection is the Project Owner’s choice. At the time of conversion, Converting Projects will be released from any outstanding obligations under the Capital Advance Agreement, the Capital Advance Mortgage Note, the Capital Advance Program Regulatory Agreement, the Capital Advance Program Use Agreement, and related or collateral documents associated with the PRAC and the foregoing documents and will enter into an Elderly Housing Use Agreement, which will be recorded as a restrictive covenant in first position on the Covered Project. The Elderly Housing Use Agreement, described in more detail in Section 4.4.J, will restate any PRAC obligations that survive the conversion. The Elderly Housing Use Agreement will have a term of 20 years plus the balance of the term left on the Capital Advance Program Use Agreement at the time of conversion. Any PRAC documents still in effect at the time of conversion will be terminated immediately prior to execution of a new PBV or PBRA HAP Contract and the Elderly Housing Use Agreement.

A. PBV Conversions. If the Project Owner requests to enter into a Section 8 PBV HAP Contract, HUD will make a reasonable effort to find an eligible PHA with a Housing Choice Voucher Program and with operational jurisdiction, that is willing to enter into and administer the PBV HAP Contract with the Project Owner. After HUD determines that the requirements of this Notice have been satisfied, the PHA that has agreed to administer the PBV HAP Contract will have the resulting vouchers and budget authority added to its Annual Contributions Contract (ACC). Contract rents will be established and adjusted according to the terms described in this Notice. Project Owner and the PHA will execute the HAP Contract effective at the expiration of the PRAC. The initial contract must be for a term of 20 years (i.e., the maximum allowable initial term under section 8(o)(13)(F) of the Act). Mandatory contract extensions of the initial term are governed by section 4.5.B. of this Notice. Unless specifically identified in this Notice, all regulatory and statutory requirements

of the PBV program in 24 CFR part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related notices and handbooks, shall apply.

- B. PBRA Conversions.** If a Project Owner requests to enter into a Section 8 PBRA HAP Contract (subject to annual appropriations), the HAP Contract will be executed by HUD's Office of Housing. After HUD determines that the requirements of this Notice have been satisfied, the Project Owner and HUD will execute the HAP Contract to finalize the conversion. Contract rents will be established and adjusted according to the terms described in this Notice. The initial contract must be for a period of 20 years and will be subject to annual appropriations. At expiration, the initial contract shall be eligible for renewal under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA). Mandatory contract renewals are governed by section 4.6.C. of this Notice. The Covered Project shall be governed by 24 CFR part 880, as modified and as published in Appendix I of this Notice, the site and neighborhood standards in Appendix III of this Notice, as well as by applicable standing and subsequent Office of Housing guidance, including notices and handbooks.

4.3 Eligibility

Owners of 202 PRAC Projects that meet all eligibility requirements described below may request to convert assistance under the Second Component of RAD. HUD may, at its discretion and subject to the availability of staffing resources, prioritize processing and approval of conversions for projects that have immediate capital needs; funding from a 3rd party source; and/or are PBRA conversions.

4.3.1 Eligible Owners

- A. Compliance with HUD Requirements.** The Project Owner must be in good standing with HUD. If the current Project Owner is anticipated to remain in the ownership structure, the Project Owner must not have a history of non-compliance with program and contractual requirements, including maintaining units in a decent, safe, and sanitary condition. If a proposed conversion is in the context of an acquisition simultaneous with the conversion, the purchaser must provide evidence of successful experience owning and operating HUD or other multifamily housing properties. Any change in Ownership will require Form HUD-2530 Previous Participation approval as described in Attachment 4A.
- B. Fair Housing and Civil Rights Compliance.** A Project Owner must certify it will comply with all fair housing and civil rights requirements including but not limited to those at 24 CFR § 5.105(a). Any outstanding fair housing or civil rights matters arising prior to conversion must be resolved to HUD's satisfaction prior to conversion, provided that all

applicable legal processes have been satisfied. If HUD determines a conversion would fail to meet this standard, HUD will notify the Project Owner of its determination and any necessary actions. Fair housing or civil rights matters that arise after conversion will be addressed in accordance with applicable authorities.

Additionally, a Project Owner may be required to demonstrate that its proposed activities under RAD are consistent with any applicable VCA, conciliation agreement, consent order or consent decree, final judicial ruling, or administrative ruling or decision. HUD may terminate an approval if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or VCA. Furthermore, if a project is subject to a VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision, it must ensure that the ownership agreement or other appropriate document makes the new Project Owner subject to the remedial provisions contained in such documents. It is the Project Owner's obligation to disclose such documents, etc., to the prospective Project Owner. The extent of the Project Owner's responsibilities, including whether the responsibilities are appropriately limited to the development, maintenance, or operation of the particular RAD project, must be appropriately documented. The Project Owner will follow any requirements for the modification of such VCA, conciliation agreement, consent order or consent decree, or final judicial ruling or administrative ruling or decision. If HUD is a party to such document, the RAD project will not close without HUD's express approval of the transfer of obligations to the new Project Owner.

4.3.2 **Eligible Properties and Units**

- A. Eligible Properties and Units.** A property is eligible for conversion if the property is currently receiving assistance through a PRAC that is in its renewal term. A property assisted by a PRAC in its initial term is also eligible for conversion but, depending on the age of the funds HUD has obligated to the contract, may have to time the conversion based on when funding can be transferred to support a conversion to a Section 8 contract. For a property assisted by a PRAC in its initial term, the Project Owner should confirm with HUD the necessary timing of its conversion. Properties that were previously assisted under a PRAC which has been terminated due to noncompliance are ineligible to participate under this Notice. A Project Owner may include under the subsequent Section 8 HAP Contract no more than the number of units covered under the PRAC.
- B. Physical Condition.** For PBRA conversions, unless project plans address (or obviate, through transfer of assistance) all physical deficiencies identified in the most recent REAC Inspection report, the project must have a REAC score of 60 or above.

For PBV conversions, the Converting Project must qualify as “existing housing” in order to be eligible for conversion. This means that the PHA must ensure that the Converting Project’s units substantially comply with HQS, as defined in the PHA’s Section 8 administrative plan, prior to submission of the Conversion Plan (see Section 4.7.4 for more information on the Conversion Plan). Prior to entering into a PBV HAP Contract, the PHA must inspect the Converting Project proposed for conversion to ensure that the units fully comply with HQS, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹⁷⁰

4.4 General Requirements

- A. Applicability of PRAC Requirements.** Until conversion and the effective date of a HAP Contract, properties continue to be subject to the requirements of the PRAC. Owners of 202 PRAC Projects are required to submit a project budget and any accompanying request for a Budget Based Rent Increase annually for renewal of the PRAC. HUD requires that Project Owners analyze project operating and capital needs as well as the efficacy of resident services at each renewal and request adjustments to the Operating Expense Amount accordingly.
- B. Capital Needs Assessment (CNA).** Each Converting Project is required to have a CNA and to demonstrate that both short-term and long-term capital needs can be addressed through the replacement reserve account (see paragraph C) and/or through financing (see paragraph D) as appropriate. The CNA contains two major components – the narrative (the description of each component and its age and condition) and the financial model (the 20-year schedule and associated determination of the Initial Deposit to Replacement Reserve, or IDRR, and the Annual Deposit to Replacement Reserve, or ADRR). The CNA must be completed or updated within 12 months of the submission of the Conversion Plan, except with HUD approval. Further, the CNA must be performed by a qualified, independent third-party professional as defined in Section 5.2.B.2 of the MAP Guide. The CNA must be prepared in accordance with the instructions at Appendix 5G of the MAP Guide although the use of a specific format is not required unless HUD requires a specific format for 202 PRAC budget-based rent increase requests. The CNA submitted for RAD must be consistent with any CNA submitted to a Multifamily Regional Center as part of the demonstration of project expenses for the most recent annual rent adjustment under the 202 PRAC, although it may include additional discretionary items. (As such, the CNA submitted for the purposes of demonstrating project expenses must meet the aforementioned standards.) The CNA will identify certain improvements for physical accessibility for persons with disabilities as well as design considerations that promote housing stability for an aging population. In further developing the scope of work, refer to Paragraphs E, F, and G regarding Accessibility

¹⁷⁰ See Notice PIH-2017-20

Requirements, Design Considerations for Elderly Housing, and Healthy Housing and Energy Efficiency, respectively.

C. Replacement Reserve. The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected needs as identified in the CNA 20-year replacement schedule. The Project Owner must commit to repairing and replacing components generally in accordance with the schedule set forth in the CNA. HUD encourages Project Owners to evaluate the 20-year replacement needs of the property at the time of their annual PRAC renewal, prior to submitting a Conversion Plan.

- For PBRA, 24 CFR § 880.602 applies, as amended (see Appendix I).
- For PBV, replacement reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the mortgagee or, where there is no financing, by the Project Owner and may be drawn from the reserve account and used subject to HUD guidelines.

D. Financing and Repairs. If the CNA identifies repairs as critical, immediate or required within the first two years following conversion and the total of such repairs exceeds an average of \$5,000 per unit, if HUD determines that immediate repairs are necessary based on REAC scores of 59 or less or referrals to the Department Enforcement Center (DEC) related to physical conditions, or if there is outstanding noncompliance with accessibility requirements identified by the CNA, the Project Owner must demonstrate as a condition of closing that it has secured financing sources to address such needs and must agree to address such needs within a prescribed period following the conversion as part of the Work. Following conversion and the completion of any immediate repairs, HUD requires all Projects to either utilize available capital replacement reserves to address ongoing capital repair and replacement needs generally consistent with the CNA, or to periodically recapitalize as lifecycle improvements become necessary.

E. Accessibility Requirements. Federal accessibility requirements apply to all conversions. The laws that most typically apply to HUD-assisted housing undergoing rehabilitation include Section 504 of the Rehabilitation Act of 1973 (Section 504), the Fair Housing Act, and, in some cases, the Americans with Disabilities Act (ADA). Although the requirements of each of these laws are somewhat different, Project Owners must comply with each law that applies. Section 504 and the ADA apply to new construction and additions as defined in 24 CFR § 8.22, substantial alterations and other alterations as defined in 24 CFR § 8.23 and to existing, unaltered facilities (24 CFR § 8.24), as well as any combination thereof. See also 28 CFR § 35.151(b) and 28 CFR § 36.402. Section 504 and the ADA also require structural modifications as reasonable accommodations. The Fair Housing Act applies to the design

and construction of multifamily dwellings built for first occupancy after March 13, 1991. It also requires that Project Owners allow for structural alterations in housing generally as reasonable modifications when necessary for an individual with a disability to use and enjoy a dwelling, and under these authorities, Project Owners must ensure that reasonable modifications remain available to the resident after construction or alteration (e.g., accommodations are preserved through the course of the construction work or, if the resident is moved to a different unit as a result of construction, are installed in the new unit).

When a Project's rehabilitation meets the definition of a "substantial alteration" under 24 CFR § 8.23, the Project Owner must comply with all applicable accessibility requirements for new construction at 24 CFR § 8.22 under HUD's Section 504 regulations as well as the ADA. For some Projects, "other alterations" are made over time. If other alterations, considered together, amount to an alteration of an entire dwelling unit, the entire dwelling unit shall be made accessible, until five percent of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments (see 24 CFR § 8.23).

Project Owners are encouraged to use universal design principles, visitability principles, and active design guidelines in planning any construction. However, adherence to any of these principles or guidelines does not replace compliance with the accessibility requirements of Section 504, the ADA, and the Fair Housing Act.

F. Design Considerations for Elderly Housing. Quality housing is a platform for health and wellness. Health can be promoted through both supportive services (as described below) and through a physical living environment suitable for the needs of the anticipated residents. In the context of housing for the elderly, enhanced livability of the physical environment promotes housing stability and may prevent premature institutionalization in assisted living or nursing homes. A well-situated, well-designed physical space at the unit and building level can help seniors maintain independence and age in place longer. In addition to any required accessibility features under Section 504 of the Rehabilitation Act of 1973, the design and construction requirements of the Fair Housing Act, or Title II of the Americans with Disabilities Act, the Department strongly encourages Project Owners to incorporate design standards that address fall prevention, visitability, universal design, and electronic communication mechanisms when developing or rehabilitating housing and community facilities. Project Owners are expected to consider access to transportation and walkability to the surrounding community and neighborhood services when selecting sites for a transfer of assistance. These design elements and siting decisions all serve to enhance the livability of housing for older adults and promote housing stability.

G. Healthy Housing and Energy Efficiency. If systems and appliances are being replaced as part of the Work identified in the approved Conversion Plan, the Project Owner shall utilize the most energy- and water-efficient options that are financially feasible and that are found to

be cost-effective. The use of Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances, if any such designation is available for the applicable system or appliance, is presumed to be the minimum threshold for meeting such requirement.¹⁷¹ Project Owners are strongly encouraged, for all Converting Projects, to scope rehabilitation and ongoing replacements that utilize the components that the CNA indicates will improve indoor air quality, prepare the property for known or anticipated natural hazards, generate utility cost savings for residents or common areas, and/or reduce overall environmental impact, where those components are determined to be cost-effective and consistent with healthy housing and energy efficiency principles and best practices.

- H. Existing Residual Receipts Balance.** Project Owners may apply any balance in the Converting Project's residual receipts as a source in the development budget to support conversion. Eligible conversion-related uses for these funds include pre-development, development, or rehabilitation costs of the Covered Project, or establishment of the replacement reserve or operating reserve.
- I. Operating Reserve.** The Project Owner shall establish and maintain a Project operating reserve account in an interest-bearing account to be used for project purposes, consistent with this paragraph. Withdrawals from the operating reserve do not require HUD approval. However, surplus cash distributions are prohibited during any period when the balance in the operating reserve is less than \$250 per unit. The Project operating reserve is separate and apart from the replacement reserve. The operating reserve must be used for the benefit of the project, including to provide working capital, to cover unexpected operating or capital expenses, to bridge periods of financial instability, to cover budget deficiencies arising from time to time as a result of delinquent receivables or other contingencies, or for other similar purposes determined by the Project Owner as beneficial to preserve the financial or physical stability of the Project. HUD will monitor the balance in the operating reserve when reviewing the Project Owner's annual financial statements. An operating reserve required by a third-party source of financing (e.g., a lender or a LIHTC-motivated equity investor) that meets or exceeds \$250 per unit satisfies the requirements of this Section and the Project Owner is not required to maintain a distinct operating reserve for this purpose.
- J. Ownership and Control.** Through the term of the Converting Project's Capital Advance Use Agreement, HUD will require ownership or control of the Covered Project by a non-profit entity. A non-profit entity is an organization that has tax-exempt status under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986 or that is a non-profit consumer cooperative and includes a non-profit entity that is affiliated with a public agency. Subject to HUD review, non-profit entity ownership or control requirements may be satisfied

¹⁷¹ For Energy Star®, see <http://www.energystar.gov/>. For WaterSense®, see <http://www.epa.gov/watersense/>. For FEMP, see <http://www1.eere.energy.gov/femp/>.

if a non-profit entity (or entities), directly or through an entity wholly owned by the non-profit entity (or entities) meets one or more of the following: (1) holds a fee simple interest in the real property of the Covered Project; (2) is the lessor under a ground lease with the Project Owner; (3) has the direct or indirect legal authority (via contract, partnership share, agreement of an equity partnership, voting rights, or otherwise) to direct the financial and legal interests of the Project Owner with respect to the RAD units; (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD. Note however, that prior to conversion, the Converting Project must continue to meet the ownership requirements set forth in the Housing Act of 1959, as amended.

K. Elderly Housing Use Agreement. A Covered Project shall have an Elderly Housing Use Agreement. The Elderly Housing Use Agreement will:

- Restrict the units covered under the HAP Contract, but not govern any other units at the Covered Project;
- Be recorded in a superior position to all other liens on the property that HUD determines could compromise the applicability or enforceability of the Elderly Housing Use Agreement. The Elderly Housing Use Agreement shall be recorded prior to any mortgage or security instrument, including an FHA-insured loan or a Risk-Share loan;
- Have a term equal to the remaining term of the Capital Advance Use Agreement plus 20 years but not to exceed 60 years from the commencement of the Capital Advance Use Agreement;
- Remain in effect even in the case of abatement or termination of the HAP Contract, although the Secretary may approve a modification or termination of the Elderly Housing Use Agreement to facilitate a transfer of assistance or if HUD determines it is necessary in order to address a demonstrated financial burden caused by insufficient Federal appropriations;
- Provide that, if the HAP Contract is terminated due to breach or non-compliance by the Project Owner, for all units previously covered under the HAP Contract, new tenants must meet the definition of “elderly family” in 24 CFR 5.403; and
 1. Through the period equal to the remaining term of the Capital Advance Use Agreement, must have incomes at or below fifty percent (50%) of the area median income (AMI) at the time of admission and rents may not exceed thirty percent (30%) of fifty percent (50%) of AMI for an appropriate-size unit for the remainder of the term of the Elderly Housing Use Agreement; and

2. Thereafter and through the remainder of the Elderly Housing Use Agreement, must have incomes at or below eighty percent (80%) of the area median income (AMI) at the time of admission and rents may not exceed thirty percent (30%) of eighty percent (80%) of AMI for an appropriate-size unit for the remainder of the term of the Elderly Housing Use Agreement;
- Require compliance with all applicable fair housing and civil rights requirements, including the obligation to affirmatively further fair housing; and
 - Prescribe potential remedies in the event of default, which remedies may include, without limitation, civil money penalties, injunctive relief, specific performance, the right to take possession subject to non-disturbance of subordinate lienholders, the right to appointment of a receiver, the right to require a transfer of the Covered Project with consent of mortgage lienholders, the right to transfer the HAP Contract, and any other remedy available at law or in equity.

L. Restriction on Net Proceeds from Refinance or Sale. The proceeds from any refinance or sale of the Covered Project, net of funds described below, that occurs during the period equal to the remaining term of the original Capital Advance Use Agreement will be restricted to benefit the Covered Project or residents at the Covered Project (e.g., capital improvements, service delivery, or any uses set forth in a HUD-approved sources and uses statement other than acquisition) or to other Affordable Housing Purposes. For purposes of this paragraph, proceeds of a refinancing include all commercial or subsidized loan proceeds, equity investments and grants received by or invested in the Project Owner after deduction of funds used for repayment of commercial first mortgage debt secured by the Covered Project. For purposes of this paragraph, proceeds of a sale include all cash or other direct or indirect consideration paid to or on behalf of the seller of a Covered Project after deduction of funds used for repayment of commercial first mortgage debt secured by the Covered Project. In addition, in the context of an arms-length sale to an unrelated third party, net proceeds of a sale shall be determined after deduction of the following:

- The seller's payment of real estate or transfer taxes and fees, recording fees, real estate brokerage fees, and reasonable third-party transaction costs associated with the sale;
- Any unrecovered (i.e., not previously drawn) seller equity in the Covered Project. Seller equity shall be calculated as a pro-rata portion of the original Capital Advance Note corresponding to the term of the Capital Advance Use Agreement that has elapsed;¹⁷² and

¹⁷² For example, if a property with an original Capital Advance Note of \$10 million is sold as part of the proposed conversion 20 years into the original 40 year Capital Advance Use Agreement term, the Project Owner would have accrued \$5 million in seller equity (20 years ÷ 40 year × \$10 million) that would be unrestricted at sale. If the property were subsequently re-sold 10 years later the maximum seller equity potentially available at that time would be \$7.5 million. However, if \$3 million in seller equity had been drawn at the original conversion, the maximum unrecovered seller equity available at the subsequent sale would be \$4.5 million.

- Paydown of any Identity of Interest (IOI) loans or advances that were used to address the needs of the project or residents of the project.

M. Environmental Reviews. Under Federal environmental review requirements, proposed RAD Projects are subject to environmental review. Environmental documents are required to be submitted as part of the applicant's overall Conversion Plan. A Conversion Plan cannot be approved by HUD if the Project plan does not meet environmental review requirements. Please see Attachment 4A for a discussion of the environmental review requirements applicable to PRAC conversions, including conversion transactions that will not result in the alteration of the physical condition of the Project.

N. Relocation and Right to Return. Any person who is legally on the lease or otherwise in lawful occupancy at the Converting Project at or after the time of submission of the Conversion Plan has a right to remain in or, in the event that rehabilitation will result in the relocation of residents, a right to return to an assisted unit at the Covered Project. Any relocation as a direct result of acquisition, demolition, or rehabilitation is subject to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) which are found at 49 CFR part 24. Proper notices including the General Information Notice (GIN), when applicable, must be sent in accordance with URA regulations and other applicable relocation regulations. Additionally, relocation and one-for-one replacement requirements under section 104(d) of the Housing and Community Development Act of 1974 may apply when CDBG or HOME funds are used in connection with a RAD conversion. Section 104(d) requirements are found at 24 CFR part 42, subpart C, and program-specific relocation requirements for CDBG and HOME projects are found at 24 CFR 570.606 and 24 CFR 92.353, respectively. The applicability of URA or section 104(d) requirements to a RAD conversion is fact-specific and must be determined in accordance with the applicable URA and section 104(d) regulations. Permanent involuntary displacement of residents may not occur as a result of a Project's conversion of assistance. If proposed plans for a Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, the Project Owner must alter the Project plans in order to house the resident in the Covered Project. If a resident agrees to the plans which would preclude the resident's return, the Project Owner must ensure that the resident's decision is fully informed, voluntary, and well documented. To be fully informed, at a minimum the resident must be notified in writing of a) his or her right to return; b) his or her right to object to plans which would preclude the resident from returning; c) the Project Owner's obligation to accommodate the resident's right to return; and d) a description of the short and long-term implications of both the right to return arrangements (e.g., temporary relocation) and the resident's options if the resident agrees to such plans. The resident must be provided counseling regarding the resident's rights and options. To be voluntary, a resident must be

informed of their right to return, potential for relocation, and temporary and permanent housing options 30 days before making a decision. In addition, under the URA regulation, residents must be provided notice of relocation at least 90 days before the relocation. The Project Owner cannot employ any tactics to pressure the resident into relinquishing his or her right to return or accepting permanent relocation assistance and payments. To be well documented, evidence of a resident's decision must be retained by the Project Owner. At a minimum such evidence must include copies of notices informing the resident of their options, records of any counseling or assistance provided, and the resident's informed, written consent, including an acknowledgement that acceptance of such assistance terminates the resident's right to return to the Covered Project. If the resident agrees to the Project Owner's plans, the permanent relocation is considered voluntary, but must include, at a minimum, any relocation assistance and payments required under the URA and Section 104(d), as applicable. The Project Owner may not propose or request that residents waive their rights or entitlements to relocation assistance under the URA or Section 104(d).

- O. Site Selection and Neighborhood Standards.** Where a Project Owner is planning to convert assistance under RAD, the Project Owner must comply with all applicable site selection requirements, including those of 24 CFR § 983.57 for PBV (except as waived in Section 4.5.E) and Appendix III of this Notice for PBRA, and of the Fair Housing Act and Title VI of the Civil Rights Act of 1964, including implementing regulations at 24 CFR § 1.4(b)(3), and of Section 504 of the Rehabilitation Act of 1973, including implementing regulations at 24 CFR § 8.4(b)(5).
- P. Change in Unit Configuration.** Project Owners may change the unit configuration in conjunction with conversion (e.g., converting efficiency units to one-bedroom units). However, the Project Owner must ensure that the change in bedroom distribution will not result in the involuntary permanent displacement of any resident (see Section 4.4.M on Relocation and Right to Return), will not result in a reduction in accessible units below the minimum percentage, and will not, except with HUD approval, result in a reduction in the number of assisted units by the greater of 5% or five units. The Project Owner must also ensure that a change in unit configuration does not result in discrimination based on race, color, national origin, religion, sex, disability, or familial status.
- Q. Transfer of Assistance (TOA).** In order to facilitate the financing, development, and preservation of decent, safe, and sanitary affordable housing, there are three scenarios under which assistance converted pursuant to RAD may be transferred from the existing Project (for the purposes of this paragraph, transfer of assistance does not include transfers to an adjacent site): (1) the Project Owner requests assistance to be transferred as part of the conversion from a Converting Project to another Project; (2) post-conversion, the Project Owner requests a partial or full transfer of assistance to another Project; or (3) as a result of a

default of the HAP Contract, HUD terminates the HAP Contract but seeks to preserve the assistance at another Project with another Project Owner.

HUD will ascertain that assistance does not transfer to neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under section 8(bb) of the Act.¹⁷³ Further, HUD will consider whether conversion on-site is economically non-viable; whether the Converting Project is physically obsolete or severely distressed; how the transfer would affect the Converting Project's residents; and all applicable fair housing and civil rights requirements.¹⁷⁴ Project Owners are strongly encouraged to request HUD approval of the proposed site prior to submission of the Conversion Plan.

For PBV transfers of assistance to a new site, the PRAC contract will remain in effect at the original site and will not be terminated until the units at the new site are ready for occupancy and the HAP Contract is executed. For PBRA transfers of assistance, the HAP Contract can be executed at the closing of the construction financing and the Project Owner may use the Section 8 Pass-Through to provide for the continued flow of subsidy during the construction period.¹⁷⁵

After initial conversion, in general, a Project Owner may only request a transfer of assistance after 10 years from the effective date of the initial HAP Contract. A Project Owner may submit a transfer request sooner if it is needed as a result of eminent domain proceedings, natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD provided approval of a future transfer prior to conversion). HUD may consider, and approve with such conditions as HUD determines appropriate, a partial or complete transfer of assistance to a new location if the new location complies with applicable site selection standards. If applicable, any lender to and/or investor in the Covered Project must also approve the transfer of the assistance. Substantially all units covered by the initial HAP Contract must remain or be replaced as a result of the transfer. Residents of the original

¹⁷³ The analysis can be found in Section VIII B.1 of Notice H-2015-03, "Transferring Budget Authority of Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act." A copy of the criteria is available at www.hud.gov/rad. At a minimum, projects that are located in neighborhoods that meet the 8(bb) criteria satisfy the requirement under this Notice that transfers not occur to neighborhoods of concentrated poverty. HUD may modify these criteria as appropriate to fit the purposes of RAD and will post the applicable criteria at www.hud.gov/rad.

¹⁷⁴ For example, any transfers of assistance must comply with requirements detailed in this Notice on Site and Neighborhood Standards (see Section 4.4.O), Changes in Unit Configuration (see Section 4.4.P), and Accessibility Requirements (see Section 4.4.E). For PBV conversions, PHAs will be responsible for this determination.

¹⁷⁵ As fully described in Handbook 4350.1, under Section 8 Pass Through, Project Owners with residents under a project-based Section 8 HAP Contract whose unit was rendered uninhabitable may temporarily lease a unit in another building, which is habitable, under UPCS. The Project Owner can sign a temporary lease on behalf of the displaced Section 8 resident (i.e., a master lease) and begin to voucher for the contract rent for that temporary unit.

location at the time of the transfer request shall not experience a loss of rental assistance. PBV-assisted families living at the property upon termination of a PBV HAP Contract have a statutory right to receive a tenant-based voucher and to certain tenancy protections.¹⁷⁶ (A family may voluntarily decline the tenant-based voucher and accept a PBV unit at the new location but may not be required to do so.) Termination of a PBV contract is not cause for issuance of additional tenant-based voucher assistance from HUD. PHAs and owners contemplating RAD PBV transfers after conversion must take the PBV families' right to tenant-based voucher assistance into consideration and ensure that there will be sufficient resources available to the PHA to both effectuate the transfer and meet the PHA's obligation to provide tenant-based vouchers to those families that wish to receive them. Subject to the availability of appropriations, PBRA-assisted families living at the property upon termination of a PBRA HAP Contract that meet the eligibility requirements for voucher assistance may receive tenant-based tenant protection vouchers (TPVs) in the event the termination of the original PBRA HAP Contract qualifies for issuance of such vouchers.

In the event that a transfer of assistance is approved, the underlying Elderly Housing Use Agreement will be transferred to the new Project and HUD will release the Elderly Housing Use Agreement on the original site corresponding to the units transferred.

R. Davis-Bacon prevailing wages. Execution of a HAP Contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including, without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements. In such cases, Davis-Bacon applies to a PBRA conversion to the same extent it would apply if the conversion were a PBV conversion.

S. Supportive Services for the Elderly. A Service Coordinator and/or the availability of Supportive Services for the elderly plays a critical role supporting the physical and mental health and wellness of residents and the delivery of cost-effective long-term community-based housing for this population. HUD encourages Project Owners to evaluate the service

¹⁷⁶ See the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices including the "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21. Pursuant to applicable Housing Choice Voucher program requirements, upon PBV HAP Contract termination the family must be given the option to remain in their unit with HCV assistance if the unit remains rental housing, the rent is reasonable, and the unit meets housing quality standards.

provision at the time of their annual PRAC renewal, prior to submitting a Conversion Plan. Each project will be required to demonstrate that the needs of residents are adequately met either through a Service Coordinator (full-time or part-time) funded through the annual project budget or through another service coordination/service provision arrangement. Project Owners must describe how the proposed supportive services provided by the Project or otherwise available to residents will meet the identified needs of the anticipated residents as they age. Project Owners must further describe how the identified supportive services will be provided or otherwise made available on a consistent, long-term basis to support residents. These commitments will be incorporated into terms of the Elderly Housing Use Agreement and/or HAP Contract at closing.

T. Provision of Services. For properties that have submitted an Initial Submission of Interest to HUD (i.e., prior to conversion), HUD may approve service costs to be paid from Section 202 project rental assistance up to \$27 per unit per month if it is necessary to provide effective supportive services for the elderly. This adjustment to the PRAC contract shall be subject to the availability of funding in the Housing for the Elderly account.¹⁷⁷ Accordingly, conditioned on the project's successful conversion, HUD is waiving and providing an alternative requirement to 24 § CFR 891.225, which limits the eligible service costs that can be paid from project rental assistance to \$15 per unit per month. This rent adjustment would become effective immediately prior to the conversion (following Conversion Plan Approval and following release of all Closing documents from escrow to permit the Closing) and would be rescinded if the conversion does not occur. Following conversion, the Project Owner is required to maintain provision of services in accordance with this paragraph.

U. Lead Based Paint Hazards. For properties built before 1978 and in the infrequent case that a child under age 6 resides in one or more units:

- The Lead Disclosure Rule and the Lead Safe Housing Rule (specifically, 24 CFR part 35, subparts A, B, H, and R) apply to each such unit, any common areas servicing such units, and exterior painted surfaces associated with such units or common areas. (These covered areas must have a risk assessment conducted and any lead-based paint hazards identified controlled and cleared, with affected tenants getting disclosure and/or notification of these activities, as applicable; see also the MAP Guide section 9.5.A, Lead-Based Paint.)
- If occupancy rule exceptions are made to allow children under age 6 to reside (such as in accordance with the Living Equitably: Grandparents Aiding Children and Youth Act of 2003, P.L. 108-186), the general exemption of the property from the lead safety rules is not available and they apply to the entire property.

¹⁷⁷ PRAC renewals and rent adjustments are funded from the Housing for the Elderly account. Renewal of ongoing PRAC contracts including inflationary adjustments to core operating expenses will be prioritized over mid-cycle rent increases that enhance services and replacement reserves for converting properties.

V. Completion Certification. HUD may require a certification or evidence of completion of any requirements the Project Owner is required to complete following the conversion of assistance.

4.5 Special Provisions Affecting Conversions to PBVs

Certain PBV statutory provisions have been waived or altered consistent with the authority Congress has provided for Second Component conversions. In these cases, HUD also notes the corresponding regulatory provisions that are waived or altered. Additionally, HUD has waived certain regulatory provisions (that are not statutorily based) and established alternative requirements in order to prevent displacement of certain residents and otherwise serve the purposes of this Demonstration. All other regulatory and statutory requirements of the PBV program in 24 CFR part 983 and section 8(o)(13) of the Act and applicable standing and subsequent Office of Public and Indian Housing guidance, including related notices and handbooks shall apply, including resident choice, environmental review, and non-discrimination and equal opportunity requirements.

The modified or alternative requirements that pertain solely to 202 PRAC Projects converting assistance to PBV under the Demonstration are described below.

Please note that while in this Notice HUD prescribes requirements for converting 202 PRAC Projects to PBV, the conversion of project subsidy from its current PRAC account to a PBV contract will result in added complexity to the closing of the transaction (as compared to PRAC conversions to PBRA) and may cause unforeseen delays.

A. Initiation of Contract. The HAP may only be effective at the expiration of the PRAC.

Further in order to provide sufficient time for HUD to transfer funds across appropriated accounts and then to subsequently obligate new funding to a PHA's Housing Choice Voucher ACC, all closing conditions must be satisfied, and all transaction documents executed and held in escrow, 90 days before the PRAC expiration.¹⁷⁸

B. Length of Contract. Section 8(o)(13)(F) of the Act provides, in part, that the HAP Contract may have an initial term of up to 20 years. In addition, 24 CFR § 983.205(a) provides the PHA with discretion to set the contract term, for a minimum period of one year and a maximum period of twenty years. By choosing to participate in RAD, the PHA and the Project Owner agree to an initial HAP Contract term of 20 years. A PHA may enter into an extension of the initial HAP Contract term with the Project Owner at any time during the

¹⁷⁸ In addition to statutory limitations, HUD must structure the conversion in this manner in order to ensure that there are not delays between when the PHA has subsidy obligations under the HAP contract and when funds are obligated to the PHA's HCV program and to ensure that the funding provided is adequate.

initial term. The PBV HAP Contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.

- C. Mandatory Contract Extension.** Section 8(o)(13)(G) of the Act provides, in part, that the extension of any PBV HAP Contract is at the discretion of the PHA. The regulatory provisions governing PBV HAP Contract extensions are contained in 24 CFR § 983.205(b). By choosing to participate in RAD, the PHA agrees to offer, and the Project Owner agrees to accept, each extension of the initial HAP Contract term during the term of the Elderly Housing Use Agreement so that the contract could expire no earlier than the expiration date of the Elderly Housing Use Agreement.¹⁷⁹ As indicated in Section 4.5.A, the PBV HAP Contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding. The contract extension(s) shall be for the prescribed number and mix of units but may, upon request of the Project Owner and subject to HUD approval, be on one or more transfer of assistance sites in lieu of the project site subject to the expiring contract.
- D. PBV Percentage Limitation.** Per the RAD statute, Section 8(o)(13)(B) of the Act (and, by extension, 24 CFR § 983.6) does not apply and Covered Projects do not count against the percentage limitation applicable to the PBV program. As a result, a PHA that is administering RAD PBV assistance does not take the RAD PBV into consideration when calculating the percent limitation for any non-RAD PBV actions that are subject to the percent limitation. In other words, RAD PBV is excluded from both the numerator and the denominator when calculating the percent that may be project-based for non-RAD PBV.
- E. Cap on the Number of PBV Units in Each Project.** There is no cap on the number of units that may receive RAD PBV assistance in each project because under the HOTMA Implementation Notice, units exclusively serving elderly families are excepted from the project cap.
- F. Site Selection –Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2).** HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site.
- G. Owner Proposal Selection Procedures, 24 CFR § 983.51.** Projects are selected in accordance with program requirements detailed in this Notice. HUD is waiving 24 CFR § 983.51. For purposes of RAD, the date of PBV proposal selection shall be the date on which

¹⁷⁹ For example, if the Elderly Housing Use Agreement required a minimum affordability period of 39 years, the PHA and Project Owner would enter into an initial 20-year HAP contract and, because the Elderly Housing Use Agreement would still be in effect at the end of the 20 year term, must subsequently agree to extend the contract for at least 19 additional years.

the Project Owner submits a Conversion Plan. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice.

- H. Initial Contract Rent Setting.** Consistent with the requirements of section 8(o)(13)(H) of the 1937 Act and 24 CFR part 983, Subpart G, the initial contract rents will be the lower of: (a) the approved PRAC rents determined by HUD;¹⁸⁰ (b) the reasonable rent (as defined under 24 CFR § 983.303); (c) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in an MTW Plan), minus any utility allowance; or (d) the rent requested by the Project Owner.

With HUD approval, Project Owners and the PHA administering the contract may adjust subsidy amounts across multiple Projects proposed for conversion in order to modify initial contract rents that would be established in the HAP Contracts, as long as the subsidy adjustments do not exceed the aggregate subsidy for all of the Projects that the Project Owners has submitted for conversion under RAD and as long as the rents do not exceed applicable rent limits described in 24 CFR part 983 subpart G. This use, which HUD refers to as “bundled” rents, is permissible when multiple Project Owners in mutual agreement submit Conversion Plans for two or more Projects. There is no limit to the number of Projects that Project Owners may bundle. The conversion of the donor Project must close prior to or simultaneous with the conversion of the recipient Project. For example, assume that when Project Owners are considering bundling two identical Projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The Project Owners could bundle the two projects such that the initial contract rents for both projects will be \$550.

- I. Re-Determined Rents.** The Project Owner may request an increase in rent at the anniversary date of the HAP contract by written notice to the PHA in accordance with 24 CFR § 983.301(b)(2). Under the PBV regulations, a Project Owner may request an adjusted rent level below the PBV rent caps. As a condition of converting to PBV under RAD, the Project Owner agrees to never request a rent increase in excess of the OCAF-adjusted rent.¹⁸¹ This OCAF limitation is in addition to the existing PBV rent limitations in 24 CFR § 983.301(b) more generally. All other PBV provisions governing the redetermination of rent to the Project Owner apply.

¹⁸⁰ PRAC rents are the “Operating Expense Amounts” listed in Part I of the PRAC, Exhibit 1, as adjusted pursuant to rent “bundling” described in this subsection G. If PRAC rents have been temporarily increased in accordance with an approved plan with the Multifamily Regional Center, the PRAC rents used for the purposes of setting initial contract rents at conversion will be adjusted downward.

¹⁸¹ OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the portion of a contract rent that is not committed to debt service in order to calculate the contract rent for the project in the following fiscal year.

- J. Distributions.** As an alternative requirement, distribution of surplus cash is prohibited unless the Project operating reserve is funded at no less than \$250 per unit and the replacement reserve is funded at a level prescribed by any conversion agreements.
- K. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.¹⁸² Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy. For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning income eligibility and income targeting of tenants at initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the Project Owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions.
- L. Under-Occupied Units.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project.¹⁸³ When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the PHA. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived.¹⁸⁴

M. Occupancy Requirements. In accordance with the RAD statute, as amended by the

¹⁸² These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

¹⁸³ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹⁸⁴ As the later enacted statute, the RAD Statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC projects converting assistance under RAD must continue to serve elderly persons. Accordingly, in addition to income-eligibility and income targeting requirements in 24 CFR 982.201, new admissions must meet the definition of “elderly family” in 24 CFR 5.403. See Section 4.5.K regarding the treatment of current households.

4.6 Special Provisions Affecting Conversions to PBRA

For 202 PRAC Projects converting assistance to PBRA, 24 CFR part 880 (“Section 8 Housing Assistance Payments Program for New Construction”), as modified and as published in Appendix I of this Notice, the site and neighborhood standards in Appendix III of this Notice, and applicable standing and subsequent Office of Housing guidance¹⁸⁵ will apply, except for the provisions listed below. Where applicable, reference is made to the affected statute and/or regulation.

- A. Initiation of Contract.** The HAP effective date will typically be the first day of the month, that begins at least 30 days after all closing conditions have been satisfied and documents executed and recorded, as applicable. For example, for a closing that occurs on May 28th, a HAP effective date will typically be July 1. This timing will enable a smooth transition from vouchering for payments under the PRAC to vouchering under the new HAP.
- B. Length of Contract.** Pursuant to the RAD statute, Covered Projects shall have an initial HAP Contract term of 20 years. Accordingly, section 8(d)(2)(A) of the Act, which establishes a maximum term of 15 years for “an existing structure,” does not apply. Additionally, 24 CFR § 880.502, which imposes maximum contract terms for New Construction Projects consistent with statutory authority that was repealed in 1983, does not apply.
- C. Mandatory Contract Renewal.** Pursuant to the RAD Statute, after the initial term of the HAP Contract, the HAP Contract is eligible for renewal under section 524 of MAHRAA, subject to the terms and conditions applicable at the time of renewal and the availability of appropriations for each year of such renewal. By choosing to participate in RAD, the Project Owner agrees to accept each offer to renew the HAP contract during the term of the Elderly Housing Use Agreement so that any renewal of the HAP contract could expire no earlier than the expiration of the Elderly Housing Use Agreement, but not to exceed a term of 20 years for any given renewal.¹⁸⁶ The renewal contract(s) shall be for the prescribed number and mix

¹⁸⁵ Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1).

¹⁸⁶ For example, if the Elderly Housing Use Agreement required a minimum affordability period of 39 years, the HUD and Project Owner would enter into an initial 20 year HAP contract and, because the Elderly Housing Use

of units but may, upon request of the Project Owner and subject to HUD approval, be on one or more transfer of assistance sites in lieu of the project site associated with the expiring contract.

D. Initial Contract Rent Setting. The initial contract rents will be set at the approved PRAC rents.¹⁸⁷ Pursuant to authority provided in the RAD Statute, the limitation under Section 8(c)(1)(A) of the Act on setting initial contract rents no higher than 120% of FMR, less any utility allowances, shall not apply as necessary to ensure the ongoing provision and coordination of services or to avoid a reduction in project subsidy. The initial contract rents shall be capped at 120% of the applicable FMR, less any utility allowance, consistent with the requirements of Section 8(c)(1) of the Act, only in the event the Project Owner utilizes the authority in this Section to increase the initial contract rents above the approved PRAC rents. Furthermore, HUD is implementing an alternative requirement to 24 CFR §888.113(h) permitting the use of a Small Area FMR as the “applicable FMR” upon request of the Project Owner.

With HUD approval, Project Owners may adjust subsidy across multiple Projects proposed for conversion in order to modify the initial contract rents that would be established in the HAP Contract, as long as the Project Owners do not exceed the aggregate subsidy for all of the Projects the Project Owners have submitted for conversion under RAD and the rents do not exceed 120% of FMR (or SAFMR, as applicable). This use, which HUD refers to as “bundled” rents, is permissible when Project Owners in mutual agreement submit Conversion Plans for two or more Projects. There is no limit to the number of Projects that Project Owners may rent bundle together. The conversion of the “donor” Project must close prior to or simultaneously with the conversion of the “recipient” Project. For example, assume that two Project Owners are considering bundling two identical Projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The Project Owners could bundle the two projects such that the initial contract rents for both Projects will be \$550.

HUD may, in limited circumstances, modify the PRAC Rents separate from the annual contract renewal process and prior to conversion, given the project budget, and subject to the

Agreement would still be in effect at the end of the 20 year term, at the end of the term, HUD would offer and a Project Owner must request a contract renewal covering at least 19 additional years.

¹⁸⁷ PRAC rents are the “Operating Expense Amounts” listed in Part I of the PRAC, Exhibit 1, as adjusted pursuant to rent “bundling” described in this subsection D. If PRAC rents have been adjusted by a special temporary increase in accordance with an approved plan with the Multifamily Regional Center, such special temporary rent increase will not be included in the PRAC rents used for the purposes of setting initial contract rents at conversion.

availability of funding in the Housing for the Elderly account.¹⁸⁸ For example, if a CNA was not available at the time of the most recent PRAC renewal, a rent adjustment to appropriately update reserve for replacement deposits could be requested in the middle of the contract year, ahead of conversion.

In order to support preservation efforts that will enhance the resilience, energy and water efficiency, and design of housing appropriate for the elderly to age-in-place, for any transaction that is proposed in its Conversion Plan to undertake new construction or rehabilitation with debt financing, and subject to demonstrated need, HUD may provide an increase to the PRAC rent prior to conversion that will be incorporated in the initial Section 8 contract rent. Subject to the availability of funds,^{4B-1} HUD may provide:

- An increase of up to \$250 per unit per month (PUM) to the PRAC rent for any transaction that will undertake new construction or substantial rehabilitation (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.^{4B-2}
- An increase of up to \$100 PUM to the PRAC rent for any transaction that will undertake rehabilitation (defined as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds) in excess of 30% of the Housing Construction Costs as published by HUD for a given market area.

To be eligible for such increase to the PRAC rent prior to conversion, the Project Owner must demonstrate that the construction or substantial rehabilitation will enhance climate resilience, energy and water efficiency, and/or appropriate design for the elderly residents to age-in-place.^{4B-3} Funds for this purpose shall be reserved on a first-come, first served basis based on the time of the request (communicated through the submission of a complete and acceptable Conversion Plan), subject to the availability of funds, and finalized when the Owner demonstrates the amount is necessary for the viability of the transaction.

When conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance, HUD will permit the RAD contract rent to be increased by a portion of the utility savings. Project Owners can submit utility allowance projections performed by a third-party professional engineer, based on the project's plans and specifications that, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical

¹⁸⁸ PRAC renewals and rent adjustments are funded from the Housing for the Elderly account. Renewal of ongoing PRAC contracts including inflationary adjustments to core operating expenses will be prioritized over mid-cycle rent increases that enhance services and replacement reserves for converting properties.

systems, appliances, and characteristics of the building location. For utilities that will remain tenant-paid, HUD will increase the contract rents by 75% of the approved reduction in Utility Allowance. The Utility Allowance shall be recalculated based on actual consumption within a reasonable period following completion of the work.

E. Method of Adjusting Contract Rents. Contract rents will be adjusted by an OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the initial term of the HAP Contract.¹⁸⁹

F. Distributions. Covered Projects will not be subject to any limitation on distributions, contingent on satisfaction of program requirements and the availability of surplus cash as determined by year-end audited or certified financial statements, and subject to the provisions of this paragraph. To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require not-for-profit and certain for-profit owners to establish a residual receipts account. As an alternative requirement, in addition to standard PBRA requirements that must be satisfied prior to calculating surplus cash, distribution of surplus cash is prohibited unless HUD is able to verify on the annual financial statement that the Project operating reserve is funded at no less than \$250 per unit. HUD may also impose restrictions on distributions of surplus cash on a given project as a potential remedy if HUD determines the Project Owner is in violation of the HAP Contract or Elderly Housing Use Agreement.

G. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.¹⁹⁰ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBRA requirements regarding continued occupancy. For example, a household that would not be income eligible for initial occupancy of a Section 8 unit at the time of conversion would still be placed on a Section 8 lease and eligible for assistance under the provisions governing continued occupancy. Thus, the first clause of section 8(c)(4) of the Act and 24

¹⁸⁹ OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the portion of a contract rent that is not committed to debt service in order to calculate the contract rent for the project in the following fiscal year.

¹⁹⁰ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the Project Owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions.

- H. Under-Occupied Units.** If at the time of conversion, an eligible family assisted under the PRAC is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project.¹⁹¹ When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within 30 days. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered 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.¹⁹²
- I. Occupancy Requirements.** In accordance with the RAD statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC projects 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. See Section 4.5.K regarding the treatment of current households.
- J. UPCS (REAC) Inspections.** Under current regulations at 24 CFR part 5, subpart G, a unit covered under a PBRA HAP Contract must meet the UPCS before assistance can be paid on behalf of a household. Under RAD, only after the PBRA HAP Contract is executed and any proposed Work is completed, HUD will order a REAC inspection of the Project to ensure conditions meet the UPCS. HUD is waiving and establishing this alternative requirement to 24 CFR part 5 subpart G.

¹⁹¹ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

¹⁹² As the later enacted statute, the RAD Statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

4.7 Conversion and Processing Requirements

As discussed in further detail below, the conversion of a PRAC Project will generally entail:

- An Initial Submission of Interest to HUD
- Resident Notification and Consultation
- Selection of PHA (PBV conversions only)
- Conversion Plan Submission, RAD Approval, and Closing

4.7.1 Initial Submission of Interest to HUD

Prior to submitting a Conversion Plan, a Project Owner must make an initial submission to HUD indicating the Project Owner's interest in conversion under this Notice. The submission must include:

- Project name;
- Project address;
- Project Owner's name;
- Project Owner's contact information;
- The PRAC Contract number(s);
- PRAC Contract expiration date(s);
- Total number of units covered under the PRAC Contract(s), by bedroom size; and
- Conversion Type (PBV or PBRA).

HUD has developed an electronic form submission for Project Owners to make the initial submission. To access the electronic submission template, Project Owners must request access to the RAD Resource Desk at www.radresource.net where users will be prompted to provide the information listed above.

HUD will provide the Project Owner a confirmation of successful submission. HUD will use the initial submission in order to:

1. Assign a Transaction Manager, who will make contact to discuss the conversion process and the Project Owner's goals for the Project; and
2. For PBV conversion, initiate the process to identify a PHA willing to administer the new PBV contract.

There is no fee associated with the initial submission. HUD will take no adverse action against a Project Owner who makes an initial submission but does not later submit a Conversion Plan.

4.7.2 PHA Administration of the PBV Contract

- A. Selection of a PHA.** For PBV conversions only, HUD will need to identify a PHA able and willing to administer the PBV contract, and the PHA would need to agree to accept the responsibility. Within 30 days of the initial submission, HUD will identify an eligible PHA and request that the PHA provide written consent to administer the PBV contract or decline the request within 30 days of HUD's request. HUD will communicate the PHA's response to the Project Owner. Applicants must wait until a PBV HAP Contract administrator has been identified before submitting their Conversion Plan, as the PHA who will act in this capacity must be identified in that plan. If no PHA consents to enter into the PBV contract, the Project cannot convert to PBV, and the Project Owner may consider conversion to PBRA instead.
- B. Role of Administering PHA.** The PHA that agrees to administer the PBV contract is responsible for administrative duties described in 24 CFR part 983 and this Notice. Prior to conversion, the PHA's key roles include:
- 1. Pre-Selection Inspection.** The PHA must ensure that the units substantially comply with HQS, as defined in the PHA's Section 8 administrative plan, prior to submission of the Conversion Plan.
 - 2. Initial Contract Rent Setting.** The PHA will determine that the initial contract rents do not exceed the rent caps described in Section 4.5.G.
 - 3. HQS Inspections.** Prior to entering into a PBV HAP Contract, the PHA must inspect the Converting Project proposed for conversion to ensure that the units fully comply with HQS,¹⁹³ unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹⁹⁴

4.7.3 **Resident Notification and Consultation**

Resident Notification. For all conversions, a Project Owner is required to notify residents in writing of its intent to participate in RAD and is required to hold at least two meetings with residents.¹⁹⁵ The Project Owner must have at least one resident meeting within 30 days prior to submission of the Conversion Plan and at least one resident meeting after submission of the Conversion Plan but prior to conversion. The Notification letter must:

1. Be delivered to all Converting Project residents, including each PRAC-assisted household, as well as posted in the Converting Project office or other common area, and at no fewer than three prominent locations on the Converting Project site;

¹⁹³ Please note that under PBV, the standard HQS requirements related to lead-based paint under 24 CFR 982.401 do not apply. Instead, if the property was constructed before 1978 and one or more units has a child under age 6 residing, the PHA must ensure that the HQS requirements for lead safety at 24 CFR 983.101(c)(2) are met in those units, common areas servicing those units, and exterior painted surfaces associated with such units or common areas (or the whole property if there are children under age 6 residing in numerous units).

¹⁹⁴ See Notice PIH-2017-20 for guidance on HOTMA non-life threatening and alternative inspection provisions.

¹⁹⁵ Sample resident notification letters are available at www.hud.gov/rad.

2. Include the date and time of the resident briefings;
3. Include an estimated date of conversion to either a PBV or PBRA HAP Contract;
4. Include a description of any proposed change in ownership, rehabilitation, construction, or transfer of assistance associated with the conversion;
5. State the Project Owner's plan for relocation, if applicable, as a result of rehabilitation or construction, including the expected length of the relocation, the temporary nature of the relocation, the household's right to return, and the Project Owner's responsibility for covering relocation costs; and
6. Supply information on the method to submit comments to the Project Owner and provide for a 30-day comment period.

The Project Owner must conduct two resident meetings with all affected residents and provide the residents with an opportunity to comment on the conversion. The purpose of the resident meeting is to provide residents with greater detail related to the conversion, including rehabilitation plans (if applicable), relocation (if applicable), and PBV or PBRA program rules that may differ from PRAC rules. The Project Owner must hold an additional meeting when there has been a material change that was not already discussed in a previous meeting.

When providing resident notifications and conducting resident meetings, the Project Owner must use effective communication for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act of 1990. Effective communication includes, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type), as needed, and providing sign language interpreters and assistive listening devices at resident meetings, as needed (24 CFR § 8.6). Additionally, resident meetings must be held in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, a Project Owner must use alternative methods to meet with qualified individuals with disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings. Such meetings must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities in a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible (28 CFR part 35, Appendix B).

Additionally, the Project Owner must provide meaningful access to its programs and activities for persons who have a limited ability to read, speak, or understand English. For Projects undergoing RAD conversion, the Project Owner must provide language assistance to residents of the Project who are Limited English Proficient (LEP) to ensure that they have meaningful access to RAD resident notifications and meetings. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the Project and relocation and oral interpretation at resident meetings. For guidance on providing language assistance to persons with LEP, please see Final Guidance to Federal Financial Assistance

Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732).

The Project Owner must submit a copy of all comments received with their Conversion Plan, along with a description of how the residents' comments will be addressed in the conversion. HUD will consider all resident comments and the Project Owner's plan to address the comments before approving the Conversion Plan. If more than 50 percent of written resident comments disapprove of the conversion of assistance, HUD will contact the Project Owner to discuss options for proceeding with the conversion request or may decline the request.

Upon Conversion Plan approval, the Project Owner must notify each affected family that the Project has been approved.

4.7.4 **Conversion Plan Submission, RAD Approval, and Closing**

A. Conversion Plan Submission. The Project Owner must submit to HUD through the RAD Resource Desk a complete Conversion Plan that satisfies all RAD program requirements. (See Attachment 4.A for Conversion Plan Requirements.)

HUD will review the Conversion Plan and Notify the Project Owner of HUD's determination to approve or reject the plan or to request additional information. HUD's decisions regarding the acceptance of the Conversion Plan will be made in HUD's sole discretion. If HUD determines that a Conversion Plan is not feasible or that the requirements of the Conversion Plan as set forth in Attachment 4A have not been met, then the Project Owner may either make corrections that satisfactorily address HUD's concerns or appeal the decision. If a Conversion Plan is disapproved, HUD's letter of disapproval will discuss changes, if any, that would result in an acceptable Conversion Plan.

B. RAD Approval. If the Conversion Plan satisfies the requirements of this Notice, HUD will issue an approval letter to the Project Owner. The approval letter will outline the key components of the planned RAD conversion and will discuss the conditions that need to be satisfied in order to close the conversion. Once the approval letter is issued, HUD expects that the RAD conversion will close in a timely manner. The approval letter will allow 90 calendar days (from the date the approval letter is issued to the Project Owner) in which to close the RAD conversion transaction, unless extended by HUD. The Project Owner will need to work diligently to achieve closing within the timeframe required under this Notice in order to avoid rescission of the RAD approval.

C. Closing. Upon conversion, units whose assistance has been converted pursuant to RAD will be removed from the 202 PRAC program. Converting Projects will be released from any outstanding obligations under the Capital Advance Agreement, the Capital Advance

Mortgage Note, the Capital Advance Program Regulatory Agreement, the Capital Advance Program Use Agreement, and related or collateral documents associated with the PRAC and the foregoing documents. The 202 PRAC will be terminated (or for PBV conversions, the 202 PRAC will expire without renewal), the Section 8 HAP Contract will be executed and the Project Owner will enter into an Elderly Housing Use Agreement, which will be recorded as a restrictive covenant in first position on the Covered Project. The effective date identified in the HAP Contract is the date the Project will cease to operate as a 202 PRAC Project and begins to operate under Section 8 requirements.

4.8 **Additional Information**

For additional information on this section of the Notice, please check www.hud.gov/rad or email questions to RAD2@hud.gov.

Attachment 4A: Conversion Plan Requirements and Feasibility Benchmarks for PRAC Conversions

A Conversion Plan will not be reviewed until all required documentation is submitted electronically to the RAD Resource Desk at www.radresource.net. HUD will complete an initial review for document completeness within five business days of submission and will notify the Project Owner of deficiencies. Once HUD has determined that all required documents appear to have been received, HUD will review the submission.

HUD's purpose in reviewing the Conversion Plan is to ensure the long-term physical and financial viability of the Covered Project in providing quality, supportive housing to elderly residents. HUD reserves the right to reject any Conversion Plan if the information provided is not complete, accurate, or in compliance with the submission requirements listed below. If a Conversion Plan fails one or more feasibility benchmarks, HUD may, in its sole discretion, still accept the Conversion Plan if HUD determines that the Conversion Plan is consistent with the long-term physical and financial viability of the Covered Project, and/or the Project Owner has demonstrated through historical data or other means that the Project Owner can satisfactorily maintain and manage the Covered Project as presented in the Conversion Plan. HUD will not accept the Conversion Plan if the Covered Project does not meet environmental review requirements, as described below.

Below are all the required components of a complete Conversion Plan and the requirements of each component. Additional guidance in preparing the Conversion Plan is available in the PRAC Processing Guide located at http://www.radresource.net/mf_library.cfm.

- A. Conversion Overview.** A narrative summary of the Covered Project and the Project Owner's conversion goals. Include details such as a description of the physical Project, Project history, identification of immediate capital needs of the Project, identification of other properties to be held within the same ownership entity, anticipated financing that will be obtained to meet the capital needs, anticipated relocation, how the conversion of assistance will impact residents, and circumstances such as new construction, Transfer of Assistance, scattered site, and reconfiguration of units.
- B. Proposed Units.** The Project Owner must provide the number of units by bedroom size proposed to be covered by the HAP Contract. If a reconfiguration of units is proposed, the Project Owner must submit a narrative explanation of the proposal, including a description of the units to be removed and an explanation of why the Project can better serve assisted residents at the reduced number. Discussion of the proposed units can be included in the Conversion Overview.

- C. PRAC Contract.** Submit a copy of the fully executed current PRAC Contract including all exhibits.
- D. Statement of Compliance with Fair Housing and Civil Rights.** The Project Owner must submit a written statement certifying that it does not have any outstanding fair housing or civil right matters and that the proposed RAD conversion is consistent with any applicable remedial order or agreements, as described in section 4.3.1.B. of this Notice.
- E. Resident Notification.** The Project Owner must provide proof of written notification informing residents of the intent to participate in RAD. Include a PDF attachment of all **comments received from residents** as described in Section 4.7.3. Project Owners must provide a certification that they have held the required meetings with residents and have provided residents with a reasonable time period to submit comments on the conversion. The Project Owner must also provide a description of how the residents' comments will be addressed in their plan for conversion.
- F. Capital Needs Assessment.** A CNA is required in order to identify the short-term and long-term capital needs of the property, which will factor into the Scope of Work and both the Initial and Annual Deposits to the Replacement Reserve. See Paragraph 4.4.A. for additional information on CNA requirements.
- G. Initial Contract Rent Setting.**
1. For PBV conversions, submit evidence that the Project Owner's proposed rents are in accordance with the PHA's rent setting. See Section 4.5.G for additional information on Initial Contract Rent Setting for PBV.
 2. For PBRA conversions, the rents cannot exceed the limits set forth in Section 4.6.C
- H. Scope of Work.** The Conversion Plan must include a Scope of Work that accompanies the CNA. The Scope of Work must:
1. Identify and address all repairs identified in the CNA as critical, immediate or required within the first two years following conversion when the total of such repairs exceeds \$5,000 per unit (including all items identified in the CNA as not functioning at the time of the CNA site visit). Briefly discuss any differences between the proposed Work and the conclusions and recommendations of the CNA provider; any additional scope items not identified in the CNA; and the Project Owner's choices for replacement components.
 2. If the most recent REAC Inspection score is below 60, or the property has been referred to DEC due to physical deficiencies, the scope of work must address all physical deficiencies identified.
 3. Identify replacement quantities and costs. Rehabilitation estimates must be based on reasonable market estimates of actual costs, confirmed either by cost estimating

completed by the architect/engineer, or through actual competitive bids for major rehabilitation or construction items, in compliance with HUD requirements.

4. Include a summary of environmental issues and corresponding remediation activities known at that time, and a summary of accessibility features that are required pursuant to applicable accessibility standards and other accessibility requirements. Other accessibility requirements include, but are not limited to, physical features that need to be provided as reasonable accommodations for qualified persons with disabilities. The scope of work should also include design features necessary for elderly housing (see Section 4.4.F) and a description of how those features will promote housing stability for an aging population.
5. Include a construction contingency of 10 percent (HUD may require a higher contingency on a case-by-case basis) if the Project Owner plans to obtain new financing simultaneous with the Conversion.
6. Include a reasonable timeline for completion of all rehabilitation items acceptable to HUD, from the date of Conversion Closing and any financing, depending on the scope of rehabilitation needed.

For Conversions using FHA financing, conventional debt, or equity sources of financing, submit a copy of the Scope of Work included with the FHA Application for Firm Commitment, or submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source.

- I. **Environmental Review.** HUD cannot approve an applicant's Conversion Plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. The following describes the submission and approval steps for securing a completed environmental review.

A RAD transaction will either be reviewed under 24 CFR Part 50 ("Part 50 Reviews") or 24 CFR Part 58 ("Part 58 Reviews"). Part 50 applies when HUD conducts the environmental review, and Part 58 applies when a Responsible Entity (RE) conducts the environmental review. The following table shows which review protocol a transaction will follow, along with who will conduct the review:

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Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ¹⁹⁶	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	Responsible Entity
PBV FHA Risk-Share	Part 58	State Housing Finance Agency or Responsible Entity, as applicable ¹⁹⁷

Under limited circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV transaction may request HUD to undertake the environmental review under Part 50 if a suitable RE cannot be found or if the local government was not a direct recipient of the funds and refuses to accept responsibility or when HUD determines the local government does not have capacity to act as an RE.¹⁹⁸ This request must be made in writing and submitted to HUD no later than at the time of the Conversion Plan submission.

For multi-phase developments, the environmental documents submitted with the Conversion Plan during the first phase must be submitted for the entire site (i.e. all of the phases of the multi-phase development) and the environmental review conducted during the first phase will cover the entire site.

Requests to transfer assistance from the Converting Project to a new location are subject to environmental review.

For transactions receiving funding from other HUD programs (i.e. HOME, CDBG, non-RAD PBV), HUD encourages all parties to complete and adopt one review for all programs, even if these programs' environmental reviews are conducted under a different review protocol (Part 50, Part 58). In cases where two Part 58 programs are combined, HUD encourages applicants to work with the Responsible Entity or Entities to see if environmental reviews can be combined. However, this is solely the Responsible Entities' determination. In cases

¹⁹⁶ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

¹⁹⁷ Housing Finance Agencies can act as the Responsible Entity for Housing's Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criteria, it must request another department of the state to act as Responsible Entity. An instrumentality of a city or county government cannot act as a Responsible Entity for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the Responsible Entity.

¹⁹⁸ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

where a Part 50 program and a Part 58 program are combined, HUD may determine that it will perform one Part 50 environmental review for both programs under 24 CFR 58.11 if performing an additional Part 58 environmental review is not feasible in the time allotted. HUD must ensure that the Part 50 review considers the full scope of all activities and funding associated with all programs. When one review is used for both programs, the Approving Officials for both programs must certify the review.

For all Part 50 reviews, the applicant must submit reports and documentation to HUD in accordance with 24 CFR Part 50, as discussed in Chapter 9 of the MAP Guide, except as follows:¹⁹⁹

1. For PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) without FHA insurance and without any rehabilitation, construction, or demolition,²⁰⁰ HUD conducted a tiered review of program-wide and site-specific compliance. HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities, and will complete a site-specific compliance review of the following:
 - A. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);
 - B. Flood insurance and floodplain management pursuant to the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly section 2(a), and 24 C.F.R. Part 55;
 - C. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

Additionally, while Historic Preservation (National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered review, for conversions that entail no physical activities or only activities that are limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or other interested parties or the public.²⁰¹

¹⁹⁹ The MAP Guide is available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430. Additional guidance on environmental review requirements is available on the HUD Environmental Review website, at <https://www.hudexchange.info/environmental-review/>.

²⁰⁰ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

²⁰¹ This Determination is detailed in the “Determination of ‘No Potential to Cause Effects’ under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50. <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>

Project Owners will be required to submit documentation to facilitate HUD’s site-specific review.

2. For all non-FHA PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) that do not meet the requirements under paragraph 1 above, the Project Owner or vendor will follow the guidelines in Chapter 9 of the MAP guide. Project Owners or vendors will upload all applicable documentation directly into HEROS at the time of Conversion Plan submission. The following exceptions to the MAP Guide apply:
 - In lieu of a Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-13 (or the most recent edition),²⁰² except for conversions involving substantial rehabilitation or new construction activities. Awardees may submit a more limited report on potential sources of contamination. Where a Phase I ESA is not required (i.e., projects without any associated substantial rehabilitation²⁰³ or new construction), the Awardees can submit a “transaction screen” in accordance with ASTM E 1528-14 (or the most recent edition). A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not meet this requirement, the professional must have either (a) a science degree and at least one year of practical environmental assessment experience in the field, or (b) three years of practical environmental assessment experience in the field performing site assessments for site contamination. If any potential environmental concerns are identified, an ASTM Phase ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided.
 - Awardees may submit a Phase I ESA that is up to 5 years old upon submission; however, it must be updated by a Transaction Screen that is up to 1 year old upon submission.

²⁰² The Transaction Screen does not meet the standard for “All Appropriate Inquiries” for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

²⁰³ Substantial rehabilitation is any rehabilitation that does not meet the conditions in 24 CFR § 50.20(a)(2) for exclusion from review under the National Environmental Policy Act. Applications to RAD for conversion assistance involving substantial rehabilitation or new construction will always require a Phase I ESA in accordance with ASTM E 1527-13.

When HUD conducts the environmental review under Part 50, PHAs (or their vendors) must submit environmental reports and documentation²⁰⁴ for HUD review into the HUD Environmental Review Online System (HEROS), where HUD will complete its review.

HUD staff will review the submissions and may require additional information in order to complete their review. HUD's review will result in a determination, which may stipulate the rejection of the site for this demonstration or may require the completion of mitigation measures. The RAD approval will include any conditions required to carry out any and all mitigation measures as may result from the environmental review. Any conditions or mitigation that cannot be satisfied before Closing will survive Closing.

When a Responsible Entity (RE) completes an environmental review under Part 58, the Conversion Plan must include either Form 7015.16 or a letter with the Responsible Entity's (RE's) finding of exempt activity in order to consider the environmental review to be complete. The RE should use HUD recommended formats to document the environmental review record.²⁰⁵ The PHA should submit an environmental report to the RE, in such form as prescribed by the RE, to enable the RE to complete their analysis. Once the review is completed, the PHA must submit *either*:

- Form HUD-7015.15, Request for Release of Funds (RROF), to their local PIH field staff.²⁰⁶ After the PIH Field Director approves the RROF, the Director sends a completed HUD Form 7015.16 to the PHA, approving the release of funds. The PHA must submit proof of the completed Form 7015.16 (either a copy of the paper form or a screenshot of the completed screen in HEROS) to HUD; or
- If form HUD-7015.15 is not required because the project converts to Exempt under 24 CFR § 58.34(a)(12), the PHA must submit the RE's finding of exempt activity with their RAD Conversion Plan. A finding of exempt activity is a statement of the result of the RE's environmental review and is required even when form HUD-7015.15 is not required. A letter from the RE indicating that the project converts to Exempt under 24 CFR § 58.34(a)(12) is sufficient.

Additionally, the PHA must submit a Radon Report consistent with the requirements of the Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

²⁰⁴ PHAs and providers should take care to respond to all applicable laws and authorities and MAP-specific requirements when providing documentation for environmental review. For all maps, please clearly indicate where the project site is located. Information about HEROS and how to register can be found at <https://www.hudexchange.info/programs/environmental-review/housing/#heros>

²⁰⁵ HUD recommended formats are available at <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/> and <https://www.hudexchange.info/resource/3140/part-58-environmental-assessment-form/>.

²⁰⁶ Form HUD-7015.15 is available at <https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>.

J. Accessibility and Relocation Plan Checklist. All Project Owners shall complete and submit the Accessibility and Relocation Plan Checklist provided by HUD on the RAD Resource Desk. The checklist shall include a certification that the relocation plan complies with all applicable HUD requirements, including the URA as well as applicable accessibility standards, including but not limited to those under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (24 CFR § 8.23). The cost of accessibility improvements and relocation must be fully funded in the Development Budget. Project Owners are encouraged to use HUD's guidance on relocation planning for persons with disabilities in HUD Handbook 1378.0, Exhibit 3-1 and the RAD Fair Housing and Civil Rights Notice.

K. Proposed Financing

1. For all conversions using financing, the following must be addressed:
 - a. Provide a brief discussion of conditions/milestones to be satisfied prior to closing including any known impediments to closing within the timeframe required under the Notice;
 - b. Estimated closing date(s) for all proposed financing;
 - c. For each proposed loan, equity contribution, or grant, the Conversion Plan must include a recent lender, investor or grant commitment letter, dated no more than 60 days prior to Conversion Plan submission, with key terms identified (including amount, repayment terms, interest rate, amortization, maturity, prepayment restrictions, and pay-in schedule) from all financing provider(s);
2. For conversions not using FHA financing or equity sources, the following requirements must be addressed in addition to the requirements set forth in Attachment 4A, Section K.1 above:
 - a. Permanent debt financing with monthly payment amounts not conditioned on the availability of cash flow (i.e., "hard" debt) on Covered Projects must:
 - i. Be at a fixed rate of interest, for a fixed term, fully amortized over no more than 40 years;
 - ii. Not have a balloon payment until after the earlier to occur of a) expiration of the term of the HAP Contract or b) 17 years from the date of the permanent debt financing; and
 - iii. Not have a debt service coverage less than the higher of 1.11 or lender requirements.
 - b. All subordinate (or secondary) financing must be disclosed and then approved by the first-mortgage lender;
 - c. The terms for all seller take-back financing must also be disclosed;
 - d. If project revenue or existing reserves will be a source of funding, submit evidence of the current account balances.

L. Development Budget (Sources and Uses of Funds). All Project Owners must submit a Development Budget.

- 1. For Conversions using FHA financing or equity sources of financing,** submit a copy of the Development Budget included with the FHA Application for Firm Commitment, or submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source. The Project Owner must submit the FHA Application for Firm Commitment review before the RAD conversion is submitted to the Office of Recapitalization. Include a Subsidy Layering Review (SLR) if one has been performed by another agency. If no SLR is provided, HUD will complete an SLR whenever multiple federal sources are proposed.
- 2. For all other Conversions with new financing:**
 - a. Include a reasonable, balanced, and comprehensive presentation of both construction period and permanent sources and uses of funds, which development budget must be consistent with the development budget submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source.
 - b. Identify existing loans or debt that will be paid off at the closing, if applicable.
 - c. Include a binding commitment letter with respect to any new source of financing or sources of equity.
 - d. Include a construction contingency of 10 percent (HUD may require a higher contingency on a case-by-case basis) if the Project Owner plans to obtain new financing simultaneous with the Conversion.
 - e. Demonstrate that any Identity of Interest (IOI) loans or advances will be converted to unsecured Surplus Cash Notes (Project's cash remaining, after debt service, project operational costs and other permitted payments) unless otherwise approved by HUD.
 - f. If applicable, identify the initial operating deficit during the construction period and how that deficit will be funded, such as an operating deficit escrow or similar fund.
 - g. Include a Subsidy Layering Review (SLR) if one has been performed by another agency. If no SLR is provided, HUD will complete a SLR whenever multiple federal sources are proposed.

M. Proposed Development Team. The Project Owner must identify the proposed legal entity that will own the Covered Project following conversion, the proposed management agent following conversion, and the "principals" of both entities. In addition, the Project Owner shall provide the following:

1. For all conversions with a proposed change in ownership entity, the new Project Owner must provide evidence of successful experience owning and operating HUD or other multifamily housing properties. New Project Owners may be required to demonstrate that

the criteria specified in [HUD Handbook 4350.1, Chapter 13, Change in Ownership: Transfer of Physical Assets](#) have been met in part or in whole.

2. For PBRA conversions with a proposed change in ownership entity or a material proposed change in ownership of the existing ownership entity, the new Project Owner must submit evidence that all new principals have a Previous Participation Certification in the Active Partners Performance System (APPS) (formerly referred to as Form HUD-2530) and are not be debarred, suspended, or subject to a Limited Denial of Participation.
3. For all conversions with a proposed change in management agent the new agent must provide evidence of successful experience managing and operating HUD or other multifamily housing properties.
4. For all conversions in which Work is proposed, the Project Owner must submit the identity of the general contractor or construction manager or a statement that the Project Owner will be managing construction directly, together with evidence of the general contractor's, construction manager's or Project Owner's recent and successful experience with similar rehabilitation or construction projects.

N. Operating Pro Forma. The Operating Pro-Forma must:

1. For all FHA transactions or Conversions using equity sources of financing:

- a. Provide a copy of the Operating Pro Forma that was submitted with the FHA Application for Firm Commitment or submitted to the lender, equity provider (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable funding source.

2. For all other Conversions:

- a. Provide a 20-year Operating Pro Forma in an owner-provided template,
- b. Include an attached discussion of the extent of energy and water savings that are anticipated as a result of the rehabilitation or construction and the basis for those estimates. The discussion must explain to what extent anticipated savings in utility costs have been included in the pro forma operating expenses.
- c. Include columns capturing the average amount for the past three years for all line items listed in the Pro Forma. Provide explanations and/or supporting documentation for any major deviations of the historical average from the year 1 data entered on the Pro Forma.
- d. Ensure the Pro Forma complies with at least the following feasibility benchmarks unless otherwise approved by HUD:

Revenue:

- i. Rents shall not exceed the amounts permitted under program rules;
- ii. All other sources of income must not exceed the average for the last three years (other income should not include interest income on the replacement reserve account, which must remain in the reserve and is not available for other purposes);

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- iii. Vacancy loss shall be no less than the greater of the average over the past three years or 3 percent;
- iv. Allowance for bad debt should be not less than the greater of the average over the past three years or 2 percent;

Expenses:

- i. All operating expenses shall be reasonable, with decreases justified and generally no less than 85 percent of the average for the last three years;
- ii. The ADRR should be equal to that amount which, if deposited annually, will be sufficient to fund all capital needs, as identified in the CNA, arising during the first 20 years and otherwise not addressed upfront in either the rehabilitation or an initial deposit to the replacement reserve account. The Project Owner should use reasonable estimates for inflation but in doing so the rate for escalating the increase in repair costs should not exceed the rate of interest on reserve deposits by more than 1%. HUD may consider alternative arrangements with respect to the Initial Deposit to the Replacement Reserve (IDRR) if risks to the Covered Project can be adequately mitigated. The ADRR must be sufficient to maintain a minimum balance at the end of each year during the initial 20-year HAP Contract term in accordance with the HUD MAP Guide Appendix 5g, Section VII.C.3D, Minimum Balances; and
- iii. For non-leveraged transactions, the stabilized cash flow should not be less than \$12 per unit monthly. For leveraged transactions, the debt-coverage ratio should not be less than 1.11 over a ten-year period using 2% growth in revenue and 3% growth in expenses.

O. Supportive Services and Design. Applicants must describe how the proposed supportive services meet the identified needs of the anticipated residents, both initially and as they age, and how the identified supportive services will be provided on a consistent, long-term basis to support residents. The conversion plan also must discuss how current property design features and/or modifications planned in conjunction with the conversion provide a physical living environment suitable for meeting the needs of elderly residents and facilitating prolonged independent living. Relevant building design features may include, but are not limited to, those focused on fall prevention and visitability, universal design, and electronic communication mechanisms.

P. Market Study. A market study or net demand analysis may be required if the project is currently experiencing a high vacancy rate or if the Project Owner is requesting a reconfiguration of units. The Project Owner should consult with the Transaction Manager to determine if a market study is necessary before procuring one.

Q. Certification of Compliance with Site and Neighborhood Standards. The Project Owner (for PBRA) or the PHA (for PBV) shall evaluate and include a certification that the site complies with applicable Site and Neighborhood Standards (see Section 4.4.O.).

R. Affirmative Fair Housing Marketing Plan. For PBRA conversions, evidence that a completed AFHMP (Form HUD-935.2A) has been submitted for approval to the local Multifamily Regional Center. Typically, the management agent or the entity responsible for marketing (if different) is responsible for completing and submitting the AFHMP. If a Project Owner plans to adopt any tenant admission local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4) for review. The AFHMP may not conflict with any special condition arising from the RAD conversion or provision in a remedial order or agreement. Each Covered Project must have a HUD-approved AFHMP prior to closing.

The purpose of affirmative marketing is to ensure that individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.

S. Transfer of Assistance. For all conversions involving a transfer of assistance to a new site, the Project Owner must have secured HUD approval of the site (Covered Project). See Section 2.4.I.

T. Title Report. Submit a complete title report including information on whether the Converting Project is currently subject to any other liens, encroachments, easements or other encumbrances on the property.

APPENDIX I – 24 CFR PART 880 REGULATION, STRICKEN FOR PBRA CONVERSIONS

Title 24: Housing and Urban Development PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

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Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Source: 44 FR 59410, Oct. 15, 1979, unless otherwise noted.

Subpart A—Summary and Applicability

§ 880.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

[61 FR 13587, Mar. 27, 1996]

§ 880.104 Applicability of part 880.

~~(a) Part 880, in effect as of November 5, 1979, applies to all proposals for which a notification of selection was not issued before the November 5, 1979 effective date of part 880. (See 24 CFR part 880, revised as of April 1, 1980.) Where a notification of selection was issued for a proposal before the November 5, 1979 effective date, part 880, in effect as of November 5, 1979, applies if the owner notified HUD within 60 calendar days that the owner wished the provisions of part 880, effective November 5, 1979, to apply and promptly brought the proposal into conformance.~~

~~(b) Subparts E (Housing Assistance Payments Contract) and F (Management) of this part apply to all projects for which an Agreement was not executed before the November 5, 1979, effective date of part 880. Where an Agreement was so executed:~~

~~(1) The owner and HUD may agree to make the revised subpart E of this part applicable and to execute appropriate amendments to the Agreement and/or Contract.~~

~~(2) The owner and HUD may agree to make the revised subpart F of this part applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.~~

(c) Section 880.607 (Termination of tenancy and modification of leases) applies to all families.

~~(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 apply to all projects, regardless of when an Agreement was executed.~~

[61 FR 13587, Mar. 27, 1996, as amended at 65 FR 16722, Mar. 29, 2000]

~~**§ 880.105 Applicability to proposals and projects under 24 CFR part 811.**~~

~~Where proposals and projects are financed with tax exempt obligations under 24 CFR part 811, the provisions of part 811 will be complied with in addition to all requirements of this part. In the event of any conflict between this part and part 811, part 811 will control.~~

Subpart B—Definitions and Other Requirements

§ 880.201 Definitions.

~~*Annual Contributions Contract (ACC).* As defined in part 5 of this title.~~

~~*Agency.* As defined in 24 CFR part 883.~~

~~*Agreement.* (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.~~

~~*Annual income.* As defined in part 5 of this title.~~

~~*Contract.* (Housing Assistance Payments Contract) The Contract entered into by the owner and the contract administrator upon satisfactory completion of the project, which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.~~

~~*Contract Administrator.* The entity which enters into the Contract with the owner and is responsible for monitoring performance by the owner. The contract administrator is a PHA in the~~

~~case of private owner/PHA projects, and HUD in private owner/HUD and PHA owner/HUD projects.~~

Contract rent. The total amount of rent specified in the contract as payable to the owner for a unit.

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if it meets the physical condition requirements in 24 CFR part 5, subpart G.

Drug-related criminal activity. The illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute, or use, of a controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802.

~~*Elderly family.* As defined in part 5 of this title.~~

~~*Fair Market Rent (FMR).* As defined in part 5 of this title.~~

Family. As defined in part 5 of this title.

~~*Final proposal.* The detailed description of a proposed project to be assisted under this part, which an owner submits after selection of the preliminary proposal, except where a preliminary proposal is not required under §880.303(c). (The final proposal becomes an exhibit to the Agreement and is the standard by which HUD judges acceptable construction of the project.)~~

~~*Housing assistance payment.* The payment made by the contract administrator to the owner of an assisted unit as provided in the contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the tenant rent. An additional payment is made to the family when the utility allowance is greater than the total tenant payment. A housing assistance payment, known as a “vacancy payment” may be made to the owner when an assisted unit is vacant, in accordance with the terms of the contract.~~

HUD. Department of Housing and Urban Development.

Independent Public Accountant. A Certified Public Accountant or a licensed or registered public accountant, having no business relationship with the owner except for the performance of audit, systems work and tax preparation. If not certified, the Independent Public Accountant must have been licensed or registered by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. In States that do not regulate the use of the title “public accountant,” only Certified Public Accountants may be used.

Low income family. As defined in part 5 of this title.

NOFA. As defined in part 5 of this title.

~~*Owner.* Any private person or entity (including a cooperative) or a public entity which qualifies as a PHA, having the legal right to lease or sublease newly constructed dwelling units assisted under this part. The term owner also includes the person or entity submitting a proposal under this part.~~

~~*Partially-assisted Project.* A project for non-elderly families under this part which includes more than 50 units of which 20 percent or fewer are assisted.~~

~~*PHA-Owner/HUD Project.* A project under this part which is owned by a PHA. For this type of project, the Agreement and the Contract are entered into by the PHA, as owner, and HUD, as contract administrator.~~

~~*Private-Owner/HUD Project.* A project under this part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and HUD, as contract administrator.~~

~~*Private-Owner/PHA Project.* A project under this part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and the PHA, as contract administrator, pursuant to an ACC between the PHA and HUD. The term also covers the situation where the ACC is with one PHA and the owner is another PHA.
Project Account. A specifically identified and segregated account for each project which is established in accordance with §880.503(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC, as applicable, each year.~~

~~*Public Housing Agency (PHA).* As defined in part 5 of this title.~~

~~*Rent.* In the case of an assisted unit in a cooperative project, rent means the carrying charges payable to the cooperative with respect to occupancy of the unit.~~

~~*Replacement cost.* The estimated construction cost of the project when the proposed improvements are completed. The replacement cost may include the land, the physical improvements, utilities within the boundaries of the land, architect's fees, and miscellaneous charges incident to construction as approved by the Assistant Secretary.~~

~~*Secretary.* The Secretary of Housing and Urban Development (or designee).~~

~~*Small Project.* A project for non-elderly families under this part which includes a total of 50 or fewer (assisted and unassisted) units.~~

~~*Tenant rent.* As defined in part 5 of this title.~~

~~*Total tenant payment.* As defined in part 5 of this title.~~

~~*Utility allowance.* As defined in part 5 of this title.~~

Utility reimbursement. As defined in part 5 of this title.

Vacancy payment. The housing assistance payment made to the owner by the contract administrator for a vacant assisted unit if certain conditions are fulfilled as provided in the Contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

Very low income family. As defined in part 5 of this title.

[44 FR 59410, Oct. 15, 1979, as amended at 45 FR 18923, Mar. 24, 1980; 48 FR 12703, Mar. 28, 1983; 49 FR 6714, Feb. 23, 1984; 49 FR 17449, Apr. 24, 1984; 49 FR 19943, May 10, 1984; 61 FR 5212, Feb. 9, 1996; 61 FR 13587, Mar. 27, 1996; 61 FR 47382, Sept. 6, 1996; 63 FR 46578, Sept. 1, 1998; 65 FR 16722, Mar. 29, 2000]

~~§ 880.205—Limitation on distributions.~~

~~(a) Non-profit owners are not entitled to distributions of project funds.~~

~~(b) For the life of the Contract, project funds may only be distributed to profit-motivated owners at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met. The first year's distribution may not be made until cost certification, where applicable, is completed. Distributions may not exceed the following maximum returns:~~

~~(1) For projects for elderly families, the first year's distribution will be limited to 6 percent on equity. The Assistant Secretary may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 6 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the Federal Register.~~

~~(2) For projects for non-elderly families, the first year's distribution will be limited to 10 percent on equity. The Assistant Secretary may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 10 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the Federal Register.~~

~~(c) For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification (see §880.405) unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.~~

~~(d) Any short fall in return may be made up from surplus project funds in future years.~~

~~(e) If HUD determines at any time that project funds are more than the amount needed for project operations, reserve requirements and permitted distribution, HUD may require the excess to be placed in an account to be used to reduce housing assistance payments or for other project purposes. Upon termination of the Contract, any excess funds must be remitted to HUD.~~

~~(f) Owners of small projects or partially assisted projects are exempt from the limitation on distributions contained in paragraphs (b) through (d) of this section.~~

~~(g) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance program provisions.~~

~~(h) HUD may permit increased distributions of surplus cash, in excess of the amounts otherwise permitted, to profit-motivated owners who participate in a HUD-approved initiative or program to preserve below-market housing stock. The increased distributions will be limited to a maximum amount based on market rents and calculated according to HUD instructions. Funds that the owner is authorized to retain under section 236(g)(2) of the National Housing Act are not considered distributions to the owner.~~

~~(i) Any State or local law or regulation that restricts distributions to an amount lower than permitted by this section or permitted by the Commissioner under this paragraph (i) is preempted to the extent provided by section 524(f) of the Multifamily Assisted Housing Reform and Affordability Act of 1997.~~

~~[44 FR 59410, Oct. 15, 1979, as amended at 45 FR 18923, Mar. 24, 1980; 49 FR 6714, Feb. 23, 1984; 61 FR 5212, Feb. 9, 1996; 65 FR 61074, Oct. 13, 2000]~~

§ 880.207 Property standards.

Projects must comply with:

(a) [Reserved]

~~(b) In the case of manufactured homes, the Federal Manufactured Home Construction and Safety Standards, pursuant to Title VI of the Housing and Community Development Act of 1974, and 24 CFR part 3280;~~

(c) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards;

~~(d) HUD requirements pursuant to section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or handicapped;~~

(e) HUD requirements pertaining to noise abatement and control; and

(f) Applicable State and local laws, codes, ordinances and regulations.

(g) *Smoke detectors* —(1) *Performance requirement*. After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system, designed for hearing-impaired persons, in each bedroom occupied by a hearing-impaired person.

(2) *Acceptability criteria*. The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

[44 FR 59410, Oct. 15, 1979, as amended at 50 FR 9269, Mar. 7, 1985; 57 FR 33851, July 30, 1992; 63 FR 46578, Sept. 1, 1998]

§ 880.208 Financing.

(a) *Types of financing*. Any type of construction financing and long-term financing may be used, including:

(1) Conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions;

(2) Mortgage insurance programs under the National Housing Act;

(3) Mortgage and loan programs of the Farmers' Home Administration of the Department of Agriculture compatible with the Section 8 program; and

(4) Financing by tax-exempt bonds or other obligations.

(b) *HUD approval*. HUD must approve the terms and conditions of the financing to determine consistency with these regulations and to assure they do not purport to pledge or give greater rights or funds to any party than are provided under the Agreement, Contract, and/or ACC. ~~Where the project is financed with tax-exempt obligations, the terms and conditions will be approved in accordance with the following:~~

~~(1) An issuer of obligations that are tax exempt under any provision of Federal law or regulation, the proceeds of the sale of which are to be used to purchase GNMA mortgage-backed securities issued by the mortgagee of the Section 8 project, will be subject to 24 CFR part 811, subpart B.~~

~~(2) Issuers of obligations that are tax exempt under Section 11(b) of the U.S. Housing Act of 1937 will be subject to 24 CFR part 811, subpart A if paragraph (b)(1) of this section is not applicable.~~

~~(3) Issuers of obligations that are tax exempt under any provision of Federal law or regulation other than section 11(b) of the U.S. Housing Act of 1937 will be subject to 24 CFR part 811,~~

~~subpart A if paragraph (b)(1) of this section is not applicable, except that such issuers that are State Agencies qualified under 24 CFR part 883 are not subject to 24 CFR part 811 subpart A and are subject solely to the requirements of 24 CFR part 883 with regard to the approval of tax-exempt financing.~~

(c) *Pledge of Contracts.* An owner may pledge, or offer as security for any loan or obligation, ~~an Agreement, a Contract or ACC~~ entered into pursuant to this part: *Provided, however,* That such financing is in connection with a project ~~constructed~~ pursuant to this part and approved by HUD. Any pledge of the ~~Agreement, Contract, or ACC~~, or payments thereunder, will be limited to the amounts payable under the ~~Contract or ACC~~ in accordance with its terms. If the pledge or other document provides that all payments will be paid directly to the mortgagee or the trustee for bondholders, the mortgagee or trustee will make all payments or deposits required under the mortgage or trust indenture or HUD regulations and remit any excess to the owner.

(d) *Foreclosure and other transfers.* In the event of foreclosure, assignment or sale approved by HUD in lieu of foreclosure, or other assignment or sale approved by HUD:

(1) The ~~Agreement, the~~ Contract and the ACC, if applicable, will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract.

~~(e) *Financing of manufactured home parks.* In the case of a newly constructed manufactured home park, the principal amount of any mortgage attributable to the rental spaces in the park may not exceed an amount per space determined in accordance with §207.33(b) of this title.~~

[44 FR 59410, Oct. 15, 1979, as amended at 45 FR 62797, Sept. 22, 1980; 48 FR 12704, Mar. 28, 1983; 49 FR 17449, Apr. 24, 1984]

~~§ 880.211—Audit.~~

~~(a) Where a State or local government is the eligible owner of a project or a contract administrator under §880.505 receiving financial assistance under this part, the audit requirements in 24 CFR part 44 shall apply.~~

~~(b) Where a non-profit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.~~

[50 FR 39091, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986; 57 FR 33256, July 27, 1992]

Subparts C–D [Reserved]

Subpart E—Housing Assistance Payments Contract

§ 880.501 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project.

(b) [Reserved]

(c) *Housing Assistance Payments to Owners under the Contract.* The housing assistance payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units (“vacancy payments”) if the conditions specified in §880.610 are satisfied.

The housing assistance payments are made monthly by the contract administrator upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the contract administrator upon requisition by the owner.

(d) *Amount of Housing Assistance Payments to Owner.* (1) The amount of the housing assistance payment made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in §880.611. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.

(3) For a vacancy that exceeds 60 days, a housing assistance payment for the vacant unit will be made, subject to the conditions in §880.611, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(e) *Payment of utility reimbursement.* Where applicable, the owner will pay a utility reimbursement in accordance with §5.632 of this title. HUD will provide funds for the utility reimbursement to the owner in trust solely for the purpose of paying the utility reimbursement.

[44 FR 59410, Oct. 15, 1979, as amended at 49 FR 19943, May 10, 1984; 61 FR 13587, Mar. 27, 1996; 65 FR 16722, Mar. 29, 2000]

~~§ 880.502 Term of contract.~~

~~(a) *Term (except for Manufactured Home Parks).* The term of the contract will be as follows:~~

~~(1) For assisted units in a project financed with the aid of a loan insured or co-insured by the Federal government or a loan made, guaranteed or intended for purchase by the Federal government, the term will be 20 years.~~

~~(2) For assisted units in a project financed other than as described in paragraph (a)(1) of this section, the term will be the lesser of (i) the term of the project's financing (but not less than 20 years), or (ii) 30 years, or 40 years if (A) the project is owned or financed by a loan or loan guarantee from a state or local agency, (B) the project is intended for occupancy by non-elderly families and (C) the project is located in an area designated by HUD as one requiring special financing assistance.~~

~~(b) *Term for Manufactured Home Parks.* For manufactured home units or spaces in newly constructed manufactured home parks, the term of the Contract will be 20 years.~~

~~(c) *Staged Projects.* If the project is completed in stages, the term of the Contract must relate separately to the units in each stage. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.~~

~~[44 FR 59410, Oct. 15, 1979, as amended at 45 FR 18924, Mar. 24, 1980; 48 FR 12705, Mar. 28, 1983; 49 FR 17449, Apr. 24, 1984]~~

~~(b) *Project Account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC each year. Payments will be made from this account for housing assistance payments (and fees for PHA administration, if appropriate) when needed to cover increases in contract rents or decreases in tenant rents and for other cost specifically approved by the Secretary.~~

~~(2) Whenever a HUD approved estimate of required annual payments under the Contract or ACC for a fiscal year exceeds the maximum annual commitment and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the Contract or ACC will be adequate to cover increases in Contract rents and decreases in tenant rents.~~

§ 880.504 Leasing to eligible families.

~~(a) *Availability of units for occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in~~

accordance with §880.601(a); (2) has leased or is making good faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the contract administrator. If the owner is temporarily unable to lease all units for which assistance is committed under the Contract to eligible families, one or more units may be leased to ineligible families with the prior approval of the contract administrator in accordance with HUD guidelines. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of number of units covered by Contract* —(1) ~~Part 880 and 24 CFR part 881~~ projects. HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

- (i) The owner fails to comply with the requirements of paragraph (a) of this section; or
- (ii) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration*. For this part 880, HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section.

(d) *Applicability*. In accordance with section 555 of the Cranston-Gonzalez National Affordable Housing Act of 1990, paragraphs (a) and (b) of this section apply to all Contracts. An owner who had leased an assisted unit to an ineligible family consistent with the regulations in effect at the time will continue to lease the unit to that family. However, the owner must make the unit available for occupancy by an eligible family when the ineligible family vacates the unit.

(e) *Termination of assistance for failure to submit evidence of citizenship or eligible immigration status*. If an owner who is subject to paragraphs (a) and (b) of this section is required to terminate housing assistance payments for the family in accordance with 24 CFR part 5 because the owner determines that the entire family does not have U.S. citizenship or eligible immigration status, the owner may allow continued occupancy of the unit by the family without Section 8 assistance following the termination of assistance, or if the family constitutes a mixed family, as defined in 24 CFR part 5, the owner shall comply with the provisions of 24 CFR part 5 concerning assistance to mixed families, and deferral of termination of assistance.

(f) Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

[44 FR 59410, Oct. 15, 1979, as amended at 49 FR 31397, Aug. 7, 1984; 51 FR 11224, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 53 FR 6601, Mar. 2, 1988; 59 FR 13652, Mar. 23, 1994; 60 FR 14841, Mar. 20, 1995; 61 FR 13587, Mar. 27, 1996; 73 FR 72342, Nov. 28, 2008; 75 FR 66260, Oct. 27, 2010]

§ 880.505 Contract administration and conversions.

(a) *Contract administration.* ~~For private owner/PHA projects, the PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD. For private owner/HUD and PHA owner/HUD projects, HUD is responsible for administration of the Contract. The PHA or HUD may contract with another entity for the performance of some or all of its contract administration functions.~~

(b) *PHA fee for Contract administration.* A PHA will be entitled to a reasonable fee, determined by HUD, for administering a Contract ~~except under certain circumstances (see 24 CFR part 883) where a state housing finance agency is the PHA and finances the project.~~

~~(c) Conversion of Projects from one Ownership/Contractual arrangement to another. Any project may be converted from one ownership/contractual arrangement to another (for example, from a private owner/HUD to a private owner/PHA project) if:~~

~~(1) The owner, the PHA and HUD agree;~~

~~(2) HUD determines that conversion would be in the best interest of the project, and~~

~~(3) In the case of conversion from a private owner/HUD to a private owner/PHA project, contract authority is available to cover the PHA fee for administering the Contract.~~

§ 880.506 Default by owner (private owner/HUD and PHA owner/HUD projects).

The Contract will provide:

(a) That if HUD determines that the owner is in default under the Contract, HUD will notify the owner and the lender of the actions required to be taken to cure the default and of the remedies to be applied by HUD including specific performance under the Contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(b) That if the owner fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

~~§ 880.507 Default by PHA and/or owner (private owner/PHA projects).~~

~~(a) *Rights of Owner if PHA defaults under Agreement or Contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the PHA to comply with the Agreement or Contract with the owner, the owner will have the right, if he is not in default, to demand that HUD investigate. HUD will first give the PHA a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the PHA's rights and obligations under the Agreement or Contract and meet the obligations of the PHA under the Agreement or Contract including the obligations to enter into the Contract.~~

~~(b) *Rights of HUD if PHA defaults under ACC.* The ACC will provide that, if the PHA fails to comply with any of its obligations, HUD may determine that there is a substantial default and require the PHA to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that a PHA is in substantial default, HUD will give the PHA a reasonable opportunity to take corrective action.~~

~~(c) *Rights of PHA and HUD if Owner defaults under Contract.* (1) The Contract will provide that if the PHA determines that the owner is in default under the Contract, the PHA will notify the owner and lender, with a copy to HUD, (i) of the actions required to be taken to cure the default, (ii) of the remedies to be applied by the PHA including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate, and (iii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD.~~

~~(2) If the PHA is the lender, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (b) of this section.~~

~~§ 880.508 Notice upon contract expiration.~~

~~(a) The Contract will provide that the owner will notify each assisted family, at least 90 days before the end of the Contract term, of any increase in the amount the family will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each family who will no longer be assisted under the Contract.~~

~~(b) The notice provided for in paragraph (a) of this section shall be accomplished by: (1) Sending a letter by first class mail, properly stamped and addressed, to the family at its address at the project, with a proper return address; and (2) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be considered to be effective until both required notices have been accomplished. The date on which the notice shall be considered to be received by the family shall be the date on which the~~

owner mails the first class letter provided for in this paragraph, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

~~(c) The notice shall advise each affected family that, after the expiration date of the Contract, the family will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or under State or local law. The notice shall also state: (1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract; (2) the difference between the rent and the Total Tenant Payment toward rent under the Contract; and (3) the date the Contract will expire.~~

~~(d) The owner shall give HUD a certification that families have been notified in accordance with this section with an example of the text of the notice attached.~~

~~(e) This section applies to all Contracts entered into pursuant to an Agreement executed on or after October 1, 1981, or entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after October 1, 1984.~~

~~[49 FR 31283, Aug. 6, 1984]~~

Subpart F—Management

§ 880.601 Responsibilities of owner.

~~(a) *Marketing.* (1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.~~

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this part regardless of their race, color, creed, religion, sex or national origin.

~~(3) With respect to non-elderly family units,~~ the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to ~~non-elderly~~ families who are least likely to apply, as determined in the Affirmative Fair Housing Marketing Plan, and to ~~non-elderly~~ families expected to reside in the community by reason of current or planned employment.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units.

(b) *Management and maintenance.* The owner is responsible for all management functions, including determining eligibility of applicants, selection of tenants, reexamination and verification of family income and composition, determination of family rent (total tenant payment, tenant rent and utility reimbursement), collection of rent, termination of tenancy and eviction, and performance of all repair and maintenance functions (including ordinary and extraordinary maintenance), and replacement of capital items. (See part 5 of this title.) All functions must be performed in accordance with applicable equal opportunity requirements.

(c) *Contracting for services.* (1) For this part 880 and ~~24 CFR part 881~~ projects, with HUD approval, the owner may contract with a private or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b) of this section.

~~(2) For 24 CFR part 883 projects, with approval of the Agency, the owner may contract with a private or public entity (but not with the Agency unless temporarily necessary for the Agency to protect its financial interest and to uphold its program responsibilities where no alternative management agent is immediately available) for performance of the services or duties required in paragraphs (a) and (b) of this section.~~

(3) However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) *Submission of financial and operating statements.* After execution of the Contract, the owner must submit to the contract administrator:

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(e) *Use of project funds.* (1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with §880.602 and to provide distributions to the owner as provided in §880.205, §881.205 of this chapter, or §883.306 of this chapter, as appropriate.

~~(2) For this part 880 and 24 CFR part 881 projects:~~

~~(i) Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.~~

~~(ii) Partially-assisted projects are exempt from the provisions of this section.~~

~~(iii) In the case of HUD-insured projects, the provisions of this paragraph (e) will apply instead of the otherwise applicable mortgage insurance provisions.~~

~~(3) For 24 CFR part 883 projects:~~

~~(i) Any remaining project funds must be deposited with the Agency, other mortgagee or other Agency approved depository in an interest bearing account. Withdrawals from this account may be made only for project purposes and with the approval of the Agency.~~

~~(ii) In the case of HUD insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially assisted projects which are subject to the applicable mortgage insurance provisions.~~

~~(Approved by the Office of Management and Budget under control number 2502-0204)~~

~~[44 FR 59410, Oct 15, 1979, as amended at 45 FR 18924, Mar. 24, 1980; 51 FR 11224, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 53 FR 1145, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39702, Sept. 27, 1989; 56 FR 7536, Feb. 22, 1991; 60 FR 14841, Mar. 20, 1995; 61 FR 13588, Mar. 27, 1996; 63 FR 46593, Sept. 1, 1998; 65 FR 16722, Mar. 29, 2000]~~

§ 880.602 Replacement reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items.

~~(1) Part 880 and 24 CFR part 881 projects. (i) For this part 880 and 24 CFR part 811 projects, an amount equivalent to .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required by HUD from time to time, will be deposited in the replacement reserve annually. This amount will be adjusted each year by the amount of the automatic annual adjustment factor.~~

(ii) The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of HUD.

(iii) All earnings including interest on the reserve must be added to the reserve.

(iv) Funds will be held by the mortgagee or trustee for bondholders, and may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

~~(v) Partially assisted part 880 and 24 CFR part 881 projects are exempt from the provisions of this section.~~

~~(2) Part 883 of this chapter projects. (i) For 24 CFR part 883 projects, an amount equivalent to at least .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required from time to time by:~~

- (A) ~~The Agency, in the case of projects approved under 24 CFR part 883, subpart D; or~~
- (B) ~~HUD, in the case of all other projects, will be deposited in the replacement reserve annually. For projects approved under 24 CFR part 883, subpart D, this amount may be adjusted each year by up to the amount of the automatic annual adjustment factor. For all projects not approved under 24 CFR part 883, subpart D, this amount must be adjusted each year by the amount of the automatic annual adjustment factor.~~
- (ii) ~~The reserve must be built up to and maintained at a level determined to be sufficient by the Agency to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of the Agency.~~
- (iii) ~~All earnings, including interest on the reserve, must be added to the reserve.~~
- (iv) ~~Funds will be held by the Agency, other mortgagee or trustee for bondholders, as determined by the Agency, and may be drawn from the reserve and used only in accordance with Agency guidelines and with the approval of, or as directed by, the Agency.~~
- (v) ~~The Agency may exempt partially assisted projects approved under 24 CFR part 883, subpart D, from the provisions of this section. All partially assisted projects not approved under the Fast Track Procedures formerly in 24 CFR part 883, subpart D, are exempt from the provisions of this section.~~
- (b) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions, ~~except in the case of partially assisted insured projects which are subject to the applicable mortgage insurance provisions.~~

[61 FR 13588, Mar. 27, 1996]

§ 880.603 Selection and admission of assisted tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant must complete and sign the application. For this part 880 ~~and 24 CFR part 881~~ projects, on request, the owner must furnish copies of all applications to HUD and the PHA, if applicable. ~~For 24 CFR part 883 projects, on request, the owner must furnish to the Agency or HUD copies of all applications received.~~

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for obtaining and verifying information related to income eligibility in accordance with 24 CFR part 5, subpart F, and evidence related to citizenship and eligible immigration status in accordance with 24 CFR part 5, subpart E, to determine whether the applicant is eligible for assistance in accordance with the requirements of 24 CFR part 5, and to select families for admission to the program, which includes giving selection preferences in accordance with 24 CFR 5.655.

(1) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason, provided the owner complies with the procedures for informing applicants about admission preferences as provided in 24 CFR 5.655.

(2) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), or because of failure by an applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR parts 5 and ~~813~~), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. See 24 CFR part 5 for the informal review provisions for the denial of a Federal preference or the failure to establish citizenship or eligible immigration status and for notice requirements where assistance is terminated, denied, suspended, or reduced based on wage and claim information obtained by HUD from a State Wage Information Collection Agency.

(3) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Reexamination of family income and composition* —(1) *Regular reexaminations*. The owner must reexamine the income and composition of all families at least every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 5 of this title and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose the verify Social Security Numbers, as provided by 24 CFR part 5. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At the first regular reexamination after June

19, 1995, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of 24 CFR part 5 and verify the immigration status of any new family member.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR part 5 for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5. At any interim reexamination after June 19, 1995, when a new family member has been added, the owner shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of the citizenship or eligible immigration status of any new family member.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the contract rent plus any utility allowance. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 5, or failure to sign and submit consent forms for the obtaining wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5. See 24 CFR part 5 for provisions requiring termination of assistance for failure to establish citizenship or eligible immigration status and also for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

(Approved by the Office of Management and Budget under control number 2502-0204)

[61 FR 13589, Mar. 27, 1996, as amended at 65 FR 16722, Mar. 29, 2000; 70 FR 77744, Dec. 30, 2005]

§ 880.604 Tenant rent.

The eligible Family pays the Tenant Rent directly to the Owner.

[49 FR 19943, May 10, 1984]

§ 880.605 Overcrowded and underoccupied units.

If the contract administrator determines that because of change in family size an assisted unit is smaller than appropriate for the eligible family to which it is leased, or that the unit is larger than appropriate, housing assistance payments with respect to the unit will not be reduced or terminated until the eligible family has been relocated to an appropriate alternative unit. If possible, the owner will, as promptly as possible, offer the family an appropriate unit. The owner may receive vacancy payments for the vacated unit if he complies with the requirements of §880.611.

§ 880.606 Lease requirements.

(a) *Term of Lease.* The term of the lease will be for not less than one year. The lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Form* —(1) ~~Part 880 and 24 CFR part 881 projects.~~ For this part 880 and 24 CFR part 881 projects, the form of lease must contain all required provisions, and none of the prohibited provisions specified in the developer's packet, and must conform to the form of lease included in the approved final proposal.

(2) ~~24 CFR part 883 projects.~~ For 24 CFR part 883 projects, the form of lease must contain all required provisions, and none of the prohibited provisions specified below.

(i) ~~Required provisions (Addendum to lease).~~

Addendum to Lease

The following additional Lease provisions are incorporated in full in the Lease between _____ (Landlord) and _____ (Tenant) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions will prevail.

a. The total rent will be \$_____ per month.

b. Of the total rent, \$_____ will be payable by the State Agency (Agency) as housing assistance payments on behalf of the Tenant and \$_____ will be payable by the Tenant. These amounts will be subject to change by reason of changes in the Tenant's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD established schedules and criteria; or by reason of adjustment by the Agency of any applicable Utility Allowance; or by reasons of changes in program rules. Any such change will be effective as of the date stated in a notification to the Tenant.

~~c. The Landlord will not discriminate against the Tenant in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.~~

~~d. The Landlord will provide the following services and maintenance: _____~~

~~e. A violation of the Tenant's responsibilities under the Section 8 Program, as determined by the Agency, is also a violation of the lease.~~

Landlord _____

By _____

Date _____

Tenant _____

Date _____

[End of addendum]

(ii) *Prohibited provisions.* Lease clauses which fall within the classifications listed below must not be included in any Lease.

Lease Clauses

a. *Confession of Judgment.* Consent by the tenant to be sued, to admit guilt, or to accept without question any judgment favoring the landlord in a lawsuit brought in connection with the lease.

b. *Seize or Hold Property for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and/or hold it until the tenant meets any obligation which the landlord has determined the tenant has failed to perform.

c. *Exculpatory Clause.* Prior agreement by the tenant not to hold the landlord or landlord's agents legally responsible for acts done improperly or for failure to act when the landlord or landlord's agent was required to do so.

d. *Waiver of Legal Notice.* Agreement by the tenant that the landlord need not give any notices in connection with (1) a lawsuit against the tenant for eviction, money damages, or other purposes, or (2) any other action affecting the tenant's rights under the lease.

e. *Waiver of Legal Proceeding.* Agreement by the tenant to allow eviction without a court determination.

f. *Waiver of Jury Trial.* Authorization to the landlord's lawyer to give up the tenant's right to trial by jury.

g. *Waiver of Right to Appeal Court Decision.* Authorization to the landlord's lawyer to give up the tenant's right to appeal a decision on the ground of judicial error or to give up the tenant's right to sue to prevent a judgment being put into effect.

h. *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome of Lawsuit.* Agreement by the tenant to pay lawyer's fees or other legal costs whenever the landlord decides to sue the tenant whether or not the tenant wins. (Omission of such a clause does not mean that the tenant, as a party to a lawsuit, may not have to pay lawyer's fees or other costs if the court so orders.)

[End of clauses]

[44 FR 59410, Oct. 15, 1979, as amended at 61 FR 13590, Mar. 27, 1996]

§ 880.607 Termination of tenancy and modification of lease.

(a) *Applicability.* The provisions of this section apply to all decisions by an owner to terminate the tenancy of a family residing in a unit under Contract during or at the end of the family's lease term.

(b) *Entitlement of Families to occupancy* —(1) *Grounds.* The owner may not terminate any tenancy except upon the following grounds:

(i) Material noncompliance with the lease;

(ii) Material failure to carry out obligations under any State landlord and tenant act;

(iii) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

(iv) Other good cause, which may include the refusal of a family to accept an approved modified lease form (see paragraph (d) of this section). No termination by an owner will be valid to the extent it is based upon a lease or a provisions of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of good cause.* The conduct of a tenant cannot be deemed “other good cause” under paragraph (b)(1)(iv) of this section unless the owner has given the family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the family in the same manner as that provided for termination notices under paragraph (c) of this section and State and local law.

(3) *Material noncompliance.* (i) Material noncompliance with the lease includes:

(A) One or more substantial violations of the lease; or

(B) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the

leased premises and related facilities; interfere with the management of the building or have an adverse financial effect on the building.

(ii) Failure of the family to timely submit all required information on family income and composition, including failure to submit required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5), failure to disclose and verify Social Security Numbers (as provided by 24 CFR part 5), failure to sign and submit consent forms (as provided by 24 CFR part 5), or knowingly providing incomplete or inaccurate information, shall constitute a substantial violation of the lease.

(c) *Termination notice.* (1) The owner must give the family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iv) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1)(i) or (b)(1)(ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the family, the owner may not rely on any grounds which are different from the reasons set forth in the notice.

(4) See 24 CFR part 5 for provisions related to termination of assistance because of failure to establish citizenship or eligible immigration status, including informal hearing procedures and also for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

(5) In actions or potential actions to terminate tenancy, the Owner shall follow 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

(d) *Modification of Lease form.* The owner, with the prior approval of HUD ~~or, for a 24 CFR part 883 project, the Agency,~~ may modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions. The family may accept the modified terms and conditions by executing the offered

revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by §880.609 and other applicable HUD regulations.

(Approved by the Office of Management and Budget under control number 2502–0204)

[44 FR 59410, Oct. 15, 1979, as amended at 51 FR 11225, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39703, Sept. 27, 1989; 56 FR 7537, Feb. 22, 1991; 60 FR 14842, Mar. 20, 1995; 61 FR 13590, Mar. 27, 1996; 61 FR 47382, Sept. 6, 1996; 66 FR 28797, May 24, 2001; 73 FR 72342, Nov. 28, 2008; 75 FR 66260, Oct. 27, 2010]

§ 880.608 Security deposits.

(a) At the time of the initial execution of the lease, the owner will require each family to pay a security deposit in an amount equal to one month's Total Tenant Payment or \$50, whichever is greater. The family is expected to pay the security deposit from its own resources and/or other public sources. The owner may collect the security deposit on an installment basis.

(b) The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest. The owner must comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a family which vacates its unit will provide the owner with its forwarding address or arrange to pick up the refund.

(d) The owner, subject to State and local law and the requirements of this paragraph, may use the security deposit, plus any accrued interest, as reimbursement for any unpaid family contribution or other amount which the family owes under the lease. Within 30 days (or shorter time if required by State, or local law) after receiving notification of the family's forwarding address, the owner must:

(1) Refund to a family owing no rent or other amount under the lease the full amount of the security deposit, plus accrued interest;

(2) Provide to a family owing rent or other amount under the lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the family's rights under State and local law. If the amount which the owner claims is owed by the family is less than the amount of the security deposit, plus accrued interest, the owner must refund the unused balance to the family. If the owner fails to provide the list, the family will be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning reimbursement of the security deposit, the family will have the right to present objections to the owner in an informal meeting. The owner must keep a record of any disagreements and meetings in a tenant file for inspection by the contract administrator. The procedures of this paragraph do not preclude the family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to reimburse the owner for any unpaid tenant rent or other amount which the family owes under the lease, and the owner has provided the family with the list required by paragraph (d)(2) of this section, the owner may claim reimbursement from the contract administrator, as appropriate, for an amount not to exceed the lesser of:

(1) The amount owed the owner, or

(2) One month's contract rent, minus the amount of the security deposit plus accrued interest. Any reimbursement under this section will be applied first toward any unpaid tenant rent due under the lease. No reimbursement may be claimed for unpaid rent for the period after termination of the tenancy.

[44 FR 59410, Oct. 15, 1979, as amended at 49 FR 19943, May 10, 1984; 61 FR 13591, Mar. 27, 1996]

~~§ 880.609—Adjustment of contract rents.~~

~~(a) Automatic annual adjustment of Contract Rents.~~ Upon request from the owner to the contract administrator, contract rents will be adjusted on the anniversary date of the contract in accordance with 24 CFR part 888.

~~(b) Special additional adjustments.~~ For all projects, special additional adjustments will be granted, to the extent determined necessary by HUD (for 24 CFR part 883 projects, by the Agency and HUD), to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, and which are not adequately compensated for by annual adjustments under paragraph (a) of this section. The owner must submit to the contract administrator required supporting data, financial statements and certifications.

~~(c) Overall limitation.~~ Any adjustments of contract rents for a unit after Contract execution or cost certification, where applicable, must not result in material differences between the rents charged for assisted units and comparable unassisted units except to the extent that the differences existed with respect to the contract rents set at Contract execution or cost certification, where applicable.

~~[44 FR 59410, Oct. 15, 1979, as amended at 59 FR 22755, May 3, 1994; 61 FR 13591, Mar. 27, 1996]~~

§ 880.610 Adjustment of utility allowances.

In connection with annual ~~and special~~ adjustments of contract rents, the owner must submit an analysis of the project's Utility Allowances. Such data as changes in utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the Utility Allowances. In addition, when approval of a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances, the project owner must advise the contract administrator and request approval of new Utility Allowances. Whenever a Utility Allowance for a unit is adjusted, the owner will promptly notify affected families and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit.

(Approved by the Office of Management and Budget under control number 2502-0161)

[50 FR 39097, Sept. 27, 1985]

§ 880.611 Conditions for receipt of vacancy payments.

(a) *General.* Vacancy payments under the Contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies during Rent-up.* For each assisted unit that is not leased as of the effective date of the Contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Conducted marketing in accordance with §880.601(a) and otherwise complied with §880.601;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to the contract administrator.

(c) *Vacancies after Rent-Up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Certifies that he did not cause the vacancy by violating the lease, the Contract or any applicable law;

(2) Notified the contract administrator of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in §880.601(a) (2) and (3) and paragraph (b) (2) and (3) of this section; and

(4) For any vacancy resulting from the owner's eviction of an eligible family, certifies that he has complied with §880.607.

(d) *Vacancies for longer than 60 days.* If an assisted unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe and sanitary condition during the vacancy period for which payments are claimed;

(2) The owner has fulfilled and continues to fulfill the requirements specified in paragraph (b) or (c) of this section, as appropriate; and

(3) The owner has ~~(for 24 CFR part 883 projects, the owner and the Agency have)~~ demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the owner with revenues at least equal to project expenses (exclusive of depreciation), and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit, and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of double compensation for vacancies.* The owner is not entitled to vacancy payments for vacant units to the extent he can collect for the vacancy from other sources (such as security deposits, payments under §880.608(f), and governmental payments under other programs).

[44 FR 59410, Oct. 15, 1979, as amended at 61 FR 13591, Mar. 27, 1996]

§ 880.612 Reviews during management period.

(a) After the effective date of the Contract, the contract administrator will inspect the project and review its operation at least annually to determine whether the owner is in compliance with the Contract and the assisted units are in decent, safe and sanitary condition.

(b) In addition:

(1)(i) For this part 880 ~~and 24 CFR part 881 private owner/PHA~~ projects, HUD will review the PHA's administration of the Contract at least annually to determine whether the PHA is in compliance with the ACC; and

~~(ii) For 24 CFR part 883 projects, HUD will periodically review the Agency's administration of the Contract to determine whether it is in compliance with the Contract.~~

(2) HUD may independently inspect project operations and units at any time.

(c) Equal Opportunity reviews may be conducted by HUD at any time.

[44 FR 59410, Oct. 15, 1979, as amended at 61 FR 13591, Mar. 27, 1996]

~~§ 880.612a Preference for occupancy by elderly families.~~

~~(a) Election of preference for occupancy by elderly families — (1) Election by owners of eligible projects. (i) An owner of a project assisted under this part (including a partially assisted project) that was originally designed primarily for occupancy by elderly families (an “eligible project”) may, at any time, elect to give preference to elderly families in selecting tenants for assisted, vacant units in the project, subject to the requirements of this section.~~

~~(ii) For purposes of this section, a project eligible for the preference provided by this section, and for which the owner makes an election to give preference in occupancy to elderly families is referred to as an “elderly project.” “Elderly families” refers to families whose heads of household, their spouses or sole members are 62 years or older.~~

~~(iii) An owner who elects to provide a preference to elderly families in accordance with this section is required to notify families on the waiting list who are not elderly that the election has been made and how the election may affect them if:~~

~~(A) The percentage of disabled families currently residing in the project who are neither elderly nor near elderly (hereafter, collectively referred to as “non-elderly disabled families”) is equal to or exceeds the minimum required percentage of units established for the elderly project in accordance with paragraph (c)(1) of this section, and therefore non-elderly families on the waiting list (including non-elderly disabled families) may be passed over for covered section 8 units; or~~

~~(B) The project, after making the calculation set forth in paragraph (c)(1) of this section, will have no units set aside for non-elderly disabled families.~~

~~(iv) An owner who elects to give a preference for elderly families in accordance with this section shall not remove an applicant from the project's waiting list on the basis of having made the election.~~

~~(2) HUD approval of election not required. (i) An owner is not required to solicit or obtain the approval of HUD before exercising the election of preference for occupancy provided in paragraph (a)(1) of this section. The owner, however, if challenged on the issue of eligibility of the project for the election provided in paragraph (a)(1) of this section must be able to support~~

the project's eligibility through the production of all relevant documentation in the possession of the owner that pertains to the original design of the project.

(ii) The Department reserves the right at any time to review and make determinations regarding the accuracy of the identification of the project as an elderly project. The Department can make such determinations as a result of ongoing monitoring activities, or the conduct of complaint investigations under the Fair Housing Act (42 U.S.C. 3601 through 3619), or compliance reviews and complaint investigations under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and other applicable statutes.

(b) Determining projects eligible for preference for occupancy by elderly families — (1) Evidence supporting project eligibility. Evidence that a project assisted under this part (or portion of a project) was originally designed primarily for occupancy by elderly families, and is therefore eligible for the election of occupancy preference provided by this section, shall consist of at least one item from the sources (“primary” sources) listed in paragraph (b)(1)(i) of this section, or at least two items from the sources (“secondary” sources) listed in paragraph (b)(1)(ii) of this section:

(i) *Primary sources.* Identification of the project (or portion of a project) as serving elderly (seniors) families in at least one primary source such as: The application in response to the notice of funding availability; the terms of the notice of funding availability under which the application was solicited; the regulatory agreement; the loan commitment; the bid invitation; the owner's management plan, or any underwriting or financial document collected at or before loan closing; or

(ii) *Secondary sources.* Two or more sources of evidence such as: lease records from the earliest two years of occupancy for which records are available showing that occupancy has been restricted primarily to households where the head, spouse or sole member is 62 years of age or older; evidence that services for elderly persons have been provided, such as services funded by the Older Americans Act, transportation to senior citizen centers, or programs coordinated with the Area Agency on Aging; project unit mix with more than fifty percent of efficiency and one-bedroom units [a secondary source particularly relevant to distinguishing elderly projects under the previous section 3(b) definition (in which disabled families were included in the definition of “elderly families”) from non-elderly projects and which in combination with other factors (such as the number of accessible units) may be useful in distinguishing projects for seniors from those serving the broader definition of “elderly families” which includes disabled families]; or any other relevant type of historical data, unless clearly contradicted by other comparable evidence.

(2) *Sources in conflict.* If a primary source establishes a design contrary to that established by the primary source upon which the owner would base support that the project is an eligible project (as defined in this section), the owner cannot make the election of preferences for elderly families as provided by this section based upon primary sources alone. In any case where

~~primary sources do not provide clear evidence of original design of the project for occupancy primarily by elderly families, including those cases where primary sources conflict, secondary sources may be used to establish the use for which the project was originally designed.~~

~~(c) Reservation of units in elderly projects for non-elderly disabled families. The owner of an elderly project is required to reserve, at a minimum, the number of units specified in paragraph (c)(1) of this section for occupancy by non-elderly disabled families.~~

~~(1) Minimum number of units to be reserved for non-elderly disabled families. The number of units in an elderly project required to be reserved for occupancy by non-elderly disabled families, shall be, at a minimum, the lesser of:~~

~~(i) The number of units equivalent to the higher of —~~

~~(A) The percentage of units assisted under this part in the elderly project that were occupied by non-elderly disabled families on October 28, 1992; and~~

~~(B) The percentage of units assisted under this part in the elderly project that were occupied by non-elderly disabled families upon January 1, 1992; or~~

~~(ii) 10 percent of the number of units assisted under this part in the eligible project.~~

~~(2) Option to reserve greater number of units for non-elderly disabled families. The owner, at the owner's option, and at any time, may reserve a greater number of units for non-elderly disabled families than that provided for in paragraph (c)(1) of this section. The option to provide a greater number of units to non-elderly disabled families will not obligate the owner to always provide that greater number to non-elderly disabled families. The number of units required to be provided to non-elderly disabled families at any time in an elderly project is that number determined under paragraph (c)(1) of this section.~~

~~(d) Secondary preferences. An owner of an elderly project also may elect to establish secondary preferences in accordance with the provisions of paragraph (d) of this section.~~

~~(1) Preference for near-elderly disabled families in units reserved for elderly families. If the owner of an elderly project determines, in accordance with paragraph (f) of this section, that there are an insufficient number of elderly families who have applied for occupancy to fill all the vacant units in the elderly project reserved for elderly families (that is, all units except those reserved for the non-elderly disabled families as provided in paragraph (c) of this section), the owner may give preference for occupancy of such units to disabled families who are near-elderly families.~~

~~(2) Preference for near-elderly disabled families in units reserved for non-elderly disabled families. If the owner of an elderly project determines, in accordance with paragraph (f) of this section, that there are an insufficient number of non-elderly disabled families to fill all the vacant~~

1 units in the elderly project reserved for non-elderly disabled families as provided in paragraph (c)
2 of this section, the owner may give preference for occupancy of these units to disabled families
3 who are near-elderly families.

4 ~~(e) Availability of units to families without regard to preference.~~ An owner shall make vacant
5 units in an elderly project generally available to otherwise eligible families who apply for
6 housing, without regard to the preferences and reservation of units provided in this section if
7 either:

8 ~~(1) The owner has adopted the secondary preferences and there are an insufficient number of~~
9 ~~families for whom elderly preference, reserve preference, and secondary preference has been~~
10 ~~given, to fill all the vacant units; or~~

11 ~~(2) The owner has not adopted the secondary preferences and there are an insufficient number of~~
12 ~~families for whom elderly preference, and reserve preference has been given to fill all the vacant~~
13 ~~units.~~

14 ~~(f) Determination of insufficient number of applicants qualifying for preference.~~ To make a
15 determination that there are an insufficient number of applicants who qualify for the preferences,
16 including secondary preferences, provided by this section, the owner must:

17 ~~(1) Conduct marketing in accordance with §880.601(a) to attract applicants qualifying for the~~
18 ~~preferences and reservation of units set forth in this section; and~~

19 ~~(2) Make a good faith effort to lease to applicants who qualify for the preferences provided in~~
20 ~~this section, including taking all feasible actions to fill vacancies by renting to such families.~~

21 ~~(g) Prohibition of evictions.~~ An owner may not evict a tenant without good cause, or require that
22 a tenant vacate a unit, in whole or in part because of any reservation or preference provided in
23 this section, or because of any action taken by the Secretary pursuant to subtitle D (sections 651
24 through 661) of title VI of the Housing and Community Development Act of 1992 (42 U.S.C.
25 13611 through 13620).

26 [59 FR 65850, Dec. 21, 1994, as amended at 61 FR 9046, Mar. 6, 1996; 65 FR 16722, Mar. 29,
27 2000]

APPENDIX II –THE U.S. HOUSING ACT OF 1937, WAIVED FOR PBRA CONVERSIONS

The following lists the sections of the Act that are waived for PBRA conversions under the first component of the Demonstration:

- Section 3(a)(1)
- Section 8(b)(1)
- Section 8(c)(1)
- Section 8(c)(2)
- Section 8(c)(4) (clause preceding the first comma)
- Section 8(c)(5)
- Section 8(d)(2)(A)
- Section 16(c)(2)

Please note that in addition to this list there are provisions of section 8 that are not germane to PBRA conversions under RAD and therefore do not apply.

APPENDIX III – PBRA SITE AND NEIGHBORHOOD STANDARDS

This Appendix III describes the site and neighborhood standards that apply to RAD projects converting to PBRA. These requirements are meant to mirror those established in Notice H 2014-14; any substantive conflicts between the requirements set forth herein and those set forth in Notice H 2014-14 are accidental and in the event of such conflict, the requirements set forth in Notice H 2014-14 shall control unless explicitly superseded by HUD.

Site selection for all covered projects (whether existing housing / rehabilitation or new construction) must meet the following requirements:

- a. The site and neighborhood are suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.
- b. The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.
- c. The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
- d. It must meet all applicable accessibility requirements, including, but not limited to, the accessibility requirements of the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

To the extent the covered project involves new construction, the following site selection requirements must also be met:

- e. The covered project may not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area and

may not be located in an area of minority concentration. If HUD determines that the covered project will be located in an area of minority concentration, additional supporting data (e.g., census data, evidence of local revitalization efforts, etc.) must be submitted in order for HUD to determine that they meet one of the exceptions below:

1. Sufficient, comparable opportunities exist for housing for minority households in the income range to be served by the proposed project, outside areas of minority concentration. Sufficient does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year which over a period of several years will approach an appropriate balance of housing opportunities within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for very low-income minority households and in relation to the racial mix of the locality's population.

A. Units may be considered to be comparable opportunities if they have the same household type and tenure type (owner/renter), require approximately the same total tenant payment, serve the same income group, are located in the same housing market, and are in standard condition.

B. Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for very low-income minority households in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with any other factor relevant to housing choice:

- i. A significant number of assisted housing units are available outside areas of minority concentration.
- ii. There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years, relative to the racial mix of the eligible population.
- iii. There are racially integrated neighborhoods in the locality.
- iv. Programs are operated by the locality to assist minority households that wish to find housing outside areas of minority concentration.
- v. Minority households have benefitted from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority households (or families) outside of areas of minority concentration.
- vi. A significant proportion of minority households have been successful in finding units in nonminority areas under the Section 8 Certificate and Housing Voucher programs.

vii. Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

2. The project is necessary to meet overriding housing needs that cannot be met in that housing market area. Application of the overriding housing needs criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”). An overriding housing need, however, may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, creed, sex, or national origin renders sites outside areas of minority concentration unavailable, or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

APPENDIX IV– NEW CODES FOR SPECIAL PROGRAMS REPORTED ON THE FAMILY REPORT (FORM HUD-50058) FOR THE RENTAL ASSISTANCE DEMONSTRATION PROGRAM.

In order to implement the Demonstration, four new codes to be used with data submitted on Form HUD-50058 have been created to ensure proper monitoring and reporting. More specifically, the four new codes will allow the Department to track the project-based voucher (PBV) component of the Rental Assistance Demonstration (RAD) program. These codes must be entered in line 2n of the Form HUD-50058 in accordance with Notice PIH 2011-065.

The following codes have been assigned to the four types of housing eligible for the RAD.

- **RADPH** (Rental Assistance Demonstration/Public Housing)
- **RADMR** (Rental Assistance Demonstration/Moderate Rehabilitation)
- **RADRS** (Rental Assistance Demonstration/Rental Supplement)
- **RADRP** (Rental Assistance Demonstration/Rental Assistance Program)

Upon publication of this notice, public housing agencies must enter the appropriate program code on line 2n of the Family Report for families who are participating in the RAD program.

Development	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
See end for column description											
Alice H. Taylor Apar	Sep-23	354	43.79%	2.54%	10.73%	39.83%	0.00%	0.85%	0.28%	1.98%	43.79%
Alice H. Taylor Apar	Sep-24	351	43.59%	3.13%	12.25%	38.18%	0.00%	0.85%	0.28%	1.71%	43.02%
		-0.85%	-0.45%	23.27%	14.13%	-4.15%	0.00%	0.01%	0.00%	-13.55%	-1.75%
Annapolis	Sep-23	54	14.81%	12.96%	1.85%	44.44%	0.00%	1.85%	0.00%	24.07%	79.63%
Annapolis	Sep-24	54	12.96%	12.96%	1.85%	44.44%	0.00%	1.85%	0.00%	25.93%	79.63%
		0.00%	-12.50%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.69%	0.00%
Ashmont	Sep-23	52	11.54%	15.38%	1.92%	46.15%	0.00%	0.00%	0.00%	25.00%	59.62%
Ashmont	Sep-24	51	11.76%	13.73%	1.96%	47.06%	0.00%	0.00%	0.00%	25.49%	60.78%
		-1.92%	1.96%	-10.78%	1.96%	1.96%	0.00%	0.00%	0.00%	1.96%	1.96%
Ausonia Apartments	Sep-23	91	10.99%	59.34%	2.20%	18.68%	0.00%	1.10%	0.00%	7.69%	79.12%
Ausonia Apartments	Sep-24	94	12.77%	54.26%	1.06%	22.34%	0.00%	1.06%	0.00%	8.51%	76.60%
		3.30%	16.17%	-8.57%	-51.60%	19.59%	0.00%	-0.04%	0.00%	10.64%	-3.19%
Bellflower	Sep-23	112	7.14%	32.14%	5.36%	46.43%	0.00%	0.00%	0.00%	8.93%	75.00%
Bellflower	Sep-24	110	7.27%	31.82%	4.55%	47.27%	0.00%	0.00%	0.00%	9.09%	75.45%
		-1.79%	1.82%	-1.01%	-15.15%	1.82%	0.00%	0.00%	0.00%	1.82%	0.61%
Charlestown	Sep-23	799	29.91%	19.90%	10.39%	29.79%	0.75%	0.63%	0.38%	8.26%	46.18%
Charlestown	Sep-24	750	30.93%	19.47%	10.53%	29.20%	0.67%	0.53%	0.40%	8.27%	47.33%
		-6.13%	3.41%	-2.18%	1.40%	-1.97%	-11.22%	-0.09%	0.02%	0.08%	2.49%
Codman Apartment	Sep-23	92	10.87%	8.70%	4.35%	72.83%	0.00%	1.09%	0.00%	2.17%	61.96%
Codman Apartment	Sep-24	98	11.22%	9.18%	5.10%	71.43%	0.00%	1.02%	0.00%	2.04%	62.24%
		6.52%	3.27%	5.61%	17.35%	-1.92%	0.00%	-0.07%	0.00%	-6.12%	0.47%
Commonwealth	Sep-23	255	31.76%	11.76%	5.49%	39.61%	0.00%	0.00%	0.39%	10.98%	39.61%
Commonwealth	Sep-24	264	31.06%	10.98%	7.20%	38.64%	0.00%	0.38%	0.38%	11.36%	37.88%
		3.53%	-2.22%	-6.63%	31.09%	-2.45%	0.00%	0.38%	-0.01%	3.49%	-4.37%
Commonwealth Eld	Sep-23	109	11.93%	42.20%	2.75%	23.85%	0.00%	0.00%	0.00%	19.27%	79.82%
Commonwealth Eld	Sep-24	107	12.15%	43.93%	2.80%	24.30%	0.00%	0.00%	0.00%	16.82%	79.44%
		-1.83%	1.87%	4.08%	1.87%	1.87%	0.00%	0.00%	0.00%	-12.68%	-0.47%
Davison Apartments	Sep-23	44	25.00%	11.36%	9.09%	54.55%	0.00%	0.00%	0.00%	0.00%	61.36%
Davison Apartments	Sep-24	45	22.22%	8.89%	8.89%	57.78%	2.22%	0.00%	0.00%	0.00%	57.78%
		2.27%	-11.11%	-21.78%	-2.22%	5.93%	0.00%	0.00%	0.00%	0.00%	-5.84%
Doris Bunte Apartm	Sep-23	130	30.00%	3.08%	6.15%	58.46%	0.00%	0.00%	0.00%	2.31%	86.15%
Doris Bunte Apartm	Sep-24	100	28.00%	3.00%	5.00%	62.00%	0.00%	0.00%	0.00%	2.00%	87.00%
		-23.08%	-6.67%	-2.50%	-18.75%	6.05%	0.00%	0.00%	0.00%	-13.33%	0.98%
Eva White Apartme	Sep-23	86	10.47%	18.60%	2.33%	18.60%	0.00%	1.16%	0.00%	48.84%	88.37%
Eva White Apartme	Sep-24	90	11.11%	20.00%	3.33%	18.89%	0.00%	1.11%	0.00%	45.56%	85.56%
		4.65%	6.17%	7.50%	43.33%	1.53%	0.00%	-0.05%	0.00%	-6.72%	-3.19%
Foley Apartments	Sep-23	90	8.89%	80.00%	0.00%	10.00%	0.00%	0.00%	0.00%	1.11%	73.33%
Foley Apartments	Sep-24	92	10.87%	72.83%	1.09%	10.87%	1.09%	1.09%	0.00%	2.17%	75.00%

Development	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
		2.22%	22.28%	-8.97%	0.00%	8.70%	0.00%	1.09%	0.00%	95.65%	2.27%
Franklin Field	Sep-23	332	41.87%	3.01%	14.76%	38.86%	0.30%	0.00%	0.00%	1.20%	31.33%
Franklin Field	Sep-24	333	40.54%	3.00%	16.22%	38.44%	0.30%	0.00%	0.30%	1.20%	31.53%
		0.30%	-3.17%	-0.30%	9.87%	-1.07%	-0.30%	0.00%	0.30%	-0.30%	0.66%
Frederick Douglass	Sep-23	76	15.79%	19.74%	3.95%	36.84%	0.00%	0.00%	1.32%	22.37%	76.32%
Frederick Douglass	Sep-24	73	15.07%	19.18%	4.11%	38.36%	0.00%	0.00%	1.37%	21.92%	76.71%
		-3.95%	-4.57%	-2.83%	4.11%	4.11%	0.00%	0.00%	0.05%	-2.01%	0.52%
General Warren	Sep-23	90	20.00%	51.11%	4.44%	10.00%	0.00%	1.11%	0.00%	13.33%	67.78%
General Warren	Sep-24	84	21.43%	47.62%	4.76%	10.71%	0.00%	1.19%	0.00%	14.29%	66.67%
		-6.67%	7.14%	-6.83%	7.14%	7.14%	0.00%	0.08%	0.00%	7.14%	-1.64%
Groveland	Sep-23	43	6.98%	16.28%	2.33%	69.77%	0.00%	0.00%	0.00%	4.65%	65.12%
Groveland	Sep-24	44	9.09%	13.64%	2.27%	70.45%	0.00%	0.00%	0.00%	4.55%	70.45%
		2.33%	30.30%	-16.23%	-2.27%	0.98%	0.00%	0.00%	0.00%	-2.27%	8.20%
Hampton House	Sep-23	74	10.81%	16.22%	8.11%	48.65%	0.00%	0.00%	0.00%	16.22%	75.68%
Hampton House	Sep-24	75	12.00%	16.00%	8.00%	46.67%	0.00%	0.00%	0.00%	17.33%	78.67%
		1.35%	11.00%	-1.33%	-1.33%	-4.07%	0.00%	0.00%	0.00%	6.89%	3.95%
Hassan Apartments	Sep-23	96	9.38%	4.17%	1.04%	85.42%	0.00%	0.00%	0.00%	0.00%	75.00%
Hassan Apartments	Sep-24	96	9.38%	4.17%	1.04%	85.42%	0.00%	0.00%	0.00%	0.00%	76.04%
		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.39%
Highland Park	Sep-23	24	41.67%	0.00%	16.67%	41.67%	0.00%	0.00%	0.00%	0.00%	29.17%
Highland Park	Sep-24	25	40.00%	4.00%	20.00%	36.00%	0.00%	0.00%	0.00%	0.00%	32.00%
		4.17%	-4.00%	0.00%	20.00%	-13.60%	0.00%	0.00%	0.00%	0.00%	9.71%
Holgate Apartments	Sep-23	80	20.00%	3.75%	18.75%	56.25%	0.00%	0.00%	0.00%	1.25%	72.50%
Holgate Apartments	Sep-24	77	20.78%	5.19%	18.18%	54.55%	0.00%	0.00%	0.00%	1.30%	75.32%
		-3.75%	3.90%	38.53%	-3.03%	-3.03%	0.00%	0.00%	0.00%	3.90%	3.90%
J J Meade Apartme	Sep-23	39	15.38%	7.69%	2.56%	61.54%	0.00%	0.00%	0.00%	12.82%	69.23%
J J Meade Apartme	Sep-24	37	18.92%	5.41%	2.70%	56.76%	0.00%	0.00%	0.00%	16.22%	72.97%
		-5.13%	22.97%	-29.73%	5.41%	-7.77%	0.00%	0.00%	0.00%	26.49%	5.41%
Malone Apartments	Sep-23	97	31.96%	18.56%	6.19%	42.27%	1.03%	0.00%	0.00%	0.00%	64.95%
Malone Apartments	Sep-24	92	31.52%	18.48%	6.52%	41.30%	1.09%	0.00%	0.00%	1.09%	64.13%
		-5.15%	-1.37%	-0.42%	5.43%	-2.28%	5.43%	0.00%	0.00%	0.00%	-1.26%
Martin Luther King T	Sep-23	102	24.51%	7.84%	9.80%	55.88%	0.00%	0.98%	0.00%	0.98%	84.31%
Martin Luther King T	Sep-24	98	24.49%	8.16%	10.20%	55.10%	0.00%	1.02%	0.00%	1.02%	86.73%
		-3.92%	-0.08%	4.08%	4.08%	-1.40%	0.00%	0.04%	0.00%	4.08%	2.87%
Mary Ellen McCorm	Sep-23	955	28.69%	21.78%	8.17%	27.96%	0.31%	0.31%	0.21%	12.57%	35.81%
Mary Ellen McCorm	Sep-24	927	29.23%	22.01%	8.20%	27.62%	0.32%	0.32%	0.11%	12.19%	34.74%
		-2.93%	1.89%	1.04%	0.38%	-1.22%	3.02%	0.01%	-0.10%	-2.99%	-3.00%
Mildred C. Hailey Br	Sep-23	51	58.82%	7.84%	0.00%	29.41%	0.00%	1.96%	0.00%	1.96%	78.43%
Mildred C. Hailey Br	Sep-24	49	57.14%	8.16%	0.00%	30.61%	0.00%	2.04%	0.00%	2.04%	71.43%

Development	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
		-3.92%	-2.86%	4.08%	0.00%	4.08%	0.00%	0.08%	0.00%	4.08%	-8.93%
Mildred C. Hailey Br	Sep-23	426	38.73%	5.87%	15.49%	38.97%	0.00%	0.47%	0.00%	0.47%	34.98%
Mildred C. Hailey Br	Sep-24	427	39.11%	5.85%	14.29%	40.05%	0.00%	0.23%	0.00%	0.47%	33.96%
		0.23%	0.98%	-0.23%	-7.79%	2.77%	0.00%	-0.24%	0.00%	-0.23%	-2.91%
Mildred C. Hailey He	Sep-23	213	42.25%	3.29%	9.39%	42.25%	0.00%	0.00%	0.00%	2.82%	35.21%
Mildred C. Hailey He	Sep-24	193	41.45%	3.63%	9.84%	41.97%	0.00%	0.00%	0.00%	3.11%	35.75%
		-9.39%	-1.90%	10.36%	4.84%	-0.67%	0.00%	0.00%	0.00%	10.36%	1.53%
Pasciucco	Sep-23	89	13.48%	8.99%	8.99%	60.67%	1.12%	0.00%	0.00%	6.74%	78.65%
Pasciucco	Sep-24	85	11.76%	11.76%	9.41%	61.18%	0.00%	0.00%	0.00%	5.88%	80.00%
		-4.49%	-12.75%	30.88%	4.71%	0.83%	-100.00%	0.00%	0.00%	-12.75%	1.71%
Peabody Apartment	Sep-23	99	17.17%	12.12%	3.03%	50.51%	0.00%	0.00%	0.00%	17.17%	75.76%
Peabody Apartment	Sep-24	100	17.00%	13.00%	3.00%	50.00%	0.00%	0.00%	0.00%	17.00%	77.00%
		1.01%	-1.00%	7.25%	-1.00%	-1.00%	0.00%	0.00%	0.00%	-1.00%	1.64%
Pond Street	Sep-23	41	34.15%	29.27%	0.00%	31.71%	0.00%	0.00%	0.00%	4.88%	80.49%
Pond Street	Sep-24	42	35.71%	28.57%	0.00%	30.95%	0.00%	0.00%	0.00%	4.76%	76.19%
		2.44%	4.59%	-2.38%	0.00%	-2.38%	0.00%	0.00%	0.00%	-2.38%	-5.34%
Rockland Towers	Sep-23	65	20.00%	41.54%	1.54%	33.85%	0.00%	1.54%	0.00%	1.54%	84.62%
Rockland Towers	Sep-24	67	19.40%	38.81%	2.99%	35.82%	0.00%	1.49%	0.00%	1.49%	85.07%
		3.08%	-2.99%	-6.58%	94.03%	5.83%	0.00%	-0.05%	0.00%	-2.99%	0.54%
Roslyn Apartments	Sep-23	110	25.45%	25.45%	1.82%	44.55%	0.00%	0.00%	0.91%	1.82%	91.82%
Roslyn Apartments	Sep-24	114	24.56%	24.56%	3.51%	45.61%	0.00%	0.00%	0.88%	0.88%	88.60%
		3.64%	-3.51%	-3.51%	92.98%	2.40%	0.00%	0.00%	-0.03%	-51.75%	-3.51%
Ruth Barkley Apartn	Sep-23	394	39.85%	7.36%	11.68%	31.47%	0.51%	0.00%	0.00%	9.14%	44.16%
Ruth Barkley Apartn	Sep-24	400	39.50%	7.00%	12.00%	32.75%	0.50%	0.00%	0.00%	8.25%	44.50%
		1.52%	-0.87%	-4.90%	2.78%	4.06%	-1.50%	0.00%	0.00%	-9.71%	0.76%
Spring Street	Sep-23	98	14.29%	45.92%	4.08%	33.67%	1.02%	0.00%	0.00%	1.02%	78.57%
Spring Street	Sep-24	101	14.85%	43.56%	3.96%	35.64%	0.99%	0.00%	0.00%	0.99%	75.25%
		3.06%	3.96%	-5.13%	-2.97%	5.85%	-2.97%	0.00%	0.00%	-2.97%	-4.23%
St Botolph Apartme	Sep-23	97	12.37%	37.11%	2.06%	26.80%	0.00%	0.00%	0.00%	21.65%	84.54%
St Botolph Apartme	Sep-24	89	10.11%	38.20%	2.25%	25.84%	0.00%	0.00%	0.00%	23.60%	86.52%
		-8.25%	-18.26%	2.93%	8.99%	-3.59%	0.00%	0.00%	0.00%	8.99%	2.34%
Torre Unidad	Sep-23	185	16.22%	22.70%	3.78%	22.16%	0.00%	0.54%	0.54%	34.05%	83.24%
Torre Unidad	Sep-24	188	15.43%	22.87%	4.26%	23.40%	0.00%	0.53%	0.53%	32.98%	83.51%
		1.62%	-4.88%	0.75%	12.46%	5.60%	0.00%	-0.01%	-0.01%	-3.16%	0.32%
Washington Manor	Sep-23	74	13.51%	22.97%	4.05%	41.89%	0.00%	0.00%	0.00%	17.57%	74.32%
Washington Manor	Sep-24	71	11.27%	25.35%	4.23%	40.85%	0.00%	0.00%	0.00%	18.31%	74.65%
		-4.05%	-16.62%	10.36%	4.23%	-2.50%	0.00%	0.00%	0.00%	4.23%	0.44%
Washington Street	Sep-23	76	21.05%	32.89%	0.00%	27.63%	0.00%	0.00%	0.00%	18.42%	89.47%
Washington Street	Sep-24	71	18.31%	32.39%	1.41%	26.76%	0.00%	0.00%	0.00%	21.13%	87.32%

Waiting List	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
See end for column description											
Alice Heywood Taylor	Sep-23	19,054	20.05%	16.99%	10.60%	37.91%	0.48%	0.77%	0.58%	4.73%	22.47%
Alice Heywood Taylor	Sep-24	23,127	17.34%	18.04%	10.77%	37.34%	0.48%	0.73%	0.59%	4.53%	22.34%
		21.38%	-13.51%	6.13%	1.61%	-1.51%	-0.60%	-5.28%	2.61%	-4.28%	-0.60%
Annapolis Street	Sep-23	4,900	13.14%	29.04%	6.24%	35.63%	0.43%	0.96%	0.57%	6.69%	68.08%
Annapolis Street	Sep-24	5,917	12.49%	30.83%	6.86%	34.22%	0.44%	0.93%	0.46%	6.20%	71.08%
		20.76%	-4.97%	6.15%	9.88%	-3.95%	2.53%	-3.09%	-20.15%	-7.34%	4.41%
Anne M. Lynch Homes at Old C	Sep-23	19,312	18.47%	20.05%	10.00%	33.73%	0.47%	0.69%	0.54%	8.05%	22.29%
Anne M. Lynch Homes at Old C	Sep-24	23,256	16.00%	20.45%	10.42%	34.23%	0.48%	0.69%	0.56%	6.66%	22.01%
		20.42%	-13.35%	2.00%	4.19%	1.49%	2.42%	0.52%	4.60%	-17.23%	-1.25%
Ashmont Street	Sep-23	5,784	12.41%	26.66%	6.10%	40.06%	0.38%	0.92%	0.48%	6.29%	67.91%
Ashmont Street	Sep-24	6,792	11.94%	28.83%	6.68%	37.49%	0.37%	0.97%	0.41%	5.92%	70.57%
		17.43%	-3.81%	8.13%	9.52%	-6.42%	-3.23%	6.05%	-14.84%	-5.95%	3.91%
Ausonia Homes	Sep-23	6,044	13.25%	35.08%	5.38%	30.26%	0.45%	0.76%	0.56%	7.63%	67.67%
Ausonia Homes	Sep-24	7,104	12.63%	35.47%	5.88%	29.63%	0.44%	0.86%	0.51%	7.24%	70.59%
		17.54%	-4.72%	1.13%	9.42%	-2.08%	-2.32%	12.82%	-9.92%	-5.14%	4.32%
Bellflower Street	Sep-23	5,825	13.03%	29.22%	6.15%	36.21%	0.43%	0.82%	0.45%	6.68%	67.59%
Bellflower Street	Sep-24	6,886	12.61%	31.19%	6.52%	34.04%	0.41%	0.84%	0.41%	6.30%	70.93%
		18.21%	-3.26%	6.76%	6.09%	-5.98%	-5.26%	2.22%	-8.90%	-5.62%	4.94%
Cathedral/Ruth Barkley Apts.	Sep-23	19,728	19.12%	18.76%	9.91%	34.50%	0.47%	0.74%	0.58%	8.38%	23.65%
Cathedral/Ruth Barkley Apts.	Sep-24	23,879	16.68%	19.59%	10.21%	34.88%	0.46%	0.71%	0.60%	7.05%	23.67%
		21.04%	-12.78%	4.43%	2.99%	1.08%	-0.32%	-3.80%	4.36%	-15.93%	0.10%
Charlestown	Sep-23	18,441	18.11%	21.31%	9.39%	33.90%	0.48%	0.70%	0.61%	7.66%	23.77%
Charlestown	Sep-24	22,809	16.10%	21.55%	9.81%	34.20%	0.50%	0.71%	0.61%	6.42%	23.73%
		23.69%	-11.06%	1.16%	4.47%	0.88%	3.82%	1.37%	-0.55%	-16.23%	-0.17%
Codman Apartments	Sep-23	5,839	13.46%	26.20%	6.15%	39.94%	0.39%	0.92%	0.46%	5.65%	67.97%
Codman Apartments	Sep-24	6,880	13.02%	28.27%	6.51%	37.47%	0.42%	0.92%	0.41%	5.44%	70.81%
		17.83%	-3.25%	7.89%	5.91%	-6.18%	7.01%	-0.99%	-11.99%	-3.81%	4.18%
Commonwealth Elderly	Sep-23	6,100	13.08%	31.38%	5.31%	33.54%	0.43%	0.69%	0.57%	8.66%	66.11%
Commonwealth Elderly	Sep-24	7,124	12.52%	32.96%	5.67%	31.84%	0.39%	0.72%	0.48%	8.13%	68.99%
		16.79%	-4.29%	5.04%	6.77%	-5.08%	-7.79%	3.97%	-16.82%	-6.10%	4.35%
Commonwealth Family	Sep-23	19,903	18.18%	19.01%	9.64%	36.29%	0.47%	0.71%	0.56%	7.54%	22.92%
Commonwealth Family	Sep-24	23,915	16.27%	19.49%	9.98%	36.02%	0.46%	0.72%	0.59%	6.56%	22.85%
		20.16%	-10.54%	2.52%	3.53%	-0.76%	-2.46%	0.81%	5.52%	-12.95%	-0.30%
Davison Apartments	Sep-23	4,307	14.42%	29.72%	5.60%	36.82%	0.44%	0.88%	0.67%	4.64%	69.17%
Davison Apartments	Sep-24	5,242	13.56%	31.15%	6.12%	34.87%	0.44%	0.80%	0.48%	4.60%	72.01%
		21.71%	-5.93%	4.82%	9.44%	-5.30%	-0.54%	-9.19%	-29.17%	-0.99%	4.12%
ELAHP	Sep-23	34	8.82%	29.41%	8.82%	47.06%	0.00%	2.94%	0.00%	2.94%	73.53%
ELAHP	Sep-24	31	12.90%	29.03%	6.45%	45.16%	0.00%	3.23%	0.00%	3.23%	67.74%

Wating List	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
		-8.82%	46.24%	-1.29%	-26.88%	-4.03%	0.00%	9.68%	0.00%	9.68%	-7.87%
Eva White	Sep-23	5,703	13.48%	29.65%	5.51%	30.76%	0.39%	0.82%	0.56%	12.45%	64.56%
Eva White	Sep-24	6,670	13.01%	31.26%	6.07%	29.88%	0.39%	0.84%	0.49%	10.99%	67.57%
		16.96%	-3.49%	5.42%	10.28%	-2.85%	1.05%	1.88%	-11.83%	-11.73%	4.66%
Foley Apartments	Sep-23	5,282	13.04%	35.02%	5.04%	29.70%	0.44%	0.76%	0.64%	8.80%	67.44%
Foley Apartments	Sep-24	6,264	12.47%	35.50%	5.52%	29.13%	0.40%	0.73%	0.49%	8.08%	70.71%
		18.59%	-4.42%	1.37%	9.68%	-1.92%	-8.34%	-3.03%	-23.12%	-8.24%	4.85%
Franklin Field	Sep-23	16,922	19.69%	17.16%	10.86%	37.08%	0.47%	0.74%	0.59%	5.37%	22.72%
Franklin Field	Sep-24	20,682	17.21%	18.01%	11.12%	36.78%	0.47%	0.68%	0.59%	4.84%	22.55%
		22.22%	-12.61%	4.95%	2.44%	-0.83%	-0.79%	-8.44%	1.66%	-9.81%	-0.75%
Frederick Douglass	Sep-23	5,288	13.35%	29.60%	5.26%	33.59%	0.45%	0.83%	0.64%	10.14%	66.30%
Frederick Douglass	Sep-24	6,179	12.67%	31.12%	5.70%	32.19%	0.39%	0.79%	0.52%	9.29%	69.09%
		16.85%	-5.09%	5.16%	8.36%	-4.16%	-14.42%	-4.69%	-19.45%	-8.35%	4.20%
General Warren	Sep-23	4,634	13.75%	34.64%	5.24%	30.13%	0.43%	0.80%	0.54%	7.47%	68.52%
General Warren	Sep-24	5,632	13.16%	34.53%	6.04%	30.01%	0.41%	0.82%	0.43%	6.98%	71.31%
		21.54%	-4.29%	-0.29%	15.12%	-0.39%	-5.38%	2.29%	-21.01%	-6.54%	4.07%
Groveland Apartments	Sep-23	3,785	12.63%	29.35%	5.23%	38.89%	0.37%	1.00%	0.63%	4.33%	70.70%
Groveland Apartments	Sep-24	4,737	11.97%	31.31%	5.97%	36.14%	0.34%	0.89%	0.44%	4.39%	73.74%
		25.15%	-5.22%	6.66%	14.20%	-7.07%	-8.68%	-11.69%	-30.08%	1.34%	4.30%
Hampton House	Sep-23	5,201	13.90%	29.67%	5.27%	33.17%	0.42%	0.87%	0.63%	9.90%	66.76%
Hampton House	Sep-24	6,115	13.02%	31.59%	5.82%	31.69%	0.39%	0.80%	0.51%	8.93%	69.93%
		17.57%	-6.36%	6.50%	10.51%	-4.44%	-7.21%	-7.39%	-20.10%	-9.83%	4.75%
Hassan Apartments	Sep-23	4,765	13.24%	27.32%	5.92%	40.27%	0.46%	0.82%	0.52%	4.26%	68.98%
Hassan Apartments	Sep-24	5,786	12.88%	29.40%	6.57%	37.31%	0.41%	0.83%	0.45%	4.37%	72.07%
		21.43%	-2.77%	7.59%	10.97%	-7.35%	-10.16%	1.36%	-14.35%	2.64%	4.48%
Highland Park	Sep-23	7,318	23.08%	11.34%	13.00%	37.14%	0.55%	0.49%	0.56%	4.95%	9.76%
Highland Park	Sep-24	8,951	20.78%	11.55%	13.05%	37.29%	0.55%	0.53%	0.68%	4.25%	9.62%
		22.31%	-9.97%	1.85%	0.41%	0.41%	0.15%	6.74%	21.64%	-14.18%	-1.41%
Holgate Apartments	Sep-23	3,879	14.20%	28.85%	6.70%	36.58%	0.39%	1.01%	0.67%	4.46%	71.28%
Holgate Apartments	Sep-24	4,747	13.46%	31.07%	6.89%	34.19%	0.36%	0.91%	0.48%	4.53%	73.77%
		22.38%	-5.23%	7.71%	2.77%	-6.54%	-7.39%	-9.90%	-27.71%	1.55%	3.50%
Malone Apartments	Sep-23	4,898	14.88%	28.28%	5.94%	38.20%	0.47%	0.84%	0.61%	3.96%	69.31%
Malone Apartments	Sep-24	5,871	13.75%	30.17%	6.49%	35.80%	0.44%	0.80%	0.44%	4.12%	71.83%
		19.87%	-7.65%	6.68%	9.23%	-6.27%	-5.69%	-4.36%	-27.70%	4.07%	3.63%
Mary Ellen McCormack	Sep-23	17,647	18.50%	20.73%	9.57%	33.18%	0.45%	0.72%	0.56%	8.71%	22.59%
Mary Ellen McCormack	Sep-24	21,428	16.19%	20.79%	10.13%	34.17%	0.46%	0.69%	0.58%	7.21%	22.20%
		21.43%	-12.47%	0.28%	5.81%	2.98%	3.20%	-4.68%	5.04%	-17.16%	-1.72%
Meade Apartments	Sep-23	4,599	13.48%	28.20%	6.11%	37.12%	0.33%	0.96%	0.57%	6.07%	68.86%
Meade Apartments	Sep-24	5,533	12.99%	30.07%	6.87%	34.83%	0.36%	0.90%	0.45%	5.82%	71.97%

Waiting List	Year	Total	WH%	WNH%	BH%	BNH%	AIH%	AINH%	AINPH%	AINPNH%	Dis%
		20.31%	-3.61%	6.64%	12.40%	-6.17%	10.83%	-5.55%	-20.08%	-4.07%	4.51%
Mildred C Hailey Apts Elderly-D	Sep-23	4,630	15.94%	29.16%	6.37%	34.95%	0.41%	0.71%	0.65%	5.01%	67.88%
Mildred C Hailey Apts Elderly-D	Sep-24	5,514	15.05%	30.99%	6.80%	33.12%	0.36%	0.76%	0.51%	5.02%	70.37%
		19.09%	-5.56%	6.30%	6.74%	-5.24%	-11.61%	6.87%	-21.63%	0.25%	3.66%
Mildred C. Hailey Apts. Family	Sep-23	17,446	20.36%	17.63%	10.70%	37.07%	0.52%	0.72%	0.58%	4.61%	23.25%
Mildred C. Hailey Apts. Family	Sep-24	21,135	17.78%	18.50%	10.91%	36.68%	0.51%	0.66%	0.60%	4.43%	23.10%
		21.15%	-12.69%	4.95%	2.01%	-1.04%	-2.94%	-7.55%	3.79%	-3.92%	-0.65%
Mildred C. Hailey Apts. Family	Sep-23	16,499	20.47%	17.92%	10.68%	36.13%	0.52%	0.76%	0.60%	4.81%	23.00%
Mildred C. Hailey Apts. Family	Sep-24	20,245	17.85%	18.76%	10.93%	35.94%	0.51%	0.70%	0.61%	4.53%	22.54%
		22.70%	-12.83%	4.68%	2.36%	-0.51%	-1.25%	-7.42%	1.25%	-5.66%	-2.01%
MLK	Sep-23	3,853	14.02%	27.61%	6.31%	38.33%	0.42%	0.91%	0.65%	4.44%	70.80%
MLK	Sep-24	4,743	13.32%	29.48%	6.79%	36.10%	0.34%	0.82%	0.44%	4.58%	72.91%
		23.10%	-4.92%	6.74%	7.65%	-5.84%	-18.76%	-9.48%	-31.76%	3.09%	2.97%
Pasciucco Apartments	Sep-23	4,927	13.40%	29.02%	6.01%	36.76%	0.45%	0.89%	0.53%	5.78%	69.33%
Pasciucco Apartments	Sep-24	5,974	12.86%	30.90%	6.53%	34.70%	0.42%	0.90%	0.47%	5.51%	72.08%
		21.25%	-4.03%	6.47%	8.67%	-5.59%	-6.28%	1.22%	-11.18%	-4.79%	3.96%
Peabody Square	Sep-23	5,540	13.30%	27.96%	6.17%	38.05%	0.40%	0.88%	0.51%	6.21%	68.99%
Peabody Square	Sep-24	6,601	12.94%	29.92%	6.74%	35.49%	0.39%	0.88%	0.42%	5.97%	71.72%
		19.15%	-2.75%	7.01%	9.20%	-6.72%	-0.81%	-0.66%	-16.07%	-3.87%	3.95%
Pond Street	Sep-23	5,545	15.62%	30.12%	6.19%	35.08%	0.43%	0.88%	0.56%	4.47%	67.95%
Pond Street	Sep-24	6,573	14.68%	31.64%	6.71%	33.24%	0.44%	0.87%	0.44%	4.67%	70.03%
		18.54%	-6.00%	5.07%	8.46%	-5.23%	1.94%	-1.87%	-21.08%	4.43%	3.05%
Rockland Towers	Sep-23	5,211	14.34%	31.07%	5.80%	35.12%	0.50%	0.75%	0.52%	4.72%	68.70%
Rockland Towers	Sep-24	6,329	13.71%	31.96%	6.40%	33.45%	0.49%	0.77%	0.44%	4.76%	71.24%
		21.45%	-4.33%	2.88%	10.42%	-4.75%	-1.83%	3.45%	-14.62%	0.74%	3.70%
Roslyn Apartments	Sep-23	5,744	15.46%	27.92%	6.28%	37.76%	0.50%	0.84%	0.54%	4.07%	68.02%
Roslyn Apartments	Sep-24	6,726	14.63%	29.68%	6.76%	35.53%	0.48%	0.83%	0.46%	4.18%	70.55%
		17.10%	-5.37%	6.27%	7.64%	-5.90%	-5.77%	-0.37%	-14.60%	2.55%	3.72%
Spring Street	Sep-23	5,616	14.49%	30.47%	6.05%	35.70%	0.45%	0.78%	0.53%	4.59%	68.36%
Spring Street	Sep-24	6,734	13.91%	31.54%	6.56%	33.80%	0.43%	0.83%	0.48%	4.71%	70.85%
		19.91%	-4.00%	3.53%	8.42%	-5.33%	-3.26%	6.14%	-11.04%	2.47%	3.64%
Unity Tower (Torre Unidad)	Sep-23	5,694	14.10%	28.98%	5.85%	31.91%	0.46%	0.77%	0.56%	10.78%	66.23%
Unity Tower (Torre Unidad)	Sep-24	6,703	13.67%	30.69%	6.31%	30.67%	0.46%	0.81%	0.48%	9.58%	69.31%
		17.72%	-3.10%	5.90%	7.91%	-3.88%	1.28%	4.25%	-15.05%	-11.18%	4.66%
Washington Manor	Sep-23	5,334	13.63%	29.72%	5.25%	33.31%	0.43%	0.81%	0.62%	10.24%	66.40%
Washington Manor	Sep-24	6,205	12.96%	31.18%	5.90%	31.80%	0.37%	0.81%	0.50%	9.33%	68.77%
		16.33%	-4.93%	4.95%	12.37%	-4.56%	-14.04%	-0.04%	-19.25%	-8.84%	3.56%
Washington Street	Sep-23	5,474	13.04%	31.88%	5.35%	32.74%	0.35%	0.80%	0.51%	8.57%	67.61%
Washington Street	Sep-24	6,512	12.56%	33.23%	5.93%	31.36%	0.34%	0.80%	0.43%	7.91%	70.04%

10/1/2023-9/30/2024

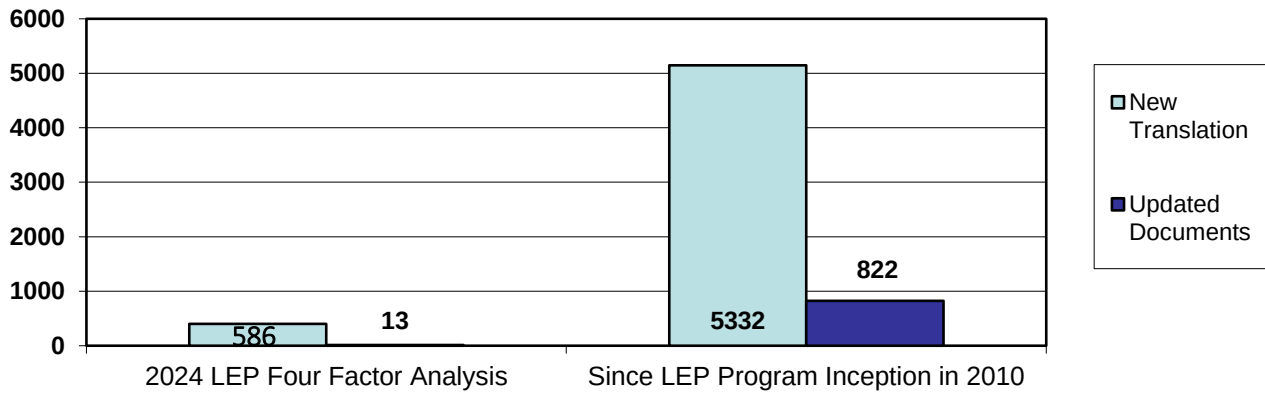
4/1/2010-9/30/2024

2024 LEP Four Factor Analysis

- **599** pages of documents translated from English to Spanish and/or Chinese (586 pages are new documents and 13 pages are previously translated documents with updates).

Cumulative Data Since LEP Program Inception

- **6154** pages of documents translated from English to Spanish and/or Chinese (5332 pages are new documents and 822 pages of previously translated documents have been updated).



Translation Summary for # of Pages from 4/1/2010-9/30/2024

Total English Documents

- 3906 Documents
- 5332 Pages

Translation Summary

Spanish

- 2315 Documents
- 5291 Pages

Chinese

- 1942 Documents
- 3515 Pages

# of Pages Translated by Department		
Administration Department	498	9.34%
BHA Developments	305	5.72%
Capital Construction	106	1.99%
Resident Engagement	1794	33.65%
Communications Department	154	2.89%
Grievances and Appeals	50	0.94%
Leased Housing	335	6.28%
Legal Department	213	3.99%
Admissions Department	761	14.27%
Operations	313	5.87%
Public Safety	4	0.08%
Purchasing Department	2	0.04%
Real Estate Development	786	14.74%
Risk Management	11	0.21%
Total	5332	100.00%



Volunteer Interpreters Program (VIP) Highlights (10/1/202 - 9/30/2024)

- Trained 9 new volunteers from colleges, high schools and community organizations in **5** training sessions to be BHA housing interpreters (All trainings were done virtually)

Held biweekly/monthly Wellness Connect sessions at 7 elderly/disabled housing developments- Eva White, Frederick Douglass, Hampton House, St. Botolph, Torre Unidad, Ausonia and Washington Manor; in total we had 46 wellness connect sessions

- Maintained a pool of **334** volunteers, capable of assisting in **24** languages:

Albanian	Amharic	Arabic	Bengali	Cape Verdean	Chinese
Farsi	French	Haitian Creole	Hindi	Igbo	Italian
Japanese	Korean	Polish	Portuguese	Russian	Serbian
Spanish	Swahili	Thai	Tigrinya	Urdu	Vietnamese

- Served in **447** occasions including BHA Multilingual Line, in-person interpretation assignments, written translation, and Wellness Connect sessions;
- Contributed **453.15** volunteer hours in total;
- Provided language assistance in **11** languages:

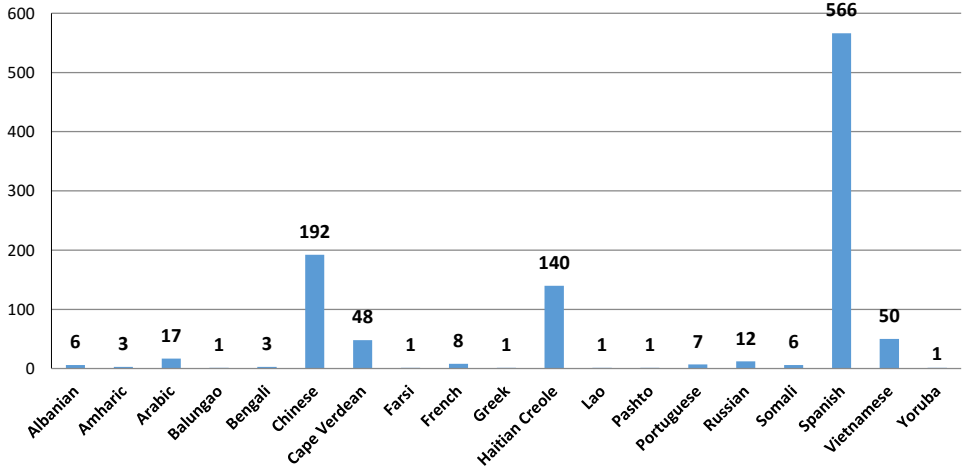
Amharic	Arabic	Cape Verdean	Chinese
Farsi	French	Haitian Creole	Portuguese
Russian	Spanish	Vietnamese	

Summary of Interpreter Requests * (10/1/2023 - 9/30/2024)

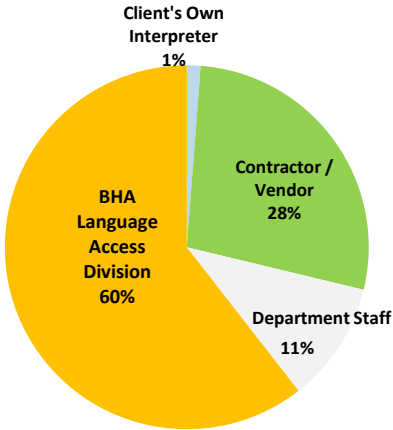
* Data excludes the use of BHA Multilingual Line

Language Requested	Frequency	Percentage	Request Frequency by Department												Service Frequency by Provider			
			Administration/ Communications	Admissions	BHA Developments	Capital Construction	Grievance & Appeals	HR/Legal/OCR	Leased Housing	Resident Engagement & Digital Equity	Resident Leadership & Community Affairs	Operations	Planning and Real Estate Development	Public Safety	Client's Own Interpreter	Contractor / Vendor	Department Staff	BHA Language Access Division
Albanian	6	0.56%		1			1		1			3				6		
Amharic	3	0.28%		2					1							3		
Arabic	17	1.60%		8	1		2		4			1		1		9		8
Balungao	1	0.09%		1											1			
Bengali	3	0.28%		1			2									3		
Chinese	192	18.05%	6	4	3	7	13		28	75	10	34	11	1		24	3	165
Cape Verdean	48	4.51%	1	6		1	12		12	2	6	6	1	1	1	39	2	6
Farsi	1	0.09%							1							1		
French	8	0.75%		2			2		4							6		2
Greek	1	0.09%							1							1		
Haitian Creole	140	13.16%	5	59	1		23	3	26	4	6	8	1	4	4	90	6	40
Lao	1	0.09%												1		1		
Pashto	1	0.09%		1												1		
Portuguese	7	0.66%	1	3			1				1		1			3		4
Russian	12	1.13%	1	2		1				1	1	5	1			8		4
Somali	6	0.56%		3					1			1	1			6		
Spanish	566	53.20%	26	86	4	9	83	7	134	74	65	45	27	6	7	48	103	408
Vietnamese	50	4.70%		15	1		5	3	15	2	2	6	1			43		7
Yoruba	1	0.09%					1									1		
Total	1064	100%	40	194	10	18	145	13	228	158	91	109	44	14	13	293	114	644

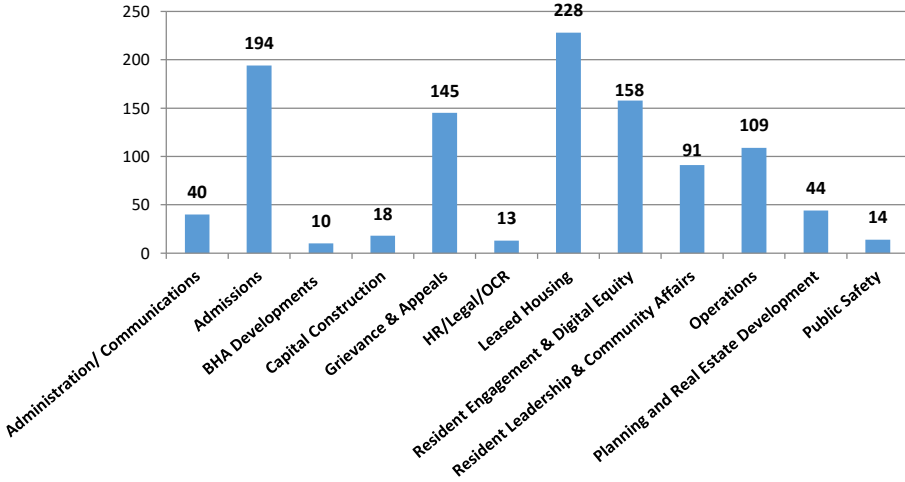
Requests by Language



Services by Provider



Requests by Department

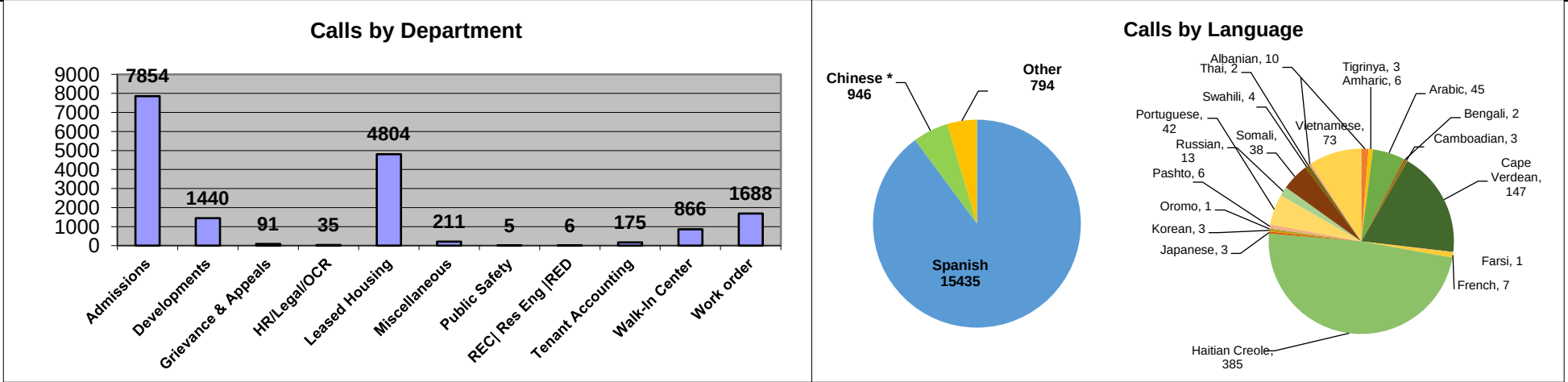


Note: The "Chinese" language category includes Cantonese (160), Mandarin (30) and Taiwanese (2).

Summary of BHA Multilingual Line

(10/1/2023-9/30/2024)

Annual Summary	Total Calls	%	Admissions	Developments	Grievance & Appeals	HR/Legal/OCR	Leased Housing	Miscellaneous	Public Safety	REC Res Eng RED	Tenant Accounting	Walk-In Center	Work order
Spanish	15435	89.87%	7274	1068	68	33	4496	181	5	3	167	500	1640
Chinese *	946	5.51%	268	266	6	2	126	21			6	212	39
Other	794	4.62%	312	106	17	0	182	9	0	3	2	154	9
Albanian	10	0.06%	1	5								3	1
Amharic	6	0.03%		2								4	
Arabic	45	0.26%	20	2			7					14	2
Bengali	2	0.01%	2										
Camboadian	3	0.02%		3									
Cape Verdean	147	0.86%	47	20	7		51	2		1		18	1
Farsi	1	0.01%	1										
French	7	0.04%	1	2			1					3	
Haitian Creole	385	2.24%	166	42	8		76	5		2	2	82	2
Japanese	3	0.02%	1	1			1						
Korean	3	0.02%	2									1	
Oromo	1	0.01%										1	
Pashto	6	0.03%	6										
Portuguese	42	0.24%	17	6			12					6	1
Russian	13	0.08%	5	3			4					1	
Somali	38	0.22%	17	3			10					6	2
Swahili	4	0.02%	1				1					2	
Thai	2	0.01%			1							1	
Tigrinya	3	0.02%	1	1				1					
Vietnamese	73	0.43%	24	16	1		19	1				12	
Total Calls	17175	100.00%	7854	1440	91	35	4804	211	5	6	175	866	1688





Administrative Plan

Housing Choice Voucher Program

Effective: April 1, 2025⁴

HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN

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Appendix A: MODERATE REHABILITATION ADMINISTRATIVE PLAN

CHAPTER 1: INTRODUCTION AND POLICY

1.1 Introduction

It is the goal of the Boston Housing Authority (“BHA” or “the Authority”) to make rental subsidies accessible so interested and eligible families can afford safe, decent, and sanitary housing; to provide these housing services with integrity and mutual accountability; and create housing situations which will serve as catalysts for the transformation from dependence to economic self-sufficiency.

This Administrative Plan describes Admission, Participation, and Termination policies by which the BHA determine eligibility, selects prospective Participants, approves Apartments and Owners, determines rents, and terminates subsidies, in a fair and non-discriminatory manner.

This Administrative Plan applies to all programs funded by the Housing Choice Voucher Program (“HCVP”) Annual Contributions Contract, and including Family Self-Sufficiency (“FSS”), Homeownership, Mainstream, and the Project-Based Voucher (“PBV”) and Certificate programs, Designated Housing Vouchers, Enhanced Vouchers, and Relocation Vouchers. Appendix A of this Administrative Plan covers the Moderate Rehabilitation Program. The Moderate Rehabilitation Administrative Plan, Appendix A, frequently references Sections within the main document and commonly refers to this Administrative Plan as the “HCVP Administrative Plan”.

1.2 Statement of Nondiscrimination

1.2.1 Compliance with Federal and State Laws

It is the policy of the BHA to comply fully with existing federal and State laws¹ protecting the individual rights of Applicants, Participants, or Staff, as well as any laws subsequently enacted.

1.2.2 Civil Rights and Fair Housing

The BHA does not discriminate because of race, color, sex, sexual orientation, religion, age, handicap, disability, national origin, ethnicity, familial status or marital status, in the leasing of Apartments in connection with the HCVP.²

¹ Title VI of the Civil Rights Act of 1964 and the implementing regulations at 24 C.F.R. part 1; Title VIII of the Civil Rights Act of 1968 (as amended by the Fair Housing Amendment Act of 1988); Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 C.F.R. part 107; Section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 C.F.R. part 8; the Age Discrimination Act of 1975 and the implementing regulations at 24 C.F.R. part 146; and the implementing regulations at 24 C.F.R. parts 100,108,110, and 121. Title II of the Americans with Disabilities Act and the implementing regulations at 28 C.F.R. part 35 and M.G.L. Chapter 151B.

² See M.G.L. Chapter. 151B, § 4 and 42 U.S.C. § 3601

The BHA shall not, because of race, color, sex, sexual orientation, religion, ethnicity, age, handicap, disability, national origin, familial status, or marital status:

- (a) Deny to any Family the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to his/her needs;
- (b) Provide housing which is different from that provided to others except as required or permitted by law and in accordance with this Administrative Plan;
- (c) Subject any person to segregation or disparate treatment;
- (d) Restrict a person's access to any benefit enjoyed by others in connection with a program covered by this Administrative Plan;
- (e) Treat a person differently in determining eligibility or other requirements for Admission except in accordance with this plan;
- (f) Deny a person access to the same level of services available to other similarly situated individuals; or
- (g) Deny a person the opportunity to participate in the Resident Advisory Board ("RAB") or any similar successor group that is an integral part of programs covered by this Administrative Plan.

1.2.3 Fair Admissions

The BHA shall not automatically deny Admission to a particular group or category of otherwise eligible Applicants (e.g., Households that have a Head of Household or Co-Head of Household who is a Disabled Person).

Each Applicant in a particular group or category must be treated on an individual basis in the eligibility procedure set forth in this plan.

1.2.4 Reasonable Accommodation

The BHA shall change or modify its policies or procedures as a Reasonable Accommodation for a Disabled Person where it is necessary to provide that person with an equal opportunity to use and enjoy programs covered by this Administrative Plan and BHA facilities, policies, and procedures. The BHA will make Reasonable Accommodations in accordance with the BHA's Reasonable Accommodation in Rental Assistance Policies and Procedures ("RARAPP").

1.2.5 Domestic Violence

It is the policy of BHA to assist victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault who are otherwise eligible for the

HCVP, to access and retain safe and affordable housing. The BHA follows the provisions listed below and those in the BHA Violence Against Women Act ("VAWA") Policy when considering the denial or termination of assistance of a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault. See also BHA VAWA Policy.

- (a) That an Applicant or Participant is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, is not an appropriate basis for denial of program assistance or for denial of admission, if the Applicant otherwise qualifies for assistance in accordance with this plan.
- (b) An incident or incidents of actual or threatened Domestic Violence, Dating Violence, Stalking, or Sexual Assault will not be construed as a serious or repeated violation of the Lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.
- (c) Criminal Activity directly relating to Domestic Violence, Dating Violence, Stalking, or Sexual Assault, engaged in by a member of a tenant's household or any guest or another person under the household member's control shall not be cause for termination of assistance, tenancy or occupancy rights if the tenant or an immediate member of the tenant's Family is the victim, or threatened victim of that Domestic Violence, Dating Violence, Stalking, or Sexual Assault.
 - (i) Notwithstanding clause (c), an Owner may bifurcate a Lease under this section, in order to evict, remove or terminate assistance to any individual who is a tenant or a lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating the assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.
 - (ii) Nothing in clause (c) may be construed to limit the authority of the BHA or the Owner, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the Household members where there is a Family Break-up. See also Section 11.7; Family Break-up Policy.
 - (iii) Nothing in clause (c) limits any otherwise available authority of an Owner to evict or the BHA to terminate assistance to a tenant for any violation of a Lease not premised on the act or acts of violence in question against

the tenant or a member of the tenant's household, provided the Owner does not subject an individual who is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault to a more demanding standard than other tenants in determining whether to evict or terminate.

- (iv) Nothing in clause (c) may be construed to limit the authority of an Owner or BHA to evict or terminate the assistance of any tenant or lawful occupant if the Owner or BHA can demonstrate an actual or imminent threat to other tenants or those employed at providing service to the property if that tenant is not evicted or the program assistance is terminated.

(d) *Verification of Status as a Victim of Domestic Violence.*

When a Family member seeks to avoid an adverse decision by the BHA on the grounds of being the victim of Domestic Violence, Dating Violence Stalking, or Sexual Assault, the BHA will require verification of the claimed incident or incidents. The BHA will request this verification in writing. Verification must be provided within 14 business days (*i.e.*, 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. 14 day period may be extended for good cause.

The following documentation will be accepted for purposes of such verification:

- (i) A HUD-approved form; (ii) Documentation signed and attested under penalty of perjury by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the Domestic Violence, Dating Violence Stalking, or Sexual Assault, or the effects of the abuse, described in such documentation; or
- (iii) A Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
- (iv) Other forms of verification as deemed acceptable by the BHA.

1.3 Accessibility and Plain Language

1.3.1 Accessible Facilities and Programs

Except as otherwise provided, no Disabled Person shall be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because the BHA's facilities or programs are inaccessible to a person with a disability.³

1.3.2 Plain Language Paperwork

Documents intended for use by Applicants/Participants will be presented in accessible formats for those with vision or hearing impairments and they will be written simply and clearly to enable Applicants/Participants with learning or cognitive disabilities to understand as much as possible. Requests for accommodation with respect to BHA documents that may be required in an alternative format should be made to the Authority's Telecommunications Device for the Deaf ("TDD") phone number, Teletypewriter ("TTY") phone number, Office of Civil Rights, Occupancy Department, Leased Housing Division, or the Housing Service Center.

1.3.3 Forms of Communication other than Plain Language Paperwork

At the point of initial contact, BHA staff shall ask all Applicants/Participants whether they need some form of communication other than plain language paperwork. Some alternatives might include: sign language interpretation, having materials explained orally by staff, either in person or by phone, large type materials, information on tape, and having someone (friend, relative or advocate) accompany the Applicant/Participant to receive, interpret and explain housing materials. The BHA will pay for sign language interpreters for the hearing impaired. The BHA is not required to provide individually prescribed devices or readers for personal use or study.⁴

1.3.4 English Language Ability

If an Applicant/Participant can not understand or read English, BHA staff will read and explain documents that they would normally hand to the Applicant/Participant to be read or filled out. An Applicant/Participant who cannot read or understand English may need to be provided with an interpreter who can explain any policies or procedures. The BHA will take reasonable steps to assure meaningful access by persons with limited English ability. Such steps will include translation of common written materials into those languages frequently spoken by Applicants/Participants.

³ Id.

⁴ See 24 C.F.R. § 8.6(a)(1)

CHAPTER 2: ADVERTISING AND OUTREACH

2.1 Advertising and Outreach

2.1.1 Marketing Policy

It is the policy of the BHA to conduct advertising and outreach as needed to maintain an adequate application pool. As necessary, the BHA will inform present and potential Owners about the various programs through appropriate media channels. In its marketing efforts, it is the policy of the BHA to comply fully with existing Federal and State laws protecting the individual rights of Applicants, Participants, or staff as well as any laws subsequently enacted.⁵

The BHA will undertake marketing efforts whenever there is a need to do so in order to address: changes required as a result of legislative or regulatory requirements; fair housing needs; deconcentration; an insufficient pool of Applicants; or any other factor which may require marketing efforts to further HCVP and BHA goals. The BHA shall assess these factors at least annually as part of its Agency Plan in order to determine the need and scope of the marketing effort.

2.1.2 Marketing Purposes.

- (a) To encourage participation and educate Owners of suitable units, especially those located outside of areas of low income or Minority concentration.⁶
- (b) To inform real estate organizations and groups of interested property Owners about the HCVP Program and its many benefits.
- (c) To maintain an adequate pool of Applicants.

2.1.3 Marketing Requirements

The following requirements apply to BHA marketing efforts:

- (a) *Fair Housing.* Materials must comply with the Fair Housing Act requirements with respect to wording, logo, size of type, etc. All applicants will be provided information on how to file a fair housing complaint. This information will include the provision of the toll-free number for the Fair Housing Complaint Hotline (currently 1-800-669-9777 or TTY: 800-887-8339 for persons with hearing or speech impairments.)

⁵ See also section 1.2 of this Administrative Plan– “Statement of Nondiscrimination” and all subsections

⁶ See 24 C.F.R. § 982.54(d)(6)

- (b) *Accurate Descriptions.* Materials shall accurately describe each program, its application process, waiting list, estimated wait time, and Priority and Preference structure.
- (c) *Plain Language.* Marketing materials shall be in “plain language”. The BHA shall make an effort to use print media, videos and multi-media in a variety of languages.
- (d) *Eligibility.* Marketing materials will be clear to Applicants and Applicant families, including those with physical and/or mental disabilities.
- (e) *Reasonable Accommodations.* Marketing materials will include notice of the BHA responsibility to provide Reasonable Accommodations for Disabled Persons if required because of disability.

2.1.4 Affirmative Marketing

The BHA shall undertake appropriate affirmative fair marketing efforts whenever the Authority identifies a need to augment the number of Applicants on any of its waiting lists.

- (a) *Print Media.* As necessary, the BHA will utilize regional publications to conduct outreach to accomplish goals and to facilitate outreach to those groups identified under section 2.1.2. The publications that the BHA will use include, but are not limited to:

Newspaper	Street	Town	Zip
Allston-Brighton TAB	PO Box 9113	Needham	02492
Back Bay Courant	294 Washington St., Suite 429	Boston	02108
Banker and Tradesman	280 Summer Street	Boston	02210
Bay State Banner	68 Fargo Street, 8 th Fl	Boston	02210
Bay Windows	631 Tremont Street	Boston	02118
Beacon Hill Times	25 Myrtle Street	Boston	02114
Boston Business Journal	200 High Street	Boston	02110
Boston City Paper	492 E. Broadway	South Boston	02127
Boston Haitian Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125

Boston Irish Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125
Boston Seaport Journal/Travel N.E.	256 Marginal Street	East Boston	02128
Boston TAB	PO Box 9113	Needham	02492
Carriage News (Taxi News)	PO Box 326	South Boston	02127
Charlestown Patriot	1 Thompson Square	Charlestown	02129
Dorchester Argus Citizen	PO Box 6	South Boston	02127
Dorchester Community News	1454 Dorchester Ave.	Dorchester	02122
Dorchester Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125
East Boston Sun Journal Transcript	PO Box 9103	Revere	02151
East Boston Times	40 William Kelly Square	East Boston	02128
El Mundo	408 South Huntington Avenue	Boston	02130
El Universal	1736 Washington Street	Boston	02118
Fenway News	PO Box 230307 Astor Station	Boston	02123
Hyde Park Bulletin	11 Fairmont Avenue	Hyde Park	02136
Hyde Park Tribune/JP Citizen	1261 Hyde Park Ave	Hyde Park	02136
In Newsweekly	450 Harrison Ave	Boston	02116
Independent Newspapers	385 Broadway, Suite 105	Revere	02151
Jamaica Plain Gazette/MHGazette	PO Box 1139, 7 Harris Ave	Jamaica Plain	02130
Jewish Advocate	15 School Street	Boston	02108
La Semana	911 Massachusetts Ave.	Boston	02118
Metro Newspaper	354 Congress Street	Boston	02210

Parents Paper	670 Center Street	Jamaica Plain	02130
Parkway/W. Roxbury Transcript	PO Box 9113	Needham	02492
People's Voice	PO Box 940, 554 Washington	Dorchester	02124
Post Gazette (North End)	PO Box 130135, 5 Prince St	Boston	02113
Regional Review (North End)	PO Box 1187	Saugus	01906
Sampan	200 Tremont Street	Boston	02116
Sing Tao	130 Lincoln St	Boston	02111
South Boston Online	490 Broadway	South Boston	02127
South Boston Tribune	PO Box 6	South Boston	02127
South End News	631 Tremont Street	Boston	02118
Spare Change	1151 Massachusetts Avenue	Cambridge	02138
Wade Publications, LTD	PO Box 400811	N. Cambridge	02140
West Roxbury Bulletin	1842 Center Street	West Roxbury	02132
West Roxbury Transcript	PO Box 9113	Needham	02492
World Journal	75 Kneeland Street	Boston	02111

2.1.5 Encouraging Participation in Areas of Low Poverty Concentration

The Boston Fair Housing Commission administers the MetroList Program. MetroList is a rental listing service that provides Applicants/Participants with access to information about rental housing throughout the Metropolitan Boston area. Many Owners and managers throughout the Boston area are required to list new and recently vacated units with MetroList. In addition, private Owners and property management companies are encouraged to list available units with MetroList on a regular basis. MetroList places the listings in a computer database. Furthermore, counselors are available at MetroList to assist

Applicants/Participants in filling out applications and communicating with Owners and building managers.

The BHA encourages Owners to advertise with MetroList through the use of informational seminars and outreach workshops. These workshops also provide information on federal, State, and city programs that provide financial assistance for improvements and repairs. MetroList receives listings from a number of communities, many of which are in areas of low poverty concentration. The BHA also refers Participants to the MetroList.

The BHA has prepared maps that show various areas with housing opportunities outside areas of poverty or Minority concentration. The BHA has also assembled information about the characteristics of those areas that may include information about job opportunities, schools, transportation and other services in these areas. The BHA will use the maps and area characteristics information when briefing Voucher Holders about the full range of areas where they may look for housing.

CHAPTER 3: APPLICATIONS AND ADMISSION

3.1 Applications and Processing

3.1.1 Application Forms

Current application forms are available on the BHA's web-site at, www.bostonhousing.org and at the BHA's central office, located at 52 and 56 Chauncy Street, Boston, MA 02111.

The BHA may accept completed applications only for those waiting lists which are open. The BHA may accept applications through an online system. Current information about applying to BHA's housing programs will be posted and updated on BHA's web site, www.bostonhousing.org.

3.1.2 Processing and Maintenance

It is the BHA's policy to accept, process, and maintain applications in accordance with applicable BHA policy and federal regulations. The BHA will notify the Applicant upon receipt of an application whether the BHA is ordering its Waiting list by random or by a chronological a selection approach. See section 3.2.4. Upon submission of an application, an Applicant shall be given a date and time stamped receipt of submission and be informed of the responsibility to notify the BHA of any change of address or Family Composition and to respond to application update requests sent to them. Failure to update the BHA may result in removal of the application from the waiting list. See section 3.2.5

3.1.3 Assignment of Application Client Control Number

Each Application will be assigned a client control number when completed and received by the BHA.

3.2 Waiting List Administration

3.2.1 Generally

The BHA must select Participants from a BHA waiting list, unless they are Special Admissions. See section 3.4 regarding Special Admissions. The BHA will maintain a single waiting list for its HCVP tenant-based assistance program. The BHA will also maintain separate, site-based, waiting lists for each development in its Project-Based Voucher program. An Applicant who meets the preliminary qualifications may add their name to any or all waiting lists. Each waiting list must contain the following information about each Applicant:

- (a) Applicant name;

- (b) Family Composition (to determine the number of bedrooms the Family qualifies for under the BHA Subsidy Standards described in section 5.4.3);
- (c) Whether the Family has any Elderly or Disabled members;
- (d) Date and time of application;
- (e) Racial and ethnic designation of each Family member;
- (f) Client Control Number (see section 3.1.3); and
- (g) Any approved Preference or Priority (see section 3.3).

3.2.2 Opening and Closing the Waiting List

- (a) ***Opening the Waiting List.*** The BHA will give at least two weeks advance public notice that a Family may apply for housing assistance before opening any waiting list. The notice must state where and when a Family should apply. The notice shall also state any limitations on the criteria for the type of Family that may apply. The notice shall be posted on BHA's website, circulated in a local newspaper of general circulation, by minority media, and any other means that the BHA finds suitable. The notice shall also state the time limitation of the application period. Once a waiting list is open, the BHA must accept applications from a Family for whom the waiting list is open. Any opening of the waiting list will be publicized in accordance with the Marketing and Outreach requirements described in Chapter 2 of this Administrative Plan.

If the waiting list is open for special programs, it will only be open for the purpose of accepting applications for the special programs.

- (b) ***Closing a Waiting List.*** The BHA may close a waiting list anytime that the BHA determines that the Applicant pool is large enough to fill the estimated amount of available Vouchers for the next twelve (12) months. The BHA may close an entire waiting list or close only a portion, keeping part of the waiting list open to a certain Priority, or for any special programs.

During the period when the waiting list is closed, the BHA will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

3.2.3 Updating the Waiting List

The BHA will update its waiting list periodically. The BHA will perform waiting list updates by removing, in accordance with section 3.2.5, the name of any Applicant:

- (a) Who is no longer interested; OR

- (b) No longer qualifies for housing; OR
- (c) Fails to respond to a letter or an email where the applicant has opted in to receiving electronic communications from the BHA.

3.2.4 Selection Methods

Regardless of the selection method that the BHA uses, each application will be assigned an application client control number as described in section 3.1.3.

- (a) **Lottery or Random Selection Approach.** The BHA may order its waiting list based on a random selection method. Once the application period is over and all applications are submitted, the BHA will randomly order the applications on its waiting list.
 - (1) **Limitation on number of applications submitted.** If the BHA believes it will receive far more Applicants than it will be able to assist within a reasonable period, then the BHA will make selection rules in advance to limit the number of applications placed on the waiting list. When the application deadline passes, the BHA will randomly select the previously determined number of applications from a pool of all applications submitted. The BHA will then randomly order the selected applications on the waiting list.
- (b) **Chronological Selection Approach.** The BHA may order a waiting list based on the date and time the application is received. The BHA will assign a chronological application client control number and date and time stamp the application when the Applicant completes the application at a BHA application-taking location.

3.2.5 Withdrawal of an Application from Waiting Lists

An Applicant may appeal the BHA's decision to withdraw their application from a waiting list by requesting an informal review. A request for an appeal must be made **in writing** and must be received by the BHA within twenty (20) calendar days of the date of the notice removing the Applicant from the waiting list. The BHA will hold the files of Applicants removed from any waiting list for three (3) years.

An Applicant will be withdrawn from the waiting lists of all programs they have selected in accordance with the following policy:

- (a) **Reasons for Withdrawal.** The circumstances that result in the withdrawal of an Applicant's name from any or all waiting lists include:
 - (1) **Voluntary Withdrawal**

The Applicant requests **in writing** that his/her name be removed, **OR**

(2) Failure to Respond

The Applicant is non-responsive to a BHA request to determine continued interest or to schedule an interview. BHA shall communicate with the applicant using the most updated electronic email or physical mailing address information provided by the Applicant. , **OR**

(3) Failure to Maintain a Scheduled Appointment

The Applicant fails to keep an appointment and fails to notify the BHA, within ten (10) days after the date of the appointment, of his/her inability to keep an appointment, **OR**

(4) Failure to Supply Information

The Applicant fails to supply documentation to the BHA in accordance with section 5.3.2(d), **OR**

(5) Denial of Assistance

The Applicant is denied assistance (see Chapter 6: Denial of Voucher and Applicant Appeals), **OR**

Note: If an Applicant is otherwise eligible for the tenant-based HCVP but is denied assistance for a specific project-based program because the Applicant does not meet the specific requirements for a supportive services program, the Applicant will retain their position on the tenant-based HCVP waiting list or other project based waiting lists.

(6) Refusal to Accept Housing

The Applicant refuses to accept an offer of housing from a site of choice. The refusal of an offer will result in withdrawal from the PBV and Mod Rehab waiting list(s) and the Applicant will lose any approved Priority and/or Preference. Furthermore, the Applicant will only be eligible to re-apply after one (1) year from the date of the most recent PBV or Mod Rehab unit refusal, **OR**

Note: Refusing an offer of housing from a PBV site of choice will have no effect on the Applicant's position on either the BHA's tenant based HCVP waiting list or the BHA's Public Housing waiting list(s).

(7) Withdrawal Upon Becoming Housed

When an Applicant receives housing administered by the BHA, the BHA will withdraw the Applicant from all BHA waiting lists for which the Applicant no longer qualifies for,

OR

(8) Ineligible for Priority

The Applicant has no eligibility for any Priority category for which the waiting list is open.

- (b) **Consideration of Circumstances Leading to Withdrawal** The BHA will consider a Mitigating Circumstance in determining whether the Application should be withdrawn as described above in section 3.2.5(a). Such mitigating circumstances could include a health problem, a lack of transportation, or Domestic Violence, Dating Violence, Stalking, or Sexual Assault that affected the Applicant's ability to comply with the BHA's requirements or prevented the BHA from contacting the Applicant. The Authority will also consider a Reasonable Accommodation that may be necessary for an Applicant who is a Disabled Person to keep an appointment or provide information. Consideration of a Mitigating Circumstance does not relieve the Applicant of the responsibility to provide required information or notify the BHA in writing.
- (c) **Notice of Withdrawal or Ineligibility.** The BHA will send a written notice to an Applicant who is removed from a waiting list. The notice will:
- (1) Inform the Applicant of the reasons for being withdrawn from the waiting list or being determined Ineligible;
 - (2) Advise the Applicant of the right to dispute the BHA determination of ineligibility or withdrawal by requesting an informal review within twenty (20) calendar days of the date of the notice. A request for an informal review must be in writing and must state the reason(s) for the request;
 - (3) Advise the Applicant that if s/he has a Disability, or is a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, not previously disclosed, that the disclosure of such condition or situation would initiate the consideration of Mitigating Circumstances and/or Reasonable Accommodation;

- (4) Advise the Applicant of the right to contest criminal record information in accordance with federal law if that is a basis for determination of ineligibility;
- (5) Provide a description of BHA's informal review process and advise the Applicant that s/he has a right to be represented by an attorney or other individual at the informal review, to review the contents of their file in advance of the hearing, to submit additional documentation and evidence at the hearing, and to request a Reasonable Accommodation.

3.2.6 Conversion of Project-Based to Tenant-Based Voucher

Upon completion of one year in the Project Based Voucher ("PBV") program, a Participant in good standing may choose to select a tenant-based Voucher. If a Voucher is not immediately available, an eligible PBV Participant will be placed on a waiting list by date and time of tenant-based Voucher request. As soon as a tenant-based Voucher becomes available, the BHA will grant the tenant-based Voucher to the eligible PBV Participants who has requested a tenant-based Voucher by date and time of request. An eligible Participant who has completed one year in the PBV program shall be granted a tenant-based Voucher before any Applicant on a waiting list is granted a Voucher.

3.2.7 Applicant Family Break-up

A Family Break-Up occurs when a Head, Co-head of household, or other adult family member will no longer reside together and there is a dispute as to who will retain the Application. A Family Break-Up situation may occur in instances including but not limited to: divorce, separation, or protective order. When a Family Break-Up occurs, the Application does not necessarily remain with the Head of Household.

When the BHA receives notice that a Family has broken up or will imminently break-up, the BHA will make the determination of which adult Family member shall retain the Application using the criteria and the procedure provided below. If the application is split between one or more adult Family members, each new Family must qualify for Priority and Preference as required to remain on the waiting list and may not rely on the Priority and Preference of the previously unified Family.

(a) Court Determination.

- (1) If a court has determined the disposition of the Family's Application subsidy in a divorce or separation under a court order or court approved settlement (provided that no provision is against State or Federal Housing regulations), the BHA is bound by the court's determination as to which Household Member(s) will continue with the Application. Such a determination cannot be

appealed through the BHA review process, as it is the court's determination, and not the BHA's determination that governs.

(2) If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 C.F.R. part 5, subpart L, the PHA must ensure that the victim retains assistance.

(b) BHA Determination

When there is no court determination, the BHA shall determine:

- (1) Which adult Household Member will continue with the Application; OR
- (2) If multiple adult Family members are to be granted separate Applications where all adult Family members meet Priority and Preference requirements to remain on the waiting list.

In making this determination, the BHA shall consider the interests of all Household Members. The BHA will use its discretion to decide which adult Household Member(s) will keep the Application by taking into account the following factors:

- (i) The interests of any minor children, physical custody;
- (ii) The interests of any ill, Elderly or Disabled Persons who are family members;
- (iii) Whether family members *fled* because of actual or threatened violence by a head or/and co-head (The BHA will take this factor into consideration regardless of whether the individuals who have fled and were recorded household members on the Application are the victims or the perpetrators);
- (iv) The amount of time since the Household Member(s) was/were added to the Family Composition. The BHA will consider this factor, on a case by case basis, the circumstances surrounding a Household Member's being added or not having been added to the Household.
- (v) Any temporary or permanent restraining or protective orders.

(c) Notice of Proposed Disposition of Application

When the BHA receives notice that a Family has broken up or will imminently break-up, the BHA will make an initial determination under section (b) regarding which Household Member shall retain

the Application or if multiple Family members will have right to retain separate Applications. A notice shall be sent to any and all addresses identified by such adults, and not solely to the last address for the Head of Household. The notice shall describe what factors BHA utilized in arriving at its decision. The notice shall also state that all adult Family Members have twenty (20) days to request a review of the decision.

(d) Right to Informal Review of BHA's Initial Determination

If the Head or Co-head (or another adult as described in section (f)) disagrees with the BHA's determination regarding which person(s) shall retain the Application, that person may request an informal review of the determination. The request for an informal review must be made in writing and submitted to the BHA Occupancy Department, 52 Chauncy Street, 3rd floor, Boston, MA 02111, within twenty (20) days of the date of the BHA's notice.

(e) Procedure for Informal Review

If the Head, Co-Head, or another adult as described in section (f) requests an informal review disputing the BHA's Family Break-Up determination, the BHA Occupancy Department shall conduct a review. The Head and co-Head (and other adults as may be required by section (f)) shall be given notice of the review date. The review will be conducted by a person who did not make, or is not the subordinate of the person who made the initial determination. The person requesting the review shall have the right to examine the documents relevant to the BHA's determination. The BHA will redact any information, including addresses where applicable, which could compromise the safety of any person. The BHA may alter its usual review procedure and rules, consistent with applicable law, to assure the safety of all individuals who may be participating in the proceeding.

The person conducting the review shall issue a written decision within thirty (30) days from the review date. The decision shall be sent to all adult Household Members (and other adults as may be required by section (f)).

(f) Procedure Where there is a Family Break-Up and Adults Who Are Not Currently Household Members Advance a Claim on Behalf of Minor or Incapacitated Household Members

Where:

- (1) There has been a Family Break-Up with one or more remaining Minor Household Members and no remaining Co-Head. The result of the Break-up was due to reasons included but not limited to death, incarceration, or incapacitation of the Head; **AND** one or more adults who

are not currently Household Members advance a claim that they wish to become the Head of Household on behalf of one or more remaining Minor or incapacitated Household Members; **AND** there is a dispute about who should become the Head of Household, the BHA shall determine which such claimant shall take over the Application using the criteria under section (b) above.

- (2) In the event the remaining Household Member(s) is an incapacitated Adult who is unable to fulfill the Family obligations, the proposed Applicant must be an adult who has been appointed either a temporary or permanent guardianship, and is willing to assume the obligations and responsibilities as Head of Household.
- (3) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by this Administrative Plan or its successor.

(g) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by this Administrative Plan or its successor.

3.3 Priority and Preference Admissions

The following system of Priorities and/or Preferences will be used for new admissions.

Process Overview:

A third party must verify all requests for Priority Status. Information shall be submitted on certificates of Priority Status and/or another form of written verification from a reliable third party as determined by the BHA. All requests for Priority status will be reviewed prior to the determination of Eligibility.

During the review of documents submitted for Priority status, it may be necessary to obtain additional documentation in order to complete the review. In this case, the BHA will send (or give) the Applicant a notice detailing the information still needed to complete the review for Priority status and the submission deadline.

Applicants who do not qualify for Priority status based on a review of the documents submitted are sent (or given) a notice detailing the specific reason(s) for the denial of Priority. This notice informs Applicants of their right to appeal the denial of Priority status through the informal hearing process conducted by the BHA Department of Grievances and Appeals.

Applicants will be sorted on each waiting list in accordance with any approved Priority and/or Preference(s). The ranking categories utilized by the BHA are outlined below.

3.3.1 Definition of Priority

Priority is a housing-related situation that affects an Applicant's present residential status. The BHA gives points to an Applicant with a Priority that ranks an Applicant higher on each waiting list than an Applicant without Priority. An Applicant can qualify for only one Priority at any given time. Certain Priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify.

3.3.2 Definition of Preference

The BHA gives preference to an Applicant on the waiting list if they qualify for one of the Preference categories listed below. See section 3.3.6. Preference points are cumulative and are added to the Applicant's Priority points (if any) to determine an Applicant's position on each BHA waiting list. An Applicant may qualify for more than one Preference at a time.

3.3.3 Verification of Priority or Preference Status

The BHA will provide to each potential Applicant a description of all Priorities and Preferences that may be available. BHA will verify the Priority at initial application and when the applicant is called in for final eligibility.

3.3.4 Granting of Priorities and/or Preferences

It is BHA policy that a Priority and/or Preference, as well as date and time of the application, establish placement position on a waiting list. The BHA will grant Priority and/or Preference to Applicants who are Eligible, Qualified, and meet the definitions of the Priorities and/or Preferences (see section 3.3.5) at the time they are certified for Admission.⁷

Applicants can apply for Priority status anytime the waiting list is open.

3.3.5 Priority Categories

- a) **Special Purpose Vouchers:** The BHA will admit an Applicant who qualifies for a particular category of Special Purpose Vouchers to the Section 8 program before all other Applicants on the waiting list if the BHA is not currently assisting the required number of special purpose vouchers families.

⁷ If the Applicant is denied priority status and requests an informal review, the hearing officer at the review will determine the priority status at the time of certification and not at the time of the hearing. The BHA will take into consideration the individual circumstances of each Applicant.

- (b) **Super Priority.** The BHA will admit an Applicant/[Participant in good standing](#) to the Section 8 program before all other Applicants/[Participants](#) on the waiting list if:

- (1) The Applicant resides in BHA public housing⁸, AND;
 - (i) The Applicant Family is or will be temporarily displaced due to BHA rehabilitation and modernization programs (an applicant family shall be deemed temporarily displaced from the time the family vacates the public housing unit until an offer is made to return); or
 - (ii) The Applicant or a member of the Applicant Household is in imminent danger of life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency and cannot be expeditiously remedied in any other way by the public housing program; or
 - (iii) The Applicant or a member of the Applicant Household is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion which places them in imminent danger and that cannot be expeditiously remedied in any other way by the public housing program; or
 - (iv) The Applicant or a member of the Applicant Household has been or is currently a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, and has a reasonable belief of risk of imminent harm if he or she remains in the current Unit and no other BHA public housing sites are an appropriate alternative, or
 - (v) The BHA cannot approve the Applicant's request for Reasonable Accommodation at any of the BHA's public housing sites and the Applicant's Request for Reasonable Accommodation could be resolved by being assisted under the HCVP.

⁸ If the Leased Housing Department has verified that the applicant was offered and accepted housing in the public housing portfolio that resolves the need for which Super Priority was granted, the Super Priority status approval will be withdrawn. The applicant will be removed from all Section 8 waiting lists for which he/she has Super Priority status only. The applicant will retain any other priority status for which he/she may have applied.

- (vi) Has met all qualifications for the Section 8 homeownership program as set forth in Chapter 15 of this Plan.
- (2) The Applicant is a Participant in the BHA's Section 8 Moderate Rehabilitation Program, or the Project Based Voucher Program⁹AND;
 - (i) The Applicant or a member of the Applicant Household is in imminent danger of life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency, OR
 - (ii) The Applicant or a member of the Applicant Household is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion which places them in imminent danger, OR
 - (iii) The Applicant or a member of the Applicant Household has been or is currently a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, and has a reasonable belief of risk of imminent harm if he or she remains in the current Unit, OR
 - (iv) The Owner and/or the BHA cannot accommodate the Applicant or member of the Applicant Household's Reasonable Accommodation request at any of the BHA's Section 8 Moderate Rehabilitation or Project Based Voucher sites because the request would be unreasonable, an undue financial burden for the Owner, or a fundamental alteration of the program, and the Applicant's Request for Reasonable Accommodation could be resolved by being assisted under the HCVP.
 - (v) A Moderate Rehabilitation Program participant who demonstrates they have met all qualifications for the Section 8 homeownership program as set forth in Chapter 15 of this Plan.

⁹ If the Leased Housing Department withdraws Super Priority status approval the applicant will be removed from all Section 8 waiting lists for which he/she has Super Priority status only. The applicant will retain any other priority status for which he/she may have applied.

(3) Verification Requirements:

Applicants will be asked to provide reliable documentation to show that their Family qualifies for Super-Priority as outlined in section 3.3.5(a)(1) and (2). Such verification may include the following items:

- (i) A letter(s) from a Qualified Healthcare Provider describing an Applicant's physical or mental condition and specifying housing conditions required because of the condition;
- (ii) For Reasonable Accommodation requests, reliable documentation from a Qualified Healthcare Provider or professional non-medical service agency, whose function it is to provide services to the disabled. Documentation should verify that the Applicant or a member of his/her Household is disabled under the applicable definitions in Federal and State law and describe the limitations attributable to the disability. Documentation must also describe how the accommodation being requested will overcome or alleviate those limitations;
- (iii) Police reports;
- (iv) Civil Rights incident reports;
- (v) Copies of restraining orders;
- (vi) Any other documentation that provides the BHA with evidence of Super Priority criteria.

(4) The Applicant is a Participant in the City of Boston Voucher Program as administered by the Boston Housing Authority and in accordance with the Administrative Plan for that Program is losing subsidy due to lack of sufficient funding for that program or the voucher was issued for a limited timeframe.

(5) A Special Program applicant/participant who received a special program voucher but where special program rental assistance was not available, including but not limited to EHV's, VASH, or stability vouchers. They must demonstrate they have met all qualification for the Section 8 program as set forth in Chapter 15 of this Plan.

(6) A participant or former participant of the Foster Youth Initiative (FYI) who has successfully completed the Family Self-Sufficiency (FSS) program, and whose FYI term has expired may apply for Super Priority prior to the expiration of the FYI term.-

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(c) Mitigation Vouchers – The BHA will provide three hundred (300) Mitigation Vouchers to be issued over the next five years to priority one, non-elderly disabled applicants in accordance with the Boston Housing Authority Designated Housing Plan who would have otherwise been called in for screening for a public housing unit. These applicants will be given the opportunity to apply for a Section 8 Housing Choice Mitigation Voucher at the time that they would have otherwise been called into screening for a public housing unit. If a Housing Choice Mitigation Voucher is not immediately available these individuals will be placed on waiting list and will be drawn in accordance with the Administrative Plan based on their Mitigation Voucher application.

(d) Supported Housing Programs

At its discretion, and if required with HUD and/or DHCD approval, the BHA may enter into an agreement with social service or other agencies to provide set asides of tenant based or project based vouchers coupled with supportive services to Applicants and residents, including targeted populations, who need special help in order to establish and maintain tenancies, provided that evidence exists that the agencies are reliable organizations with experience at providing related services and are fiscally sound.

Assistance required under such agreements shall include, but is not necessarily limited to, the following services:

- (i) Assistance in evaluating applicants for program participation;
 - (ii) Checking to see if the residents are paying their rents and other charges and are properly maintaining their units;
 - (iii) Helping residents to maintain their households, including managing their money;
 - (iv) Providing specialized supportive services and crisis intervention in order to obtain necessary treatment to avoid eviction action.
- All Applicants and residents who participate in these programs must meet the Threshold Requirements for the program for which they are applying.

All Applicants and residents who participate in these programs must meet the Applicant Screening Criteria as specified in this policy and/or any Memorandum of Agreement between the BHA and the service organization.

~~(e)~~(e) Priority 1

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(a) Verification of Priority 1 Timeline

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The BHA grants Priority 1 status based on circumstances verified at two points:

- (i) at the time of application with verification as determined by BHA, AND
- (ii) immediately prior to the final eligibility interview for all relevant BHA programs by satisfying the verification requirements in the relevant section below.

(b) Changes of Priority 1 Status

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Additionally, a change from one Priority 1 category to another Priority 1 category in between application and the final eligibility interview shall not disqualify an applicant from their original application date and time.

Priority 1 status shall not be re-verified after a determination of eligibility is made during final eligibility screening. The BHA will verify non-receipt of subsidized housing as described in 3.3.5 (A) (3) below prior to leasing.

(c) Determinations of Priority 1 Applicants on Multiple Waitlists

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- (i) Approval or Denial for Priority 1 on any BHA waiting list suffices as an approval or denial for Priority 1 on all applicable BHA waiting lists.

Applicants who qualify as Priority 1, will either be Displaced or Homeless

The **Displaced** categories are:

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1. Government Action
2. Disaster
3. Domestic Violence
4. Victim of a Hate Crime
5. Fear of Reprisal / Witness Protection
6. Court Ordered No-Fault Eviction
7. Rent Burdened
8. Inaccessibility to the Dwelling Unit
9. Graduates of Supportive Housing Programs

A. Displaced Categories

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In order to qualify as **Displaced** in one of the categories detailed below, the Applicant must meet the following threshold verification requirements:

- (1) **Displaced or Imminent Danger of Displacement:** the Applicant must have been Displaced from their residence or is in imminent danger of being Displaced due to one of the categories set forth below, AND
- (2) **Proof of Address:** the Applicant must verify proof of residence at the address of displacement by providing a lease, utility bill(s), official mail from a government agency, or a written certification from the owner of the property or other government official, AND
- (3) **No Receipt of other Subsidized Housing:** The Applicant must **not** be in receipt of adequate subsidized or other low-income housing from the BHA or another government agency. An applicant will continue to be considered displaced if they reside in subsidized housing that is not permanent or is not accessible as defined in Priority Category 8 below.

1. Displaced due to Government Action

A Household is required to permanently move from their residence by a Federal, State or local governmental action such as code enforcement, public improvements or a development program.

Verification Requirements:

- (1) third-party, written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be displaced in the next ninety days, as a result of action by that agency; AND
- (2) the precise reason(s) for such displacement.

2. Displacement Due to a Disaster

Applicant was Displaced due to a disaster such as flood or fire, that results in the uninhabitability of an Applicant's apartment or dwelling unit not due to the fault of the Applicant and/or Household member or beyond the Applicant's control;

Verification requirements:

- (1) A copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters, OR
- (2) Written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be imminently be displaced, as a result of action by that agency, AND
- (3) Verification the appropriate agency that the dwelling unit is now uninhabitable AND

- (4) If applicable, the cause of the disaster. If you or a household member or guest was the cause of the disaster, approval for priority status will be denied unless mitigating circumstances are established to the satisfaction of the reviewing department.

3. Displacement Due to Domestic Violence/Dating Violence / Stalking/ Sexual Assault

Displacement or threat of imminent displacement from an address due to continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Applicant Family members.

Verification requirements:

- (1) Submission of a fully completed "Certificate of Involuntary Displacement Due to Domestic Violence/Dating Violence/ Stalking/ Sexual Assault" HUD Form 5382,
OR
- (2) A document:
 - a. Signed by an employee, agent, or volunteer of a victim service provider, an attorney or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
 - b. Signed by the applicant or tenant;
 - c. That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault or stalking is the grounds for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault or stalking under 24 C.F.R. 5.2003; OR
- (3) A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency; OR
- (4) At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.
- (5) Verification *will not* be considered valid unless it:
 - a. Supplies the name of the threatening or abusive Household Member or other legal occupant of the dwelling Unit if known and is safe to do so,
AND

- b. Describes how the situation came to certifier or verifier's attention, AND
- c. Indicates that the Applicant was displaced because of the threats and/or violence.

4. Displaced Due to Being a Victim of a Hate Crime

The Applicant or a member of the Household has been a victim of one or more hate crimes AND the Applicant Family has vacated a dwelling Unit because of this crime OR the fear associated with the crime has destroyed the peaceful enjoyment of the dwelling Unit.

"Hate crime", is defined as any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation, prejudice, or which otherwise deprives another person of his/her constitutional rights by threats, intimidation or coercion, or which seeks to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation.

Verification must include:

- (1) Submission the appropriate BHA form, OR
- (2) Documentation from a law enforcement agency that the Applicant or a Household Member was a victim of such crime(s)

5. Displaced Due Avoidance of Reprisal or Witness Protection:

Relocation is required because an Applicant provided information or testimony on criminal activities to a law enforcement agency; and based upon a threat assessment, a law enforcement agency recommends the relocation of the Applicant to avoid or minimize risk of violence against Applicant as reprisal for providing such information.

Verification requirements:

- (1) Submission of the appropriate BHA form or documentation from a law enforcement agency that the Applicant and/or a household member provided information on criminal activity; AND
- (2) Documentation that, following a threat assessment conducted by the law enforcement agency, the agency recommends the relocation/re-housing of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information.

This includes situations in which the Applicant and/or Family member(s) are themselves the victims of such crimes and have provided information or testimony to a law enforcement agency.

6. Displaced Due to Court-Ordered No-Fault Eviction:

Eviction occurred pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of:

- (1) Landlord action beyond the applicant's ability to control or prevent, such as failure to accept an offer of a new lease; owner's desire to use the unit for personal use, or a non-residential purpose; a business or economic reason such as sale or renovation of the property or a desire to lease at a higher rent , AND
- (2) the action occurred despite the applicant's having met all lawfully imposed lease conditions, AND
- (3) Displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and overcrowded units or failure to accept a transfer to another unit in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

Verification Requirements:

- (1) a copy of the Judgment of the Court (Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); AND
- (2) if necessary, additional information to verify no fault if the judgement is not clean, such as a Summons and Complaint and/or Notice to Quit.
- (3) if applicable, a copy of the execution issued by the court.

The information contained in the above-referenced documents must clearly establish to the satisfaction of the BHA that:

- (1) the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent; AND
- (2) the action by the landlord or property manager occurred despite the Applicant Household having met all previously imposed conditions of occupancy; AND
- (3) displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and overcrowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

7. Displaced Due to Being Cost Burdened in Boston

The Applicant can demonstrate paying more than fifty (50) percent of their total household monthly gross income towards housing and utilities in a Boston residence (excluding internet and telephone).

Verification requirements:

- (1) A Lease providing the rent amount and showing Applicant is or was a tenant and confirming the rent, OR
- (2) Rent Receipts or Bank Statements providing the rent amount paid over time, OR
- (3) A mortgage statement providing the monthly payment amount and showing the Applicant is or was the owner of the property, AND
- (4) Verification of the gross income, including all earned income and benefits, for the Applicant and all household members, AND
- (5) Utility bills paid for by the Applicant or Applicant household members, AND
- (6) Copies of any foreclosure notices, if applicable, AND
- (7) Other applicable documentation to demonstrate that the non-payment eviction or foreclosure was due to unforeseen circumstances beyond the Applicant's ability to control or prevent the non-payment eviction or foreclosure

8. ~~For Disabled Persons only, if~~ Inaccessibility of a critical element of their current dwelling unit:

A Household Member has a mobility or other impairment that makes the person unable to use a critical element of the current Apartment or development AND the neither the Owner nor administering agency is legally obligated under the law pertaining to Reasonable Accommodation to make changes to the Apartment or dwelling Unit that would make these critical elements accessible to the Family member with the disability.

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Verification Requirements:

- (1) The name of the Family member who is unable to use the critical element;
- (2) A written statement from a Qualified Healthcare Provider verifying that a Family member has a Disability (but not necessarily the nature of the Disability) and identifying the critical element of the dwelling which is not accessible and the reasons why it is not accessible; AND
- (3) A statement from the landlord or official of a government or other agency providing service to such Disabled Person explaining the reason(s) that the

landlord is not required to make changes which would render the dwelling accessible to the individual as a Reasonable Accommodation.

9. Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals:

A participant in a transitional housing program for Elderly or Disabled Persons which includes a supportive services component (e.g., the Shelter Plus Care Program) shall be considered to be imminently in danger of homelessness. Such a program participant shall be eligible as a Priority One Applicant if:

Verification requirements:

- (1) The person has been a tenant in such a program for not less than twelve (12) months; AND
- (2) The person no longer requires the or completed the program's services (as determined by the program service provider); AND
- (3) As a result must relocate from such housing.

B. Homeless

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In order to qualify as Homeless, the Applicant must meet the following threshold verification requirements:

The Applicant must meet the definition of Homeless as defined below at the time of application and at the time of the eligibility interview. Gaps of non-homelessness in between those two points shall not result in denial of Priority 1 Homeless qualification.

1. Homeless

The Applicant Household lacks a fixed, regular and adequate nighttime residence, meaning:

- (1) Has a primary nighttime residence that is a public or private place not meant for human habitation; OR
- (2) IS living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, Transitional Housing, and hotels and motels paid for by non-profit, charitable organizations, or by federal, state and local government programs); OR
- (3) Is living in housing that is being funded or provided to offer homeless individuals and families with the interim stability and support to ultimately make the transition to and maintain permanent housing; OR

- (4) An Applicant would otherwise be in shelter if not for a medical condition which precludes a person from staying in shelter as verified by a medical provider.

Verification Requirements:

- (1) A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy; **OR**,
- (2) In the case that the Applicant cannot be in the shelter due to a medical condition, written verification from a medical provider must be provided to demonstrate that the individual is unable to live in a public or private shelter, or any other place unfit for human habitation due to the applicant's severe medical condition or disability.

2. Homeless for Moderate Rehabilitation SRO conversions under the RAD Demonstration

The Applicant must be homeless pursuant to the definition per the McKinney-Vento Homeless Assistance Act (24 CFR § 578.3.).

Verification Requirements:

- (1) ~~(1)~~ Third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the the The McKinney-Vento Homeless Assistance Act (24 CFR § 578.3).

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3.3.6 Other Admissions

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3.3.6 Other Admissions

a. Project Based Voucher ("PBV") to Tenant Based Voucher ("TBV"): a PBV family who has occupied a PBV unit, and is in good standing with the owner, may apply for Tenant Based Rental Assistance in accordance with 24 C.F.R. 983.261.

b. Choice Mobility: The BHA will grant admission for its HCV waiting list to residents of an expiring use property that has been converted to Project Based Rental Assistance (PBRA):

- (a) The converted property is located in the City of Boston, and,

(b) The waiting list for the property is managed by the BHA, and all PBRA vacancies for the property are filled from the BHA waiting list.

(c) Applications shall be accepted no earlier than twenty-four (24) months from the date of initial occupancy. The applicant must be in good standing with the owner to apply.

3.3.7 Admission Preference

An Applicant may only apply for a Preference when the waiting list is open.

Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on a BHA waiting list. An Applicant may qualify for more than one Preference at a time.

A Priority One Applicant with a Preference will be ranked above a Priority One Applicant with no Preferences. Preferences are cumulative, so an Applicant with more than one Preference (e.g., Veterans and Displaced) will be ranked higher within his or her Priority category than an Applicant with only one Preference.

Determinations of Preference: Approval or Denial for the Single, Elderly or Disabled Preference, Veterans Preference or Displaced Boston Tenant Preference will suffice as an approval or denial for the Preference for all applicable BHA waiting lists.

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The Preference categories are described below:

(a) ***Elderly/Non-Elderly Disabled Person Preferences***

(1) **Single Elderly or Disabled**

The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category.

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Note: A single woman who is pregnant at the time of admission, or a Single Person who has secured or is in the process of securing the custody of any individual(s) below the age of 18, will not be considered a Single Person for the purposes of this preference.

(2) **Project Based Voucher Elderly**

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The Boston Housing Authority has an Admissions preference for Elderly households at specific Project Based Section 8 sites where such a preference is designated in the Owner's Housing Assistance Payments Contract ("HAP").

(3) **Non-Elderly Disabled (NED)**

The BHA will grant a preference for non-elderly disabled (NED) applicants to waiting lists at sites which were formerly public housing; were part of a designated housing plan, and have been converted to Project Based Section 8.

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(b) **Veterans Preference**

A "veteran", as used in this Administrative Plan shall include the veteran, spouse, surviving spouse, dependent, parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.

Verification Requirement:

1 Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom the Preference is claimed. The Veteran's Preference is only applicable to Veterans and/or immediate families of Veterans who were discharged under circumstances other than dishonorable.

(c) **Displaced Boston Tenant Preference**

The BHA shall give two (2) Preference points to an Applicant who was displaced from a unit within the City of Boston.

(1) No length of Residency Required

This Preference is not based on how long the Applicant resided within the City of Boston, but only upon the establishment and proper verification of residency within the City Of Boston.

(2) Verification Requirements

To receive this Preference, an Applicant must verify that:
(i) they were displaced from a unit within the City of Boston, and (ii) The following documentation in conjunction with Priority documentation to establish displacement will verify the Displaced Boston Tenant Preference:

- (a) Landlord verification;
- (b) A copy of a Lease;

- (c) Utility Bill (electric, gas, oil, or water)
- (d) Mortgage Payments;
- (e) Letter from School Department;
- (f) Letter from Social Security Department;
- (g) Taxes;
- (h) Other verification deemed acceptable by BHA.

(3) Non-discriminatory Effect of Preference

This Preference shall not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an Applicant Family.

(d) **Preference under Olmstead**

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The BHA has an admissions preference for those qualified individuals with mental and/or physical disabilities exiting institutions or who are at serious risk of institutionalization. Applicants who receive this preference must be willing to participate in services as provided by State Money Follows the Person (MFP) entities or other support service agencies and partnering organizations. The services may include case management and personal care.

Verification Requirement:

The BHA will accept verification that the applicant is exiting an institution or is at serious risk of institutionalization from the treating facility or hospital. The facility or hospital must also verify that the applicant will be receiving appropriate supportive services by state MFP entities or other support service agencies and partnering organizations.

(e) **Homeless Service Organizations Preference**

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The BHA has an admissions preference for those applicants who are referred by a partnering homeless service organization or consortia of homeless service organizations. This preference will be applied to specific site based lists where supported housing services are offered by said organization.

Verification Requirement:

Applicant

The Applicant must provide verification of his/her homeless status in accordance with BHA's previously referenced Priority category; and, also provide verification that he or she is working with and being referred by a homeless service organization which provides supported housing services at the site to which he/she is applying.

Homeless Service Organization

The partnering homeless service organization must show that it is the supported housing service provider for the specific site for which the preference is being applied and may not deny its services to members of any federally protected class under fair housing laws, i. e. race, color, religion, national origin, sex, disability or familial status.

(f) **No Fault Displacement**

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Preference for PBV participant who is otherwise eligible for a TBV (has resided in current PBV unit for at least one year and is in good standing), whose unit is or will be permanently lost due to demolition, disposition, fire, condemnation or other action out of the participant's control (not due to the fault of the participant or participant's household members).

Verification Requirement

The current owner must verify in writing that the participant is in good standing and that the unit is being permanently lost due to one of the above.

(g) **Right of First Refusal**

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Preference for former residents returning to a PBV new construction or rehabilitation project that was specifically identified as replacement housing for the original project as part of a documented plan for redevelopment which had one of the forms of funding listed in §15 of this plan.

(i) This preference may only be applied at initial reoccupation of the site, and will not extend past an initial offer to re-occupy.

(h) **Long Term Homeless**

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Homeless in or displaced from Boston twelve (12) months or longer as defined below:

1. Three hundred and sixty-five (365) days in shelter, transitional housing, or safe haven over the last three (3) years in Boston or;
2. at least one (1) night per month for twelve (12) months homeless unsheltered in Boston over the last three (3) years, or;
3. Same as above, however, homeless days are outside of Boston and city of origin is Boston as documented by DHCD's Emergency Assistance System.

(a) Verification

Verification will be documented by the Shelter Provider.

(i) **SRO Referral Preference**

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An otherwise qualified Priority 1 applicant that has been referred by the owner of an SRO site to their waiting list.

(1) Verification

Verification will be documented by Owner.

- (j) Preference for former Moderate Rehabilitation SRO sites converted to PBV via RAD that offer supportive services

Preference shall be given to Applicants who qualify for voluntary services, including disability-specific services, offered in conjunction with the assisted units at those sites. Participation in said services is voluntary.

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3.3.8 Standard Applicants

Standard Applicants are Applicants that do not qualify for any Priority category.

3.3.9 Point System

- (a) The **Priority point system** used by BHA to process new Admissions on all waiting lists is as follows:

PBV to TBV	95 points
Super Priority Applicants	75 points
Mitigation Vouchers	60 points

Supported Housing Programs (Formerly City of Boston ICHH Programs Priority)

50 points

Priority One Applicants

30 points

Standard Applicants

0 points

- (b) **Preference points** will be added to Priority points as follows for Applicants for Admission only:

Project Based Voucher Elderly

100 Points

Right of First Refusal

25 Points

Preference for Former Moderate Rehabilitation SRO site converted to PBV via RAD that offer supportive services

25 points

No Fault Displacement

20 Points

SRO Owner Referral

20 Points

Non Elderly Disabled

10 Points

Preference Under Olmstead

7 Points

Homeless Service Organizations Preference

7 Points

Long Term Homelessness

7 Points

Single, Elderly or Disabled

5 Points

Veterans Preference

3 points

Displaced Boston Tenant Preference

2 points

3.4 Special Admissions

Applicants may be admitted to the Housing Choice Voucher program even though they are not on the BHA's waiting list if they are part of a group targeted by HUD for special assistance. Applicants admitted as "Special Admissions" according to this section will not be counted against the income targeting

requirement that a minimum of 75% of new Admissions to the BHA's Section 8 program have Family income that is thirty percent (30%) or below the Area Median Income as established by HUD. (See 24 C.F.R. § 982.203(b) for examples of assistance targeted by HUD).

CHAPTER 4: Communications and Verification

“Communication” includes both standard forms used by the BHA to obtain information from an Applicant/Participant or an Owner and information provided to an Applicant/Participant or an Owner about the program. It is the goal of the BHA to communicate well with Owners and Applicant/Participants because they are less likely to commit errors, fraud, or abuse when they have a much better understanding of program requirements and BHA expectations.

The following chapter describes the standards of communication and verification required and expected of the BHA, an Applicant or Participant, and an Owner.

4.1 Communication Preference

The BHA prefers that all communication between Families and the BHA and between Owners and the BHA be in writing. The BHA will attempt to create well designed forms to effectuate proper communication to Families and Owners and to collect all required information. The BHA will communicate with persons who have limited English ability in accordance with section 1.3.4 of this Administrative Plan.

4.1.1 Communication between Applicants and the BHA

It is the responsibility of each Applicant to inform the BHA in writing of any change in address, telephone number, Family Composition, change in Priority and or Preference, or other information, which may affect the status of the application while on the waiting lists. For an Applicant with no fixed address, such as a Homeless Applicant, the address of a social service agency may be used for BHA contacts; however, if the Applicant finds housing, the address must be reported to the BHA. Failure to report a change may result in withdrawal from the waiting list.

BHA will communicate with an Applicant by first class mail, except when an Applicant who is a Disabled Person requests some other form of communication (e.g., a telephone call, communication with a designated third party, etc.). A person who is Homeless and an Applicant may request that the BHA communicate with a designated third party. Failure to respond to BHA communication in the required time period may result in withdrawal of an Applicant from all waiting lists.

4.1.2 Communication between a Participant and the BHA

A Participant should communicate with the BHA in writing. It is the responsibility of the Participant to report a change in income or Family Composition in accordance with this Administrative Plan. A Participant also has an obligation to supply all required documentation for eligibility and Recertification purposes. It is in the best interest of the Participant to retain copies of any communication with BHA.

Failure to respond to BHA communication in the required time period may result in termination of the Participant's subsidy in accordance with Chapter 13 of this Administrative Plan.

4.2 Misrepresentation of Information or Fraud

The BHA considers falsification, misrepresentation, or failure to disclose information related to Admission, initial eligibility, participation, or Recertification grounds for denying Admission or terminating assistance from the HCVP. If the BHA determines that an Applicant has acted as described above, the Applicant will be precluded from re-applying for assistance with the BHA for three years from the date of the determination.

4.3 Verification Requirements

The BHA must verify and document all information concerning an Applicant/Participant's Family Composition, Annual Income, Priority status, and Preferences.

4.3.1 Verification Documentation

The BHA will maintain all documents related to eligibility/Recertification in the Applicant/Participant's file folder. Documentation used as part of the verification process may include but is not limited to:

- (a) Copies of documents, where law or regulation does not require the original.
- (b) Verification forms completed and signed by third parties and/or Applicant/Participant.
- (c) Upfront Income Verification (UIV)

UIV is the verification of a Family's income, before or during a Recertification, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. The BHA will maintain UIV data according to applicable Federal, State, and local law and BHA policy.
- (d) Reports of all relevant interviews, telephone conversations or personal contact with or regarding the Applicant/Participant including date of the conversation, source of the information, name and position of the individual contacted, name and position of staff member receiving information and a written summary of the information received.
- (e) All correspondence received for or on behalf of the Applicant.

4.3.2 Verification Preference

The BHA will accept verification of eligibility information in the following order of preference:

(a) **Upfront Income Verification (UIV)**

The BHA will use UIV procedures to obtain verification of tenant-reported (unreported or underreported) income.

- (1) Types of Income that may be verified through UIV:
 - (i) Gross Wages and Salaries (Including overtime pay, commission, fees, tips, bonuses, and other compensation for personal services)
 - (ii) Unemployment Compensation
 - (iii) Welfare Benefits
 - (iv) Social Security Benefits (including Federal and State benefits, Black Lung benefits, and dual benefits)
 - (A) Social Security
 - (B) Supplemental Security Income (SSI)
- (2) The BHA may obtain UIV through the following methods:
 - (i) Computer matching agreement with a federal, state, local government agency, or a private agency; or
 - (ii) Use of HUD's Tenant Assessment Subsystem ("TASS") or Enterprise Income Verification ("EIV"); or
- (i) Submission of direct request for income verifications to a federal, State, or local government agencies or a private agency.

A. What is the EIV System?

The EIV System is a web-based application, which provides employment, wage, unemployment compensation and social security benefit information of tenants who participate in the HCV Program. This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S.

Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

1. Identifying participants whose reported personal identifiers (SSNs and DOB) do not match the SSA database;
2. Identifying participants who need to disclose a SSN;
3. Identifying participants whose alternate identification number (Alt ID) needs to be replaced with a SSN;
4. Identifying participants who may not have reported complete and accurate income information;
5. Identifying participants who have started a new job;
6. Identifying participants who may be receiving duplicate rental assistance;
7. Identifying participants who are deceased and possibly continuing to receive rental assistance;
8. Identifying former participants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord

B Required use of EIV and Verification Hierarchy.

The BHA is required to access the EIV system and obtain an Income Report for each household. The BHA is required to maintain the Income Report in the participant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

The BHA will follow the following income verification hierarchy:

1. Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
2. (not available for income verifications of applicants)
3. Upfront Income Verification (UIV) using non-HUD System
4. Written Third Party Verification
5. Written Third Party Verification Form
6. Oral Third Party Verification

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

C. Disputing EIV Information and Resolving Discrepancies

In accordance with 24 CFR §5.236(b)(2)(3), the BHA is required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not

reported by the participant or a substantial difference in the reported income information, the BHA is required to take the following actions:

1. Discuss the income discrepancy with the participant; and
2. Request the participant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
3. In the event the participant is unable to provide acceptable documentation to resolve the income discrepancy, the BHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
4. If applicable, determine the participant's underpayment of rent as a result of unreported or underreported income, retroactively*; and
5. Take any other appropriate action as directed by HUD or the BHA's administrative policies.

*The BHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

Participants are required to reimburse the BHA if they were charged less rent than required by HUD's rent formula due to the participant's underreporting or failure to report income. The participant is required to reimburse the BHA for the difference between the participant rent that should have been paid and the participant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the participant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the BHA **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any PHA-sponsored amnesty or debt forgiveness programs.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about participants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures participants and PHAs should follow regarding incorrect EIV information.

Employment and wage information reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.

If the participant disputes this information, s/he should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The participant should provide the BHA with this written correspondence so that it may be maintained in the participant file. If employer resolution is not possible, the participant should contact the local SWA for assistance.

Unemployment benefit information reported in EIV originates from the local SWA. If the participant disputes this information, s/he should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The participant should provide the PHA with this written correspondence so that it may be maintained in the participant file.

SS and SSI benefit information reported in EIV originates from the SSA. If the participant disputes this information, s/he should contact the SSA at (800) 772-1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

Note: The participant may also provide the BHA with third party documents which are in the participant's possession to support their dispute of EIV information. The BHA, with the participant's consent, is required to submit a third party verification form to third party sources for completion and submission to the BHA, when the participant disputes EIV information and is unable to provide documentation to validate the disputed information. The participant's failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

Debts owed to PHAs and termination information reported in EIV originates from the PHA. If a current or former participant disputes this information, s/he should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former participants may dispute debt and termination

information for a period of up to three years from the end of participation date in the PIH program.

Identity Theft. Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual's SSN. However, a person using an individual's SSN can get other personal information about that individual and apply for credit in that individual's name. So, if the participant suspects someone is using his/her SSN, s/he should check their Social Security records to ensure their records are correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>); and s/he should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The participant should provide the PHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

Participants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: www.annualcreditreport.com or by contacting the credit reporting agency directly. Each agency's contact information is listed below.

National Credit Reporting Agencies Contact Information

Equifax Credit Information Services, Inc.
P.O. Box 740241
Atlanta, GA 30374
Website: www.equifax.com
Telephone: (800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013
Website: www.experian.com
Telephone (888) 397-3742

TransUnion
P.O. Box 6790
Fullerton, CA 92834
Website: www.transunion.com
Telephone: (800) 680-7289 or (800) 888-4213

Security of EIV Data

The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the BHA for the purpose of determining eligibility and level of assistance may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the participant has authorized such disclosure in writing.

(b) **Written Third Party Verification**

Written verification by a third party is always preferred. The BHA will also accept Third Party Verification from reputable online systems, including EIV and TASS, which may verify employment income or other sources of regular income. See also section 4.3.4 for more information on Third Party Verification.

(c) **Oral Third Party Verification**

Independent verification of income and/or expenses by contacting the individual income/expense source(s) supplied by the Applicant/Participant, via **telephone** or in-person visit. BHA staff will document in the tenant file, the date and time of the telephone call, the name of the person contacted and telephone number, along with the confirmed verified information.

This verification method is commonly used in the event that the independent source does not respond to the BHA's faxed, mailed, or e- mailed request for information in a reasonable time frame, i.e., ten (10) business days.

The BHA shall verify information by telephone when written third-party verification is incomplete or unclear.

(d) **Verification by Applicant/Participant supplied documents.**

The BHA will review documents submitted by the Applicant when: (i) the information requested does not require Third-Party Verification (for example rent receipts, canceled checks for rental payments, Lease agreements and monthly utility bills) or (ii) third-party fax or telephone verification is impossible. BHA may copy documents into the Applicant's file or list the documents and the information contained in them.

(e) **Verification by Applicant/Participant certification.**

With the approval from the Administrator or his/her designee, the BHA may choose to accept an affidavit from an Applicant regarding housing and employment history only when verification by a third party or verification by documents is impossible to obtain.

4.3.3 Validity of Documentation and Verification

- (a) **Information Supplied by Applicant/Participant.** Documents supplied by an Applicant/Participant should be dated within sixty days (60) of the eligibility/Recertification interview¹⁰.
- (b) **Verification at Recertification.** Verification obtained for Recertification must be no older than 120 days at the effective date.
- (c) **Information not subject to change.** BHA will verify this information (e.g. verification of age or place of birth) only once during the eligibility/Recertification process.
- (d) **Verification of Eligibility must be no more than 60 days from Voucher issuance.** The BHA must receive information verifying that an applicant is eligible within the period of 60 days before the BHA issues a voucher to the Applicant. 24 C.F.R. § 982.201(e)
- (e) **Maximum Family Share at initial Occupancy.** At initial occupancy the Family Share must not exceed 40 percent of the Family's gross income. The determination of adjusted monthly income must be based on verification information received by the BHA no earlier than 60 days before the BHA issues a voucher to the family.

4.3.4 Third Party Verifications

¹⁰ See HUD Verification Guidance for the Public Housing And Housing Choice Voucher Programs (March 2004)

BHA will send third party verifications directly to the third party. The BHA may fax a verification form to a third party and request a return fax to the BHA after the form is completed. Each BHA verification form sent to a third party will include the following:

- (a) Authorization from the Applicant to release the information on the BHA's General Release Form (HUD 9886) or Income Verification Form, and
- (b) BHA Third-Party Verification form.

4.4 Missed Appointments

The BHA considers it a failure to attend an appointment and is not required to hold a scheduled meeting if an individual is more than one-half (1/2) an hour late for a scheduled appointment.

The BHA does not consider it a failure to keep an appointment if an individual contacts the BHA prior to the appointment to reschedule or has a reasonable excuse for missing the appointment. The BHA may use discretion to determine whether or not an excuse is reasonable. The BHA may ask the Family to supply documentation to verify their inability to attend the appointment.

CHAPTER 5: DETERMINATION OF ELIGIBILITY

5.1 Number of Vouchers Issued

At its discretion, the BHA will consider the Annual Contributions Contract (“ACC”) commitment, funding availability, leasing schedule, turnover rate, historical leasing success rates, and similar factors to determine how many Vouchers should be issued.

5.2 Threshold Eligibility Requirements (Sections 5.2.1- 5.2.3)

The Applicant will be denied assistance and withdrawn from the waiting list based on information on the preliminary application if the Applicant does not meet all of the following requirements. In determining final eligibility, the BHA will consider Mitigating Circumstances including, but not limited to, being the victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, and any request for a Reasonable Accommodation on account of a Disability. To remain on the waiting list, the Applicant must be:

5.2.1 A Family as defined by the BHA

(a) ***Definition of a Family***

- (1) Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together;
- (2) This definition includes single persons.¹¹
- (3) Other persons, including foster children, Live-in-Aides¹², and members temporarily absent (including children temporarily assigned to foster care¹³), may be considered a part of the household if they are living or will live regularly with the Household.

5.2.2 Income eligible as defined by HUD

Persons meeting BHA income qualifications are those whose Annual Income at the time of Admission, does not exceed the income limits for

¹¹ Single persons include: a single man; a single woman who is pregnant at the time of admission; a single person who has secured, or is in the process of securing, the custody of any individual(s) below the age of 18; an Elderly person; a Person with a Disability or Handicap; a Displaced Person; or a Single Person who is not Elderly, Disabled, handicapped or displaced, each as defined in Chapter 11 of this Policy.

¹² Live-in-Aides do not have rights of tenancy, nor can they be considered the remaining member of a resident household unless they are found to be a licensed Live-in-Aide and select one of the options in Chapter 5, section 5.4.2(g).

¹³ See 24 C.F.R. § 5.403.

occupancy established by the HUD. Income limits are posted separately in BHA offices (see sections 5.5 – 5.6). These income limits do not apply to families who are Continuously Assisted. See also section 5.5.1 for further explanation of income eligibility.

5.2.3 Past Balances Due to any Publicly Assisted Housing Program

The Applicant must not owe uncollected rent and/or miscellaneous charges, such as court costs, constable fees, or other related fees arising during the Applicant's receipt of benefits from any program administered by the BHA or Other Publicly Assisted Housing Program¹⁴.

(a) The BHA will check for debts owed upon receipt of the **Preliminary Application**. An Applicant who applies owing a balance consisting of uncollected rent, overpaid Housing Assistance Payments and/or miscellaneous charges (for any program administered by the BHA or Other Publicly Assisted Housing Programs) will be entered into the BHA database as Preliminarily Eligible and the Applicant shall be notified in writing regarding the outstanding debt. The debt must be paid in full prior to determination of final eligibility

(b) The BHA will have the discretion to enter into an agreement for past due balances in the case of a transfer or relocation of BHA public housing resident.

5.3 Eligibility Interview (Final Eligibility)

5.3.1 Purpose.

The purpose of the eligibility interview is to determine the Applicant's anticipated gross income, Family Composition, and appropriate Voucher Unit Size, Immigration status, Criminal Offender Record Information, and verify Priority and Preference status. The same standards to determine the Applicant's income and Family Composition in the initial eligibility interview will be used to determine the Participant's income and Family Composition for any subsequent eligibility determination or Recertification. (See Chapter 8: Renewal).

5.3.2 Scheduling Eligibility Interview Appointment

¹⁴ Other Publicly Assisted Housing Program – means residence in any housing program assisted under M.G.L. ch. 121B (such as state-assisted public housing for families, Elderly or disabled persons), or Massachusetts Rental Voucher Program or assisted under the United States Housing Act of 1937 as amended (42 U.S.C. § 1401 *et seq.*) (such as federally-assisted public housing for families, Elderly or disabled persons, Section 8 certificate/voucher, project-based certificate, moderate rehabilitation, loan management/property disposition leased housing program, Indian housing, or tenant-based assistance under the HOME program)

The Applicant must attend the eligibility interview and bring the requested information to the BHA.

- (a) **Letter of Interest.** The BHA will send a letter to an Applicant selected from the waiting list. The letter will tell the Applicant to contact the BHA and schedule a date and time for an eligibility interview with the BHA. The letter also informs the Applicant of the verified information that must be provided to the BHA in order to determine eligibility.
- (b) **Failure to respond to the Letter of Interest.** The BHA will send a letter of withdrawal (see section 3.2.5(c)) to an Applicant who does not respond to the letter of interest. If the Applicant responds to the Withdrawal letter within 10 days after failing to respond to the initial letter of interest, the BHA will schedule a final eligibility interview with the Participant. Failure to attend the final eligibility interview will result in being withdrawn from the waiting list (see section 3.2.5(c)).
- (c) **Failure to Attend the Eligibility Interview.** If the Applicant schedules an eligibility interview and misses the interview without contacting the BHA, the BHA will send the Applicant a letter of withdrawal. If the Applicant notifies the BHA in advance of the need to reschedule the appointment or contacts the BHA within 10 days of the missed appointment, the BHA will reschedule. The rescheduled eligibility interview will be considered a second and final appointment. If the Applicant misses the second and final interview, the Applicant will be sent a letter of withdrawal. (see section 3.2.3(c)).
- (d) **Deadline to supply documents.** If the Applicant does not supply all the necessary documentation at the eligibility interview, the BHA will give the Applicant up to twenty (20) days to supply all documentation to the BHA. The BHA may grant an Applicant a ten (10) day extension for good cause to supply information to the BHA. If the Applicant fails to meet the deadline to supply documents, they will be withdrawn from all waiting lists (see section 3.2.5).
- (e) **Reasonable Accommodation.** If the Applicant fails to Respond to the Letter of Interest, fails to attend the eligibility interview, or fails to supply information to the BHA, and the failure is due to Domestic Violence, Dating Violence, Stalking, or Sexual Assault or a documented Disability, the BHA may decide not to withdraw the Applicant from the waiting list.

5.3.3 Reassignment of Applicant to Different Priority Category

An Applicant will be placed in a different Priority or the same priority category with a later application date if the BHA determines:

- (a) the Applicant's Priority status is incorrect at the time of the initial eligibility interview, and
- (b) the Applicant is eligible for another (or the same) Priority and the waiting list is open for that Priority; and
- (c) The applicant's circumstances do not give rise to those described below in 5.3.4

If, at the time of the initial eligibility interview, the Applicant is not eligible for any Priority category for which the waiting list is open and the waiting list is not open for standard Applicants, the Applicant will be withdrawn from the waiting list.

If the Applicant is eligible for a new Priority status and the waiting list is open for that Priority, the Applicant will be placed on the waiting list according to the verifiable date of the Priority eligibility and not the date of the original application.

Gaps on non-Priority 1 status in between the initial application and the final eligibility interview above shall not disqualify an applicant from their original application date and time. Additionally, a change from one Priority 1 category to another Priority 1 category between initial application and the final eligibility interview shall not result in a change to the original application date.

5.3.4 Misrepresentation of Information or Fraud

The BHA considers falsification, misrepresentation, or failure to disclose information related to Admission, initial eligibility, participation, or Recertification grounds for denying Admission to or terminating assistance from the HCVP. If the BHA determines that the Applicant has acted as described above, the Applicant will be precluded from re-applying for assistance with the BHA for three years from the date of the determination.

5.3.5 Limitation on Number of Eligibility Determinations

For each Applicant, the BHA shall only be required to determine Section 8 eligibility once every twelve (12) months unless the Applicant was denied for one or more of the following reasons:

- (a) Lack of citizenship status;
- (b) Past due balance owed to a publicly assisted housing program;
- (c) Lack of priority status;
- (d) Family income exceeds the applicable limits;

- (e) Reasons directly related to substance abuse and the Applicant has now successfully completed a rehabilitation program;
- (f) As a reasonable accommodation.

5.4 Family Composition

The BHA will verify Family Composition at the eligibility interview and at any interim or annual Recertification appointment.

5.4.1 Verification of Family Composition

The BHA must obtain the following information for all Applicants as applicable:

- (a) **Photo Identification for the Head of Household and the Co-Head of Household.** One of the following forms of photo identification for the Head of Household and the Co-Head of Household only:
 - (1) Driver's License;
 - (2) Registry of Motor Vehicles picture ID;
 - (3) Passport;
 - (4) Student or Employer ID; or
 - (5) Other Photo ID acceptable to the BHA.
- (b) **Proof of Birth.** One of the following proof-of-birth documents (shown in order of preference) for all Applicant Family members:
 - (1) Original and copies of Birth certificates;
 - (2) Passports;
 - (3) Original INS documents for eligible Non-Citizens;
 - (4) Other records deemed appropriate by BHA (DDG214, Statement from Social Security Administration, Original Baptismal Records); or
 - (5) A medical letter documenting pregnancy as well as anticipated date of birth will be required for all unborn children listed on the application.
- (c) **Proof of Relationships.** One of the following proof-of-relationship documents for all Minor children or situations involving the care of adults under guardianship:

- (1) Birth certificates;
- (2) Court records of adoption;
- (3) Court records of guardianship; or
- (4) Other written documentation such as written designation from the Minor Child's parent.

(d) **Social Security Numbers.** One of the following documents may be accepted to verify Social Security Numbers (SSN):

- (1) Original Social Security Card;
- (2) Original Report from the Social Security Administration documenting the availability/non-assignment of a SSN (BHA will make a copy for the file); or
- (3) A written statement from the Social Security Administration documenting the assigned SSN.

Family members under the age of six (6) years old do not need to provide a SSN.

No SSN or verification needs to be provided for individuals who certify that they have not been assigned a SSN. However, proof must be provided to show that no SSN was assigned.

(e) **Status as an Elderly Person.** The BHA will accept Proof of Birth (see subsection (b) above) of the Head and/or Co-Head of Household indicating an age of 62 years or older to verify that person's status as an Elderly Person.

(f) **Status as a Disabled Person.** In general, the BHA shall not inquire as to the existence or nature of a disability, or ask for information related to a disability or the medical history of an Applicant or a Participant. However, the BHA can require verification where it is claimed that a Family member is a Disabled Person for two purposes:

- (1) For the purpose of applying for Admissions Preferences and Priorities (see section 3.3.6); and
- (2) For the purpose of calculating Household income and rent.

In addition, when an Applicant or Participant requests a Reasonable Accommodation on account of a disability, the BHA may require documentation as to the disability and the need to be served by an accommodation or modification. An Applicant or Participant may choose not to disclose the fact of a disability and

request an accommodation; however, in this case, the BHA is not obligated to provide any such accommodation.

The following documentation will be accepted for purposes of verifying the status of a Family member as a Disabled Person:

- (1) Evidence that the Applicant or Participant's sole source of income is SSI benefits, SSDI benefits or disability retirement income (see income verification below); or
- (1) A certification from a Qualified Health Care Provider verifying that the Applicant or Participant meets the criteria of a Disabled Person for the Federal Housing Program (see Definitions for eligibility of Disabled Persons).

5.4.2 Determining Family Unit Size (BHA Subsidy Standards)

The following BHA Subsidy Standards have been established to determine the number of bedrooms needed for Families of different sizes and compositions. For each Family the BHA will determine the appropriate number of bedrooms under the BHA Subsidy Standards. The Family Unit Size number is entered on the Voucher issued to the Family.

The following factors are used to determine the Family Unit Size:

- (a) The Head of Household (and spouse or domestic partner, if applicable), shall be entitled to one bedroom.
- (b) Two persons who are of the same sex shall only be entitled to one bedroom.
- (c) The BHA shall inform the Applicant/Participant that s/he may elect to have a Child share a bedroom with another Child of the opposite sex, in order to be eligible for a smaller Voucher Unit Size.
- (d) The BHA may assign an additional bedroom as a Reasonable Accommodation to a Disabled Family member.
- (e) A single pregnant woman, as documented by a physician, with no other persons will be treated as a two-person Family. A pregnant woman whose Family includes other children will not be assigned an additional bedroom until the sex of the Child is determined and documented by a physician (either before or after birth). Once the sex of the Child is documented the BHA will assign the Family an additional bedroom if they are eligible.
- (f) A Child who is temporarily away from the home because of placement in foster care (as documented by the Department of Children and Families) is considered a member of the Family in determining Family Unit Size.

(g) Live-In-Aide

Any Live-In-Aide, approved to live in the Unit to care for a Family member who is Disabled or is at least 50 years of age (near-Elderly), will be counted in determining the Family Unit Size.

(1) **Definition:**

A Live-In-Aide is defined as a person who:

- (i) Is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) Is not obligated to support the Elderly or Disabled Person or persons; **AND**
- (iii) would not be living in the Apartment except to provide the necessary supportive care; **AND**
- (iv) Has no right to the Apartment as a Residual Tenant except as provided in section 11.8, **AND**
- (v) Does not have his/her income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income and rent except as provided in section 11.8.

(2) Live-In-Aide **Policy**

- (i) Any Live-In-Aide must meet the definition of a Live-In-Aide as stated above.
- (ii) A Live-In-Aide can be a Single Person or a person with a Household (*Example:* a Live-In-Aide may have his/her own children that reside with them).
- (iii) No addition of a Live-In-Aide and his/her Household, if applicable, shall result in overcrowding of the Apartment.
- (iv) No Live-In-Aide and his/her Household, if applicable, has the right to the Apartment as a Residual Tenant except as provided in Section (vii)(B) below.
- (v) Any Live-In-Aide and his/her Household, if applicable, must sign a waiver of residual residency status except as provided in (vii)(B) below.

- (vi) Any Live-In-Aide and his/her Household, if applicable, must meet the BHA's Eligibility Requirements.
- (vii) Any Live-In-Aide and his/her Household, if applicable, will be counted as a member of the Participant's Household composition for the purposes of determining the appropriate Apartment size ONLY.
- (viii) A relative who satisfies the definition above will be notified in writing that s/he may be qualified as a Live-In-Aide and may choose one of the following two options:
 - (A) S/he can qualify as a Live-In-Aide, choose not to include his/her income as part of the total Household income and sign a waiver of residual residency status.
 - OR**
 - (B) S/he can qualify as a Live-In-Aide, have his/her income included as part of the total Household income and retain rights as a remaining member of the Household.
- (ix) A Live-In-Aide must reside with the Family. An occasional, intermittent multiple or rotating care givers typically do not reside in the unit and do not qualify as live –in-aides. Therefore an additional bedroom would not be approved for an aide under these circumstances. The Family Unit Size for any family consisting of a single person must be either a zero or one-bedroom Unit, as determined under the BHA Subsidy Standards.
- (h) Exceptions to the Subsidy Standards

Exceptions to the above Subsidy Standard policies may be made if the BHA determines that such an exception is justified by the sex, age, health, Disability, handicap, relationship of the Family members, or other personal circumstances. However, for a Single Person who is not a Disabled Person, or an Elderly Person, such exception will not override (g)(2)(ix) above.
- (i) When a Family May Rent an Apartment Larger than the Voucher Size

The Family may select a larger Apartment if the Family is willing to pay the difference between the rent and the approved subsidy and

doing so would not require the Family to pay more than 40% of the Family's Monthly Adjusted Income for rent and utilities. The requested rent must be reasonable in comparison to similar unassisted units.

(j) When a Family May Rent an Apartment Smaller than the Voucher Size

The Family may select a smaller Unit than that which is listed on the Voucher in the following instances:

- (i) The Head of Household, if single, chooses to share a bedroom with another member of the Family of the same sex or with a child of the opposite sex of less than three years of age; or
- (i) There is at least one bedroom or living/sleeping room of appropriate size for each two persons; or
- (ii) The State Sanitary Code requirements are met if on member of the Family is using or will use the living area as a sleeping area instead of a bedroom.

(k) Changes in an Applicant's Family Composition.

If the Family's composition has changed since their initial application, the Family must provide verification of the change. Changes in Family Composition must be reported within thirty (30) days from the date of the change. (See also sections 11.1.1(a), 10.1.3 and 10.1.4 for more regarding changes in Family Composition). The BHA will issue a Voucher of the appropriate bedroom size based upon the Family's current composition except in cases where the relationship, age (not generational gap), sex, health, disability or handicap of the Family members warrants the assignment of a larger Voucher Size than that which would result from a strict application of the above criteria. These exceptions must be documented and approved by Administrator or his/her designee.

5.5 Income Eligibility and Targeting

Persons meeting BHA income qualifications are those whose Annual Income at the time of Admission, does not exceed the income limits for occupancy established by HUD. The BHA posts Income limits separately in BHA offices and on its web site (www.bostonhousing.org).

5.5.1 Income Eligible Family

To be income eligible the Family must be a Family in any of the following categories:

- (a) A Family with an annual gross income equal to or less than 50% of Area Median Income (which is also known as “very low-income”);
- (b) A low-income Family that is Continuously Assisted under the 1937 Housing Act;
- (c) A low-income Family that currently resides in a BHA state subsidized public housing development, but is being displaced due to modernization or rehabilitation or other reasons due to no fault of the Family and the Family was initially eligible for BHA state subsidized public housing;
- (d) A Family residing in “expiring use” developments where the Family’s household income does not exceed 80% of Area Median Income (or “low- income”);
- (e) A Family residing in developments which are eligible for the receipt of enhanced Vouchers according to applicable law, may be eligible for the Section 8 program as long as the Applicant’s household gross income does not exceed 95% of area median income.
- (f) A low-income Family that qualifies for Voucher assistance as a non-purchasing Family residing in a HOPE 1 or Hope 2 project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. § 1437f(o)(4)(D));
- (g) A low- or moderate-income Family that is displaced as the result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing as defined in 24 C.F.R. § 248.101.
- (h) A low-income Family that qualifies for Voucher assistance as a non-purchasing Family residing in a project subject to a Participant homeownership program under 24 C.F.R. § 248.173.

~~(i)~~ (i) A low-income Family that is currently assisted by a Sstate, City or any other, subsidized housing program.

- (j) A low income (up to 80% of AMI) family that is referred by the VA for participation in the VASH program.

5.5.2 Targeting Requirements

The BHA will conduct “income targeting” as required by applicable law¹⁵ to ensure that 75% of all Section 8 tenant-based program waiting list Admissions go to Extremely Low-Income Families (those with incomes at

¹⁵ See 24 C.F.R. section 982.201(b)(2)(i)

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or below 30% of the area median income). Income targeting requirements do not apply to Special Admissions (see section 3.6).

- (a) **“Continuously Assisted” families** are not subject to the aforementioned targeting requirements and need not be at 50% of Area Median Income or below to be eligible, as long as their income is low enough to qualify for some level of subsidy assistance.

The BHA considers a Family to be Continuously Assisted under the 1937 Housing Act if the Family is already receiving assistance under any 1937 Housing Act program when the Family is admitted to the Certificate or Voucher program.

A brief interruption between assistance under one of these programs and Admission to the Certificate or Voucher program shall not be considered a break in the continuity of assistance as long as:

- (1) The Family was qualified to enter the subsequent program at the time participation in the prior program was terminated; and
- (2) The interruption of assistance was not caused by the Family's willful violation of program regulations; or
- (3) The termination of assistance under the earlier program was not due to the Family's violation of program regulations.

5.5.3 Determining and Verifying Family Income

During the eligibility interview and/or Recertification interview, the Applicant/Participant must certify any income, Assets, income deductions and income exclusions pertaining to an Applicant/Participant's Household. In conjunction with Applicant/Participant reported income, **Upfront Income Verification (UIV)** or **third party verification** is required to determine income eligibility and amount of the subsidy.

Income eligibility. The BHA bases Income eligibility for the program on annual gross Family income without taking into account any deductions.

Subsidy and monthly rent calculation. The monthly rent is determined by adding together gross income from all sources for all Family members, including income from Assets, and reducing that income by allowable deductions and income exclusions, in accordance with Federal (HUD) regulations.

See Section 4.3.3 for length of eligibility of income documentation and verification.

Projections of Annual Income shall be based on the best available information, with due consideration to the past year's income of all Family members, current income and effective date, and shall include projections for each income recipient in the household.

All forms of income, deductions, exclusions and Assets must be verified in accordance with BHA policy and HUD requirements. The following is a non-exhaustive list of information that may be accepted to verify income:

(a) Income from Employment

- (1) *Upfront Income Verification (UIV) (See section 4.3.2(a))*
- (2) A completed employment verification form (third party verification) stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee, or
- (23) Pay stubs showing gross income for each pay period and all deductions taken for ~~four~~two consecutive ~~weekspay~~periods;
- (34) The income of workers employed on an irregular basis will be estimated based on verification of the best information available, with due consideration to earning ability and work history.
- (45) Up to \$480 of earned income of an 18-year-old or older Full-time student will be counted. The student must verify full time status with a statement on the letterhead of an accredited educational institution stating that the student is enrolled as a Full-time student at that institution.
- (56) The BHA may also require the tenant to produce additional information from the Internal Revenue Service (IRS) when annual income cannot be determined from the previous sources listed in this section. The BHA may request that the tax information be sent directly to the BHA using tax form 4506-T.

- (b) **Income from Governmental Agencies.** A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc), stating the amount of annual or Monthly Income provided, including the gross amount and any deductions taken.

- (c) **Income from Retirement Accounts.** A statement from the source stating the amount of annual or Monthly Income provided, including the gross amount and any deductions taken

(d) Income from operation of a business or profession

- (1) Most recent audited financial statement of income and loss;
- (2) Most recent tax return showing income and/or loss from the operation of a business or profession.

(e) Child Support, alimony, regular gifts and gambling proceeds

- (1) A statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or
- (2) Signed release form allowing the BHA to obtain information from the State Division of Child Support.

(f) Income from Assets

- (1) *Definition of Assets.* Assets consist of bank accounts, trust funds, investments in stocks, bonds, certificates of deposit or money market funds, individual retirement accounts, and Keough accounts, life insurance, real property (buildings or land), or capital investments.
- (2) *Actual vs. Imputed Income.* Income from Assets shall be based on either the actual income received or Imputed Income based upon current passbook savings rates in accordance with federal and state regulations as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc. Imputed Income will be used for real property which is not rented, jewelry, coin collections, works of art and other non-income bearing Assets. If the value of the asset is more than \$5,000 the higher of Imputed Income or actual income received will be used.
- (3) Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered Assets for the purposes of calculating income.
- (4) Estimated bank withdrawal penalties, fees, and settlement costs used to determine cash value will be determined in accordance with the Code of Federal Regulations.

- (5) In the case of tenants who own real estate, the property tax assessment will be used to determine the fair market value of real estate.
- (6) If the Family claims to have inaccessible Assets or a trust that is not revocable or under the control of any Family member, it is up to the Family to prove such inaccessibility with reasonable, sufficient, valid documentation. Any income distributed from the trust or any other inaccessible asset will be considered when determining the Family's annual income.
- (7) Types of verification that will be accepted for purposes of determining the value and income received from an asset include:

- (i) The BHA shall collect asset information from Participants annually. The BHA must verify asset information every three years, but may choose to verify assets at any certification.—

- (ii) For a family with net assets equal to or less than \$5,000, thea BHA may accept a family's declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration. The BHA must obtain third-party verification of all family assets every three years (24 CFR 982.516(3)(ii)).

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- (iii) Third Party Income Verification form filled out by a financial institution;

- (iv) Original passbook for passbook savings accounts;

- (v) Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and

- (vi) Appraised valuations of any non-essential personal Assets such as jewelry, coin collections, antiques or classic cars.

(g) **Income from financial assistance for higher education.**

(1) Income from financial assistance for higher education includes any amounts received in excess of tuition, fees and charges as defined by the Department of Education.

(h) **Verification of childcare expenses or care of Disabled Family Member deductions.** This deduction is available for any **reasonable** childcare expenses to enable a Family member to be

employed (including a family member on a leave of absence from his/her job with an anticipated return); actively seek employment, or to further his or her education. Such expenses are amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to actively seek employment, be gainfully employed, or to further his or her education. The deduction will not be granted for any amount that is reimbursed.

In determining whether childcare expenses are reasonable, the BHA will verify that a family member is engaged in an eligible activity and that the time spent at the eligible activity is commensurate to the child care expense.

Verification required:

- (1) Statement from the provider of childcare or care of Disabled Person who is a Household Member of the amount of payment made on a periodic basis by the Applicant and proof of payment (e.g., cancelled check, money order receipt, IRS-1099 Form, etc.).
 - (2) Third party verification will be required: from employer verifying employment ; from employer verifying leave of absence and anticipated return date; letter from educational institution verifying student status ; verification of unemployment benefits or self-certification that he/she is seeking employment.
- (i) **Verification of Medical Deductions.** This deduction is available to an Elderly or Disabled Family (i.e., in which the Head of Household or spouse is 62 years of age or older or is a Disabled Person). The BHA requires third party verification of unreimbursed medical expenses for any Family member paid within the last twelve months. [Eligible health and medical care expenses are defined as costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body](#)
- [Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.](#) The BHA will [utilize allow](#) medical deductions in accordance with IRS Topic 502 [nonexhaustively](#).

(j) **Verification of Disability Assistance Expenses**

This deduction is available for ***un-reimbursed*** attendant care and auxiliary apparatus expenses for each member of the Family who is a Disabled Person, to the extent necessary to enable any member of the Family (including but limited to the member who is a Disabled Person) to be employed. This deduction may not exceed the earned income received by Family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.

(k) **Verification of Permanent Residence at a Hospital**

The income of a Family member confined to a long-term health care facility, as well as the deductions for their care may be excluded from consideration.

~~(l) **Disallowance of an Increase in Annual Income for Participant Families with Disabled Members (Earned Income Disregard or EID)**~~

~~If a Family's income increases as a result of employment of a Participant Family member who is a Disabled Person who has not been employed for one or more years prior to employment, the BHA will not count the increase in income due to the employment for a 12-month period. During the second 12-month period after the new employment the BHA will only count 50% of the income.~~

~~The earned income disallowance is limited to a lifetime 24-month period for each Disabled Family member; that is, the disallowance applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion.~~

~~If the period of increased income does not last for 12 consecutive months, the disallowance period continues for the remainder of the 24-month period.~~

~~No earned income disallowance will be applied after the 24-month period following the initial date the exclusion was applied.~~

~~(lm)~~ Exclusions from Income include but are not limited to the following (for a complete list refer to 24 C.F.R. 5.609(c))

- (1) Annual income does not include the following:
Income from employment of children (including foster children) under the age of 18 years.
- (2) Payments received for the care of foster of children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).

- (3) Lump sum additions to family assets, such as inheritances, insurance payments, (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses, except as provided 5.5.3(b).
 - (4) Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
 - (5) Income of a *live in aide* as defined in Section 5.4.2 (g)
 - (6) Education fees- financial assistance that is equal to tuition and any mandatory fees or charges in addition to tuition
 - (7) The special pay to a family member serving in the armed forces who is exposed to hostile fire.
 - (8) Amounts received under training programs funded by HUD.
 - (9) Temporary, nonrecurring or sporadic income (including gifts).
- Income received as part of a guaranteed income pilot shall be considered temporary and therefore excluded from annual income determinations
- (10) Earnings in excess of \$480 for each full time student 18 years of older excluding the head of household and spouse.
 - (11) Adoption assistance payments in excess of \$480 per adopted child.
 - (12) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

5.5.4 Zero Income

When a Family reports zero income, the BHA may require the Household to complete a budget or statement of financial responsibility. If the Family owns a motor vehicle, a telephone, or has other evidence of some form of

expenditures reflecting income, the Family will be asked to explain the source of funds supporting such cash expenditures

In addition, adult Family members will be required to sign releases allowing the BHA to obtain verification of no-income from sources such as Dept. of Transitional Assistance, Internal Revenue Service, Department of Revenue, Social Security Administration, Employment Security and Veterans Affairs.

(a) Frequency of Zero Income Recertification

The BHA may require a zero income Participant to recertify every month. The BHA will review EIV quarterly until an Annual Income is determined..

5.6 Review of Citizenship and Eligible Immigration Status

Each Applicant/Participant's status as a U.S. Citizen, Eligible Non-Citizen or ineligible Non-Citizen must be verified except as indicated below. Determination of eligibility or partial eligibility for subsidized housing is affected by Citizen or Non-Citizen status. At least one Household Member must be a Citizen or Eligible Non-Citizen.

5.6.1 What Evidence Will Be Required.

Evidence of U.S. Citizenship or "Eligible Immigration Status" will be required to be submitted for all Family members regardless of their age, except as indicated below. **If you choose not to contend that you are a Citizen or have eligible immigration status you must** complete a form electing not to contend to such status

(a) **If You Are a U.S. Citizen:**

A signed Declaration of U.S. Citizenship

(b) **If You Are a Non-Citizen Who is Age 62 or Over:**

A signed Declaration of "Eligible Immigration Status". You will also need to provide a "proof of age" document.

(c) **If You Are a Non-Citizen Who Does Not Fall into One of the Categories Above:**

A signed Declaration of "Eligible Immigration Status," a signed Verification Consent Form **and** you must provide **the original** of one of the documents listed below:

- (1) **Registered Alien Card:** U.S. Immigration and Naturalization Service ("INS") I-551 Form;

- (2) Arrival /Departure Record: INS I-94 Form; with one of the following annotations:
 - (i) "Admitted as Refugee pursuant to Section 207;"
 - (ii) "Section 208" or "Asylum;"
 - (iii) "Section 243(h)" or "Deportation stayed by Attorney General;" or
 - (iv) "Paroled pursuant to Section 212(d)(5) of the INAA."
- (3) Arrival /Departure Record: INS I-94 Form, not annotated, accompanied by one of the following documents:
 - (i) A final court decision granting asylum to which no appeal was taken;
 - (ii) A letter from an INS Asylum Officer granting asylum (if application was filed on or after October 1, 1990) or from an INS District Director (if application filed before October 1, 1990);
 - (iii) A court decision granting the withholding of deportation; or
 - (iv) A letter from an INS Asylum Officer granting withholding of deportation (if application was filed on or after October 1, 1990).
- (4) Temporary Participant Card: INS I-688 Form, which must be annotated with the notation of either "Section 245A" or "Section 210;"
- (5) Employment Authorization Card: INS Employment Authorization Card I-688B Form, which must be annotated with the notation either: "Provision of Law 274a.12(11)" or "Provision of Law 274a.12;" or
- (6) Receipt from the INS indicating Application for Issuance of a Replacement Document.
- (d) Eligible Immigration Status for all Non-Citizen Family members must be verified through the INS unless there is an election not to contend or all Family members are 62 years of age or older and have submitted proof of age and a declaration of eligible non-Citizen status.

5.7 Review of Criminal Offender Record Information (CORI)

The BHA uses criminal offender (CORI) records obtained from law enforcement agencies to screen Applicants for eligibility to the HCVP. All Applicants are advised in writing that criminal activity by any Applicant may be a cause for denial to the Section 8 Program. To determine eligibility the BHA reviews a Criminal Offender Record Information ("CORI") report from the Massachusetts Department of Criminal Justice Information Services [C](#) ("DCJIS"), or a similar entity in another state, if the Applicant has not been residing in Massachusetts for the past two (2) years. The BHA will pay costs associated with obtaining criminal record reports.

The BHA will request CORI for an Applicant who is fourteen (14) years of age or older in accordance with State and federal law. The BHA will does not have access to any juvenile offender information. The BHA shall review CORI for an applicant who is 14 or older that is or was tried as an adult.

In conducting a review of an applicant's history of criminal activity the review shall be limited to a period of three (3) years for criminal activities which would be punishable as a misdemeanor or equivalent level of culpability under local law and seven (7) years (except where the Housing Authority has an obligation to ban applicants whose criminal activity is subject to mandatory denial) for an activity which would be punishable as a felony or equivalent level of culpability under local law. The time period shall run from the date of conviction or the release date, whichever is later.

The Housing Authority may deny an applicant whose criminal record shows a pattern of violent criminal activity, or activity that is inherently violent, even though the activity has occurred outside of the time frame set out above.

For the purposes of CORI certification, the BHA must verify the identity of the Applicant with a form of government-issued photographic identification (if photographic identification is unavailable the BHA may accept proof of birth). The BHA will obtain the following information on the CORI request form to ensure the correct identity of the Applicant:

- Full Name;
- Maiden name or Alias;
- Date of Birth;
- Place of Birth;
- Social Security Number (requested but not required);
- Mother's maiden name;
- Former addresses;
- Sex;
- Height;
- Weight; and
- Eye Color
- Other information as required under State or federal law.

If the BHA obtains criminal record information showing that an Applicant Family member has been convicted of a crime relevant to eligibility, the BHA will notify the Applicant of the proposed denial and provide the subject of the record and the Applicant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information. The BHA may also consider evidence that any criminal activity was directly related to or resulting from incidents of Domestic Violence, Dating Violence, Stalking, or Sexual Assault as Mitigating Circumstances. The BHA will send the Applicant a letter offering the Applicant the opportunity to provide information by mail to dispute, resolve, or mitigate the criminal record information. The BHA will also provide the Applicant and the subject of the criminal record with a copy of the criminal record and let the Applicant know which portion of the record appears to make the Family ineligible. Upon receipt of additional information from the Applicant, the BHA will review the information and inform the Applicant of the decision.

5.7.1 Use and Maintenance of CORI

The BHA will use, maintain, and destroy CORI in accordance with 803 CMR § 5.00

No BHA employee shall disseminate or retain CORI for any purpose other than that expressly permitted by law. No BHA employee shall disseminate CORI to any individual other than an individual involved in the Applicant Certification process who is expressly authorized to have access to CORI.

CORI shall be destroyed when the Applicant to whom it pertains has been housed or has received a subsidy. If an Applicant has been determined ineligible for housing or subsidy, the Applicant's CORI shall be destroyed three (3) years from the date of the application's rejection, or after all administrative and judicial proceedings concerning the rejection are exhausted, whichever is later.

An Applicant shall be determined eligible on the basis of all other HCVP criteria before eligibility is determined on the basis of CORI.

5.8 Required Release Forms

All Adult Family members will be required to execute the following releases of information or sign information forms as appropriate:

- (i) The single standard **Release of Information** form that is to be signed by the Applicant and each adult Family member;
- (ii) Non-Citizen Rule– Verification of Consent for all Family members;
- (iii) One copy of the **CORI Release of Information** form advising the Family member that CORI will be used on all persons fourteen (14) and over; and
- (iv) The **Privacy Act Notice**.

Note: Refusal to sign these forms or other documents required to process the application, complete Recertification, or conduct screening will result in the withdrawal of the application or termination of the subsidy. The BHA has discretion to determine what constitutes adequate and credible documentation. If staff has doubts about the veracity or reliability of information received, they may examine alternative methods of verification with the Applicant or third parties until they are satisfied that the documentation is reliable or that reliable documentation is unattainable. The BHA will not offer housing to an Applicant who has failed to provide requested documentation or to identify sources who can provide documentation which demonstrates the ability of the Family to comply with the essential obligations of the Lease or meet other eligibility requirements.

5.9 Briefing Session

If the Applicant is determined eligible for the HCVP, the BHA will provide a letter inviting them to a briefing session.

If the Applicant is ineligible, the BHA will give them a letter stating the reason for ineligibility and informing the Family of their right to request an informal review of the determination or a reasonable accommodation. The letter will also include a description of the process for obtaining such a review. Failure to attend the briefing session will result in withdrawal from the waiting list.

5.9.1 Issuing Vouchers

At the briefing session, the BHA will issue the Family a Voucher. The size of the Voucher will be in accordance with the BHA Subsidy Standards.

5.9.2 Conducting Briefing Sessions

The BHA will provide briefing sessions when necessary. Applicants may supply their own interpreter, but the BHA will take reasonable steps to assure meaningful access by Disabled Persons and persons with limited English ability in accordance with section 1.3.4 of this Administrative Plan. At the briefing session the Voucher will be issued to the Family. The instructor will orally brief the Family and supply them with an information packet regarding the rules of the program.

- (a) **Oral Briefing.** When the BHA selects a Family to participate in a tenant-based program, the BHA will give the Family an oral briefing. The briefing must include information on the following subjects:

- (1) A description of how the program works;
- (2) Family and Owner responsibilities; and
- (3) Where the Family may Lease a Unit, including renting a dwelling Unit inside or outside the BHA Jurisdiction, [and any information on selecting a unit that HUD provides;](#)

- (4) For a Family that qualifies to Lease a Unit outside the BHA Jurisdiction under Portability procedures, the briefing must include an explanation of how Portability works. The BHA may not discourage the Family from choosing to live anywhere in the BHA Jurisdiction, or outside the BHA Jurisdiction under Portability procedures;
 - (5) If the Family is currently living in a high poverty census tract in the BHA's Jurisdiction, the briefing must also explain the advantages of moving to an area that does not have a high concentration of poor families;
 - (6) In briefing a Family that includes any Disabled person, the BHA must take appropriate steps to ensure effective communication in accordance with 24 C.F.R. § 8.6 [and 28 C.F.R. Part 35, Subpart E, and must provide information on the reasonable accommodation process.](#)
- (b) **Information packet.** When a Family is selected to participate in the program, the BHA will give the Family a packet that includes information on the following subjects:
- (1) The term of the Voucher, and BHA policy on any extensions or suspensions of the term. If the BHA allows extensions, the packet must explain how the Family can request an extension;
 - (2) How the PHA determines the amount of the Housing Assistance Payment for a Family, including:
 - (i) How the PHA determines the Payment Standard for a Family; and
 - (ii) How the PHA determines the Total Tenant Payment for a Family.
 - (3) How the BHA determines the maximum rent for an assisted unit;
 - (4) Where the Family may Lease a Unit. For a Family that qualifies to Lease a Unit outside the BHA Jurisdiction under Portability procedures, the information packet will also include an explanation of how Portability works and the list of city or towns that the BHA services;
 - (5) The HUD-required "tenancy addendum" that must be included in the Lease;
 - (6) The form that the Family uses to request BHA approval of the assisted tenancy, and an explanation of how to request such approval;

- (7) A statement of the BHA policy on providing information about a Family to prospective Owners;
- (8) BHA Subsidy Standards, including when the BHA will consider granting exceptions to the standards as allowed by 24 C.F.R. 982.402(b)(8), and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disability Act;
- (9) The HUD brochure on how to select a unit;
- (10) Information on federal, State and local fair housing and equal opportunity laws, -the contact information for the Section 504 Coordinator, a copy of the housing discrimination complaint form and information on how to request a reasonable accommodation or modifications (including information on requesting exception payment standards a reasonable accommodation) under Section 504, the Fair Housing Act, and the Americans with Disability Act. -the phone number for the Fair Housing Complaint Hotline(currently 1-800-669-9777 or TTY 800-887-8339 for persons with hearing or speech impairments);
- (11) A list of landlords or other parties known to the BHA who may be willing to Lease a Unit to the Family, or help the Family find a Unit;
- (12) Notice that if the Family includes a Disabled Person with a disability, the BHA is subject to the requirements under 24 C.F.R. 8.28 (a)(3) to provide -the Family may request a current listing of accessible units known to the BHA and if necessary other assistance in locating an available accessible dwelling unitthat may be available;
- (13) Family obligations under the program;BHA informal hearing procedures. This information must describe when the BHA is required to give a Participant the opportunity for an informal hearing; and
- (14) The advantages of areas that do not have a high concentration of low income families which may include, access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services; and The BHA Family Break-Up Policy and the Residual Family Policy.

(15) A description of when the PHA is required to give a participant family the opportunity for an informal hearing and how to request a hearing.

(16) The BHA Family Break-Up Policy and the Residual Family Policy.

(c) Providing information for persons with Limited English Proficiency (LEP). The PHA must take reasonable steps to ensure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and HUD's implementing regulations at 24 CFR part 1.

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CHAPTER 6: Denial of Voucher and Applicant Appeals

6.1 Denial of a Voucher

The BHA may deny eligibility for the reasons set forth below.

The BHA shall not automatically deny an applicant based on the presence criminal history.

The BHA review of criminal history only considers convictions and charges awaiting trial for drug related, violent, and other criminal activity that could affect the health and safety of others potentially living nearby.

The BHA shall not consider arrests, cases that were continued without a finding as a means of probation, or charges that did not get prosecuted. Convictions for crimes such as larceny and other non-violent, non-drug related criminal activity are generally not considered unless, the BHA determines that the activity might affect the health and safety of other in the area. For example, illegal possession of a firearm or ammunition is not dangerous in itself, but may be considered to affect the health and safety of others.

6.1.1 Definitions

- (a) **Denial** means a BHA action which denies listing on the BHA waiting list, denying or withdrawing a Voucher, refusing to enter into a HAP Contract or approve a Lease or refusing to process or provide assistance under Portability procedures.
- (b) **Drug Related Criminal Activity** means:
 - (i) The manufacture, sale, distribution, or use, or the possession with intent to manufacture, sell or distribute a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802);
 - (ii) The use or possession (other than with intent to manufacture, sell or distribute) of a controlled substance, except that such use or possession must have occurred within one year before the date that the PHA provides notice to an Applicant to deny Admission pursuant to 24 C.F.R. § 982.553.
- (c) **Violent Criminal Activity:** means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or to be reasonably likely to cause, serious bodily injury or property damage.
- (d) **Denial Due to Domestic Violence.** The BHA will not deny the assistance of a Family solely for the reason of being a victim of Domestic Violence, Stalking, Sexual Assault, or Dating Violence,

unless there is an actual or imminent threat to other tenants or those employed at or providing service to the property if that tenant is not denied the assistance. See also section 1.2.5.

6.1.2 Mandatory Denial

The Family must be denied a Voucher, even if they are otherwise eligible:

- (a) If any Family Member fails to sign and submit Consent forms for obtaining information in accordance with this Administrative Plan and 24 C.F.R. part 5, subpart B and F.
- (b) If any Family Member fails to submit required evidence of citizenship or eligible immigration status (or non-contending forms) in accordance with 24 C.F.R. part 5, subpart F and Section 5.6 of this Administrative Plan.
- (c) If any Family Member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the Premises of federally assisted housing, the BHA will permanently prohibit Admission to the Section 8 program.
- (d) If any Family Member is subject to a lifetime registration requirement under a State sex offender registration program in Massachusetts or any other State.
- (e) If any Family Member has been evicted from federally assisted housing within the last three years for Drug Related Criminal Activity. However, the BHA may admit the Family if the BHA determines:
 - (1) That the evicted Family Member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program.
 - (2) That the circumstances for leading to eviction no longer exist (for example, the criminal Family Member has died or is serving a lengthy prison term).
- (f) If the Family member is currently engaged in illegal use of a drug.
- (g) If the BHA determines that there is reasonable cause to believe that a Family member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents.
- (h) If the BHA determines that it has reasonable cause to believe that a Family member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents.

6.1.3 Discretionary Denial

The BHA may deny a Family a Voucher, even if they are otherwise eligible, if any Family member:

- (a) ***Owes uncollected rent and/or miscellaneous charges,*** such as, court costs, constable fees, or other related fees arising during the Applicant's receipt of benefits from any program administered by the BHA or Other Publicly Assisted Housing Program.
- (b) Has failed to reimburse the BHA or another PHA for rent or any other amount paid to an Owner under a contract or Lease provision;
- (c) Has committed fraud, bribery, or any other corrupt or criminal act in connection with any state or federal housing assistance program; (See also 4.2)
- (d) Has violated any Family obligation under the Section 8 Program as stated in 24 C.F.R. § 982.551 or listed in section 13.5.2;
- (e) Has breached an agreement to repay a debt to the BHA;
- (f) Any Family member is currently engaged in, or has engaged in during a reasonable¹⁶ time before the Admission:

(1) Drug Related Criminal Activity;

- (i) The BHA may not deny assistance due to use or possession of a controlled substance by a Family member if the Family member can demonstrate that s/he has an addiction, has a record of an addiction, or is regarded as having an addiction to a controlled substance, and is recovering or has recovered from such addiction and does not currently use or possess a controlled substance. The BHA may require a Family member who has engaged in the illegal use of a controlled substance to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the Unit (see also section 6.1.5(c)).

(2) Violent Criminal Activity;

¹⁶ For the purposes of this provision, reasonable will depend on the individual circumstances.

- (3) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents or persons residing in the immediate vicinity; or
- (4) Other criminal activity which may threaten the health or safety of the Owner, property management staff, or persons performing a contract administration function on behalf of the BHA (including a BHA employee or a BHA contractor, subcontractor, or agent).
- (g) Has engaged in or directed abusive, threatening or violent behavior toward BHA personnel;
- (h) Has been evicted from federally assisted housing in the last five years; or
- (i) If a PHA has ever terminated assistance under the program for any member of the Family.

6.1.4 Denial of Eligibility and Notice to Applicant

- (a) *Opportunity to Mitigate criminal record prior to denial of eligibility.* If the BHA would otherwise deny Admission based upon information contained in an accessed criminal record, the BHA will give the Applicant Family an opportunity to mitigate or dispute the accuracy and relevance of that record in accordance with 24 C.F.R. § 982.553(d). See also section 6.1.5.

The BHA will notify the Applicant of the proposed denial and provide the subject of the record and the Applicant a copy of such information, and an opportunity to dispute/mitigate the accuracy and relevance of the information. The BHA will send the Applicant a letter offering the Applicant the opportunity to provide information by mail to dispute, resolve, or mitigate the criminal record information. The BHA will also provide the Applicant and the subject of the criminal record with a copy of the criminal record and let the Applicant know which portion of the record appears to make the Family ineligible. Upon receipt of additional information from the Applicant, the BHA will review the information and inform the Applicant of the decision. (See also section 5.7 for more information on criminal record reports)

- (b) *Notice of Denial to Applicant.* When the BHA determines, based on a preponderance of the evidence, that an Applicant Family is ineligible for one of the reasons stated above, the BHA will notify the Applicant in writing that the BHA is denying assistance for the program. The BHA will notify the Applicant of the reason for the decision and the information relied upon in reaching the decision. The notice will include:

- (1) The ground(s) for denial;
 - (2) That the Applicant has twenty (20) days, or thirty (30) days for action taken under HUD non-citizen rule cases, to request in writing an informal review with the BHA to review denial;
 - (3) That the Applicant shall have a right at the informal review (see section 6.2) to review their file at the review or prior to the review, to present a defense to the adverse information, present evidence or information which might warrant an approval for Section 8 Assistance;
 - (4) That if an Applicant believes the adverse information is incorrect and wishes to pursue modification or correction of the criminal record, (s)he can request that the BHA keep the Applicant's application open for 90 days for such purpose;
 - (5) That the Applicant has a right to request that the BHA consider a Reasonable Accommodation in evaluating said Applicant's eligibility if (s)he is disabled or handicapped as defined in 29 U.S.C. § 706(8)(B) or other applicable law.
- (c) *Withdrawal.* If an Applicant is deemed ineligible for the Section 8 Program, they will be withdrawn from all Section 8 waiting lists.

6.1.5 Consideration in Certain Denials

- (a) *Consideration of circumstances generally.* The BHA has the discretion to consider all of the circumstances in each case including, but not limited to, the seriousness of the offense, the extent of the criminal history, the extent of participation by Family members, and the effects that denial will have on Family members not involved in the alleged activity.
- (b) *Reasonable Accommodation.* The BHA shall consider a request for Reasonable Accommodation by an Applicant who has a disability or handicap, has a record of a disability or handicap, or is perceived as having a disability or handicap. The BHA will follow its Reasonable Accommodation Policy to determine whether or not an Accommodation should be made for an Applicant who is a Disabled Person.
- (c) *Mitigating Circumstances.* The BHA shall consider mitigating circumstances such as active participation in, or completion of, a supervised drug treatment program.
- (d) *Admission of a portion of the Family.* The BHA may, in its discretion, admit only a portion or certain members of the Family

to the HCVP, if there is sufficient evidence that the Family member who engaged in the alleged activity will not reside in the Unit or if the Head of Household certifies that the Family Member who engaged in the alleged activity will not reside in the Unit.

- (e) *Project based vs. tenant-based assistance.* The BHA may consider whether the Applicant is to receive project based assistance, which has as one of its components supportive services that may be appropriate for the Applicant.
- (f) *Domestic Violence.* The BHA may consider an incident or incidents directly related to Domestic Violence, Dating Violence, Stalking, or Sexual Assault as mitigating circumstances when the incident or incidents of Domestic Violence, Dating Violence, Stalking, or Sexual Assault is directly related to the reason for denial.

6.2 Informal Reviews for Applicants

6.2.1 Right to an Informal Review

Applicants who are determined Ineligible for Admission, issued a Notice of Withdrawal, or denied Priority status or Preference(s) by the BHA will be sent a notice that:

- (a) Informs the Applicant of the reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s);
- (b) Advises the Applicant of his/her right to contest the decision in an informal review provided a written request for a hearing is received within twenty (20) calendar days of the date the Notice of Denial is issued. The request must be in writing and must state clearly the basis for requesting the informal hearing and be sent to the address provided on the notice;
- (c) Advises the Applicant of his/her right to contest the CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility;
- (d) Advises the Applicant that if s/he has a disability, not previously disclosed, that the disclosure of such condition would lead to the consideration of Mitigating Circumstances and/or a Reasonable Accommodation, if related to the disability. Advises the Applicant that if s/he requests a Reasonable Accommodation at the time of or after requesting an informal hearing, the hearing officer will make the decision regarding the accommodation;
- (e) Advises the Applicant that if s/he has been the victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, that such situations could be considered as Mitigating Circumstances if they are directly related to the negative information. Advises the

Applicant that if s/he requests consideration of Mitigating Circumstances at the time of or after requesting an informal hearing, the hearing officer will make the decision regarding the circumstances;

- (f) Provides a description of BHA's informal review process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal review, review the contents of their file in advance of the hearing, and the right to submit additional documents and evidence and to testify at the review;
- (g) The hearing officer may consider mitigating circumstances or a reasonable accommodation presented at the hearing when determining whether or not to deny the assistance of an applicant.

6.2.2 Hearing Procedures

(a) Time to Request an Informal Review

The time to request an informal review shall be twenty (20) days from the date of notice of withdrawal, denial of assistance to the Family, denial of Priority and/or Preference, denial of a place on the appropriate waiting list, or denial of issuance of a Voucher, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of denial of assistance for any Family member. The BHA will grant a request for a hearing when an Applicant submits a late request, together with evidence of compelling circumstances that prevented the Applicant from requesting a hearing within the twenty (20) days. Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period. ,

(b) Scheduling the Informal Review

When the BHA receives the Applicant's written request the Department of Grievances and Appeals ("DGA") will schedule an informal review. The DGA will notify the Applicant in writing of the date, time and place of review. The BHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review his/her file, request a Reasonable Accommodation or interpreter and right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for applicant and the BHA. If an Applicant requests an Reasonable Accommodation that pertains to the how the hearing itself will be conducted the DGA Administrator will decide the accommodation request. If an Applicant requests a Reasonable Accommodation that pertains to the underlying decision, the request will be forwarded back to the Department for review. All requests will be processed in accordance with the BHA Reasonable Accommodation policy.

- c) *Default and Rescheduling.* The DGA will issue a Default if the Applicant does not appear in the DGA within 15 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing may be rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent requests must be supported by evidence of compelling circumstances that would prevent the applicant from attending. Reschedule requests submitted after the hearing date must be submitted within 30 days of the hearing date and must be supported by evidence of compelling circumstances that prevented the applicant from attending and, if applicable, prevented the Applicant from submitting a request to reschedule prior to the hearing date. The Applicant will be withdrawn from the waiting list if the Applicant does not attend the informal review and did not attempt to reschedule.

- f
(d) Compelling Circumstances – when analyzing whether or not a applicant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the written facts or circumstances submitted by the applicant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the applicant has attempted to remedy the request/default; (2) the nature of the applicant's explanation; (3) whether or not the applicant could have prevented the untimeliness; (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. ***Please Note the review will be based solely on the documents submitted, no hearing will be scheduled to determine compelling circumstances.***

Failure to receive the adverse notice or hearing notice will not be considered a compelling circumstance if the applicant did not receive the notice because of his/her failure to give the BHA the correct and most current address.

6.2.3 Applicant Rights during the Informal Review

During the hearing, the BHA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, or denial of Priority status or Preference(s). The Applicant will have an opportunity to present evidence and testimony rebutting the basis for the BHA's determination.

6.2.4 Due Process Requirements

The informal review will conform to the following due process requirements:

- (a) An employee of the BHA who did not participate in the original decision must conduct the review.
- (b) The hearing officer must base the decision solely on evidence presented at the hearing as well as any evidence previously received by the BHA. All evidence submitted at the hearing shall be considered de novo, and the matter shall not be remanded to the Leased Housing Division or Occupancy Department for reconsideration due to submission of new evidence.
- (c) The Applicant and/or his/her representative has a right to inspect the file prior to the review, provided the Applicant provides BHA with written authorizations permitting the representative to have access to the contents of the Applicant's file and/or CORI.
- (d) Either the Applicant or the BHA may request after close of the review that the record remain open for a reasonable time for submission of new evidence. At the discretion of the hearing officer, the date may be only extended for good cause (such as the inability of the Applicant for reasons outside his/her control to provide a particular document by the requested date). Written notice of the record being held open, the cause for an extension if any, and the date the record will close will be given to the Applicant and kept in the BHA case file.

6.2.5 Informal Review Decisions

After the informal review, all Applicants will be sent an “**Informal Review Decision**” from the BHA hearing officer. This notice shall:

- (a) Provide a summary of the review;
- (b) Provide the decision of the hearing officer, together with findings and determination;
- (c) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision;

6.2.6 Reversal of BHA's Determination of Ineligibility

If the BHA **reverses** the determination to deny the Applicant assistance or Priority or Preference status, the application will return to its appropriate place on the waiting list(s) for all programs previously selected by the Applicant. The BHA will restore the status or position in accordance with the determination.

6.2.7 Confirmation of the BHA's Determination of Ineligibility

- (a) If the decision or an appeal **upholds** the determination of Ineligibility the Applicant may submit a new application for admission at a time when a waiting list is open but no earlier than eighteen (18) months after the after the initial determination of ineligibility by Leased Housing. This period of time may permit the Applicant and/or Household Member to correct the behavior or situation that resulted in rejection. A shorter period, as determined by the Authority, to be appropriate under the circumstances of the rejection, or any new Application, may be allowed.
- (b) Applicants who are withdrawn may submit a new Application at any time provided a waiting list is open.
- (c) Applicants denied Priority Status, Preference(s), or Reasonable Accommodation may re-apply for the same or a different Priority or Preference at any time provided a waiting list is open except as provided for in this policy.

CHAPTER 7: FINDING AND LEASING APPROVABLE HOUSING

7.1 Searching for Housing

The Housing Choice Voucher (Voucher) is the Family's authorization to search for housing. The Family receives the Voucher after the BHA selects the Family from the waiting list, determines the Family's eligibility for assistance, and conducts the program briefing. Upon issuance of a Voucher, the housing search process begins. Once the Family selects a potential Apartment, the BHA begins its process of approving or denying the assisted tenancy.

The Leasing Officer will refer a Family to special BHA housing counseling programs, if available, and non-BHA housing search assistance as appropriate. The BHA will make an Apartment listing and maps of Boston available at its central office located at 52 Chauncy St. and online at www.bostonhousing.org

7.1.1 Assisting the Family in Responding to Suspected Discrimination

When the Family believes it may have been discriminated against while attempting to find or lease a Unit, the Leasing Officer will instruct the Family to complete the HUD Discrimination Complaint Form and also file a complaint with the Massachusetts Commission Against Discrimination ("MCAD"). The BHA provides both forms to all Applicants at their briefing session. If necessary, the Leasing Officer will help the Family to complete the required discrimination forms. The Leasing Officer may also refer the Family to the BHA Office of Civil Rights for assistance in filing a discrimination complaint. Finally, the Family will be provided with the address and phone numbers of agencies which may be able to provide legal assistance including, but not limited to: Greater Boston Legal Services, the Lawyers Committee for Civil Rights, and the Greater Boston Fair Housing Center.

7.2 Voucher Term

7.2.1 Term Length

A Voucher has an initial term of 120 days. The term of the Voucher is the amount of time that a Family has to find approvable housing. Vouchers will expire 120 days from the date of the issuance unless the BHA suspends or extends the term of the Voucher. See sections 7.2.4 and 7.2.5. The Voucher will state the expiration date.

7.2.2 Expiration

The Voucher expires automatically on the date indicated on the Voucher unless the Voucher term changes due to an extension or suspension. See section 7.2.4. The initial Voucher states the expiration date

7.2.3 Withdrawal

The BHA may withdraw the Family's Voucher at any time if the BHA finds that the Family violated any of the Family obligations as listed in 24 C.F.R. § 982.551 or section 13.4 of this Administrative Plan.

7.2.4 Voucher Suspension Policy

For the purposes of this section Suspension or Tolling means that the term of a Voucher does not continue to run when a Family submits the Request for Tenancy Approval ("RTA") until the time the BHA approves or denies the request, or the RTA expires.

The RTA will expire if the Owner does not schedule an inspection appointment within sixty (60) days from the date the RTA is received by the BHA Inspection Department. The Suspension time will accrue until the RTA is no longer valid. The BHA will process one RTA per Family at a time. A Family may withdraw a RTA at any time. The BHA will notify the Family in writing of the new expiration date and the Suspension calculations by sending the Family an Agency Determination Form.

Suspension Example:

- i. Voucher issued: May 1; Expiration date: August 31
 - ii. Family submits the RTA: May 15
 - iii. BHA denies the RTA: May 24 (Tolling/Suspension Time: 9 days)
 - iv. New Voucher expiration date: September 9
- (a) *Calculation of new term.* If the Voucher was suspended because the Voucher holder submitted a RTA that is no longer valid, the Leasing Officer will use the Agency Determination Form to notify the Voucher holder in writing of the new Voucher expiration date. The BHA calculates the new expiration date by adding the number of days between the date the RTA was submitted and the date the RTA became invalid to the initial expiration date.
- (b) *Additional suspension time for repairs to the Unit.* If a Family submits a RTA, but the Apartment fails inspection and the Owner needs more time to bring it up to acceptable condition, or if the Apartment cannot be inspected immediately (e.g.; if the Apartment is being rehabilitated), the Inspections Department will give the Owner 30 days to make repairs. The BHA has sole discretion to decide if such additional time shall be granted.
- (c) If a Family submits a Request for Reasonable Accommodation the BHA will toll the voucher in accordance with the above calculation from the time the request is received until the Leased Housing Department issues a determination of the request.

7.2.5 Extension of Search Time

- (a) *Generally.* A Family may apply for an extension by notifying the BHA in writing that they require more time to search for an Apartment. The BHA shall use its discretion to grant a Family requesting an extension of their Voucher term. The BHA will not grant a Voucher extension after the initial Voucher term expires. The BHA will give the Family written notice of an extension and the new expiration date by using the Agency Determination Form.
- (b) *Circumstances for extension.* The BHA may grant extensions under each of the following non-exhaustive list of categories as circumstances warrant:
 - (1) The Voucher Holder was not able to actively search for housing due to extenuating circumstances beyond the control of the Voucher Holder (such as fire, flood, or other natural disaster, or death in the Family that required that the Voucher Holder travel out of the state). If these circumstances are verified, the BHA will extend the Voucher term for the number of days that the Voucher Holder was unable to actively search for housing;
 - (2) A Voucher Holder suffered from severe medical difficulties, an unexpected illness or hospitalization (including entering a rehabilitation program). If these circumstances are verified, the BHA will extend the Voucher term for as many days as an Applicant was hospitalized, in a rehabilitation center, or incapacitated due to illness;
 - (3) The Family needs and requests an extension of the initial Voucher term as a Reasonable Accommodation for an individual with a disability or handicap as defined under applicable federal or state law. Under these circumstances, the BHA may extend the Voucher term for a reasonable number of days, as determined by the BHA.
 - (4) If the Voucher Holder was not able to actively search for housing due to incident(s) of Domestic Violence, Dating Violence, Stalking, or Sexual Assault. Under these circumstances, the BHA will extend the Voucher term for a number of days equal to the amount of time the Voucher Holder was not able to search for housing.
 - (5) If the Voucher Holder has a change in family composition that effects the size of the Voucher. The BHA may extend the term of the voucher at its discretion.
- (c) *Pending discrimination action.* In cases of alleged discrimination in which the Family has filed a complaint with HUD, MCAD, or a municipality's Fair Housing Commission, or has filed a discrimination complaint in court, the BHA will extend the Family's

Voucher for an additional one hundred and eighty (180) days pending resolution of the matter or a finding of probable cause.

7.3 Requests for Tenancy Approval

7.3.1 Intake of Requests

The Family must submit the Request for Tenancy Approval ("RTA") and Rent Roll forms to their Leasing Officer. The Head of Household and the Apartment Owner or the Owner's authorized agent must sign these documents. The BHA will only accept and process one RTA per Voucher Holder at a time.

7.3.2 BHA Leasing Schedule

The BHA will have a leasing schedule which will indicate to the Owner and the Family what date a Lease, inspection approval, and all required HUD paperwork must be completed, so the Family can be leased up the following month. The BHA has discretion to make exceptions to the leasing schedule where the Family provides proof of extenuating circumstances.

7.3.3 Providing Information to Prospective Owners

Upon request, the BHA will provide the prospective HCVP Owner with the following information provided that the Family signs an authorization of release of information form:

- (a) the Family's current and prior address as shown in BHA records; and
- (b) the name and address (if known to the BHA) of the Owner at the Family's current and prior address;

This information will only be provided when an authorization for the release of information is completed and signed by the Participant. Requests for this information are submitted together with the Request for Tenancy Approval. This request will indicate the Owner's name and the address to which the BHA must send the information. This information will not be given over the telephone.

The BHA does not screen tenants with respect to their Family history or suitability for tenancy. Screening is the responsibility of the Owner.

7.3.4 Disapproval of Owners

- (a) The BHA must not approve an assisted tenancy if the BHA has been informed that the Owner has been debarred, suspended or subject to limited denial of participation under 24 C.F.R. part 24.

- (b) When directed by HUD, the BHA must not approve an assisted tenancy if:
 - (1) The Federal Government has initiated an administrative or judicial action against the Owner for violation of the Fair Housing Act or other Federal equal opportunity requirements or if such action is pending.
 - (2) A court or administrative agency has determined that the Owner has violated the Fair Housing Act or other federal equal opportunity requirements.
- (c) The BHA may use its discretion to deny approval of an assisted tenancy for any of the following reasons:
 - (1) The Owner has violated obligations under a HAP Contract;
 - (2) The Owner has committed fraud, bribery, or any other corrupt criminal act in connection with any federal housing program;
 - (3) The Owner has engaged in any Drug Related Criminal Activity or any Violent Criminal Activity;
 - (4) The Owner has a history of non-compliance with HQS (chronic sub-standard conditions) for units Leased under the tenant-based programs, or with applicable housing standards for units Leased with project-based Section 8 assistance or Leased under any other federal housing program;
 - (5) The Owner has failed to terminate the tenancy or notify the BHA of the termination of a tenant's units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the Household, a guest or another person under the control of any member of the Household that:
 - (i) Threatens the right to peaceful enjoyment of the Premises by other residents; or
 - (ii) Threatens the health or safety of other residents, of employees of the BHA, or of Owner employees or other persons engaged in management of the housing; or
 - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the Premises; or

- (iv) Is Drug-Related Criminal Activity or Violent Criminal Activity.
- (6) The Owner has a history or practice of renting units that fail to meet State or local housing codes, or;
- (7) The Owner has not paid State or local real estate taxes, fines or assessments.
- (d) The BHA must not approve a Unit if the Owner is the parent, child, grand-parent, grandchild, sister, brother, of any member of the Family, unless the BHA determines that approving the Unit would provide a Reasonable Accommodation for a Family member who is a Disabled Person. This restriction applies at the time a Family initially receives tenant-based assistance for occupancy of a particular Unit, but does not apply to BHA approval of a new tenancy with continued tenant-based assistance in the same Unit.
 - (1) In cases where the Owner and a prospective tenant Family member bear the same last name, the BHA may, at its discretion, require the Family and or Owner to verify (i.e. birth certificates, marriage license etc.) that they are not related to each other in any way.
- (e) Nothing in this section is intended to give any Owner any right to participate in the program.
- (f) For the purposes of this section an Owner includes a principal or other interested party with respect to the Unit.

7.4 Preparing the HAP Contract and Lease

7.4.1 Determinations and Verification

- (a) Upon inspection approval and acceptance of the negotiated rent amount, the Leasing Officer will do the following:
 - (1) Designate the Lease initiation date in accordance with the BHA Leasing Schedule (see section 7.3.2);

For example: For a Lease initiation date of February 1st the BHA must receive an Inspection approval on or before January 3rd. If the inspection approval is received after January 3rd, then the Lease initiation date will be March 1st.
 - (2) Make sure the correct "Utility Allowance" was provided on the Rent Approval Form and the Family's share of the rent and utilities;

7.4.2 Form of Lease

(a) *Private Market Leases.* The Participant or the Owner must provide Private Market Lease to the BHA at the time the Participant gives the BHA the "Request for Tenancy Approval." A Private Market Lease must comply with the Attorney General's landlord-tenant regulations.

The HUD Tenancy Addendum must be executed and attached to all Leases.

The BHA private market lease rider will be attached to all private market leases to establish that the Lease will continue in month to month successive terms after the initial term stated in the Lease. The lease may not be terminated without cause even when the lease becomes a month to month agreement.

In accordance with federal regulations, the Owner's standard form Lease must include:

- (1) The names of the parties;
- (2) The term of the Lease;
- (3) Which utilities and appliances are supplied by the Owner and which are supplied by the Family;
- (4) If any security deposit is collected and the amount of any such security deposit; and
- (5) Any additional document(s) required by the BHA, if applicable

7.4.3 Signing the HCVP HAP Contracts

- (a) *Lease and Contract.* The Head and Co-Head of Household and the Owner must sign the Lease and a HUD Tenancy Addendum. The Owner must sign a HAP Contract with the BHA. The tenant must have legal capacity to enter a lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the Owner. See also, Chapter 18 for the Definition of an Emancipated Minor.
- (b) *Proof of Ownership.* The Owner must provide proof of Ownership (as filed in the Commonwealth of Massachusetts Registry of Deeds) of the assisted Unit. If the deed is over ten (10) years old, the BHA will require that the Owner supply a current tax bill. Any Owner who has recently purchased the property must provide a certificate or letter prepared by and from an attorney present at

the closing, certifying the date, time and instrument number of filing at the applicable Registry of Deeds. The Owner must also execute the HAP Contract and the Owner/Agent Data Form.

- (1) The BHA may use its discretion to accept other legal documents as proof of Ownership.
- (c) The BHA must request from the Owner, a copy of the Owner's IRS Form W-9, Request for Taxpayer Identification Number and certification, for IRS reporting purposes. IRS Form W-9 asks for the Owner's name, the business name and address, and the taxpayer identification number. The BHA uses the information obtained from the Form W-9 to report to the IRS the amount of income it has paid to Owners (in the form of Housing Assistance Payments). The BHA uses the IRS Form 1099 for this purpose.

Chapter 8: Rent

8.1 Commonly Used Rent Terms

Adjusted Annual Income - Annual Income of all Family members, as verified by the BHA, after deductions, exceptions and exclusions are made with respect to each of the members of the Family to determine initial and continued program eligibility.

Assisted Unit- For the purposes of determining rent reasonableness, units assisted under a Federal, state or local government program will be considered assisted. In addition units where rents and/or rent increases are controlled or restricted by law or a court order, (so long as the law or court order does not apply to voucher participants); units occupied by tenants on the date of an eligibility event for a housing conversion action who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families; and, owners of multifamily properties that underwent a Housing Conversion action prior to PIH notice 2010-51 may also qualify as assisted units (See PIH Notice 2011-46)..

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Contract Rent - ~~The monthly rent payable to the Owner under the Lease and foster~~any amendments. The Rent to Owner also covers payment for any housing services, maintenance, and utilities that the Owner is required to provide and pay for.

Gross rent - The sum of the rent to the Owner plus any utility allowances.

HAP Contract – The contract that governs the monthly assistance paid by the BHA to the Owner.

Monthly Adjusted Income - One twelfth of Adjusted Annual Income.

Payment Standard - The maximum monthly assistance payment for a Family before deducting the Total Tenant Payment by a Family. For a Voucher tenancy, the housing authority sets a Payment Standard in the range from 90% to 110% of the current HUD FMR or at any exception Payment Standard amount approved by HUD.

Reasonable Rent - A Rent to Owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted Unit in the premises.

Tenant Share of Rent (Household Rent to Owner) - In the Voucher program, the portion of the monthly Rent to Owner paid by the Household. For calculation of Rent to Owner see 24 C.F.R. § 982.515(b).

Total Tenant Payment (TTP) - Total Tenant Payment is the amount calculated under Section 3(a)(1) of the 1937 Act, which is the higher of: 30% of the Family's Monthly Adjusted Income, 10% of the Family's Monthly Income, the minimum rent, or if the Family is receiving payments for Welfare Assistance from a public

agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such an agency to meet the Family's housing cost, the portion of such payments which is so designated.

Utility Allowance - If the cost of utilities (except telephone) and other housing services for an assisted Unit is not included in the tenant rent but is the responsibility of the Family occupying the Unit, an amount equal to the estimate made of approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other such services for the Unit by an energy-conservative Family of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment.

Utility Reimbursement - The amount, if any, by which the Utility Allowance for the Unit, if applicable, exceeds the Total Tenant Payment for the Family occupying the Unit.

8.2 Determination of Contract Rents

Contract rent is the total rent to the Owner specified by the Lease and any amendments. The BHA may not approve a Lease until the BHA determines that the initial rent to the Owner is a Reasonable Rent. For purposes of determining whether or not an initial rent is reasonable, the BHA will not consider comparable units at the premises where a lease has been in effect for five (5) years or more. At all times during the assisted tenancy, the Rent to Owner may not exceed the Reasonable Rent as most recently determined or re-determined by the BHA in accordance with section 8.3 of this Administrative Plan.

8.2.1 Mandatory Redetermination

The BHA must re-determine the Reasonable Rent:

- (a) Before any increase in the rent to the Owner; or
- (b) If there is a five percent (5%) decrease in the published Fair Market Rent (FMR) in effect sixty (60) days before the anniversary of the HAP Contract (for the Unit size rented by the Family) as compared with the FMR in effect one year before the HAP Contract anniversary; or
- (c) As directed HUD.

8.2.2 Permitted Redetermination

The BHA may re-determine the Reasonable Rent at any other time, in accordance with the language in the HAP Contract. The BHA may also re-determine the Reasonable Rent based on periodic surveys of rent in the City of Boston, its surrounding neighborhoods, and neighboring communities.

8.3 Reasonable Rent

The Reasonable Rent is a Rent to Owner that is not more than rent charged for comparable units in the private unassisted market and for comparable unassisted units in the premises.

The Reasonable Rent is the maximum amount the BHA may approve for the Contract Rent, even if the Family and the Owner agree to a higher rental amount.

The primary tool the BHA will utilize for the determination of Rent Reasonableness is GoSection8. GoSection8 incorporates ongoing real time data mining of open market rental data from hundreds of rental listing websites and newspapers. The data is harvested both electronically with proprietary technology, as well as manually by dedicated data analysts. The comparable database is updated daily, thus ensuring a current and accurate rent reasonable database.

Using mathematical modeling combined with a frequently updated database, the software is able to calculate a property's value at a specific point in time by analyzing values of comparable properties and meeting all of HUD's required factors. The rent reasonableness platform analyzes public record data, manually gathered data, market data and uses computer decision logic to calculate an estimate of a probable rental price of a residential property based on a requested date.

In conjunction with the GoSection8 software, the BHA determines Reasonable Rent by comparing the subject Apartment to similar Apartments in the private rental market in with a point system based on several factors of the individual Unit.

8.3.1 Point System

The BHA has established a point system to help assess the Reasonable Rent for each Unit. The BHA collects data on the Unit to be subsidized and assigns points to them using the nine factors listed below. The BHA may also collect these nine factors on a Private Market Unit when the data are available, due to the Private Market units being located in the subsidized property.

These point totals are used in determining a range for Reasonable Rent (exceptional, good, average, and below average) among the subsidized units. The BHA will use the point totals to place the best quality units on the high end of the established Reasonable Rent scale.

The weight the following factors have in determining Reasonable Rent varies depending on the conditions of the rental market. For example, in a tight rental market these factors will have less impact on determining the Reasonable Rent for a Unit.

Factors used in the point system are:

- (a) Number of Bedrooms;

- (b) Location (Street, Zip Code and Census Tract);
- (c) Unit Type;
- (d) Utilities (Types of fuels used and whether Owner supplied);
- (e) Age of Structure;
- (f) Quality (Overall assessment of the materials used such as kitchen cabinets, etc.);
- (g) Amenities;
- (h) On-Site Maintenance;
- (i) Housing Services Available.

8.3.2 Assessment of Private Market Value Rents (Comparables)

The BHA determines a Reasonable Rent for the subject Unit by comparing it to the market information gathered in a similar area.

- (a) In the private sector, market lease rents are typically based on location, bedroom size, and quality. However, the BHA gathers additional data when available. The data that the BHA collects includes:
 - (1) **Location:** The geographical area or neighborhood of the subject Unit.
 - (2) **Number of Bedrooms:** The number of bedrooms and the size of the overall Unit. A three-bedroom Unit would be compared to other similarly sized three-bedroom units.
 - (3) **Quality:** The BHA rewards those Units that are higher quality by setting higher Reasonable Rent.
 - (4) **Other relevant data upon availability:** The BHA will also use any other relevant data, including but not limited to: amenities, housing services, age of structure, on-site maintenance, if available.
- (b) The BHA collects data on the four factors listed above to compare the subsidized Unit to a private market Unit. The following, is a non-exhaustive list of some of the types of data that the BHA may use to assess the above listed factors:

- (1) Certification supplied either by the Owner or manager including a rent roll of similar unassisted Units in the building,
- (2) Copies of existing Leases of similar unassisted Units either in the building or the surrounding neighborhood, affidavits from realtors in the neighborhood providing the current rents,
- (3) Internet resources (GoSection8).
- (c) Weight of Comparison Data

When determining the Reasonable Rent, Private Market comparison data is used in the following preferential order:

- (1) Data on the Units located in the same building or developments as the assisted Unit. The BHA will not consider the rent amount on any unit at the premises where a lease is in effect for five (5) years or more. However, the BHA will consider the owner's rent setting policies for these units when determining a whether rent increase is reasonable. For example, existing HCV tenants may not exceed the rents charged to unassisted tenants in comparable units who have been at the property for approximately the same amount of time.
- (2) Data from GoSection8.

8.3.3 Owner certification of comparability

By accepting each monthly housing assistance payment from the BHA, the Owner certifies that the Contract Rent is not more than rent charged by the Owner for comparable unassisted Units in the premises. The Owner must give the BHA information requested by the BHA on rents charged by the Owner for other Units in the premises or elsewhere.

8.4 Maximum Initial Rent Burden

At the time the BHA approves a tenancy for initial occupancy of an Apartment by a Family with HCVP assistance, and where the Gross rent of the Unit exceeds the applicable Payment Standard for the Family, the Family Share may not exceed forty percent (40%) of the Family's Adjusted Monthly Income. See also 24 C.F.R. § 982.508.

8.5 Rent Exceptions

The BHA may approve an exception of up to 120% of the HUD FMR as a Reasonable Accommodation.

The BHA will request the HUD field office to approve an exception Payment Standard of more than 120% of the Fair Market Rent (FMR) if the exception is needed as a Reasonable Accommodation so that the HCVP is readily accessible to a Disabled Person in accordance with 24 C.F.R. parts 8 and 982. The BHA will apply to HUD for higher Payment Standards for neighborhoods when the BHA determines that exception Payment Standards are necessary to effectively administer its HCVP, and where such exception Payment Standard can assist Participants in leasing units outside areas of low income or Minority concentrations. Such rents must meet Reasonable Rent standards for comparable units. Any request for a Payment Standard exception over 120% of the HUD FMR must be made to the HUD central office located in Washington D.C.

8.6 Rent Increases

8.6.1 General Procedure and Policy

The Lease governs rent increases. To receive a rent increase, the Owner must send the request for a rent increase to the Participant and send copy of the request to the BHA sixty (60) days prior to the date of the requested increase. The rent may not be increased until after the initial one-year term of the Lease, or one-year has elapsed from the prior Lease amendment increasing the rent.

The Owner will send the initial rent increase request either to the Leasing Officer or directly to the Inspections Department, who will determine whether or not the requested rent is reasonable and advise the Leasing Officer of same. The Leasing Officer will then send the Participant the BHA Lease Amendment Form which advises the Participant of the new contract rent, BHA subsidy and Participant share of rent. If the BHA grants a rent increase the adjusted rent will be the lesser of:

- (a) The Reasonable Rent as most recently determined by the BHA, or
- (b) The amount requested by the Owner.

8.6.2 Participant Approval required after BHA Approval

If the BHA grants the Owner the ability to increase the rent the Leasing Officer may discuss the effect of the proposed increased rent with the Participant. The Leasing Officer may advise the Participant of his or her share of the rent and their option to approve or disapprove of the rent increase. The Participant may negotiate the terms and the amount of the increase with the Owner and the Leasing Officer may assist the negotiation.

- (a) ***Participant Approval of Rent Increase.*** If the Participant agrees to the increased rent the Leasing Officer will assist the Owner and

the Participant in signing a Lease amendment to adjust the Contract Rent.

- (b) ***Participant Disapproval of Rent Increase.*** If the Participant does not accept the increase in rent or negotiate a rent that is acceptable to both parties, one of the following may occur:
 - (1) The Owner may start an eviction proceeding against the Participant by citing a refusal to enter into a Lease amendment as a business or economic reason at the end of the initial one-year Lease term or after a year has elapsed from the last rent increase.
 - (2) The Owner and the Participant continue under the current terms of the Lease and contract, moving forward without an increase in rent.
 - (3) The Participant may request a Voucher to move to another Unit. The Participant must give thirty (30) days notice to the Owner and a copy of the notice to the BHA if the Participant intends to vacate the Unit, unless the owner has already given such notice.

8.6.3 The rent will not be increased unless:

- (a) The Owner requests the increase in writing sixty (60) days prior to the date of the requested increase;
- (b) The Owner has complied with all obligations of the HAP Contract
- (c) The Participant approves the increase in rent to the Owner; and

8.6.4 Date of Rent Increase.

After all other conditions of this policy are met; the Contract Rent will only be increased for housing assistance payments commencing on the later of:

- (a) The first day of the first month commencing on or after the initial Lease term; or
- (b) At least sixty (60) days after the BHA and the Participant receives the Owner's request for a rent increase.

8.7 Written Notice of Rent Share Change

Before the BHA makes a change in the Rent Share, the BHA will notify the Participant and the Owner in writing. The notice to the Owner will only contain the new rent and the date that it will be effective. The Notice of Rent Share Change to the Participant will contain the following information:

- The Contract Rent and the Tenant Share of Rent and the date it will be effective,
- The amount of Participant's Household income, Family Composition and other facts considered by BHA in determining the new rent,
- If the rent share results from Proration of the Family's subsidy because not all Family members are U.S. Citizens or have eligible immigration status, an explanation of the formula used to determine the rent share,
- The Family's right to request in writing an explanation of the basis of the BHA's determination and, to request in writing, an informal hearing if the Family still does not agree with the determination after the explanation,
- If the Family requests an explanation, BHA staff will confer with the Family, and shall provide the Family with a written notice of adjustments made to the original determination,
- The BHA will also notify the Family of their right to and the method of, calculation of rent and/or rent share.

8.7.1 Effective Dates of Rent Share Increases and Decreases

- (a) ***Decrease in Tenant Share of Rent*** If a Family reports in writing a change in income within 30 days, a decrease in tenant share shall be effective the month following the verified decrease in income. For example, if a Family reports a decrease in income on March 3 that resulted from a job loss on February 20, the change in tenant share shall be processed effective March 1.

If the family fails to report the change income within 30 days, the decrease in tenant share shall be made effective the month following the reported change.

- (b) ***Increase in Tenant Share of Rent*** will be effective the first day of the second month after BHA sends Participant a Notice of Rent Change. If a Participant failed to report income in accordance with BHA policy, the BHA may request repayment for the overpayment of housing assistance in lieu of termination. The BHA shall not retroactively increase a tenant share due to a failure to report income. Increases in a Participant's share of rent due to a relocation to a new unit will be effective on the initial date of the lease term.

8.8 Tenant Share of Rent

8.8.1 BHA determination

- (a) The Tenant Share of Rent is the portion of the Rent to Owner paid by the Family. The BHA determines the Tenant Share of Rent in accordance with HUD requirements and BHA procedures.
- (b) Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the BHA to the Family and the Owner.

8.8.2 Total Tenant Payment

The Total Tenant Payment (TTP) represents the minimum amount a family must contribute toward rent and utilities regardless of the Unit selected. The TTP is calculated using a statutory formula and individual income information. To calculate TTP, annual adjusted income and annual (gross) income must be converted to monthly adjusted income and monthly gross income by dividing the annual figures by 12 months. The TTP is the greater of:

- (a) 30 percent (30%) of monthly adjusted income; or
- (b) 10 percent (10%) of monthly gross income.

8.8.3 Minimum Rent – The BHA may adopt a minimum rent within the range as prescribed by 24 CFR 5.630. Minimum rent may be applied immediately (upon 30 days written notice) but no later than the participants next annual recertification following its implementation .

- (a) Financial hardship exceptions: - A family may request and the BHA may grant exceptions to minimum rent requirements if the BHA determines that the family is unable to pay the amount due to financial hardship, unless the hardship is temporary. Financial hardship may include the following:
 - (1). Have lost eligibility or are awaiting eligibility determination for a federal, state or local assistance program, including a family having a noncitizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
 - (2) Would be evicted as a result of the imposing the minimum rent requirement;
 - (3) Experience income decreases because of changed circumstances including the loss of employment;
 - (4) have a death in the family; or

(5) have other circumstances as determined by the PHA or HUD

(b) Any requests made for a hardship exception will be reviewed and implemented by the BHA in accordance with the regulation as cited above.

8.8.4 Maximum Subsidy

The maximum subsidy the BHA can pay in the HCVP is the Payment Standard minus the TTP. The BHA sets a Payment Standard in the range from 90% to 110% of the current HUD Fair Market Rent or at any exception Payment Standard amount approved by HUD (potentially the Small Area Fair Market Rent for the applicable zip code). The maximum subsidy calculation is done at the time the Family is issued a Voucher. It is important for the Family to know the maximum the BHA will pay while searching for a Unit. The actual BHA subsidy can be calculated only after the family has selected an Apartment.

8.8.5 Tenant payment to Owner

- (a) The Family is responsible for paying the Tenant Share of Rent (Total Tenant Payment minus the Utility Allowance).
- (b) The amount of the tenant rent as determined by the BHA is the maximum amount the Owner may accept as payment from the Family. The Contract Rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the Owner without additional charge to the tenant, in accordance with the HAP Contract and lease.
- (c) The Owner may not demand or accept any rent payment from the tenant in excess of the Tenant Share of Rent as determined by the BHA. The Owner must immediately return any excess payment to the tenant.
- (d) The Family is not responsible for payment of the portion of the Rent to Owner covered by the housing assistance payment under the HAP Contract. The Owner may not terminate the tenancy of an assisted Family for non-payment of the BHA housing assistance payment.

8.8.6 Limit of BHA responsibility.

- (a) The BHA is responsible only for making housing assistance payments to the Owner on behalf of a Family in accordance with the HAP Contract. The BHA is not responsible for paying the Tenant Share of Rent, or for paying any other claim by the Owner.

- (b) The BHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the Tenant Share of Rent or to pay any other claim by the Owner. The BHA may not make any payment to the Owner for any damage to the Unit, or for any other amount owed by a Family under the Family's Lease or otherwise.

8.8.7 Utility reimbursement

- (a) If the amount of the Utility Allowance exceeds the Total Tenant Payment, the BHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities (Utility Reimbursement) and the Tenant Share of Rent shall be zero. Note, utility allowances shall be calculated based on the lesser of the size of the dwelling unit actually leased by the family or the voucher size issued as determined by PHA subsidy standards.
- (b) The BHA either may pay the Utility Reimbursement to the Family or may pay the utility bill directly to the utility supplier on behalf of the Family.
- (c) If the BHA chooses to pay the utility supplier directly, the BHA must notify the Family of the amount paid to the utility supplier.

8.9 Error Correction

8.9.1 Mistake discovered after Lease signed.

If the BHA or the Participant discovers a mistake in the rent calculation after the Lease is effective and a correction will cause the Family an increase in rent, the Leasing Officer will notify the Family in writing thirty (30) days before making the adjustment. If the BHA or the Participant discovers the mistake after the Lease is effective and the correction reduces the Tenant Share of the Rent, the Leasing Officer will make the necessary correction effective retroactively. The Leasing Officer will notify the Family and Owner in writing of the error and the correction.

8.9.2 Retroactive only when BHA is at fault.

The BHA will only make a retroactive payment when the BHA is responsible for making a mistake. The BHA will not make retroactive payments when the Owner or the Family is responsible for intentionally or unintentionally withholding information.

Chapter 9: INSPECTIONS (Initial, Interim, and Annual)

The BHA must inspect an Apartment leased to a Family prior to the initial term of the Lease, and as required by Federal Regulation (i.e. annually or biennially) during assisted occupancy, and at other times as needed, to determine if the Apartment meets the Housing Quality Standards (HQS)¹⁷ and Chapter II of the Massachusetts State Sanitary Code¹⁸.

A thorough Unit inspection is required for the BHA to determine compliance with HQS and determine the Rent Reasonableness. See also Chapter 8.

HQS regulations include requirements for all housing types including single and multi-Family dwelling units, as well as specific requirements for Special Housing Types such as Single Room Occupancy ("SRO") and Shared Housing.

9.1 Inspection Performance Requirements

9.1.1 Generally

The BHA will perform inspections in accordance with Chapter II of the Massachusetts State Sanitary Code and the Housing Quality Standards ("HQS") prescribed by HUD. The inspector will also check for compliance regarding things including but not limited to: compliance with the Boston City Ordinance requiring smoke detectors, verify that the type of structure and utilities are accurately described on the RTA (if applicable), rate the quality of the Unit, measure the square footage of each room where necessary, and list all amenities and services as noted on the Housing Quality Addendum. HQS consists of the following thirteen performance requirements:

- (a) Sanitary facilities;
- (b) Food preparation and disposal;
- (c) Space and security;
- (d) Thermal environment;
- (e) Illumination and electricity;
- (f) Structure and Materials;
- (g) Interior air quality;
- (h) Water supply;
- (i) Lead-based paint;

¹⁷ See 24 C.F.R. section 982.404

¹⁸ See 105 CMR 410.000

- (j) Access;
- (k) Site and neighborhood;
- (l) Sanitary conditions; and
- (m) Smoke detectors.

9.1.2 Quality Control

The BHA will re-inspect a sample number of units to verify accuracy and consistency. The re-inspected sample will be selected from inspections that were completed in the previous three months and represent a cross section of neighborhoods and BHA inspectors. The BHA re-inspects 30 units plus 1 Unit for every 200 inspections (or part of 200) over 2000 inspections. See also 24 C.F.R. § 985.2-3.

9.2 Initial Inspections

When a Family submits a RTA to the BHA an initial inspection is triggered.

In cases of initial inspections, the Owner has an obligation to schedule the inspection once a RTA is submitted to the BHA. The RTA will expire within sixty (60) days of submission if no action is taken by the Owner to schedule the inspection for the Apartment.

The Unit must pass the HQS inspection before the execution of the Assisted Lease and Housing Assistance Payments (HAP) contract and the initiation of payments.

The BHA must conduct the inspection within a reasonable time after the Family submits a RTA. If possible, the inspection should be completed within fifteen (15) days.

9.2.1 Apartment cannot be inspected.

If for any reason the Apartment cannot be inspected (the Apartment is occupied or inaccessible), the Inspections Department will immediately notify the Leasing Officer, who will in turn send the Family an Agency Determination Form. The BHA will not inspect occupied Apartments

9.2.2 Deny Request for Tenancy Approval

The BHA may deny a request to inspect an Apartment of behalf of a Family because an Owner has a repeated history of violations of program rules and regulations including repeated violations of HQS or records indicate that the Owner did not make corrections after he was notified of deficiencies related to lead based paint.

9.2.3 Length of Validity (Initial Inspection)

If an Apartment passes initial inspection, the results are valid for a maximum of one hundred twenty (120) calendar days. The start date of the Assisted Lease must fall within this period. If the Lease term will start later than one hundred twenty (120) days after the Unit passed inspection, the Unit must be re-inspected and must pass inspection prior to the start of the HAP Contract.

9.2.4 Time Provided for Repairs

If the Unit does not comply with HQS requirements within the BHA specified time frame, the BHA may cancel the tenancy approval process and instruct the Family to search for another Apartment.

In cases of *initial inspections*, the BHA Inspection Department will re-inspect the Unit prior to the thirty (30) day period granted to make the repairs if request is made by Owner and provided that adequate staffing exists to perform such an inspection.

9.2.5 Inspection Notice Requirements

The BHA will notify the Family and Owner of the inspection results in writing.

The Owner must receive detailed information for all failed and inconclusive inspection items so that he or she is fully aware of the work necessary to pass the HQS inspection.

9.2.6 Initial Inspection Failure

If the Apartment fails inspection for any reason, the Leasing Officer will notify the Family and Owner by sending them an Agency Determination Form. If the Owner is unwilling to perform the requested repairs, computation of the term of the Voucher will resume (see section 6.2.2 for more information on tolling). The Voucher holder must then submit another "Request for Tenancy Approval" before his/her Voucher or any Voucher expires.

If the Owner indicates that (s)he is willing to make the requisite repairs, the BHA shall exercise discretion with respect to the period within which the Owner must make repairs in order for the Voucher holder to execute a Lease for the Apartment.

9.3 Routine Inspections

The BHA will inspect occupied units at least biennially (every other year)

9.3.1 Scheduling Inspections (Routine)

The BHA Inspections Department schedules all inspections. The Inspections Department will inform the Owner and the Participant of the date of the inspection in writing.

The Inspections Department will ask the Participant to contact the Inspections Department to make other arrangements if the Apartment cannot be inspected at the assigned time.

The Inspections Department will mail a copy of the inspection report to the Owner on the first business day after the inspection. A copy of the inspection report will be provided to the Family if the report cites tenant caused violations, otherwise a copy is available upon request

9.3.2 Denial of Inspector's Access to Unit

Unexcused failure by a Participant to grant access to BHA inspectors is grounds for termination of HCVP assistance. Notices of inspections or notices sent because of failure to provide access will include the following information.

- (a) ~~Excuse for denied access~~First Scheduled Inspection. If the Family is not home or denies the inspector access to the Unit after reasonable notice, the inspection Department will reschedule for a Second scheduled Inspection~~the inspection appointment if the tenant has a reasonable excuse for denying access to the Unit.~~
- (b) ~~No Excuse for denied access~~Second Scheduled Inspection. If the Family is not home or denies the inspector access to the Unit after reasonable notice ~~and the tenant does not give a reasonable excuse,~~ the BHA will schedule a Final Inspection. ~~propose termination of the tenant's subsidy.~~
- (c) ~~Denied access for a rescheduled appointment~~Final Inspection. If the Family is not home or denies the inspector access to the Unit after reasonable notice for a ~~second/rescheduled~~Final Inspection appointment the BHA will propose termination of the Family's subsidy.

9.3.3 Length of Validity

Once the Apartment has been inspected and approved, the approval shall be valid for a twelve (12) month period from the date of the routine inspection unless the inspection department conducts an interim re-inspection during the twelve (12) month period.

9.4 Interim Inspections

The BHA may order an interim inspection of any Apartment upon the request of the Family or Owner to determine that:

- The Apartment is still in acceptable condition; or

- The Owner or Family is meeting contractual and regulatory obligations to provide utilities and other services; or
- If an Owner or Family is violating other program rules.

9.5 Inspection Failure (Routine and Interim)

9.5.1 Time Parameters for Corrections of Inspections Violations

- (a) The BHA requires that a landlord correct any conditions deemed to endanger or impair health or safety within 24 hours. Serious violations of this nature include but are not limited to: lack of heat, lack of water, lack of bathing facilities, lack of electricity, lack of gas (where applicable), exposed wiring or other hazardous defects in the electrical system, and dangerous structural defects.
- (b) All other violations must be corrected within thirty (30) days, unless the BHA approves an extension.
- (c) ~~The BHA will also comply with the time parameters set forth in the Massachusetts State Sanitary Code. (See 105 CMR § 410.830).~~

9.5.2 Stopping and Resuming Payments after Interim or Routine Inspection

If an Apartment fails inspection, the Inspection Department will notify the Owner of the violations in writing. The Inspection Department will schedule the re-inspection within thirty (30) days from the date the Inspections Department sent the notice of violations to the Owner.

- (a) *Serious Violations and "Stop Payment"*. If a serious violation exists, the Inspection Department will notify the Owner by telephone that the violations must be corrected within 24 hours. The Inspection Department may also issue the Owner a written letter detailing the serious violations. The Inspection Department will inform the Owner of a re-inspection date that is at least twenty-four (24) hours after the inspector identified the violation(s). If the Owner fails to correct the violations within the twenty four (24) hour period, or fails to give access to the unit, the BHA will place the Unit on Stop Payment. The BHA reserves the right to terminate a HAP Contract for a Unit that is placed on Stop Payment. A Stop Payment will remain in effect until the Unit receives inspection approval. The Owner cannot recover Subsidy payments for periods during which a Unit is on Stop Payment.

Examples of serious violations include but are not limited to the following: lack of heat, lack of water, lack of bathing facilities, lack of electricity, lack of gas (where applicable), exposed wiring or other hazardous defects in the electrical system, and dangerous structural defects.

9.5.3 Re-inspection (Follow-up inspection)

BHA staff will abide by the following procedures in processing re-inspections.

- (a) *Incomplete Repairs.* When the Owner is in the process of correcting cited violations resulting from the initial inspection; the inspector will reject the Unit and may grant the Owner additional time to complete the repairs. The BHA will then reschedule a second re-inspection date and notify the Owner in writing. The Inspection Department will send a copy of the second re-inspection notice to the Family.

~~If upon the second re-inspection the Owner has not completed and repaired all cited items set forth in the initial inspection the inspector will note the remaining cited items on the inspection report and recommend to the Director of the Inspection Department that the BHA suspend subsidy payments. If the Director approves the recommendation, the Owner will be informed in writing that the BHA has stopped subsidy payments on the Unit. If upon the second re-inspection the Owner has not completed and repaired all cited items set forth in the initial inspection the inspector will note the remaining cited items on the inspection report and recommend further extension or suspension of subsidy payments. If the owner has made good faith efforts to obtain access and or make repairs, BHA may grant further extensions. The Inspector's recommendation will be reviewed by a Manager and the Owner will be informed in writing of further extension or subsidy suspension.~~

- (b) *No Effort to Make Repairs.* If the inspector determines that the Owner made no effort to repair the previously cited item(s), the inspector will note this on his report and recommend to the Director of the Inspection Department that the BHA suspend subsidy payments to the Owner. If the Director approves the recommendation to suspend the subsidy, the Inspection Department will notify the Owner of the "Stop Payment" by mailing a letter.
- (c) *Cited Items Repaired, New Violations Discovered.* If the Inspector determines that the Owner has repaired all cited items but discovers new violations during the re inspection, the inspector will reject the Unit. The inspector will note on the inspection report that the Owner repaired the previously cited items. The Inspector will also specify and separately list the new violations in a new inspection report.

The Inspection Department will then schedule a re-inspection date and notify the Owner in writing. The re-inspection will be within

thirty (30) days of the notice to the Owner date. The BHA will send a copy of this letter to the tenant.

New violations in such a Unit, for purposes of scheduling re-inspection and imposing suspensions of subsidy payments, will be considered first time violations, unless the violations are deemed “serious” as examples in section 9.5.2(a)

The BHA may allow the owner to verify repairs by an owner certification accompanied by receipt(s), photo(s) and any other verification deemed necessary as determined by BHA.

9.5.4 HAP Contract Termination Criteria

The BHA may terminate the HAP Contract for the following causes:

- (a) The BHA has suspended the subsidy and found the Unit to be uninhabitable due to fire or other natural disaster;
- (b) The Unit has been without one or more of the following for a period of thirty (30) days: heat, hot water, electricity, or bathing facilities (this does not apply to conditions resulting from Tenant neglect);
- (c) If the Owner does not complete the necessary repairs within the specified time granted by the BHA, and offers no acceptable explanation for the delay, the BHA may terminate the HAP Contract for the Apartment. If the BHA terminates the HAP Contract due to Owner non-compliance, the BHA will issue the Family a new Voucher.
- (d) If after six (6) consecutive months of Stop Payment, the BHA determines that the Owner will not make repairs, or the Owner notifies the BHA that they will not make the necessary repairs to bring the Unit into compliance with the State Sanitary Code, the BHA will terminate the HAP Contract for the Unit and offer the Family a new Voucher.
- (e) The BHA shall terminate the HAP Contract with an Owner who, after notification that a child under the age of six (6) residing in the Unit has an elevated intervention blood level of lead (EBLL) in his/her blood, fails to have the Unit (including the exterior and common areas) tested within fourteen (14) days by a licensed lead-based paint inspection company using an X-ray fluorescence analyzer (XRF machine). The BHA will also terminate the HAP Contract with an Owner of a Unit where a child under six (6) lives, after notification that the Unit common areas, or exterior of the building contains lead based paint, fails to have the Unit, common areas and/or exterior de-lead within thirty (30) days.

- (f) The BHA shall terminate the HAP Contract with an owner who, after notification that a child under the age of six is now residing in the unit of a building constructed prior to 1978, fails to provide a Lead Certificate of Compliance or Letter of Interim Control by the deadline date spelled out in the notification letter.

9.5.5 Notice of Subsidy Termination

The BHA will notify the Owner in writing of the HAP Contract termination. The BHA will give the Participant a new Voucher if the BHA terminated the HAP Contract due to Owner non-compliance.

9.5.6 HQS Violations

See Chapter 13 for information on HQS violations by the Participant Family.

9.6 Lead Paint Policy

The BHA Leased Housing Division has established the following policies and procedures to comply with federal regulations pertaining to the identification and treatment of lead-based paint hazards in Section 8 Units. The following policy is in two sections: Part I - New and Relocating Tenants, and Part II- Annual and Interim Recertification.

As used in this document, the term "EBLL" shall mean Elevated Blood Lead Level, defined as a condition in which the amount of lead detected in a child's system is at or exceeds 5 micrograms per deciliter of whole blood.

9.6.1 Part I – New and Relocating Tenants

- (a) *Child Under Six -- No EBLL.* If a child under the age of six without an EBLL will live in the Unit, the BHA will require the Owner to:
 - (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction, or:
 - (2) Provide the BHA with a certificate indicating compliance with the Massachusetts lead-based paint law. The certificate must be issued by a registered lead paint inspection company and must indicate that the unit's interior, common areas, and exterior are in compliance with the Massachusetts lead paint law.

Certificates dated prior to 7/1/88 will be accepted unless previously intact paint in the interior, common areas, or exterior of the Unit is now cracking, scaling, chipping, peeling, or loose; or the building has undergone renovation since a certificate was issued.

- (3) The BHA Inspection Department will reject any Unit that has any cracking, scaling, chipping, peeling, or loose paint on the apartment interior, common areas, or exterior of the building.

Note on HAP effective dates in buildings constructed before 1978:

The BHA will not execute a HAP Contract for a Unit in a building constructed before 1978 without first receiving a Certificate of Compliance. The HAP Contract in such a Unit may then be made effective no earlier than the later of these two dates: the inspection approval date; or the date indicated on the Certificate of Compliance.

Note on HAP effective dates in buildings constructed after 1978:

HAP Contracts in Units constructed after 1978 shall be made effective no earlier than the date of inspection approval.

- (b) *Child Under Six - EBLI History.* If a child under six who has or has ever had an EBLI will live in the Unit, the BHA will require the Owner to:

- (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction; or
- (2) Provide the BHA with a certificate indicating compliance with the Massachusetts lead-based paint law. The certificate must be issued by a registered lead paint inspection company using an X-ray Fluorescence Analyzer (XRF) and must indicate that the unit's interior, common areas, and exterior are in compliance with the Massachusetts lead paint law. HUD will accept only XRF results. Certificates dated prior to 7/1/95 will not be accepted.

Regardless of the receipt of a certificate of compliance, the BHA Inspection Department will reject any Unit for leasing that has any cracking, scaling, chipping, peeling, or loose paint on the interior, common areas, or exterior of the building. Once the offending surfaces have been brought back into compliance, the owner must provide the BHA Inspection Department an addendum to the original lead certificate of compliance. The owner may also be required to submit clearance test results (aka surface wipe test) from a Massachusetts licensed laboratory.

Note on HAP Contract effective dates in buildings constructed before 1978:

The BHA will not execute a HAP Contract for a Unit in a building constructed before 1978 without first receiving a certificate of compliance or Letter of Interim Control. The HAP Contract in such a Unit may then be made effective no earlier than the later of these two dates: the inspection approval date; or the date indicated on the certificate of compliance.

Note on HAP Contract effective dates in buildings constructed after 1978:

HAP Contracts in Units constructed after 1978 shall be made effective no earlier than the date of inspection approval.

- (c) *No Child Under Six.* There are no lead paint requirements for Units where no child under six will reside.

9.6.2 Part II - Annual and Interim Recertification

- (a) *Child Under Six - EBLL History.* When a Leased Housing staff member becomes aware during the annual or Interim Recertification process that a child under six living in a Unit has or has ever had an EBLL, the staff member shall ask the Head of Household for medical documentation of the lead poisoning. Once medical documentation has been received, the Leasing Officer shall forward said documentation to the Director of Inspections. The Director of Inspections shall send a letter to the Apartment Owner informing him/her that (s)he must:
 - (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction; or
 - (2) Have the Apartment, its common areas, and exterior, tested in accordance with Massachusetts law by a registered lead paint inspection company using an XRF analyzer. The letter from the Director of Inspections shall also inform the Owner that he must send a copy of the XRF test results to the BHA within fourteen (14) days or the BHA will terminate the unit's HAP Contract. If the XRF test results indicate unacceptable lead levels in the Unit, its common areas, or exterior, the Director of Inspections will notify the Owner in writing that he must de-lead the Unit and affected areas within 30 days and provide the BHA with a certificate from a registered lead paint testing company verifying that abatement has been completed.
 - (3) Failure to do so will result in the BHA's termination of the HAP.

Child Under Six – No EBL History. When a Leased Housing staff member becomes aware during the annual or Interim Recertification process that there is a child under six living in a Unit, the staff member shall so inform the Director of Inspections. The Director of Inspections shall send a letter to the Apartment Owner informing him/her that (s)he must:

- (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction; or
 - (2) Have the Apartment, its common areas, and exterior, tested in accordance with Massachusetts law by a registered lead paint inspection company using an XRF analyzer. The letter from the Director of Inspections shall also inform the Owner that he must send a copy of the XRF test results to the BHA within fourteen (14) days or the BHA will terminate the unit's HAP Contract. If the XRF test results indicate unacceptable lead levels in the Unit, its common areas, or exterior, the Director of Inspections will notify the Owner in writing that he must de-lead the Unit and affected areas within 30 days and provide the BHA with a certificate from a registered lead paint testing company verifying that abatement has been completed.
 - (3) Failure to do so will result in the BHA's termination of the HAP.
- (b) *Rejection regardless of Certificate.* Regardless of the receipt of a certificate of compliance, the BHA Inspection Department will reject any Unit for leasing that has any cracking, scaling, chipping, peeling, or loose paint on the interior, common areas, or exterior of the building.
- (c) *No child under six.* There are no lead paint requirements for units where no child under six (6) resides.

CHAPTER 10: RENEWAL

10.1 Annual Recertification

The BHA must conduct a reexamination of the Family's income and composition at least annually. The BHA will also conduct an annual recertification at relocation and portability.

10.1.1 Appointment for Recertification

The Leasing Officer will contact the Head of Household in writing three to four months before the anniversary of their last annual Recertification by sending the Family an appointment letter. The appointment letter requests that the Head of Household bring the necessary verification of Annual Income and Family Composition (see Chapter 5: Determination of Eligibility). The appointment letter also lists the required documentation and information and states that a failure to comply with the obligation to supply information may result in the termination of the Family's HCVF assistance.

(a) Failure to Keep the Appointment.

If the Family fails to keep the initial Recertification appointment, the Leasing Officer will reschedule the appointment. The BHA considers it a failure to attend an appointment if the Participant is more than one-half (1/2) an hour late for a scheduled appointment.

If the Family fails to attend a second Recertification appointment, the Leasing Officer may terminate the Family's assistance in accordance with Chapter 13.

If the Participant contacts the Leasing Officer prior to the appointment to reschedule or has a reasonable excuse for missing the appointment, the BHA will excuse the missed appointment. The BHA will use its discretion to determine what excuses are reasonable. The Leasing Officer may ask the Family to supply documentation to verify their inability to attend the appointment. See also sections 1.2.4-1.2.5.

(b) *Failure to provide complete information.* If the Family attends the annual Recertification appointment but fails to provide the BHA with the documentation necessary to recertify the Family, the Leasing Officer will schedule an additional appointment and notify the Participant what documentation the BHA still requires to complete the Recertification. If the Participant does not supply the required information or does not attend the rescheduled appointment, the Leasing Officer may send the Family a notice of proposed termination of assistance that also contains a list of the documentation required to complete Recertification. The BHA may recertify the Family and rescind the proposed termination if the

Family provides the Leasing Officer with all of the required documentation.

10.1.2 Determining Family's Appropriate Unit Size and Subsidy.

At the appointment, the Leasing Officer will verify the Family's anticipated income, verify Family Composition determine the appropriate Apartment size, and establish the Family's subsidy in accordance with Chapter 5 of this Administrative Plan. The Leasing Officer will also ask for verification of any changes in Family Composition.

(a) *Change of Voucher Size.*

The appropriate Unit size will be determined and exceptions made as previously described. See section 5.4.2. If the Family requires a smaller or larger Apartment, the Leasing Officer will notify them in writing of the change in bedroom size, , and the right to an informal hearing to dispute the determination.

(b) *Unit too small.* If the Apartment is too small for the Family according to BHA Subsidy Standards and the Family has not obtained an exception to the Subsidy Standards or requested a hearing, the Leasing Officer will issue the Family a Voucher and the Family must find an acceptable Apartment before the Voucher expires. The BHA will provide the Family with information on any available units.

(c) *Unit too large.* If a Unit is too large for the Family according to BHA Subsidy Standards and the Family has not obtained an exception to the Subsidy Standards or requested a hearing, the Payment Standard will be reduced accordingly at the effective date of the Family's annual Recertification. The Family may either remain in the Unit and pay the difference, or move to a smaller Unit.

10.1.3 Additions to Family Composition

(a) *Owner and BHA Approval.* At the initial briefing session and at each Recertification, the BHA will advise the Family that additions cannot be made to the Family Composition without prior written approval from Owner and BHA approval, except in the instances of birth, adoption, or the court-awarded custody of a child. However, a family must notify the BHA in writing within thirty (30) days when a new Family member begins living in the Unit due to a birth adoption or court-awarded custody of a Minor. The BHA will begin the eligibility determination of the additional Family member regardless of the Owner's approval or disapproval.

(i) *Owner Denial.* If the Owner does not give written approval to add the Family member to the Lease, the Family may move if the Lease is no longer in its initial term. If the Lease is in its initial term, the Family must request

permission from the Owner to break the Lease. If the Family moves in order to add the additional member to their Family Composition, the BHA will begin to determine eligibility for the additional member when the Family submits a RTA. If the Family vacates the Apartment in violation of the Lease, their Section 8 assistance may be terminated in accordance with Chapter 13 of this Administrative Plan.

- (b) *No severe overcrowding.* Regardless of landlord approval or eligibility for the program, the BHA will not allow additions to the Family Composition that result in severe overcrowding in the existing Apartment. If the approved additional Family member(s) will cause severe overcrowding, the BHA will issue the Family a new Voucher so the Family can relocate to an appropriately sized Unit.
- (c) *Addition to Family Composition is subject to BHA and HUD eligibility.* Any person(s) must be determined eligible for the BHA HCVP before the BHA will permit the addition of the person to the Family Composition. Additional person(s) must first be determined to be eligible by BHA and HUD standards before being added to the Family Composition. The new Family member must: complete all BHA and/or HUD required eligibility forms, provide authorization to conduct a CORI check (if the person is fourteen (14) years or older), provide evidence of citizenship or Eligible Non-Citizen Status or sign a non-contending status form, and provide information required to verify income and program eligibility in accordance with program requirements.

Additions to the Family in instances of birth, adoption, or court awarded custody of a Minor, do not require advance approval to live in the Unit. However, any addition to the Family may be denied eligibility for the HCVP. If they are denied eligibility and a hearing is requested, the Minor may remain in the Unit until the review is final.

- (d) *BHA Approval.* If the BHA approves the addition of such person to the Family Composition and Lease, the BHA will re-calculate the Family's Rent to Owner and the BHA's Housing Assistance Payment paid on the Family's behalf to the Owner including the provided information. The BHA reserves the right to deny addition of any person to a Family Composition and/or Lease for good cause.
- (e) *Denial.* If a proposed addition to the Family is denied, a hearing may be requested to dispute the BHA decision.

10.1.4 Removal of Members from Family Composition

The Family must notify the BHA within thirty (30) days that a Family member no longer resides in the Unit and will no longer be a member of the Family Composition.

- (a) A child, under the age of eighteen, who is temporarily away from the home because of placement in Foster care, will be considered a member of the Family Composition.
- (b) A student who is away from the unit during the school year will be considered a member of the family composition, if the student has not established another place of residence by registering for school from an address other than the subsidized unit.
- (c) The BHA requires documentation to show that a Family member no longer resides with the Household in the subsidized Apartment.

10.1.5 Change the Head of Household / Co-Head of Household

A Family may request to change which Family member is designated the Head of Household. The Family may also decide to designate or change a Co-Head of Household. The BHA will approve the change if the Family member is able to take on the responsibilities of being the Head of Household/Co-Head of Household, including, but not limited to, communicating with the BHA and the Owner.

Chapter 11: Continued Participation

11.1 Interim Recertification

A Family may request in writing an interim determination of Family Share at any time because of a change in the Family's income, Adjusted Income (household deductions), family size, or composition. A Family must report changes in the circumstances described in the section below.

See Section 8.7.1 regarding the effective dates of the reported change.

11.1.1 Circumstances Requiring an Interim Recertification

(a) All Changes in Family Composition

Family Reporting Requirements:

A Family is required to inform and supply any necessary verification to the BHA within thirty (30) days of a birth, adoption, or court awarded custody. The BHA must approve the eligibility for any addition to the Family that does not result from a birth, court-awarded custody, or adoption in accordance with section 10.1.3. Any income attributable to the new family member must be reported and will be included in the interim recertification for the addition to family.

A Family must also notify the BHA in **writing** within 30 days and supply any necessary verification of any departure of a Family member due to death, permanent institutionalization, or other reason, and provide the BHA with verification, including, where applicable, the verification of the new address of the departed Family member. See also sections [8.7.1](#) & [10.1.4](#).

(b) Increase in Family Income for Family without Income

A Family is required to inform and supply any necessary verification to the BHA within thirty (30) days when a family without income (a "zero income" family) receives any earned or unearned income. The BHA shall then process an interim certification of income.

If a Family's income is too unstable to project for 12 months or if a Family temporarily has no income (a "zero-income Family") or if a Family has a temporary decrease in income, the BHA may schedule special Recertification with the Family's Leasing Officer every month, or at least quarterly, until the income stabilizes and/or an Annual Income can be determined

A Family may request an interim certification due to an increase income. In certain circumstances, such as FSS participation, it may be advantageous for the family to do so.

A relocation or portability is considered an annual recertification not an interim recertification action.

(c) Decrease in Family income.

If a Family has a decrease in income, the family is required to inform and supply any necessary verification to the BHA within thirty (30) days. Once the required documentation is received, the BHA shall then process an interim certification of income. When a decrease in family income is reported the BHA shall consider any effect that the reduction in income may have on child care or disability assistance expense deductions.

(d). Verification of Interim Changes

If the BHA does not receive the necessary information to perform the above actions in the prescribed time frame the BHA will notify the Participant that it is not taking any action on the request or proceed to termination whichever is appropriate.

11.2 Termination of HAP Contract

11.2.1 Grounds for Termination

If the BHA finds that the Owner or Family has failed to meet the program or contractual obligations, the BHA may suspend the subsidy payments, terminate the HAP Contract, or terminate the subsidy accordingly.

11.2.2 Owner breach of obligations

If the BHA terminates the HAP Contract because the Owner has breached the terms of the HAP contract or Owner responsibilities as provided in 24 C.F.R. § 982.404, the Leasing Officer will issue the Family a new Voucher. However, the Family does not have to wait for the BHA to terminate the HAP Contract if a serious breach or serious violations occur. If there is a serious breach and the Inspection Services Department of the City of Boston has determined that the Unit is uninhabitable, the BHA may direct the Family to relocate at an earlier point or the Family may vacate the Unit within a reasonable time consistent with State law.

11.2.3 . Owner Debts to the BHA

An owner may become indebted to the BHA when he/she receives HAP payments to which he/she is not entitled due to termination of the HAP contract for reasons, including but not limited to the following: the owner has violated any

obligation under the HAP contract including keeping the unit in compliance with HQS; the owner has violated any other obligation under any other HAP contract under Section 8; the owner has committed fraud, bribery or any other corrupt criminal act in connection with any Federal Housing Assistance Program; the owner has engaged in drug related or violent criminal activity; the BHA learns that the participant no longer resides in the unit or is deceased.

- (a) Any amount due to the BHA by an owner must be repaid within thirty (30) days of the BHA determination of the debt.
- (b) If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the BHA will reduce any future HAP payments until the debt is satisfied in full.
- (c) If the owner is not entitled to future HAP payments the BHA may enter into a repayment agreement with the owner for the debt owed, or seek to collect the monies via third party debt collector or legal action.
- (d) If the owner refuses to repay the debt, enter into a repayment agreement or breaches a repayment agreement, the owner maybe banned from future participation in the program, and the BHA may seek to collect the monies via third party debt collector or legal action.
- (e) The BHA will not enter into a repayment agreement if there is already a repayment agreement in place with the owner, or if the amount of debt owed exceeds the Federal or State threshold for criminal prosecution.

11.3 Restriction on Relocating

Generally, a participant may not relocate during the initial lease term or if there is pending grounds for termination of assistance. The following exceptions may apply:

A participant may relocate in the during the term of the lease, initial or otherwise, or when grounds for termination are present, if on or more of the following conditions is present:

- (a) The Unit has been on stop payment for more than 30 days,
- (b) An HQS breach not caused by the Family is determined to be life-threatening.
- (c) The move is required as a Reasonable Accommodation for a Disabled Person.

(d) There is mutual consent between the Owner and the Participant.

(e) The Family will not be prohibited from moving during the initial lease term so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the Unit in order to protect the health or safety of any individual member of the household who is or has been the victim of Domestic Violence, Dating Violence Stalking, or Sexual Assault and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling Unit (If the family or family member, or any family member is a victim of sexual assault that occurred on the premises during the 90 day period prior to the family's request to move, the family member is not required to believe that he or she was threatened with imminent harm from further violence if he or she remains in the dwelling unit..

(f) Other exceptions which the BHA deems it necessary for the Family to relocate, including but not limited to, Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

11.3.4 Issuance of a Voucher

- (a) The BHA will issue a Voucher anytime that a Participant requests one, regardless of whether or not they gave proper notice to their current landlord.
- (b) If a Participant vacates his/her unit and a new tenancy has not been approved by the BHA, he/she must contact the Housing Authority within twenty (20) days of receiving notice in order to obtain a Final Voucher and retain voucher holder status. Failure to contact the Housing Authority within twenty (20) days will result in the loss of rights to retain voucher holder status. No further notice will be given and all rights to participate in the Housing Choice Voucher Program will end.

11.4 Change of Ownership

Upon notification in writing that Ownership of an assisted Unit has changed, the BHA will Stop Payment to the former Owner. In order for the BHA to begin

payment to the new Owner, the former Owner must assign the HAP Contract and Lease to the new Owner, the new Owner must complete and sign an Owner/Agent Data Form and a W-9 form to verify tax reporting. The new Owner must also provide the BHA with a certified copy of the deed or attorney's letter documenting Ownership.

11.5 Eviction

The Owner must notify the Family's Leasing Officer in writing when commencing eviction procedures against the Family. A copy of the eviction notice served on the Family to the Leasing Officer is sufficient notice. If the Family contests the Owner's decision to evict and refuses to leave the Apartment, the Owner must commence an eviction proceeding in a court of law.

11.6 Family Absence from a Unit

Absence means that no member of the Family is residing in the Unit.

11.6.1 Absence of up to Thirty (30) Days

A Family may be absent from the Unit for any reason for up to 30 consecutive days.

11.6.2 Absence Greater Than Thirty (30) Days

The Family may not be absent from the dwelling Unit for more than thirty (30) days without BHA written approval. If the Family plans to be absent from the Unit for more than thirty (30) days, the Family must request approval from the BHA in writing and provide documentation indicating the reason for the extended absence from the Unit. An absence for greater than thirty (30) days may be approved by the BHA for reasons of health, rehabilitation, convalescence, incarceration or the personal needs of the Family. Each case will be evaluated based on the individual circumstances. Failure to request and receive approval to be absent from the Unit for more than thirty (30) days may result in termination of assistance.

11.6.3 Absence may not Exceed 180 Days

A Family's absence from a Unit assisted by the Section 8 program may not exceed 180 consecutive calendar days without exception. If a Family is absent from the Unit for more than 180 consecutive calendar days the BHA shall terminate the HAP Contract for the Unit.

11.7 Family Break-Up Policy

A Family Break-Up occurs when one or more adult Household Members will no longer reside together and there is a dispute as to who will retain the HCVP assistance. A Family Break-Up may occur in instances including but not limited to: divorce, separation, or protective order. When a Family Break-Up occurs, the

HCVP assistance does not always remain with the Head of Household. Any recorded adult Household Member, Emancipated Minor, or adult assuming responsibility for one or more minor Family members could potentially retain the HCVP Assistance.

When the BHA receives notice that there has been a Family Break-up or that a Family Break-up will imminently occur, the BHA will determine which Family member shall retain the HCVP assistance using the criteria and procedure provided below.

11.7.1 Court Determination

- (a) If a court determines which Family member shall retain the HCVP Assistance, the BHA is bound by the court's decision¹⁹. A court determination cannot be appealed through any BHA review process.
- (b) If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 C.F.R. part 5, subpart L, the PHA must ensure that the victim retains assistance.

11.7.2 BHA Determination

When there is no court determination, the BHA determines which Household Members will continue to receive HCVP assistance upon a Family Break-up. In making this determination, the BHA shall consider the interests of all assisted Family members. The BHA will use its discretion to decide which Household Members will continue to receive HCVP assistance by taking into account the following:

- (a) The interests of any minor children, with consideration to custody rights;
- (b) The interests of any Elderly, or Disabled Household Member;
- (c) Whether a Household Member *fled* the Unit because of actual or threatened violence by a spouse or other Household Member. The BHA will take into consideration incidents of actual or threatened violence regardless of whether the Household Member leaving the Unit is the victim or the Perpetrator;
- (d) Whether the assistance should remain with a Household Member remaining in the original assisted Unit or a Household Member who has fled or left the Unit; AND

¹⁹ The BHA may challenge the court's order on the grounds that any portion of the decision is contrary to State or Federal housing law.

- (e) The amount of time since the Household Member was added to the Family Composition. The BHA will take this factor into consideration based on the individual circumstances surrounding the addition of the Household Member.

11.7.3 Notice of Proposed Subsidy Allocation

When the BHA receives notice that there has been a Family Break-up or that a Family Break-up will imminently occur, the BHA will make an initial determination in accordance with section 11.7.2 regarding which person shall retain the HCVP assistance. The BHA will also determine which Household Member will become new Head of Household or Co-Head of Household. All adult Household Members and other adults as, identified in section 11.7.8, shall be notified of these determinations. Notice shall be sent to any and all addresses identified by such adults and not solely to the last address for the Head of Household. The notice shall describe what factors BHA utilized in making its determinations. The notice shall also state that any adult Household Member or other adult, as identified in section 11.7.8, has twenty (20) days to request a review of the decision.

11.7.4 Right to Appeal BHA's Proposed Subsidy Allocation

If a Household Member or another adult, as identified in section 11.7.8, disagrees with the BHA's determination regarding which person shall retain the HCVP assistance, that person may appeal the decision. The request for a hearing must be in writing and received by the BHA Leased Housing Division within twenty (20) days of the date of the BHA's notice of Proposed Allocation.

11.7.5 Procedure for Informal Hearings Regarding Family Break-Up

If any Household Member or other adult, as identified in section 11.7.8, requests a hearing to dispute the BHA's proposed subsidy allocation, the BHA Leased Housing Division shall conduct a hearing to review that decision. All Household Members and other adults, as identified by section 11.7.8, shall be given notice of the hearing date. The hearing will be conducted by a person who did not make or is not the subordinate of the person who made the initial determination. The person requesting the hearing shall have the right to review those portions of the file relied upon in the BHA's determination except that the BHA will redact any information, including addresses where applicable, which could compromise the safety of any person. The BHA may alter its usual hearing procedure and rules, consistent with applicable law, to assure the safety of all individuals who may be participating in the proceeding.

The person conducting the hearing shall issue a written decision within thirty (30) days from the close of the hearing record. The decision shall be sent to each adult Household Member who is claiming a right to the subsidy or any other adult as identified by section 11.7.8.

11.7.6 Assistance Pending the Exhaustion of Right of Review

The BHA will continue to pay assistance under the existing HAP Contract and will not issue a voucher for relocation based on a determination under section 11.7.2 until either the time period to appeal the determination has lapsed or a hearing decision has been issued. Any housing assistance thereafter shall be in accordance with the BHA's Family Break-Up determination or hearing decision.

11.7.7 Recertification of Family's Income and Change in Rent Share

Where there has been a Family Break-Up and the right of appeal has been exhausted the BHA will recalculate the Family's rent share to reflect the current Family Composition in accordance with the provisions of section 7.1.3 of this Administrative Plan. Any change in the Family's Share of rent will be effective retroactive to the first of the month following the date the Family Break-Up occurred.

11.7.8 Non-Household Members Who Advance a Claim on Behalf of Minor or Incapacitated Household Members

- (a) Where there has been a Family Break-Up with one or more remaining Minor Household Members; AND one or more adults who are not currently Household Members advance a claim that they wish to become the Head of Household on behalf of one or more remaining Minor or incapacitated Household Members; AND there is a dispute about who should become the Head of Household or Co-Head of Household, the BHA shall determine which such claimant shall take over the Voucher as Head of Household using the criteria under section 11.7.2 above.
- (b) In the event a remaining Household Member is an incapacitated Adult who is unable to fulfill the Family obligations, the person asserting a right to the subsidy on behalf of the incapacitated Household Member must be an adult who has been appointed either a temporary or permanent guardian and is willing to assume the obligations of the HCVP as Head of Household.
- (c) Any adult who the BHA determines is appropriate to become the Head of Household is subject to fulfilling all preliminary and final eligibility requirements in accordance with this Administrative Plan or its successor.

11.8 Residual Family Policy

A remaining Household Member may apply to become the Head of Household, in the event of the death, departure or incapacity of the Head of Household. This person is referred to as a Residual Family Applicant for the purposes of this Administrative Plan. Application approval is contingent on the Residual Family Applicant and all Household Members meeting the criteria set forth below.

11.8.1 Qualifications for Residual Family

In order to assume the status of Head of Household and continue as a Participant under this policy, the Residual Family Applicant must be:

- (a) An Adult who was a Household Member at the last annual Recertification if the Head is removed due to death or incapacity, or who has been a Household Member for more than twelve months, if the Head departed to other non-BHA housing, and whose income was recorded and considered in the rent computations during the period of his/her participation, unless he/she was without income or was a Full-Time Student; OR
- (b) In the event the remaining Household Member(s) consists only of Minor children, the Residual Family Applicant must be an adult, or a court granted Emancipated Minor or an adult, who has been appointed either a temporary or permanent guardian, or is the natural parent of one or more Household Members, and is willing to assume responsibility for the Apartment and the remaining Family members, and is willing to become a Participant and Head of Household in the Section 8 program; OR
- (c) In the event the remaining Household Member(s) is an incapacitated adult who is unable to fulfill the Family obligations, the Residual Family Applicant must be an adult who has been appointed either a temporary or permanent guardian, and is willing to assume the obligations and become a Participant in the Section 8 Program and assume the responsibilities as Head of Household; AND
- (d) The Residual Family Applicant and Family, if any, for Residual Family status must meet the eligibility requirements for Applicants as set forth in this Administrative Plan.

11.8.2 Calculation of Rent Once Residual Applicant Approved

The BHA will calculate the Family Share and adjust the Voucher Size appropriately once the Residual Family Applicant has been approved. The rent will be retroactive to the date that the original Head of Household/Co-Head of Household left the Unit.

11.8.3 Limitations of Policy

The remaining Household Members will not become Residual Family, if the departing or incapacitated Head, has an outstanding balance due to the BHA (except in the case of the Head's death) or termination of the subsidy by the BHA is pending.

11.8.4 Residual Family – Right of Appeal

A Residual Family Applicant who disagrees with a decision made by the BHA may request an informal hearing pursuant to 24 C.F.R. § 982.555 and Chapter 13 of this Administrative Plan.

11.9 Ineligible for Continued Assistance

11.9.1 Income Ineligible

If thirty percent (30%) of the Family's Monthly Adjusted Income equals or exceeds the lower of the Gross Rent or the Payment Standard, the BHA will suspend the end of participation for six (6) months from the effective date of the certification. The BHA will inform the Family in writing of the anticipated end of participation and its right to appeal the anticipated end of participation through an informal hearing.

11.9.2 Resumption of the Subsidy

If within six (6) months after notifying the Family of the anticipated end of participation: (i) the Family's income share falls below the lower of the Gross Rent or the Payment Standard, (ii) the Contract Rent increases, or (iii) the Family moves to a new Apartment, the BHA will reexamine the Family's eligibility for participation in the HCVP upon the Family's request. If thirty percent (30%) of the Family's Monthly Adjusted Income is then less than the lower of the Gross Rent or the applicable Payment Standard, then the BHA will resume making assistance payments on behalf of the Family.

11.9.3 Termination of subsidy

If the Family's income share does not fall below the lower of the Gross Rent or the applicable Payment Standard in six (6) months from the effective date of the certification, the BHA will terminate the Family's assistance.

11.10 Family Moves within BHA Jurisdiction

HUD permits participants to move to another unit while maintaining housing assistance. This section discusses the conditions that permit the family to move with continued assistance

11.10.1 Voucher Issuance Upon Request for Relocation

Families who intend to move with continued assistance are issued a Relocation Voucher with a term of 120 days. See *24 CFR § 982.302(a)*. If a Family does not locate a new unit within the term of the voucher and any extensions, the Family may remain in its current unit with continued assistance if both the owner and the BHA approves. Otherwise, the Family will lose its assistance

11.10.2 Denial of Relocation and / or Voucher Issuance

The BHA may deny a move with continued assistance if there are grounds for denial or termination of assistance in accordance with Chapters 6 and 13 of this Administrative Plan.

The Family will be required to complete any annual reexamination process due within 120 days before the request to move is approved.

11.10.3 Notice Requirements to Relocate

In order to move with continued assistance one or more of the following scenarios must occur with respect to the Family's tenancy:

- (a) The assisted lease for the current unit has terminated, including termination because the BHA has terminated the HAP contract due to owner's breach, or the lease has terminated by mutual agreement of the owner and tenant. A copy of any notice of termination must be provided to the BHA.
- (b) The owner has given the Family a notice to vacate, commenced an action to evict the tenant, or obtained a court judgment or other process allowing owner to evict the tenant. The Owner and the Tenant must provide copies of all notices to BHA. In this scenario BHA may deny a move with continued assistance if the Family's violation of the tenancy is also grounds for termination of assistance.
- (c) The Family has given proper notice of lease termination (if tenant has the right to terminate lease on notice to owner).
- (d) The BHA determines that the Family's unit does not meet the HQS space standards (due to increase in family size or change in family composition).
- (e) None of the scenarios above are true, however, the Family or member of the Family is or has been a victim of domestic violence, dating violence, Stalking, or Sexual Assault, and the move is needed to protect the health or safety of the family or family member.

11.10.4 Owner HAP When the Family Moves

If the family moves out of the unit, the PHA may not make any HAP to the owner for any month after the month the family moves out. The owner may keep, however, any housing assistance payment for the month during which the family moves out.

Chapter 12: Portability

A Housing Choice Voucher Holder or a Participant has the right to receive tenant-based assistance outside the BHA Jurisdiction. The Voucher Holder or Participant may lease a Unit anywhere in the United States, in the jurisdiction of a Public Housing Authority. The BHA will brief Participant Families on Portability in an oral presentation when they receive their Voucher. The briefing packet provided to Families will also contain information about Portability.

12.1 Portability Requirements for Applicant Families

12.1.1 Applicant Families Residing Outside of Massachusetts

The BHA Jurisdiction is anywhere within the Commonwealth of Massachusetts.

Families on the BHA waiting list in which neither the Head of Household nor the spouse has a Domicile within the BHA Jurisdiction at the time of initial application have no right to Portability within the first twelve (12) months of HCVP participation.

When such Families reach the top of the waiting list they will be offered the opportunity to use a Voucher to locate an assisted Unit within the BHA Jurisdiction. The Family will be withdrawn from the wait list if, after appropriate counseling, the Family decides not to exercise this option and is unwilling to reside in the BHA Jurisdiction for the initial twelve (12) months of assistance. See also section 3.2.3 – Withdrawal from the Waiting List.

The BHA requires that such Families, who initially reside outside of BHA Jurisdiction, complete twelve (12) months residency in an assisted Unit within BHA Jurisdiction in order to exercise their option for Portability. However, BHA may allow portability to a Unit located in another jurisdiction (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the Unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the Unit in order to protect the health or safety of an individual member of the household who is or has been the victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling Unit.

12.1.2 Applicant Families within BHA Jurisdiction

A Family that has not yet leased a Unit under the HCVP is eligible for Portability if the Head of Household or spouse has a Domicile within BHA Jurisdiction at the time the application was submitted.

Verification of Domicile. A Lease, school records, or voter registration are acceptable forms of documentation to verify Domicile.

12.2 When an Assisted Family Moves Into the BHA Jurisdiction

12.2.1 BHA Procedure for Receiving Families

When a Family with HCVP assistance from another Jurisdiction arrives at the BHA, the BHA will issue [a family in good standing](#), ~~the Family~~ a Housing Choice Voucher to enable the Family to conduct a housing search within the BHA Jurisdiction. The Voucher issued by the BHA may not expire less than thirty (30) days after the expiration date established by the Initial Housing Authority. If the Voucher has already expired when the BHA receives the paperwork from the Initial Housing Authority, the BHA will refer the incoming portable Family back to the Initial Housing Authority, who may decide to extend the Voucher term and the billing deadline. BHA (the Receiving Housing Authority) policies and procedures as the regarding extensions and Voucher term shall apply. In addition, the BHA will use its own Subsidy Standards to determine the appropriate Voucher Size for a Family that will be administered by the BHA.

The BHA will inform the Initial Housing Authority immediately whether it will absorb or administer the Family's Housing Choice Voucher assistance, and if it approves an extension to the Voucher term or changes the Family's Voucher Size.

The BHA's Payment Standards are used when the portable Family Leases a Unit. The BHA will inform the incoming Family of the BHA's policies and Payment Standards before the Family begins its housing search.

The BHA may delay approval of the Unit or issuance of the Voucher if the Family refuses to comply with BHA procedures (such as completing disclosure forms or certifications). The BHA may not delay issuing a voucher unless recertification is necessary to determine income eligibility. If the BHA is refusing to process or provide assistance under the Portability procedures, the Family will be given the opportunity for an informal review or hearing in accordance with Chapters 5 and 13 of this Administrative Plan.

12.2.2 Absorb or Administer

The BHA has the option to *administer* the subsidy on behalf of the Initial Housing Authority or to *absorb* the portable Family into its own Housing Choice Voucher Program. The Receiving Housing Authority must promptly inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable Family or will absorb the portable Family into its own program.

(a) *Administer the Voucher*

If the BHA decides to administer the Initial Housing Authority's Housing Choice Voucher assistance, the housing assistance for

the portable Family comes from the Initial Housing Authority's Housing Choice Voucher allocation.

When the BHA administers the subsidy, the Initial Housing Authority will retain twenty percent (20%) of the ongoing Administrative Fee for that Housing Choice Voucher unless both the Initial Housing Authority and the BHA (Receiving Housing Authority) reach a different agreement. The Initial Housing Authority may also be eligible for a preliminary fee if the portable Voucher is part of a funding increment awarded during the first twelve (12) months of the PHA's Housing Choice Voucher Program.

The BHA will bill the Initial Housing Authority for the full amount of the Housing Assistance Payment and eighty percent (or other amount agreed to by both PHAs) of the ongoing Administrative Fee earned by the Initial Housing Authority.

The BHA may change its decision to administer a Voucher and decide to absorb at any time in the future.

(b) *Absorb the Voucher*

The BHA may absorb the portable Family into its own program once the HAP Contract is executed on behalf of the incoming Participant Family by the BHA. The HAP Contract must be executed within the BHA Jurisdiction for the Absorption to take place. If the BHA decides to absorb the portable Family, funds from the BHA's consolidated ACC will pay for the Family's housing assistance. The BHA will specify the effective date of the Absorption to the Initial Housing Authority.

12.2.3 Extensions and Suspensions of a Portable Voucher

The BHA will grant extensions and suspensions to a holder of a portable Voucher in accordance with the same standards it uses to grant extensions for Participants or Jurisdiction who are not exercising Portability. See section 7.2.

(a) *Extension that Extends After Initial Housing Authority Expiration Date*

If the BHA is the Receiving Housing Authority and provides an incoming portable Family with search time beyond the expiration date of the Initial Housing Authority's Voucher, it must inform the Initial Housing Authority of the extension and should bear in mind the billing deadline provided by the Initial Housing Authority.²⁰

²⁰ The initial billing submission must be received no later than 60 days following the expiration of the voucher issued by the initial PHA.

Unless willing and able to absorb the Family, BHA will ensure that any Voucher expiration date will leave sufficient time to process a RTA, execute a HAP Contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the Initial Housing Authority by the deadline date (See section 12.6 on billing).

12.2.4 On-going Responsibilities of the Receiving PHA

After a portable Family Leases up in the BHA Jurisdiction, the BHA is responsible for conducting all interim and annual reexaminations for the Family and all HQS inspections of the Family's Unit. The BHA will send the Initial Housing Authority a copy of the updated Form HUD-50058 at each annual Recertification for the duration of the time the BHA is billing the Initial Housing Authority, regardless of whether there is a change in the billing amount.

Under a billing arrangement, the Initial Housing Authority must be informed of all changes affecting the Family's subsidy. After each interim and annual reexamination, the Receiving Housing Authority must send the Initial Housing Authority a completed form HUD-52665 showing the new HAP amount with a copy of the form HUD-50058 if the billing amount changes.

If the receiving PHA has absorbed the Family, the Family is no longer considered a portable Family. The Initial Housing Authority is no longer involved with the Family's subsidy. There is no billing and no communication on other details of the Family's occupancy.

12.3 When an Assisted Family Moves out of the BHA Jurisdiction

12.3.1 Family Interest in Portability

After a Family announces its interest in Portability, the BHA will provide the Family with information to help it contact the PHA in the Jurisdiction where the Family wishes to live. If this will be the Family's first Lease under the Housing Choice Voucher Program, the BHA will compare the Family's income to the applicable-income limit (typically the very low-income limit) for the community where the Family wants to move and determine if the Family will be able to Lease an Apartment with continued assistance in the Jurisdiction of their choice.

Addresses and telephone numbers for PHAs around the country are available on HUD's web site: www.hud.gov. Income limits are available at www.huduser.org.

12.3.2 Decision to Move Outside BHA Jurisdiction

When the Family decides to move outside the BHA Jurisdiction the BHA will:

- (a) Contact the Receiving Housing Authority by phone, fax, or email to alert that agency to expect the Family; and
- (b) Send the Receiving Housing Authority, by mail or facsimile, a completed form HUD-52665, Family Portability Information form.

12.3.3 Selecting the Receiving PHA

When there is more than one PHA administering a Housing Choice Voucher Program within the Jurisdiction where the portable families wants to move, the Initial Housing Authority has the authority to select the receiving PHA.

12.3.4 Limitations on Moving

- (a) Participants who have utilized Portability to move outside the BHA jurisdiction are bound by the same limitations on moving as Participants not exercising Portability. See section 11.3.1 and 11.3.2. Thereafter, a move at the Family's request may not occur more than once in any twelve (12) month period. See section 11.3.3 for exceptions to this limitation.

Exception: A Receiving Housing Authority must absorb the Family to alleviate this limitation.

- (b) The BHA will not provide portable assistance for a Participant Family if the Family has moved out of its assisted Unit in violation of the Lease. See 24 C.F.R. § 982.355 (b).

12.4 Portability Terminations

The BHA may terminate a Family's assistance when it is acting as the Initial Housing Authority or the Receiving Housing Authority.

In cases where the BHA is the Initial Housing Authority and is terminating assistance, the Participant shall be advised of the reason for the termination as provided by the BHA and of the Participant's right to request a hearing of the terminating BHA. The result of decision rendered by the BHA (the Initial Housing Authority) is binding upon the Receiving Housing Authority. The Family's participation shall be terminated on the date specified in the hearing notice or at the end of the month following the month in which the BHA has notified the tenant and the Owner of the termination, whichever is later.

12.5 Claims by Another PHA

Any amounts owed by a Participant to an Initial Housing Authority, to any prior PHA, or to a Receiving Housing Authority which are the result of the Family's participation in a housing program while in the Jurisdiction of that PHA must be

collected by that PHA. The BHA will not collect amounts owed to another PHA on behalf of that PHA.

Either PHA may contact the HUD state or area office for assistance in resolving Portability disputes between PHAs, although efforts to reach mutual agreements without HUD's involvement are encouraged. Frequently, involvement of management or executive staff at both agencies and agreement to use logs and other monitoring tools internally is all that is required.

12.6 Portability Billing Requirements

12.6.1 Summary of Portability Billing Deadlines.

Failure to meet the following deadlines may result in a reduction of administrative fees or a transfer of the amount of baseline units from one Housing Authority to another in accordance with HUD regulations and guidelines.

- (a) *Submission of Initial Billing Amount* (Part II of the Form HUD-52665) -- Receiving PHA must submit initial billing notice (1) no later than ten (10) working days following the date the HAP Contract was executed and (2) in time that it will be received no later than sixty (60) days following the expiration date of the Family's Voucher issued by the Initial Housing Authority.
- (b) *Payment of First Billing Amount* - Initial Housing Authority makes payment within thirty (30) days of receipt of Part II of the Form HUD 52665 indicating billing amount.
- (c) *Payment of Subsequent Billing Amounts* – The Initial Housing Authority is responsible for ensuring that subsequent billing amounts are received no later than the fifth working day of each month for which the monthly billing amount is due.
- (d) *Notification of Change in Billing Amount or Other Action* – The receiving PHA notifies the Initial Housing Authority of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than ten (10) working days following the effective date of the change.

CHAPTER 13: Termination of Assistance

13.1 Definitions

13.1.1 Drug Related Criminal Activity

- (a) The manufacture, sale, distribution, or use, or the possession with intent to manufacture, sell or distribute a controlled substance, as defined in section 802 of the Controlled Substances Act (21 U.S.C. § 802);

13.1.2 Violent Criminal Activity

Violent Criminal Activity includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

13.1.3 Termination Due to Domestic Violence

See section 1.2.5 for restrictions regarding the termination of a participant who may be a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

13.2 Mandatory Termination

The following chapter outlines the program violations for which the BHA can terminate a Family's assistance. Certain program violations allow the BHA to use its discretion in deciding whether or not terminate the Family's assistance. See section 13.3. The following are list of program violations which require the BHA to terminate the Family's assistance:

13.2.1 Eviction for Lease Violations

The BHA must terminate program assistance for a Family evicted from federally assisted housing for serious violations of the Lease. The BHA will use its discretion to determine which Lease violations are serious.

13.2.2 Consent Forms

The BHA must terminate the assistance of a Participant if any Family member fails to sign the Consent forms as required in 24 C.F.R. part 5, Subparts B and F.

13.2.3 Evidence of Citizenship

The BHA must terminate assistance if the Participant has failed to submit evidence of eligible immigration status or a form certifying that a Family member does not wish to claim eligible Citizen or non-Citizen status for each Family member, or because the Applicant or Participant cannot provide evidence of Citizen, National, or Eligible Non-Citizen Status for at

least one Family Member pursuant to 24 C.F.R. part 5 (See Chapter 5 section 5.6 for requirements for evidence of Citizenship and immigration status).

13.2.4 Manufacture of Methamphetamine

The BHA must terminate assistance if a Participant has ever been convicted of Drug Related Criminal Activity as a result of manufacture or production of methamphetamine on the Premises of federally assisted housing. The Premises includes the dwelling, common areas, and grounds.

13.3 Discretionary Termination

The Administrator or his or her designee may use discretion at any time (before or after an informal hearing) to decide whether or not to terminate a Family's assistance for any of the program violations listed in this section.

13.3.1 Consideration of Circumstances

The BHA will use the following non-exhaustive list when using its discretion to decide whether or not to terminate the subsidy:

- (a) *Consideration of circumstances generally.* The BHA has the discretion to consider all of the circumstances in each case including, but not limited to, the seriousness of the offense, the extent of the criminal history, the extent of participation by Family members, and the effects that termination will have on Family members not involved in the alleged activity.
- (b) *Reasonable Accommodation.* The BHA shall consider a request for Reasonable Accommodation by a Participant who has a disability or handicap, has a record of a disability or handicap, or is perceived as having a disability or handicap. The BHA will follow its Reasonable Accommodation Policy to determine whether or not an Accommodation should be made for a Participant who is a Disabled Person.
- (c) *Mitigating Circumstances.* The BHA shall consider mitigating circumstances such as active participation in, or completion of, a supervised drug treatment program.
- (d) *Termination of a portion of the Family.* The BHA may, in its discretion, terminate only certain members of the Family, if there is sufficient evidence that the Family member who engaged in the alleged activity will not reside in the unit or if the Head of Household certifies that the Family Member who engaged in the alleged activity will not reside in the Unit.
- (e) *Domestic Violence.* The BHA may consider an incident or incidents directly related to Domestic Violence, Dating Violence,

Stalking, or Sexual Assault as mitigating circumstances is directly related to the reason for termination.

13.3.2 Eviction from Federally Assisted Housing

If any member of the Family has been evicted from federally assisted housing in the past five years.

13.3.3 Termination of Assistance

If a Public Housing Authority has ever terminated assistance under the program for any member of the Family.

13.3.4 Debt to Housing Authority

- (a) If the Family currently owes rent or other amounts to the BHA or another Public Housing Authority in connection with Section 8 Program, public housing assistance under the U.S. Housing Act of 1937, or any other Publicly Assisted Housing Program.²¹
- (b) The Participant as a previous or current Participant in the Section 8 program has not reimbursed the BHA or another Public Housing Authority for amounts paid to an Owner under a Contract for rent or other amounts owed by the Family under the Lease. If the participant is a former BHA public housing resident at a site that was converted to the Section 8 Program:
 - (i) BHA will send a letter of rent balances in advance of the conversion, requesting that families pay any outstanding debt as soon as possible.
 - (ii) Balances will be reviewed again after conversion, once all accounts have been reconciled.
 - (iii) The Leased Housing Department will negotiate and execute repayment agreements with families using a similar process that is in place for HCV fraud collections set out in Section 13.3.5 below.
 - (iv) The agreements will be monitored and maintained by the Leased Housing Department.
- (c) If the Family breaches an agreement with the BHA to pay amounts owed to the BHA, or amounts paid to an Owner by the BHA.

²¹ Other Publicly Assisted Housing Program – means residence in any housing program assisted under M.G.L. Chapter 121B (such as state-assisted public housing for families, Elderly or disabled persons), or Massachusetts Rental Voucher Program or assisted under the United States Housing Act of 1937 as amended (42 U.S.C. § 1401 *et seq.*) (such as federally-assisted public housing for families, Elderly or disabled persons, Section 8 certificate/voucher, project-based certificate, moderate rehabilitation, loan management/property disposition leased housing program, Indian housing, or tenant-based assistance under the HOME program)

13.3.5 Fraud

If any member of the Family has committed fraud, bribery, or any other corrupt criminal act in connection with any Federal housing program.

- (a) When a participant has failed to accurately report his/her family composition and income information or falsely verifies said information resulting in the BHA overpaying a subsidy on his or her behalf the participant must repay these monies to the BHA. A Section 8 participant is obligated to pay money owed to the BHA as a condition of continued participation in the program.
 - (i) The family must either pay the amount owed in full within thirty (30) days of the BHA determination of debt; or
 - (ii) Enter into a repayment agreement and abide by its terms
- (c) Terms of the Agreement
 - (i) The maximum term of a repayment agreement should not exceed thirty-six (36) months. A waiver of up to twenty-four (24) additional months may be granted by a BHA Leased Housing director or his/her designee for verifiable mitigating circumstances
 - (ii) Monthly Payments – the monthly payment is set at the discretion of the BHA, so that the debt in full will be satisfied within the thirty-six (36) month period, however the monthly payment combined with the participant's monthly share of his/her rent may not exceed 40% of his/her monthly adjusted income. The participant may make a lump sum payment up front to reduce his/her monthly obligation
- (d) Missed Payments
 - (i) If a participant misses a total of three payments at any time during the term of the repayment agreement, he/she is in default of the agreement and the BHA will proceed with termination upon notice to the participant.
 - (ii) If the participant pays the entire debt in full or the participant becomes current with the repayment agreement, prior to the date of the termination

hearing, Leased Housing may decide to withdraw its proposed termination.

- (e) The BHA is not obligated to enter into a repayment agreement with a participant. The BHA may terminate assistance to a family for reasons including, but not limited to: 1) fraud; 2) refusing to enter into a repayment agreement; and or 3) any violation of family obligations, including fraud.
- (f) If a participant's assistance is terminated and or a participant has failed to abide by any repayment agreement, the BHA may take all necessary steps to collect monies owed including referring the matter to a third party debt collector, reporting monies owed to EIV and or legal action.
- (g) The BHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or if the amount of debt owed by the family exceeds the Federal or State threshold for criminal prosecution.

13.3.6 Drug Related Criminal Activity

The BHA may terminate assistance for a Participant Family if the BHA determines that any Family Member is currently engaged in:

- (a) Any illegal use of a drug; or
- (b) A pattern of illegal use of a drug which interferes with the health, safety or right to peaceful enjoyment of the Premises by other residents.

Note: The BHA may not deny or terminate assistance for past use or possession of a controlled substance by a Family member if the Family member can demonstrate that (s)he has an addiction, has a record of an addiction, or is regarded as having an addiction to a controlled substance, and can demonstrate that (s)he is in recovery from any such addiction,

and does not currently use or possess controlled substance. The BHA may require a Family Member who has engaged in the illegal use of a controlled substance to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the Unit.

13.3.7 Alcohol Abuse

The Participant's or a Family member's abuse or pattern of abuse of alcohol may threaten the health or safety of, or the right to peaceful enjoyment of the Premises by other residents.

- (a) A Participant's dependency on alcohol will not help to mitigate violations of the Participant's requirement to meet the obligations of the program.
- (b) The BHA may require a Family member whose abuse or pattern of abuse of alcohol has threatened the health or safety of, or the right to peaceful enjoyment of the Premises by other residents to submit evidence of participation in, or successful completion of, a treatment program as a condition preceding being allowed to reside in the Unit.

13.3.8 Behavior towards BHA staff

If the Family member has engaged in or threatened abusive or violent behavior towards BHA personnel.

13.3.9 Violation of Family Obligations

The Participant has violated any Family obligation under the program by action or failure to act as listed in section 13.5.2 or as set forth in 24 C.F.R. § 982.551.

13.4 Termination of Assistance Due to Lack of Adequate Funding

13.4.1 Background

The BHA is prohibited from assisting Families over either its annual baseline number of Vouchers per its approved Annual Contributions Contract (ACC) with HUD or its Annual Housing Assistance Payments (HAP) Budget Authority from HUD. In the event that the BHA's Annual HAP Budget Authority is reduced to an amount that will no longer support the number of HAP Contracts currently in the program, the BHA shall determine the number of HAP Contracts that must be terminated due to the lack of adequate funding from HUD. The BHA shall follow the steps outlined in this section in terminating assistance to families.

13.4.2 Excluded Families

A Family in any of the following categories shall be excluded from any termination of assistance due to lack of funding from HUD:

- (a) Elderly Family,
- (b) Disabled Family
- (c) Families who are Project Based Voucher participants as long as the HAP contract for the site remains in effect.
- (d) Families participating in the VASH program as long the VASH program is fully funded.
- (e) Any Family that is under an agreement in the Homeownership program or subject to a BHA relocation agreement.

13.4.3 Determining HAP Contracts to be Terminated

The BHA shall terminate the HAP contract on behalf of a Family based upon the Families date of admittance to the program. For this purpose, the BHA shall consider the Family's original Lease date under the BHA's Section 8 Program to be their date of admittance to the HCVP. The Family that was first admitted to the program, according to their Lease date, shall be the first to have the HAP contract terminated due to the lack of adequate funding from HUD. The BHA will refer Families where the HAP contract on their behalf has been terminated to appropriate agencies to find available housing.

13.4.4 Referral of Families to other BHA programs

The BHA may refer families where the HAP has been terminated due to lack of adequate funding from HUD, to any other BHA programs which may have vacancies in an effort to house these families.

13.4.5 Resumption of Terminated Subsidies

The BHA will reissue a voucher to Families, where the HAP contract has been terminated due to lack of funding only when funding is restored to levels adequate to support the resumption of additional HAP payments. The BHA will do so by the participants admittance dated (original lease date) beginning with the most recent admittance date to oldest admittance date.

13.5 Family Obligations

13.5.1 Tenants Informed of Family Obligations

- (a) The BHA will supply the Family with a written description of the Family obligations

- (b) The Head of Household will sign the Family obligations at each annual Recertification to certify that he/she understands and will comply with the obligations of the program.

13.5.2 HCVP Family Obligations

Participants in the HCVP must follow the Family obligations. Violation of the Family obligations by an act or a failure to act may result in termination of assistance.

This section states the obligations of a Participant Family under the program.

- (a) *Supplying required information.*
 - (1) The Family must supply any information that the BHA or the Department of Housing and Urban Development (HUD) determines necessary in the administration of the program, including submission of required evidence of Citizenship or eligible immigration status (as provided in section 4.6) as required by federal regulations. "Information" includes any requested certification, release or other documentation.
 - (2) The Family must supply any information requested by the BHA or HUD for use in a regularly scheduled reexamination of Family income and composition in accordance with HUD requirements. See section 10.1.1 for specific requirements.
 - (3) The Family must disclose and verify social security numbers (as provided by part 5, subpart B of 24 C.F.R.) and must sign and submit Consent forms for obtaining information in accordance with part 5, subpart B of 24 C.F.R.
- (b) *HQS Breach Caused by Family.* The BHA may terminate a Participant from the Section 8 program for life threatening HQS violations that the Participant does not correct within 24 hours. The BHA may terminate assistance for non life-threatening HQS violations that the Family does not correct the violation within thirty (30) days. The BHA may also terminate a Participant under this provision for one or more of the following reasons.
 - (1) The Family fails to pay for any utilities that the Owner is not required to provide, but which are to be paid by the tenant.
 - (2) The Family fails to provide and maintain any appliances that the Owner is not required to provide, but which are to be provided by the Family.

(3) If any Family member or any guest damages the dwelling Unit or common areas beyond ordinary wear and tear. An action for termination under this provision may be commenced for one or more of the following reasons:

- i. A BHA Inspector determines that the damage was a result of intentional or reckless conduct. For the purpose of this section "reckless conduct" shall be defined as rash, heedless, wanton conduct; acting with indifference and/or disregard to the possibility or probability of causing damage to property of the Section 8 Family or the property of any other residents;
- ii. The damage was of such an extreme nature. The following factors may serve as a guideline to determine whether damage is considered to be extreme:
 1. Number of identified areas damaged within the unit;
 2. The degree of damage beyond normal wear and tear.

Note: The examples above are not exclusive and a variety of authentic data relating to the damage/incident may be used either together or individually to determine if damage is extreme.

- (c) *Allowing BHA inspection.* The Family must allow the BHA to inspect the Unit at reasonable times and after reasonable notice.
- (d) *Violation of Lease.* The Family may not commit any serious or repeated violation of the Lease
- (e) *Family notice of move or Lease termination.* The Family must notify the BHA and the Owner before the Family moves out of the Unit, or terminates the Lease on notice to the Owner.

The Family must give the BHA a copy of the thirty-day notice of termination that the Family gave to the Owner before the Family can move to a new Apartment with assistance.

- (f) *Owner eviction notice.* The Family must promptly give the BHA a copy of any Owner eviction notice. Promptly means within two weeks of receiving the eviction notice for the purposes of this section.
- (g) *Use and occupancy of the Unit.*

- (1) The Family must use the assisted Unit for residence by the Family. The assisted Unit must be the Family's only residence.
- (2) All Family members residing in the Unit must be approved by the BHA. The Family must promptly notify (within thirty (30) days) the Housing Authority of the birth, adoption, or court-awarded custody of a child. The Family must request and receive BHA approval before adding any other Family member as an occupant of the Unit. No person other than members of the assisted Family may reside in the Unit, except a foster child²² or a Live-In-Aide
- (3) The Family must promptly notify BHA (within thirty (30) days) that a Family member no longer resides in the Unit.
- (4) If the BHA has given approval, a foster child or a Live-In-Aide may reside in the Unit. See also the definition of Family in Chapter 18: Glossary.
- (5) A Family Member may engage in legal profit making activities in the Unit, but only if such activities are incidental to the primary use of the Unit for residence by members of the Family.
- (6) The Family must not sublease or let the Unit.
- (7) The Family must not assign the Lease or transfer the Unit.
- (h) *Absence from the Unit.* The Family must supply any information or certification requested by the BHA to verify that the Family is living in the Unit, or relating to a Family absence of the Unit, including any BHA requested information or certification regarding Family absences. The Family must cooperate with the BHA for this purpose. The Family must promptly notify (within thirty (30) days) the BHA of an absence from the Unit. Absence means that no member of the Family resides in the Unit. See also section 11.6.
- (i) *Interest in the Unit.* The Family must not own or have an interest in the Unit.
- (j) *Fraud and other program violation.* The members of the Family must not commit fraud, bribery, or any other corrupt criminal act in connection with the programs.
- (k) *Crime by Family Members.* The members of the Family may not engage in Drug-Related Criminal Activity or Violent Criminal Activity or other criminal activity that threatens the health, safety or

²² See definition of Family in the Glossary for BHA's policy on foster children.

right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the Premises.

- (l) *Alcohol abuse by Family Members.* The members of the Family must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other Participants and persons residing in the immediate vicinity of the Premises.
- (m) *Other housing assistance.* An assisted Family, or any member of the Family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same Unit or for a different Unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

13.6 Procedure for Terminating Assistance

13.6.1 Consideration of Circumstances

In determining whether to terminate assistance because of action or failure to act by members of the Family:

- (a) The BHA may consider all relevant circumstances, such as the seriousness of the violation, the extent of participation or culpability of individual Family members, mitigating circumstances related to the Disability of a Family member, the role of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, and the effects of the termination of assistance on other Family members who were not involved in the violation(s).
- (b) The BHA may impose, as a condition of continued assistance for other Family members, a requirement that Family members who participated in or were culpable for the action or failure to act will not continue to reside in the Unit. The BHA will impose this requirement by removing the Family member from the Family Composition and having the Head of Household sign an agreement stating that the person who violated the program rules will not visit or reside in the assisted Unit or visit in the assisted Unit. A failure to keep this agreement may result in termination.
- (c) If the Family includes a Disabled Person, the BHA decision to terminate may be subject to consideration of a request for Reasonable Accommodation. The BHA will inform every Family subject to termination of their right to request a Reasonable Accommodation under the BHA's Reasonable Accommodation policy.

13.6.2 Proposed Termination Notice

The Leasing Officer will send the Family a notice of proposed termination (by first class and certified mail). The notice will contain a brief statement

with the reason for the proposed termination. The notice will also explain the Family's right to request an informal hearing if they disagree with the BHA basis for termination.

If the Certified Mail is returned to the BHA with a return receipt indicating that delivery was attempted by the USPS but that the addressee failed to pick up the certified mail, AND the first class mail is NOT returned, the notice will be considered received.

13.6.3 Failure to Respond to Termination Notice

If the Family fails to respond within twenty (20) days (thirty (30) days under HUD's non-citizen rule), the BHA will send the Participant a prompt notice of termination (by first class and certified mail). The BHA will also send a copy of the letter to the Owner. The BHA will grant a request for a hearing when a Participant submits a late request, together with evidence of *compelling circumstances* that prevented the Participant from requesting a hearing within twenty (20) days. Late request will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period.

13.6.4 Reinstatement after Failure to Request a Hearing

If the failure to request a hearing within twenty (20) days is due to a documented disability, the BHA will reinstate the subsidy. See also BHA Reasonable Accommodation in Rental Assistance Policies and Procedures).

13.6.5 Private Conference

The BHA will use its discretion to schedule a private conference with a Family in an attempt to resolve the alleged violation(s). The BHA has no obligation to schedule a private conference before the informal hearing.

13.7 Informal Hearings for Participant Families

13.7.1 When an Informal Hearing must be offered to a Family

The BHA will offer a Family participating in the program an informal hearing for the following reasons:

- (a) A determination of the Family's annual or adjusted income, and the use of such income to compute the Housing Assistance Payment;
- (b) A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from BHA allowance schedule;
- (c) A determination of the Family Unit Size under the BHA Subsidy Standards;

- (d) A determination to terminate assistance for a Participant Family because of the Family's action or failure to act;
- (e) A determination to terminate assistance because the Family has been absent from the assisted Unit for longer than maximum period permitted under BHA policy and HUD rules. See section 13.5.2(h);
- (f) A determination to deny a Reasonable Accommodation;
- (g) A determination to deny assistance under the BHA's Residual Family policy.
- (h) A determination of ineligibility for continued assistance.

13.7.2 When an informal hearing is not required

The BHA is not required to provide a Participant Family an opportunity for an informal hearing for any of the following:

- (a) Discretionary administrative determinations by the BHA;
- (b) General policy issues or class grievances;
- (c) Establishment of the BHA schedule of Utility Allowances for families in the program;
- (d) A BHA decision not to approve an extension or suspension of a Voucher term;
- (e) A BHA determination not to approve a Unit or tenancy;
- (f) A BHA determination that an assisted Unit is not in compliance with HQS;
- (g) A BHA determination that the Unit is not in accordance with HQS because of the Family size;
- (h) Failure to request a Final Voucher within 20 days of vacating a subsidized unit.
- (i) A BHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract.

13.7.3 Notice to the Family to Request an Informal Hearing

- (a) In the cases described in sections 13.7.1(a), (b), (c), and (h) the BHA will notify the Family of the basis for the BHA determination. If requested by the family, the BHA will schedule a private

conference in accordance with section 13.6.5 and section 8.6 in these situations. The family must request the private conference with twenty (20) days of the date of the notice of rent share determination. If a resolution cannot be reached at the Private Conference, the BHA will notify the Family in writing of its decision and advise the Family that they may request an informal hearing within twenty (20) days of the date of the final notice of determination.

- (b) In the cases described in sections 13.7.1(d), (e), (f), (g) the BHA will notify the Participant as explained in section 13.6.2.

13.7.4 Expeditious Hearing Process

The BHA will hold a hearing and issue a decision promptly. The Family will continue receive assistance while a decision is pending.

Pursuant to Sections 11.3, 11.3.1 and/or 11.3.2., the BHA may deny relocation with continued assistance where there are grounds for denial or termination of assistance.

13.7.5 Hearing Procedures

- (a) *Time to request a hearing.* The Participant has twenty (20) days from the date of the proposed termination letter, except in Non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member. The BHA will grant a request for a hearing when a Participant submits a late request, together with evidence of compelling circumstances that prevented the Participant from requesting a hearing within twenty (20) days. Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period.
- (b) *Scheduling.* The BHA Department of Grievances and Appeals will schedule an informal hearing upon the receipt of a Participant's written request. The Participant will be given at least fourteen (14) days notice prior to the hearing date.
- (c) *Discovery.*
 - (1) The BHA will give the Family the opportunity to examine before the hearing, any documents in BHA's possession that are directly relevant to the hearing. The BHA will allow the Family to make copies of the relevant documents before the hearing at the Family's expense. The BHA will also allow a representative of the Family with an authorized release may have access to the file. If the BHA

does not make the document available to the Family for examination upon request, then the BHA may not rely on the document at the hearing.

- (2) The Family must allow the BHA to examine any Family documents that are directly relevant to the hearing before the hearing upon request. The Family must allow the BHA to examine the relevant documents at the BHA and the Family will allow the BHA to copy the relevant documents at the BHA's expense. If the Family does not make the document available to the BHA for examination upon request, then the Family may not rely on the document at the hearing.
- (3) Either party may request an extension if required to rebut documents that were not provided to the opposing party prior to the hearing. Extensions will be granted at the discretion of the hearing officer.
- (d) *Amendments to Proposed Terminations.* If the BHA wishes to amend the grounds for the proposed termination, the BHA must notify the Participant of the amendment in writing, not less than fourteen (14) days prior to the hearing date. The amendment will be sent by regular and certified mail to the Participant's address of record. When sending out an amended proposed termination notice, the amended notice shall contain all violations. If the Participant has already requested a hearing due to the original proposed termination, a request for a hearing due to the amended notice is not required.
- (e) *Representation of Family.* At its own expense, the Family may be represented by a lawyer or other representative of the Family's choice.
- (f) *Evidence.* The BHA and the Family will each be given the opportunity to present evidence and question any witnesses. The Hearing Officer may consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- (g) *Hearing File.* The hearing file shall consist of all documents submitted by either party in relation to the subject of termination. The BHA shall maintain audio recordings of all termination hearings.
- (h) *Hearing Officer.* Any designated BHA employee may conduct the informal hearing, other than a person who made the decision under review or his or her subordinate. The person who conducts the hearing may regulate the conduct of the hearing in accordance with the BHA's hearing procedures.

(i) *Extensions.* The hearing officer may use discretion to grant an extension or continue the hearing to hear additional evidence or testimony.

(j) *Issuance of Decision.* The hearing officer shall make a factual determination relating to the individual circumstances of the Participant based on a preponderance of the evidence presented at the hearing. The hearing officer shall take into consideration all relevant circumstances and any mitigating circumstances presented by the Participant. The hearing officer shall promptly render a written decision stating briefly the reasons for the decision. The hearing officer will send a copy of the decision to the Family by certified and first class regular mail. The hearing officer will also forward a copy of the decision to the Leased Housing Division and the Leasing Officer.

(k) *Default and Rescheduling.* The DGA will issue a Default if the Participant does not appear in the DGA within 30 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing may be rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent reschedule requests must be supported by evidence of compelling circumstances that would prevent the participant attending. Reschedule requests submitted after the hearing date must be submitted within thirty (30) days of the hearing date and be BHA may terminate the subsidy, if the Participant does not attend the hearing and does not attempt to reschedule.

(l) *Compelling Circumstances* Compelling Circumstances – when analyzing whether or not a participant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the written facts or circumstances submitted by the participant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the participant has attempted to remedy the request/default; (2) the nature of the participant's explanation; (3) whether or not the participant could have prevented the untimeliness; and, (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. ***Please Note the review will be based solely on the documents submitted, no hearing will be scheduled to determine compelling circumstances.***

Failure to receive the proposed termination notice or hearing notice will not be considered a compelling circumstance if the Participant did not receive the notice because of his/her failure to provide the BHA the correct and most current address. If the proposed

termination /hearing notice was sent via certified mail and first class mail and is returned to the BHA with a return receipt indicating that delivery was attempted by USPS but that the addressee failed to pick up the certified mail AND the first class mail was not returned as undeliverable, the notice will be considered received and the BHA may terminate the subsidy..

(m) Effect of Decision.

- (1) If the decision to terminate the Family's assistance is **upheld**, the Family will no longer receive assistance under the section 8 program. The Leased Housing Division will promptly send the Owner and the Participant a notice of termination. There is no additional opportunity within the BHA to appeal the hearing officer's decision.
- (2) If the decision to terminate the Family's subsidy is **reversed**, the Family will continue to receive assistance under the Section 8 program and will be considered a tenant in good standing.
- (3) The Administrator or his or her designee may find that the BHA is not bound by an informal hearing decision:
 - (i) Concerning a matter for which the BHA is not required to provide an opportunity for an informal hearing, or that exceeds the authority of the person conducting the hearing, or
 - (ii) Is contrary to HUD regulations or requirements, or otherwise contrary to federal, State or local law.

Under such circumstances, the Administrator or his or her designee will make the determination to continue or terminate Participant's assistance. The BHA will promptly notify the Participant of the determination, and of the reasons for the determination. There will be no further opportunity within the BHA to appeal the decision.

- (4) The BHA may use its discretion to overturn a hearing that was "upheld" if the reason for termination was discretionary. If the BHA overturns an "upheld" hearing, it does not have to meet the requirements listed in section l(3) above.

CHAPTER 14: Programs Administered by the Leased Housing Division and Special Housing Types

14.1 Family Unification Program

14.1.1 General Description

The Family Unification Program (FUP) is a program for Families referred to the BHA by the Department of Social Services (DCF). Once the Family is determined to qualify by DCF, the referral form for the Applicant is forwarded to the BHA. DCF provides the BHA with a completed Family certification form which will certify whether the lack of adequate housing is a primary factor in the imminent placement of a Family's child or children in out-of-home care or in the delay of reuniting a child or children who are in out of home care with the Family. The BHA will notify DCF when the waiting lists opens and DCF may refer Applicants to the waiting list at that time. See also section 14.1.5.

14.1.2 Goals of the FUP

The goal of the FUP is to help Families within the child welfare system to find affordable and decent housing in a safe and supportive environment.

14.1.3 DCF Role in the FUP

The mission of the DCF is to protect children and provide preventative services which aid and support a Family environment. DCF experience indicates that housing is unequivocally a critical element to the stability of any Family. As part of the DCF role in protecting children who have been abused, DCF provides services which enable children to occupy a safe, caring home. Therefore, the DCF is pleased to commit the necessary resources to the FUP.

14.1.4 Placement Definitions that Qualify Families for FUP

The following definitions have been established to identify the Applicants who may be eligible to participate in the Family Unification Program.

(a) For families with children in placement:

- (1) Children are in placement as documented by an "Authorization for Placement Services" provided by the Department of Social Services, or a private agency acting on behalf of the Department; and
- (2) Children are remaining in placement due to lack of adequate housing as documented by the child's Family Assessment, the Service Plan, the Progress Supervisory Review Form, or other written documentation authorized by the area director; or

- (3) Children are to be returned to the Family as documented by the Service Plan, where the return date is past or pending within 90 days, and lack of adequate housing is a documented barrier to the plan with respect to the reunification of Family in a residence/home.

(b) For families with children not in placement:

- (1) Lack of adequate housing has been identified; and the Family is unable to find safe, decent and affordable permanent housing; the Family is at risk of out-of-home care for their children due to homelessness.
- (2) Lack of adequate housing exists if the Family lives in substandard housing, the Family is homeless, the Family is displaced by Domestic Violence, or the Family is living in an Overcrowded Unit.
- (3) A person who is imprisoned or otherwise detained pursuant to an Act of the United States Congress or a Federal or State Law will not be eligible to become a member of the Family Composition under the Family Unification Program.

14.1.5 Identifying Eligible Family Unification Program Families

DCF will identify Families who appear to meet the eligibility for the FUP. DCF will certify whether the lack of adequate housing is a primary factor in the imminent placement of a Family's child or children in out-of-home care or in the delay of reuniting children who are in out-of-home care with the Family. This certification form is completed by DCF. The certification is approved by a DCF supervisor and then forwarded to the Regional Office FUP Coordinator who will make the final determination of eligibility for the FUP. Once the Family is determined to qualify by DCF, the referral form for the Applicant is forwarded to the BHA. The BHA shall maintain a FUP waiting list. If all slots in the FUP are full, the Applicant/Participant is placed on the FUP waiting list according to the date and time of application. Such waiting list shall be closed if the BHA receives a sufficient number of Applicants to maintain an adequate waiting list and the BHA notifies Applicants that the waiting period has become excessive. The BHA will notify DCF when the waiting lists opens and DCF may continue to refer Applicants to the waiting list at that time. The BHA will make a determination of final eligibility for the Housing Choice Voucher Program for a FUP Applicant.

14.1.6 Foster Youth To Independence (FYI)

Public housing agencies (PHAs) administer FUP (including FYI) in partnership with Public Child Welfare Agencies (PCWAs), who are responsible for referring families and youth to the PHA for a determination of eligibility for FUP rental assistance. Once the PCWA makes the referral, the PHA places the

FUP applicant on its waiting list,³ determines whether the family or youth meets HCV program eligibility requirements, and conducts all other processes relating to voucher issuance and administration. The PCWA is responsible for providing or leveraging follow-up supportive services, such as educational counseling and job preparation, for the period defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which the funding was made available.

FYI assistance, is subject to a 36-month time limit. However, eligible youth may request an extension of FYI voucher assistance for up to 24 months beyond the 36-month time limit of assistance if they are participating in an FSS program.

An eligible youth who is participating in the Family Self-Sufficiency (FSS) program is entitled to receive FYI assistance for up to an additional 24 months beyond the 36-month time limit of assistance as long as the youth is in compliance with the applicable terms and conditions of the FSS program.

A PHA that carries out an FSS program must inform the FYI youth of the availability of the FSS program at the time the voucher is issued and offer them an FSS slot, if available, or offer to place them on the FSS waiting list.

At the 36-month and 48-month reexaminations, the PHA must extend the FYI voucher assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program. In any case, the FYI youth cannot receive more than a total of 60 months of FYI voucher assistance even if the FSS Contract of Participation time period extends beyond the FYI voucher 60-month mark.

Families cannot be required to participate in the FSS program as a condition of receipt of assistance under the HCV program, including FYI assistance. However, only FYI youth that sign an FSS Contract of Participation and comply with the requirements of the FSS program are entitled to receive an extension of the time limit for voucher assistance under this statutory provision. FYI youth must participate in the FSS program if it is available to them in order to receive the extension of the time limit for voucher assistance unless the youth meets one of the statutory exceptions described below.

(a) Extension of Assistance Exceptions

1. FYI youth is a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person.
2. FYI youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

3. The FYI youth is a person who is incapable of complying with the requirement to participate in a Family Self-Sufficiency (FSS) program as described in paragraph (a) above or engage in education, workforce development, or employment activities as described in paragraph (b) above, as applicable, due to a documented medical condition.

14.2 Non-Elderly Disabled Housing Program (Mainstream Program)

The Non-Elderly Disabled Housing Program (Mainstream Program) is designed to provide housing assistance in the form of a one-bedroom voucher to a Disabled Person who is under the age of sixty-two (62). In addition to Section 8 assistance, the BHA has created a network of services to aid Mainstream Program Applicants and Participants in their search for housing. These services include referrals to agencies within the Boston area who offer support such as housing search assistance, information on disability issues, and advocacy services for a Disabled Person.

A Mainstream Program Applicant will be required to verify their disability by presenting the Disabled Certification Form signed by a medical or rehabilitation professional or qualified non-medical service agency whose function is to provide services to the Disabled. The Applicant will also have to meet income guidelines set by the Section 8 program and must also be eligible for a one-bedroom Apartment under BHA Subsidy Standards. After all eligibility requirements for the Section 8 program and the Mainstream Program have been determined, an eligible individual is offered a Voucher to begin searching for housing. As a Reasonable Accommodation, Mainstream program Participants shall be offered a two-bedroom Voucher if the BHA approves the Participant's request for a Live-In-Aide as an exception to the BHA's Subsidy Standards.

An Applicant who meets the definition of a Disabled Person and qualifies for a one-bedroom Voucher will be taken in the order of the BHA waiting list (based on date and time of application). An Applicant will be required to complete the requisite certification form regarding the existence of a Disability. An Applicant on the waiting list will also be required to provide documented proof of their Priority status. Respondents to this notification will be placed onto a separate, Non-Elderly Disabled Housing Program waiting list. Such waiting list shall be closed if the BHA receives a sufficient number of Applicants to maintain an adequate waiting list. The BHA will give public notice in a local newspaper of general circulation, neighborhood newspapers, and also by Minority media whenever the BHA is opening the waiting list to Applicants and will state where and when to apply.

14.2.1 Mainstream Voucher Term

A. A Voucher will have an initial term of 120 days. The term of the voucher is the amount of time the Family has to find approvable housing. Vouchers will expire 120 days from the date of issuance unless the BHA suspends or

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extends the term of the voucher. This initial 120 day term will also apply when a family chooses to move to a new unit with continued assistance inside or outside the BHA's jurisdiction, in accordance with 24 C.F.R. 982 Subpart H.

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B. Expiration. The voucher expires automatically on the date indicated on the voucher unless the voucher term changes due to an extension or suspension. The initial voucher states the expiration date.

C. Withdrawal. See Section 7.2.3.

D. Voucher Suspension policy. See Section 7.2.4

E. Extension of SeachTime. See Section 7.2.5. The extension term for a mainstream voucher will be a minimum of 90 days. The first extension request, regardless of how the request is made (written or verbal) or when it is made, as long as the request is made on or before the term expiration date and is consistent with the applicable requirements. Subsequent requests will be processed in accordance with the BHA Administrative Plan. The BHA will notify the family prior to the initial term expiration to remind of the initial term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

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14.3 Family Self-Sufficiency (FSS) Program

14.3.1 Introduction

The BHA developed its FSS Program for current HCVP Participants. The FSS Program is voluntary and offers Families an opportunity to receive supportive services as they work towards economic self-sufficiency by building savings through an escrow account. The BHA surveys all HCVP Participants to determine interest in participating in the FSS program. An interested Participant will be given an opportunity to apply for the FSS Program.

14.3.2 Eligibility and Recruitment

The FSS Program is open to current HCVP Participants (including Homeownership), as well as current Moderate Rehabilitation Participants. The BHA periodically surveys all HCVP Participant to determine their interest in the program. To facilitate this effort, a brochure has been developed to promote the program. Leasing Officers discuss the availability of the FSS Program to Applicants/Participants when they attend their annual Recertification appointment. Applicants/Participants who indicate an interest in the program are placed on a waiting list and invited to a group or individual information/intake appointment and provided with the opportunity to apply for the FSS Program. People will be invited in order, i.e. "first come, first served". When a participant in the BHA's Public Housing FSS program becomes a participant in the Housing

Choice Voucher program via Super Priority they shall be permitted to transfer their FSS participation as well.

14.3.3 Individual Training & Service Plan (IT&SP) and FSS Contract

The BHA employs coordinators whose primary duties are to work with FSS Families, and may also partner with outside partner(s) to provide additional supportive services. The FSS Coordinator performs a "needs assessment" of each Applicant in order to determine what services are necessary for the Family to achieve the goal of self-sufficiency. The Coordinator uses the "needs assessment" to develop an Individual Training and Service Plan (IT&SP) for the Family. This plan breaks the large goal of self-sufficiency into smaller interim goals and outlines the activities and services necessary, along with an estimated time frame to achieve these goals. Interim goals help the FSS Coordinator and the Family to measure success and are required by HUD regulations.

Upon completion of the IT&SP, the FSS Coordinator will prepare the Family's FSS Contract of Participation. The FSS Contract includes the effective date, term, responsibilities of the Family and BHA and provisions for establishing an escrow account. Both the Contract and the IT&SP are explained by the FSS Coordinator who also obtains any release of Information forms necessary to monitor the plan and contract. The IT&SP and FSS Contract are signed by both the Head of FSS family (the designated adult family member of the FSS Family who has signed the COP) and the FSS Coordinator. The term of the FSS Contract is for five years and may be extended for up to two years.

14.3.4 Monitoring/Case Management

The FSS Coordinator monitors the IT&SP during the term of the FSS Contract and provides case management services. The FSS Coordinator links the Family with services and provides support to help the Family achieve its goals. Individual appointments are scheduled as necessary and the FSS Coordinator is also available by telephone for crisis intervention to help the Family achieve the goals set forth in the FSS Contract. FSS Participants are required to keep at least 2 appointments per year, although many Participants will meet with their FSS Coordinator on a much more frequent basis. Workshops are held for FSS Participants throughout the year and include topics such as budgeting, credit repair, homeownership and stress management.

14.3.5 Escrow Account

The FSS program requires establishment of an escrow account. The FSS Coordinator explains the process for creation and maintenance of the FSS escrow account during the initial intake/information session and at the time of FSS Contract execution. The BHA uses Housing Assistance funds paid by HUD for the FSS Escrow deposits. The figures of Annual Income, Earned Income and Total Tenant Payment (TTP) on the FSS Contract of Participation become the baseline for future escrow

calculations. If the Family's TTP increases due to an increase in earned income beyond the baseline figures, the difference is escrowed. When the BHA calculates that the FSS Participant is entitled to its first FSS credit (generally at the annual or interim re-certification), an escrow account will be established. The BHA will utilize an escrow account credit worksheet to calculate the amount to be deposited into the escrow account. The BHA is required to deposit all escrowed funds into a single depository account for the entire FSS Program so that the IRS will not count the funds or interest for purposes of income tax. Funds held by the BHA will be invested in HUD-approved investments specified in HUD Handbook 7475. FSS Participants will receive an annual report on the status of their escrow funds at the end of each fiscal year.

The amount in the FSS account, in excess of any money owed to the BHA, is paid to the Head of FSS Family upon successful completion of the FSS Contract. The BHA may disburse a portion of the FSS account before the end of the Contract if the Participant has fulfilled certain interim goal(s) and the money is necessary for completion of the FSS Contract goals.

Escrow deposits are made by the BHA on the assumption of rent paid by the tenant. If a Family does not pay their rent to the their landlord the escrow funds may be forfeited because failure to comply with the lease is a Family obligation under the FSS program. Nonpayment of rent is grounds for terminating a Family's FSS participation and subsidy and forfeiture of the escrow. See section 13.2.1.

If a program Participant is terminated from the HCVP at any point during the term of the FSS contract, or if the Family is still receiving Temporary Aid for Needy Families (TANF) benefits at the end of the term of the Contract of Participation, the Family's accumulated escrow account will be returned to the BHA. The BHA will use such funds for HUD approved expenses and will be treated as additional program receipts.

14.3.6 Portability

Participating FSS Families are required to Lease an Apartment within the Commonwealth of Massachusetts for the first twelve months of the contract. After this period, a Family may utilize Portability. An FSS Family that chooses to move outside Boston must meet with the Coordinator to determine the best course for their FSS participation. The following options may be available:

The Family continues in the BHA's FSS Program if they are able to maintain services and activities outlined in the IT&SP.

The Family may enter the FSS Program of the Receiving Housing Authority if this option is available. The Family must demonstrate that they will be able to complete the FSS Plan in the new area. The Family would enter an FSS Contract with the Receiving Housing Authority for the

term remaining on the Family's contract with the BHA. The BHA will then terminate its contract with the Family.

If the Receiving Housing Authority does not have a FSS Program, or has no opening within its FSS Program, or the Family decides not to continue in the FSS Program, the BHA will terminate its FSS Contract with the Family and any escrow funds will revert back to the BHA. To ensure continuity of service, the BHA will provide opportunities for FSS Program participation for a Family coming into Boston.

14.3.7 FSS Contract Compliance

The IT&SP will be monitored by the FSS Coordinator. A FSS Participant is required to meet with the FSS Coordinator at least once a year to determine if the Family is complying with their plan. A FSS Participant who has not kept an appointment with the FSS Coordinator for one (1) year will be placed on probation. A FSS Participant who does not keep appointments for two (2) years will be sent proposed termination notices from the program. An FSS Participant must comply with the terms of the Lease, including payment of their rent share to the landlord.

If the FSS Coordinator determines that the Family is not keeping appointments with the FSS Coordinator, is failing to actively participate in activities according to the time frames specified in their contract or if they are in violation of any provision of their contract of participation, a conference will be scheduled to discuss the violation(s). At the conference, the Coordinator will attempt to resolve the matter by obtaining an understanding of why the Family is not in compliance and determine if adjustments to goals, services, and/or the timetables are necessary and/or appropriate in an effort to help the Family complete their FSS Contract. The Family will be advised that the FSS Contract can be terminated and any escrow funds will be forfeited upon further violations of the FSS Contract. In most cases, problems are resolved at this step. However, if the FSS Coordinator is unable to reach a satisfactory resolution with the Family, additional administrative action may be necessary.

If additional violations of the FSS Contract occur, or the conference does not successfully resolve the matter, the Coordinator will propose termination of the FSS Contract. A letter proposing termination will be sent to the tenant via Certified Mail. The letter will state the reason(s) for the proposed termination and inform the Participant that (s) he has the right to request a conference if there is disagreement regarding the termination. The Participant will be advised to put the request for a conference into writing within ten (10) days to the FSS Coordinator.

At the conference, the Family may state its objection to termination of its FSS Contract. The Coordinator will bring this information and recommendations to hi(s) her supervisor. After a review of this information by the supervisor, the Family will be notified in writing within ten (10) business days of the decision to terminate the FSS Contract or to

further modify the plan. If the decision is to terminate, the Family will receive a 30-day notice of this action and will forfeit all funds in its escrow account.

The BHA will not terminate HCVP assistance because of the Family's failure to meet FSS responsibilities (see PIH notice 95-5). Section 8 assistance will be terminated only as provided by HUD and the BHA in the manner applied to all Section 8 subsidy holders.

14.3.8 FSS Contract Completion

Completion of the FSS Contract occurs when:

- (a) The Family has fulfilled all of its responsibilities under the contract; or
- (b) 30% of the Family's monthly-adjusted income is equal to or greater than the Payment Standard amount for the Unit size for which the Family is eligible, or the Gross rent for the Unit rented.
- (c) At any time during the term of the contract of Participation, the BHA may determine that the Family has met its obligations under the FSS Contract. At that time, the amount in the Family's escrow account, less any amount owed to the BHA, will be paid to the Head of the Household.
- (d) The BHA reserves the right to terminate the FSS Contract of Participation before its expiration date under the following circumstances:
 - (1) On determination that the Head of Household or participating Family member failed to fulfill the terms of the contract or any extensions thereof;
 - (2) The Family withdraws from the FSS Program;
 - (3) By mutual consent of both parties;
 - (4) For an act(s) that is/are deemed inconsistent with the purposes of the FSS Program;
 - (5) By operation of law; or
 - (6) When the participating Family is no longer receiving Section 8 assistance.
 - (7) The BHA may declare the Contract null and void if resources and services necessary to complete the contract are not available. If resources and services aren't available, can BHA may release the escrow to the tenant that has been accrued to date.

14.3.9 FSS Program Coordinating Committee

The BHA has brought together a variety of community agencies and private businesses to serve on the FSS Program Coordinating Committee. The Coordinating Committee works with the Service Coordinators to help identify and obtain services necessary to implement the program. The Coordinating Committee meets on a regular basis and the coordinators may consult with individual committee members between meetings. New committee members may be solicited from the community. The committee provides support and information to help the FSS Program serve as many families as possible.

14.4 Designated Housing Vouchers

Designated Housing Vouchers enable a non-Elderly Family with a Disabled Person, who would be eligible for public housing if occupancy were not restricted to Elderly families to lease safe, decent and affordable housing. These Vouchers also assist a Family affected by a BHA decision to designate their buildings as "mixed Elderly and disabled buildings" but demonstrate a need for alternative resources for a Family with a Disabled Person.

14.4.1 Families Eligible for Designated Housing

A Non-Elderly Family with a member who is Disabled Person that is income eligible and lives in public housing that has been designated for occupancy or is on the public housing waiting list, does not need to be listed on the BHA's HCVP waiting list receive HCVP assistance. Instead, these types of Families may be admitted to the HCVP as a Special Admission.

14.5 Skinner Program

In 1989 US District Court Judge Walter Skinner ruled against HUD and ordered the agency to design a program to "facilitate access to suburban housing opportunities for low-income minority households." As a result the federal government made a special award of Section 8 Vouchers to the BHA. The Vouchers, called Skinner Vouchers, are to be used specifically to help minority Families explore housing opportunities in non-minority areas. The Boston Fair Housing Commission (BFHC) is responsible for providing counseling services to Families in the Skinner program.

Admission under the Skinner Program is considered a Special Admission by HUD. The BHA will issue Skinner Vouchers, when available, to Families who meet the following criteria:

- Minority Head of Household
- At least one child under the age of 18
- Willing to move to a predominantly non-minority area in metropolitan Boston.

14.6 Special Housing Types

BHA will not permit the use of any special housing types other than those listed here.

14.6.1 Shared Housing

HUD defines Shared Housing as an Apartment occupied by two or more Families. The Unit consists of both common space for shared use by the occupants of the Unit and separate private space for each Family. A Voucher may be used in Shared Housing in accordance with 24 C.F.R. §§ 982.615-618.

Shared Housing permits the assisted Family to share a Unit with one or more assisted, or unassisted families. Zero and one-bedroom units are not eligible for Shared Housing assistance.

The Owner of a Shared Housing Unit may live in the Unit with the assisted Family and enter into a HAP Contract with the BHA provided that there is no blood, marital, or domestic partnership ties between the Owner and the assisted Family. Under no circumstances may housing assistance payments be made on behalf of an Owner. The BHA may approve a Live-In-Aide in Shared Housing and must approve one if a Disabled Person needs a Reasonable Accommodation to readily access and use the program.

- (a) *Unit Requirements.* There must be a separate HAP Contract and Lease for each assisted family residing in a Shared Housing Apartment. The entire Apartment must pass HQS and additional BHA inspection standards and provide adequate space and security, for all its residents, not just for the assisted Family. There must be at least one private bedroom for each two members of the assisted Family and the number of bedrooms may not be less than the Family Unit Size. In addition to the private space for the assisted Family, the Apartment must have a living room, sanitary facilities in accordance with 24 C.F.R. § 982.401(b) and food preparation and refuse disposal facilities in accordance with 25 C.F.R. § 982.401(c). The Rent to Owner may not exceed the pro-rata portion of the Reasonable Rent for the Shared Housing dwelling Unit.
- (b) *Payment Standard and Rent.* The Payment Standard for a family residing in a Shared Housing Unit is the lower of:
 - (1) The Payment Standard amount for the Voucher Size; or
 - (2) The pro-rata share of the Payment Standard amount for the size of the Apartment.

- (3) Pro-rata share means the number of bedrooms for the private use of the assisted Family divided by the total number of bedrooms in the Unit. For instance, if the family required and had private use of three bedrooms in a five-bedroom Unit, then its Payment Standard would be the lower of:

(i) The 3 bedroom Payment Standard; or

(ii) Three-fifths of the 5 bedroom Payment Standard, or

(iii) Three-fifths of the Gross Rent.

The utility allowance is the pro-rata portion of the Utility Allowance for the Shared Housing Unit. Only the assisted Family gross income is used to determine the TTP. The TTP is subtracted from the Payment Standard, as determined above, to determine the maximum HAP. If the maximum HAP exceeds the pro-rata share of Rent to Owner, the Family may receive up to the difference as a pro-rata tenant-paid Utility Allowance.

- (c) *Who may reside in Shared Housing?* Two or more Families assisted, or unassisted, by the BHA may enter into a Shared Housing arrangement provided that each family has private use of its Family Unit Size number of bedrooms.

14.6.2 Cooperative Housing

HUD defines a Cooperative as Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular Apartment, and to participate in the management of the housing.

A Voucher may be used in Cooperative Housing in accordance with 24 C.F.R. § 982.619. The initial contract rent will be the monthly carrying charges under the Lease/Occupancy Agreement between the cooperative members and is subject to the BHA's Payment Standard limitations. The carrying charges consist of the member's proportionate share of the debt service, operating expenses and necessary payments to the reserve funds of the cooperative. Monthly carrying charges cannot include down payment or loan repayments to purchase membership shares.

14.6.3 Manufactured Home

HUD defines Manufactured Home as a manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets HQS as well as the following additional requirements. The Manufactured Home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. A tie-down device that distributes and transfers the loads

imposed by the Unit to appropriate ground anchors to resist wind overturning and sliding must securely anchor the manufactured home.

A voucher may be used in a manufactured home in accordance with 24 C.F.R. §§ 982.620-624.

- (a) *Payment Standard.* The Payment Standard for the space only is the lower of the space rent or 40% of the 2 bedroom FMR.

Space rent is the sum of the following as determined by the BHA:

- (1) Rent to Owner for the manufactured home space;
- (2) Owner maintenance and management charges for the space;
- (3) The utility allowance for tenant paid utilities.

- (b) *Required Forms.* The BHA shall use form HUD-52642, the Housing Assistance Payments Contract and form HUD-52642-A``, and the Tenancy Addendum for Manufactured Home Space Rentals.

14.6.4 Single Room Occupancy Housing

HUD defines Single Room Occupancy housing as a Unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A Voucher may be used in SRO housing in accordance with 24 C.F.R. §§ 982.602-605.

A separate Lease and HAP Contract must be used for each assisted person residing in a SRO.

The Payment Standard is the lower of the Rent to Owner or 75% of the BHA zero bedroom Payment Standard.

The utility allowance is 75% of the zero-bedroom utility allowance.

14.6.5 Group Homes

HUD defines a Group Home as a dwelling Unit that is licensed by a State as a Group Home for the exclusive residential use of two to twelve persons who are Elderly or Disabled Persons (including any Live-In-Aide). A Voucher may be used in a Group Home in accordance with 24 C.F.R. §§ 982.610-614 provided its use will make a difference to the individual; e.g., enable the Applicant to change and improve their housing situation.

An Applicant residing in a Group Home may not use a Voucher to Lease in-place if the primary change for the Applicant would be in the state or federal agency that is paying for his housing assistance.

A separate Lease and HAP Contract must be used for each assisted Family.

- (a) *Rent.* The Rent to Owner may not exceed the pro-rata portion of the reasonable rent for the Group Home, i.e., dividing the number of persons in the assisted household by the total number of residents residing in the Group Home. If the Applicant will have private facilities, such as a private bedroom and sanitary facilities, the Family Unit size is one; otherwise the family Unit size is zero.
- (b) *Payment Standard.* The Payment Standard is the lower of:
 - (1) The Payment Standard amount or
 - (2) The pro-rata portion of the Payment Standard amount on the BHA Payment Standard for the Group Home size.
- (c) *Utility Allowance.* The utility allowance for each assisted person residing in a Group Home is the pro-rata portion of the Utility Allowance for the Group Home Unit size.

14.6.6 Congregate Housing

HUD defines Congregate Housing as housing for Elderly or Disabled Persons that meets the HQS for congregate housing.

A voucher may be used in Congregate Housing in accordance with 24 C.F.R. §§ 982.606-609 provided its use will make a difference to the individual; e.g., enable the Applicant to change and improve their housing situation.

A separate Lease and HAP Contract must be used for each assisted Family. The Payment Standard is the zero-bedroom Payment Standard amount or zero-bedroom exception Payment Standard amount, if any.

If there are two or more rooms in the Unit, not including kitchen or sanitary facilities, the Payment Standard is the one bedroom Payment Standard amount.

14.7 HUD-VASH Program

The BHA will administer the HUD Veterans Affairs Supportive Housing Vouchers ("HUD-VASH") in accordance with this Administrative Plan, 24 CFR part 982, and Docket No. FR-5213-N-01 and any subsequent notice, guidance, or regulation that amends or supersedes Docket No. FR-5213-N-01

14.7.1 Background

The HUD-VASH program combines the HCVP for homeless Veterans with case management and clinical services provided by the Department

of Veterans Affairs ("VA") at its medical centers and in the community. Ongoing VA case management, health, and other supportive services will be made available to homeless Veterans through the Boston Veterans Affairs Medical Center ("VAMC").

14.7.2 Identification of HUD-VASH Vouchers

To ensure availability of a HUD-VASH voucher upon turnover, the BHA will maintain records that allow for the easy identification of all HUD-VASH vouchers. The BHA will also identify these families in the Public and Indian Housing Information Center ("PIC").

14.7.3 Family Eligibility and Selection

The VAMC will screen all Families in accordance with its screening criteria.

The VAMC will refer HUD-VASH eligible families to the BHA for the issuance of vouchers. The BHA will not maintain a waiting list for the HUD-VASH program and will not apply eligibility priorities or preferences to HUD-VASH Applicants.

The BHA shall not deny HUD-VASH applicants for any of the grounds listed in 24 C.F.R. 982.552 or 24 C.F.R. § 982.553 with the exception of 24 C.F.R. 982.553(a)(2)(i), which requires the denial of sex-offenders who have a life-time registration requirement.

14.7.4 Civil Rights and Reasonable Accommodation

Fair Housing requirements prohibit the discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability. When Disabled Veterans are HUD-VASH recipients, reasonable accommodation standards apply. See also Section 1.2.4.

14.7.5 Income Eligibility

The BHA must determine the Income Eligibility for HUD-VASH Applicants in accordance with ~~24 C.F.R. § 982.201~~ and Section 5.5.1(j) of this Administrative Plan. The BHA is not required to include HUD-VASH vouchers in the income targeting requirements set forth at 24 C.F.R. § 982.201(b)(2) and Section 5.5.2 of this Administrative Plan. The BHA will determine the the applicant's annual income for program eligibility by excluding all VA service connected benefits. VA service connected benefits will be included for the purpose of determining the total tenant payment (TTP); housing assistance payment (HAP); and, family share.

14.7.6 Initial Term of the Voucher

The HUD-VASH voucher must have an initial search term of 120 days, which is the same as the initial search term required by this

Administrative Plan. See Section 7.2 for the policies regarding initial voucher term length and term extensions and suspensions.

A. HUD VASH Initial Unit Inspections

The BHA may pre-inspect available HUD VASH units that veterans may be interested in leasing with a HUD VASH tenant based voucher in order to maintain a pool of eligible units. If a HUD VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 90 days of the RFTA the unit may be approved as long as it meets all other conditions under 24 C.F.R. 982.305. See also Section 9 regarding inspections.

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B. HUD VASH Exception Payment Standard

The BHA may approve an exception standard up to 140% of the published FMR or SAFMR only to be applied if required as a reasonable accommodation in accordance with 24 C.F.R. Part 8 for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at 24 C.F.R. 982.507.

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14.7.7 Initial Lease Term

Initial lease terms may be less than one-year for HUD-VASH Participants.

14.7.8 Ineligible Housing

HUD-VASH Families will be permitted to live on the grounds of a VAMC. This effectively waives the regulation set forth at 24 C.F.R. §982.352(a)(5) which prohibits HCVP unit on the grounds of a medical, mental, or similar public or private institution.

14.7.9 Portability of HUD-VASH Vouchers

If the Family initially leases up, or moves under portability provisions, but the initial PHA's partnering VAMC will still be able to provide the necessary case management services due to the proximity to the partnering VAMC, the receiving PHA must process the move in accordance with the Portability procedures of 24 C.F.R. § 982.355 and those in Chapter 12 of this Administrative Plan. However, the receiving PHA must bill the initial PHA to comply with the record keeping requirements established above. The receiving PHA does not have the option to absorb the HUD-VASH Family.

When the receiving PHA completes the HUD-50058 under the scenarios above, the action type that must be recorded on line 2a is "1" for a new admission (a Family that is new to the HCVP) or "4" for a portability move-in (a Family that was previously leased up in the jurisdiction of the initial

PHA). Whether the Family is a new admission or a portability move-in, in section 12 of the HUD-50058, line 12d is marked "Y," 12e must have an amount recorded, and 12f must include the initial PHA's code. [A family that moves under portability procedures must not be subject to rescreening by the receiving PHA.](#)

If a Family moves where it will not be possible for the initial PHA's partnering VAMC to provide case management services, the VAMC must first determine whether the HUD-VASH Family could be served by another VAMC that is participating in the program, and the receiving PHA must have a HUD-VASH voucher available for this Family. If the above conditions are met, the Families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible Family as determined by the partnering VAMC and the absorbed Family will count towards the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the HUD 50058 under the scenarios above, the action type that must be recorded on line 2a is "1" for a new admission (a Family that is new to the HCVP) or "4" for a portability move-in (a Family that was previously leased up in the jurisdiction of the initial PHA). Whether the Family is a new admission or a portability move-in, in section 12 of the HUD-50058, line 12d is marked "Y," 12e must be 0 since the Family must be absorbed, and 12f must be left blank.

[Except in cases of victims of domestic violence, dating violence, sexual assault and stalking, the PHA must consult with the VA prior to approving the port.](#)

[Veterans who request to port beyond the catchment area of the VA medical facility where they are receiving case management in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes themselves to be threatened with imminent harm from further violence by remaining in the dwelling unit \(or any family member has been the victim of a sexual assault that occurred on the premises during the 90 calendar day period preceding the family's move or request to move\) may port prior to receiving approval from the receiving VA medical facility but must notify the VA medical facility at the earliest time possible to ensure appropriate supports are provided to the veteran family.](#)

14.7.10 Case Management Requirements

(a) The VAMC responsibilities include:

- (i) Screening of homeless Veterans to determine eligibility for the HUD-VASH program as established by Veteran's Affairs national office;

(ii) Assisting veterans with providing appropriate treatment and supportive services to potential HUD-VASH program Participants, if needed, prior to PHA issuance of rental vouchers, PHA application and assisting the veteran family with obtaining any needed PHA documentation to ensure rapid voucher issuance;

(iii) Referral of homeless veterans to the PHA; Providing housing search assistance to HUD-VASH voucher holders;

~~(iv) Providing case management and supportive services to potential HUD-VASH program participants, as needed prior to PHA issuance of rental vouchers; Identifying the social service and medical needs of HUD-VASH Participants and providing, or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout this initiative; AND~~

(iv) Providing housing search assistance to HUD-VASH voucher participants with rental vouchers; Maintaining records and providing information for evaluation purposes, as required by HUD and Veterans Affairs.

(v) Identifying the social service and medical needs of HUD-VASH Participants and providing, or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout this initiative; AND

(vi) Maintaining records and providing information for evaluation purposes, as required by HUD and Veterans Affairs.

~~(v)~~

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(b) Participation Contingent on Case Management

As a condition of assistance, a HUD-VASH Participant must receive case management services as described above and the failure to participate in case services without good cause, is grounds for termination. HUD-VASH Participants will be required to acknowledge on an annual basis that housing assistance is conditioned on participation in case services. The case management requirement will be an addition to the Family Obligations described in section 13.5.

It is not grounds for termination if the VAMC determines that the Family no longer requires case management.

14.7.11 Transfer from HUD-VASH to Tenant-Based Assistance

If the VAMC determines that the Family no longer requires case management or the Veteran will no longer reside with the Family, the BHA may offer the Family a regular tenant-based voucher in the tenant-based program to free up the HUD-VASH voucher for another Family. The offer of tenant-based assistance is pending funding availability. Receipt of a regular tenant-based voucher is subject to the eligibility requirements set forth in Chapter 5 of this Administrative Plan.

14.7.12 Project Based-Assistance of HUD-VASH Vouchers

The BHA, in conjunction with its partnering VAMC may project base HUD-VASH voucher assistance in accordance with 24 C.F.R Part 983.

(a) PBV Program Requirements

- (1) All projects must be selected, developed and operate in accordance with PBV program regulations and as defined in Section 15 of this Administrative Plan, except as described below.
- (2) Zero HAP option - The BHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to HUD-VASH families if the project is either on the grounds of a VA facility or there are HUD VASH supportive services provided on-site at the project.

Zero HAP families that are admitted under this ~~waiver~~ provision will not be removed from the HAP contract as there is no last housing assistance payment that would trigger removal after 180 days.
- ~~(4)~~(3) All units exclusively made available to HUD-VASH families in a PBV project are exempted from the PBV income mixing requirements (project cap).

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(b) VASH Program Requirements

- (1) Tenants shall be selected in accordance with 14.7.3 of this Administrative Plan.

(c) Right to Move

- (1) The family may terminate the assisted lease any time after the first year of occupancy. If the family has elected to terminate the lease in this manner, the BHA must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance as defined in 24 CFR 983.3. Comparable rental assistance would be a subsidy or other means to enable a family to obtain decent housing in the PHA jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income.

(2) However, before providing notice to terminate the lease (with a copy to the BHA), the family must contact the BHA to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If a voucher or other comparable tenant-based rental assistance is not immediately available, the BHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

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(d) Overcrowded, Underoccupied and Accessible units.

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(i) if the BHA determines that a family is occupying a wrong-size unit, or a unit with accessibility features that the family does not require and the unit is needed by a family that requires the accessibility features (see 24 CFR 8.27), the BHA must:

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(a) Within 30 days from the BHA's determination, notify the family and the owner of this determination; and

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(b) Within 60 days from the PHA's determination, offer the family continued housing assistance, pursuant to paragraph (ii) of this section.

(ii) BHA offer of continued assistance must be in the form of a HUD VASH tenant based voucher or HUD VASH PBV unit. If no HUD VASH assistance is available for the BHA to offer within 60 days of the BHA's determination, the BHA must remove the wrong size or accessible unit from PBV HAP contract to make HUD VASH voucher assistance available to issue the family a tenant based HUD VASH voucher. 24 C.F.R. 983.206(b) is not applicable to this circumstance.

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(3)(e) Continued Case Management Service Requirement

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- i. A HUD-VASH family must receive case management services from the VAMC or CBOC; however, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such cases where a HUD-VASH family wishes to move from its PBV unit, at its option, the BHA may offer the family continued HCV assistance through one of its regular vouchers to free up the HUD-VASH voucher for another eligible family referred by the VAMC or CBOC.
- ii. Where case management is still required, tenant-based rental assistance will be limited to jurisdictions where VAMC or CBOC case management services are available as defined in section II.f. of the Operating Requirements and any other applicable notices.

~~(e)~~ (f) If no HUD-VASH voucher or comparable tenant-based rental assistance is available, the BHA must:

- (1) If a HUD-VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA could require the family to wait for a HUD-VASH tenant-based voucher for a period not to exceed 180 days;
- (2) If a HUD-VASH tenant-based voucher is still not available after that period of time, the family must be allowed to move with its HUD-VASH voucher and the BHA would be required to replace the assistance in the PBV unit with one of its regular vouchers unless the BHA and owner agree to remove the unit from the HAP contract; and

(g) Failure to comply with required case management services. As a condition of assistance, a HUD-VASH PBV Participant must receive case management services as described above and the failure to participate in case services without good cause, is grounds for termination. HUD-VASH PBV Participants will be required to acknowledge on an annual basis that housing assistance is conditioned on participation in case services. The case management requirement will be an addition to the Family Obligations described in section 13.5.

It is not grounds for termination if the VAMC determines that the Family no longer requires case management.

(3) BHA will terminate assistance to the family at the earlier of:

- i. The time the family vacates; or,
- ii. The expiration of the proscribed proposed termination notice period or the end of the month in which a termination decision is issued.

~~(2)~~

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14.7.13 Section Eight Management Assessment Program

Unit months and budget authority associated with HUD-VASH vouchers will not be included in the SEMAP leasing indicator denominator because they are dependent on referrals from VAMC. Utilization of these vouchers will be monitored separately.

14.7.14 Reporting Requirements

The code "VASH" must be used in section 2n of the HUD-50058 form to indicate that the Family is a HUD-VASH Participant. The "VASH" code must remain on the HUD-50058 for the duration of the Family's participation in the HUD-VASH program.

14.8. Emergency Housing Vouchers

BHA will administer the Emergency Housing Vouchers (EHV) in accordance with PIH notice 2021-15 and any subsequent notice, guidance, or regulation that amends or supersedes it.

14.8.1 Background

Section 3203 of the American Rescue Plan Act (ARP) enacted March of 2021 appropriated funding for the EHV. EHV are to assist individuals and families who are experiencing homelessness; at risk of experiencing homelessness; fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. 14.8.2 Required partnerships with the CoC and other organizations or direct referrals and services

The BHA will administer the program in partnership with the City of Boston CoC and any other CoC partnering organizations where necessary. The CoC will perform initial eligibility screening and will directly refer eligible applicants to the BHA. The CoC will utilize the City of Boston Coordinated Entry (CE/CAS) system for all referrals.

14.8.3 Family Eligibility and Selection

The CoC will screen all Families in accordance with its screening criteria. In order to be eligible for an EHV, an individual or family must meet one of four eligibility categories:

- a. Homeless. Individuals and families who are homeless.
The meaning of "homeless" is as such term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

Homeless means:

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
- (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place

not meant for human habitation immediately before entering that institution.

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

- (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
- (ii) No subsequent residence has been identified; and
- (ii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
- (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
- (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

b. At risk of homelessness. Individuals or Families who are at-risk of homelessness. The meaning of “at-risk of homelessness” is as such term is defined in section 401(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(1)), which is codified in HUD’s Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

At risk of homelessness. (1) An individual or family who:

(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition above; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

(2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or (3) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

c. Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

This category is composed of any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer.

Domestic violence includes felony or misdemeanor crimes of violence committed by:

- a. a current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship),
- b. a person with whom the victim shares a child in common,
- c. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- d. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- e. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence means violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1. The length of the relationship;
 - 2. The type of relationship; and
 - 3. The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

Human trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102). These are defined as:

Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (and)

Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

d. Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. Individuals or families who are recently homeless. This category is composed of individuals and families determined by the CoC or its designee to meet the following definition.

Recently homeless is defined as individuals and families who have previously been classified by a member agency of the CoC as homeless but are not currently homeless as a result of homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the CoC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of housing instability. Examples of households that may be defined as recently homeless by the CoC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing. Individuals and families classified as recently homeless must be referred by the CoC or its designee.

14.8.4 Screening requirements

(a) Mandatory Prohibitions

- (1) Conviction of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing to EHV applicants.
- (2) Lifetime registration requirement as a sex offender

(b) Permissive Prohibitions

- (1) If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months Violent criminal activity or other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity
- (2) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program within the previous 12 months.

- (3) If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months

14.8.5 Income Eligibility

The BHA must determine the Income Eligibility for EHV Applicants in accordance with 24 C.F.R. § 982.201 and Section 5.5.1 of this Administrative Plan

The BHA is adopting the following HUD waivers, as described in Notice PIH 2021-15

(a) Income Verification at Admissions

Third-party income verification requirements for EHV applicants and, alternatively, consider self-certification as the highest form of income verification at admission. Applicants must submit an affidavit attesting to reported income, assets, expenses and other factors which would affect an income eligibility determination. Additionally, applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. For example, a Supplemental Security Income (SSI) benefit letter that was issued in November 2020 to represent the applicant's benefit amount for 2021 and was provided to the PHA in September 2021 would be an acceptable form of income verification.

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must: review the EIV Income and Income Validation Tool (IVT). Reports to confirm/validate family-reported income within 90 days of the PIC-NG (see Section 15 of this notice below) submission date; print and maintain copies of the EIV Income and IVT Reports in the tenant file; and resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

PHAs that conduct eligibility determinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later and must take necessary enforcement actions if the tenant was never eligible due to their income, as well as initiate HUD-compliant payment plans for those whose unreported income was unintentional and do not make the tenant ineligible for the program accordingly.

The adoption of this waiver does not authorize any ineligible family to receive assistance under these programs. If a PHA later determines that

an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

(b) Eligibility Determination: Social Security Number and Citizenship Verification

The BHA has adopted policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation. If a family member appeals secondary verification of immigration documents, PHAs are reminded that assistance may not be delayed, denied, reduced or terminated on the basis of immigration status pending the completion of the appeal as described in § 5.514(e).

Additionally, PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

The adoption of this waiver does not authorize any ineligible family to receive assistance under these programs. If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

14.8.6 Initial Term of the Voucher

The EHV voucher must have an initial search term of 120 days, which is the same as the initial search term required by this Administrative Plan. See Section 7.2 for the policies regarding initial voucher term length and term extensions and suspensions.

14.8.7 Initial Lease Term

Initial lease terms may be less than one-year for EHV Participants, regardless of whether the shorter term is prevailing market practice (HUD waiver of 24 C.F.R. 982.309 (a)(2)(ii)).

14.8.8 Portability of EHV Vouchers

The normal HCV portability procedures and requirements generally apply to EHV's with the following exceptions.

- a. No prohibition on portability for non-resident applicants*

Under the HCV program, if neither the household head nor spouse of an assisted family already had a “domicile” (legal residence) in the jurisdiction of the PHA at the time the family first submitted an application for participation in the program, the family does not have any right to portability during the 12-month period from when the family is admitted to the program. Such a family is a “non-resident applicant.” The initial PHA may choose to allow portability during this period but is not required to do so.

In order to provide maximum housing choice for the targeted populations, HUD is removing this restriction for EHV nonresident applicants to allow all EHV families to immediately move under portability. Accordingly, HUD is waiving section 8(r)(1)(B)(i) of the United States Housing Act of 1937 and § 982.353(c). The PHA may not restrict an EHV family from exercising portability because they are a non-resident applicant.

b. Portability billing and absorption

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA does or does not currently administer EHV under its own ACC.

If the EHV family moves under portability to another PHA that administers EHV under its own ACC:

1. The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do). If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
2. Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies, although neighboring PHAs and PHAs in the same metro area or region are strongly encouraged to work collaboratively with one another to align EHV policies and help facilitate EHV portability moves between their jurisdictions.

If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

c. Family briefing/initial PHA and receiving PHA coordination on services

In addition to the applicable family briefing requirements at § 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing taking reasonable steps to ensure meaningful access for persons with limited English

proficiency (LEP). If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family. The primary purpose of this communication is to ensure there is no duplication of EHV services and assistance provided to the family and that the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family. (Further information on this subject is provided in subsection d below.)

d. EHV portability – HAP and EHV administrative fees

1. HAP and ongoing fees

The requirements at 982.355(e) apply to portability billing arrangements on behalf of an EHV family:

- i. The initial PHA must promptly reimburse the receiving PHA for the full amount of the housing assistance payments made by the receiving PHA for the family.
- ii. The initial PHA must promptly reimburse the receiving PHA for the lesser of 80% of the initial PHA's EHV ongoing administrative fee or 100% of the receiving PHA's ongoing administrative fee (or the receiving PHA's EHV ongoing administrative fee if the receiving PHA administers the EHV program). If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

2. Services Fee Funding:

If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA. This is the case regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up.

If the receiving PHA administers EHV's under its CACC, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance. If the receiving PHA does not administer EHV's under its CACC, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving the PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

The amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1750, unless the initial PHA and receiving PHA mutually agree to change the \$1750 cap.

3. Placement fee/issuance reporting fee:

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement/issuing reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its

own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee, as applicable.

Note that the entire preliminary fee is always paid to and retained by the initial PHA and is not impacted by an EHV portability move.

14.8.9 Housing Search Assistance Requirements

- (a) The PHA must ensure that Housing Assistance search is available to EHV families during their initial housing search. The assistance may be provided by the PHA directly or through the COC or another partnering agency or entity.
- (b) Housing Search Assistance is a broad term which can include many activities, but with respect to this requirement it must be at a minimum
 - ~~(1)~~ Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low poverty neighborhoods;
 - ~~(2)~~~~(4)~~ Provide transportation assistance and directions to potential units,
 - ~~(3)~~~~(5)~~ Conduct owner outreach,
 - ~~(4)~~~~(6)~~ Assist with completion of rental applications and PHA forms, and
 - ~~(5)~~~~(7)~~ Help expedite EHV leasing process for the family.

(c) Recommended Housing Search activities

Helping individual families identifying barriers to leasing (e.g. low credit score, eviction history) and strategies to address these barriers to leasing, workshops on how to conduct an effective housing search, enhanced support for portability processing, regular proactive check-ins for expiration date and extension policies, and a dedicated landlord liaison for EHV voucher families. The PHA may use any of the EHV administrative fees (including the services fees) described in Section 6 of the EHV notice.

~~(e)~~~~(d)~~ Service Fees

The BHA shall utilize EHV service fees to pay a security deposit; real estate broker's fees; and other owner related fees such as owner retention payments where other funds are not available.

Effective January 1, 2023, the BHA shall pay a fee to hold a unit while the BHA processes the inspection. The fee shall not exceed the greater of $\frac{1}{2}$ of the contract or the prorated amount of the contract rent that equals the number of days that the unit is held for.

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The BHA shall utilize the EHV service fees to pay a landlord incentive of up to one month's contract rent for an lease of an EHV voucher after January 1, 2023.

14.8.10 Payment Standard Amounts

The Payment Standards for the EHV's will be the same as all other HCV's.

CHAPTER 15: HOMEOWNERSHIP OPTION

15.1 INTRODUCTION

The BHA's Section 8 Homeownership Option of the Housing Choice Voucher Program ("homeownership program" or "homeownership assistance") is designed to promote and support homeownership by a "first-time" homeowner—a Family that moves for the first time from rental housing to a Family-owned Home. Under the Homeownership Program, HCVP Assistance payments supplement the Family's own income to facilitate the transition from rental to homeownership. The initial availability of assistance payments may also provide additional assurance to lenders.

The BHA's Section 8 Homeownership program is generally limited to first time home buyers who are current Housing Choice Voucher program Participants; Moderate Rehabilitation Participants; or, BHA Public Housing Residents. Public Housing residents may qualify for the Homeownership Voucher once they meet eligibility requirements. Residents shall be placed on a list and given priority status to allow them to accomplish the home purchase.

The BHA will market the homeownership option on its website and through regular communications to families. The BHA may limit the number of homeownership program families.

All statutory Family eligibility requirements such as a minimum level of income and a history of full-time employment. (The employment history requirement is not applicable to Elderly and Disabled families, and there is a modified income requirement for Elderly and Disabled families.)

Once a Family has been determined by the BHA to be preliminarily eligible for Homeownership assistance, the Family must attend pre-purchase homeownership counseling sessions conducted by ~~another entity such as a HUD—and BHA-approved certified~~ housing counseling agency and FSS counseling sessions conducted by BHA staff or third party agency.

If determined eligible for a Homeownership Voucher, the Family will then arrange for an independent home inspection, and seek to obtain financing. Homeownership assistance will begin when the Family purchases the Home and after all of the requirements of the homeownership program are met.

All civil rights laws applicable to the Section 8 Housing Choice Voucher Program are applicable to the homeownership program. The BHA must comply with all equal opportunity and nondiscrimination requirements imposed by contract or Federal law. In addition, the BHA may not steer families to particular units or neighborhoods. Further, as in the tenant-based rental Voucher program, the BHA must provide assistance to expand housing opportunities.

If a Family includes any Disabled Person, the BHA will take appropriate steps to ensure effective communication with such Family in accordance with 24 C.F.R. part 8 and to provide Reasonable Accommodation. Except as otherwise

provided, no Disabled Person shall be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because the BHA's facilities are inaccessible to a person with a disability. Accessibility for the hearing impaired is provided by the TDD/TDY telephone number. The BHA will also take reasonable steps to insure effective communication with people with limited language or English ability.

The process for submitting applications or any other documents required for participation in the BHA's programs shall be accessible to all persons. All communications that are part of the process should be in plain language that the applicant can understand, in a form that is appropriate to meet the needs of the person with a disability. If necessary, a format other than written documents will be used. The BHA shall also prepare such documents in clear and simple language, to the extent possible, to assist persons with learning and cognitive disabilities. If requested by persons with such disabilities, BHA staff will explain written material verbally, and possibly more than once, and if necessary, assist the individuals or obtain assistance for them in filling out any necessary forms.

The BHA shall furnish appropriate auxiliary aids (e.g., qualified sign language and oral interpreters, readers, use of taped materials) where necessary to facilitate communication with an individual who has a disability. Auxiliary aids shall be furnished in a timely manner. If a Participant requests an extension of any deadline because of a delay in providing effective communication, such a request shall be considered. The BHA is not required to provide personal items such as hearing aids, magnifying eyeglasses, or readers for personal study.

15.1.1 Keys to a Successful Section 8 Homeownership Program

Education - The BHA program will work with families very early in the process to alert them to potential barriers to homeownership, and assist families to develop and execute a plan to address those barriers.

Partnerships - The BHA Homeownership counseling program will leverage local resources. Partnerships between the public and private sectors will enable families to access funds for down payment and closing costs, attend consumer counseling courses to improve credit, and utilize career counseling services to improve income.

15.2 Eligibility

15.2.1 How to Qualify for Homeownership Assistance

To qualify for assistance under the homeownership option, a Family must meet the general requirements for admission to the BHA's Section 8 tenant-based Voucher program and additional requirements for homeownership assistance (See 24 C.F.R. § 982.627). The BHA may not provide homeownership assistance for a Family unless the BHA determines that the Family satisfies all of the following initial requirements at commencement of homeownership assistance for the Family:

- (a) The Family satisfies the minimum income requirements described in 24 C.F.R. § 982.627(c); and
- (b) The Family satisfies the additional income requirements set by the BHA
 - (1) Participant Family must be above 50% median income or the minimum wage times 2000 hours whichever is greater;
 - (2) Must have at least two years of continuous employment
 - (3) Must have a down payment (3% total and 1% must be from the Family's own funds)
- (c) The Family satisfies the employment requirements described in 24 C.F.R. § 982.627(d);
- (d) The Family has not defaulted on a mortgage securing debt to purchase a Home under the homeownership option (see 24 C.F.R. § 982.627(e);
- (e) No Family member has a Present Ownership Interest in a residence at the commencement of homeownership assistance for the purchase of any Home, except for Cooperative Members who have acquired Cooperative Membership Shares prior to the commencement of homeownership assistance;
- (e) ~~(f)~~ The Family has entered into a contract of sale/purchase and sales agreement in accordance with 24 C.F.R. § 982.631(c), except for Cooperative Members who have acquired Cooperative Membership Shares prior to the commencement of homeownership assistance.

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15.2.2 Family be a First-Time Homeowner

To qualify as a "First-Time Homeowner," no member of the assisted Family may own or have owned a Present Ownership Interest in a residence of any Family member during the three years preceding the commencement of homeownership assistance for the Family (regulatory definition at 24 C.F.R. § 982.4; statutory definition at 42 U.S.C 1437f(y)(8)(A)). Such interest includes ownership of title or of Cooperative Membership Shares. However, an assisted Family that meets the regulatory definition of "Cooperative Member" found at 24 C.F.R. § 982.4, qualifies to participate in the Section 8 homeownership program under the regulation regarding First-Time Homeowner requirements found at 24 C.F.R. § 982.627. The right to purchase title under a Lease-purchase agreement does not constitute a prohibited Present Ownership Interest. The term First-Time Homeowner includes a single parent or displaced homemaker who, while married, owned a home with his or her spouse, or

resided in a home owned by his or her spouse, and includes a Disabled Family, and participation in the Homeownership program is needed as a Reasonable Accommodation so that the program is readily accessible to, and usable by, a Disabled Person.

The restriction to “first-time” homeowners is intended to direct homeownership assistance to “new” homeowners who may be unable to purchase a Home without this assistance, but to discourage use of Section 8 subsidy on behalf of families who have achieved homeownership independently, without benefit of the Federal Section 8 subsidy.

In addition, the BHA may not commence homeownership assistance for a Family if any Family member has previously received assistance under the homeownership program and has defaulted on a mortgage securing debt incurred to purchase the Home. See 24 C.F.R. § 982.627(e).

The Section 8 Homeownership program authorizes homeownership assistance for a Family that “owns or is acquiring shares in a Cooperative.” The program allows assistance for a Family that already owns Cooperative shares in the Unit in which the Section 8 Homeownership assistance will be utilized before commencement of Section 8 homeownership assistance, not just for a Family that acquires the Cooperative shares for the first time with the support of such assistance.

The Section 8 Homeownership Program also permits the use of Section 8 homeownership assistance by a Family that purchases a Home that the Family previously occupied under a “Lease-purchase agreement”-- generally a Lease with option to purchase. The Housing Assistance Payment for a Lease-purchase Unit may not exceed the amount that would be paid on behalf of the Family if the rental Unit was not subject to a Lease-purchase agreement. Any “homeownership premium” included in the rent to the Owner that would result in a higher subsidy amount than would otherwise be paid by the BHA must be absorbed by the Family. “Homeownership premium” is defined as an increment of value attributable to the value of the Lease-purchase right or agreement such as an extra monthly payment to accumulate a down payment or reduce the purchase price. Families are permitted to pay an extra amount out-of-pocket to the Owner for purchase related expenses.

Lease-purchase agreements are considered rental, and all the normal tenant-based Section 8 rental rules are applicable. The Family will be subject to the Homeownership regulatory requirements at the time the Family is ready to exercise the homeownership option under the Lease-purchase agreement. At that point in time, the BHA will determine whether the Family is eligible for Section 8 homeownership assistance (e.g., whether the Family meets the income and employment thresholds and any other criteria established by the BHA).

15.2.3 Minimum Income Requirement

To qualify for the Homeownership option in the Voucher program, Family income must be above 50% of the area median income or the minimum wage times 2000 hours whichever is greater;

In the case of a Disabled Family (but not an Elderly Family) the minimum annual income shall be the monthly federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by 12.

Any minimum income requirement will only be applied to determine initial qualification to purchase a particular Home, not as a continuing eligibility requirement. The minimum income requirement will only apply again if the Family purchases a subsequent Home with Section 8 homeownership assistance.

The income counted in meeting any minimum income requirement under the homeownership program must come from sources other than Welfare Assistance. The BHA may limit homeownership assistance to families with substantial non-welfare income available to pay housing and non-housing costs. However, the law provides that HUD may count Welfare Assistance in determining availability of Voucher homeownership assistance for an Elderly or disabled Family (in which the Head of Household or spouse is an Elderly or Disabled Person). The term "Welfare Assistance" is defined in HUD's regulations at 24 C.F.R. § 5.603 or any succeeding provision, and includes welfare or other payments to individuals or families, based on need, that are made under programs funded, separately or jointly, by Federal, State, or local governments, such as Temporary Aid to Needy Families (TANF), or Supplemental Security Income (SSI).

The requirement to disregard Welfare Assistance income only applies in determining whether a Family has the minimum income to qualify for homeownership assistance. However, Welfare Assistance income is counted for other program purposes: in determining income-eligibility for admission to the Voucher program; in calculating the amount of the Family's Total Tenant Payment (gross Family contribution); and in calculating the amount of the monthly homeownership assistance payment for a Family assisted under the homeownership program.

For an Elderly or Disabled Family, the BHA will count Welfare Assistance income of the adult Family members who will own the Home in determining whether a Family has the minimum income to qualify for homeownership assistance. This requirement to count Welfare Assistance in determining whether a Family has the minimum income to qualify for homeownership assistance only applies, however, to Families that satisfy the statutory definition of an Elderly or Disabled Family. The requirement to count Welfare Assistance income does not apply in the case of a Family that includes a Disabled Person other than the Head of Household or spouse (and where the Head of Household or spouse is not Elderly or Disabled).

Notwithstanding the minimum income requirement as set by law, the decision as to whether or not a Family actually qualifies for and obtains financing based upon its income is left to the discretion of the lender.

15.2.4 Family Employment Requirement

Except as provided by HUD, at the time that the Family initially receives homeownership assistance, the Family must demonstrate that one or more adult members of the Family who will own the Home at commencement of homeownership assistance:

- Is currently employed on a full-time basis (the term "full-time employment" is defined to mean not less than an average of 30 hours per week); and
- Has been continuously so employed during the year before commencement of Homeownership assistance for the Family.

The BHA has the discretion to determine whether (and to what extent) an employment interruption is considered permissible in satisfying the employment requirement (e.g. maternity leave, or other leave authorized by federal and/or state law). The BHA may consider successive employment during the one-year period and self-employment in a business.

THE EMPLOYMENT REQUIREMENT DOES NOT APPLY TO AN ELDERLY FAMILY OR A DISABLED FAMILY.

15.2.5 Other Eligibility Criteria

In addition to the above requirements, to qualify for the BHA's Section 8 Homeownership Program, applicants must:

- (a) Be a Participant or Resident in good standing in one of the BHA's eligible programs (See glossary for definition of a Participant in Good Standing.) The BHA will determine the BHA Homeownership Program eligibility of families with Homeownership Vouchers from other PHAs according to all of the BHA's homeownership program policies, as long as the BHA is still accepting new families into its homeownership program.
- (b) Must be a Boston Housing Authority Participant or Resident
- (e) Have successfully completed First-Time Homebuyer Education Classes.
- (ed) Have at least one percent (1%) of the purchase price for a down payment, which must come from the Family's own resources and

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may include funds from an FSS escrow account, plus a total of three percent (3%) of the purchase price for a down payment which may include grants from public or private agencies.

- (fe) Agree to use the Home purchased with homeownership program assistance as the only residence.

Eligibility will be determined through the application process.

15.3 Application Process

Final applications for the homeownership program will be given to interested and preliminarily qualified applicants upon request. Completed final applications will be reviewed for eligibility status. If an applicant is deemed ineligible and is denied, the BHA will afford the Family the right to an informal review regarding such denial.

15.4 Homeownership Counseling

Experience with low-income homeownership programs has demonstrated that quality counseling is imperative for successful homeownership and prevention of mortgage defaults. In addition, counseling will assist families in making informed decisions when selecting the Home they wish to purchase.

Qualified applicants in this program must participate in and satisfactorily complete a qualified BHA approved first-time homebuyer classes before commencement of homeownership assistance.

The counseling will be provided by ~~another entity such as a BHA and HUD-approved certified housing counselor or working for an agency approved to participate in HUD's Housing Counseling Program.~~ HUD-approved housing counseling agencies provide free counseling. The HUD field office will provide the BHA with a list of the HUD-approved counseling agencies. ~~If an applicant does not attend a HUD-approved housing counseling agency to provide the counseling for families participating in the homeownership program, the BHA will ensure that any BHA-approved counseling program is consistent with the homeownership counseling provided by the HUD-approved counseling agencies.~~

First-time homebuyer class time must exceed 10 hours. Attending all classes, arriving on time, completing all assignments and fulfilling all requirements will lead to successful completion. For a Family with multiple adult members, all adults who will hold title to the property purchased through the program must attend all pre-purchase classes. The Family member(s) may attend separate sessions, and finish the program on different timetables, as their schedules permit. The BHA does not provide childcare assistance.

A qualified class must have been completed in the six (6) months prior to the BHA's issuance of the homeownership "Voucher". If an applicant has completed a qualified course more than six months prior to the issuance of the

homeownership "Voucher", the applicant must provide the BHA with proof that the applicant's certificate of completion has not expired, or that the applicant has renewed such certificate by taking a BHA-approved "refresher" course.

15.5 Briefing Session

After the BHA has determined an applicant finally eligible to participate in the Homeownership program, the BHA will conduct a briefing session at which time it will issue applicants a homeownership "Voucher". This homeownership "Voucher" will be issued according to the BHA's Family Unit Size Subsidy Standards which are applicable to the Housing Choice Voucher Program. At this briefing session, the BHA must advise the Family of any deadlines on locating a Home, securing financing, and purchasing the Home. In establishing such time limits, the BHA should ensure that a Family who has executed a sales contract is provided reasonable time to close on the purchase of the Home.

The BHA briefing for both rental and homeownership families will explain:

- Where the Family may Lease or purchase a unit;
- How Portability works (if the Family qualifies to Lease or purchase a Unit outside the BHA Jurisdiction under Portability procedures); and
- The advantages of moving to an area that does not have a high concentration of poor families (if the Family is currently living in a high poverty census tract within the Jurisdiction of the BHA).

Further, if the Family includes any Disabled Person or a person with limited English ability, the BHA will take appropriate steps to ensure effective communication during the briefing in accordance with 24 C.F.R. § 8.6.

15.6 Homeownership Voucher Term

Upon issuance of Section 8 Homeownership "Voucher", the Family will have 180 days to enter into a Purchase and Sales Agreement. In the event a Family cannot find a Home that meets their needs in the allotted 180 days, BHA will determine if an extension should be granted. The extensions will be determined on a case-by-case basis.

15.7 Requirement for an Attorney and Recommendation for a Buyer's Agent

The BHA requires that all homeownership program families contract with an attorney prior to the execution of a Purchase and Sales Agreement. The BHA also recommends that families contract with a buyer's agent early in the process of searching for a Home. The attorney and, if applicable, the buyer's agent will ensure that the Family is protected in all aspects of house hunting and the transactions that follow.

15.8 Eligible Homes

The BHA will administer the Homeownership voucher for a Family that purchases

a home within BHA administrative area_____. The Home must be the Family's only residence and be a single Family Home with only one Unit, Cooperative, or condominium. The Family must be prepared to own and reside in the home for a minimum of one year.

Families may search for Homes in other communities outside of the BHA's administrative areas where other public housing agencies (PHAs) offer the Section 8 Homeownership Program and are accepting new Families in to their program.

In general, the Portability procedures for the Housing Choice Voucher Program apply to the homeownership program. When a Family that has a homeownership Voucher from another public housing authority chooses to purchase a Home in Boston, the BHA will evaluate that Family according to all of the BHA's homeownership program policies, as long as the BHA is still accepting new families into its homeownership program. The BHA will evaluate whether the Family will be required to attend the briefing and counseling sessions required by the BHA. The BHA will determine whether the financing for and the physical condition of the Unit are acceptable.

15.9 Down Payments

The BHA requires a minimum down payment of three percent (3%). One percent (1%) of the down payment must come from the Family's own resources. A Participant in the FSS Program may use escrow funds toward any part of the down payment, including the one percent (1%) contribution from the Family's own resources, providing that the Family fulfills the other goals of the FSS Program as stated in the Family's Individual Training and Service Plan. There is no prohibition against utilizing several different resources for down payment assistance including grants from public or private agencies.

15.10 Inspections

The home chosen by the Family must pass an initial BHA Housing Quality Standards (HQS) inspection. (The HQS used for the Section 8 rental program is applicable to the homeownership program.) The BHA inspection is the same as the initial HQS inspection conducted by the BHA for the tenant-based rental assistance program. This inspection will indicate the current physical condition of the Unit and any repairs necessary to ensure that the Unit is safe and otherwise habitable under HQS standards. The BHA HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components.

The only difference between the HQS inspection requirements for the tenant-based rental and homeownership programs is that the BHA is not required by the regulation to conduct annual inspections. The initial (prior to the commencement of housing assistance) HQS inspection is the only BHA inspection required for homeownership units during the entire time the Family is receiving Section 8 homeownership assistance. The BHA reserves the right to conduct additional HQS inspection(s) of a homeownership program Participant's Unit during the term of homeownership assistance for good cause.

In addition, prior to purchase the Family must select and pay for an independent, professional home inspector to conduct a home inspection. The independent professional home inspection is conducted by a private market home inspector (not BHA staff) that is experienced and qualified to conduct pre-purchase inspections for homebuyers. The purpose of the home inspection is the identification of home defects and an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components, radon and insect infestation. The BHA, the buyer's agent and Family will meet and discuss the inspection and corrections that need to be made.

The requirement for an inspection arranged by the buyer and satisfactory to the buyer is a required contingency clause in all purchase and sale contracts according to HUD regulations. The family selects the home inspector and pays the home inspector's fees. (The source of funds for Family payment of the home inspection may be a gift, Family savings or an inheritance, or sources other than Family own resources.) A copy of the inspection report must be provided to the Family and the BHA.

The BHA requires that the home inspector is certified by the American Society of Home Inspectors, has a Certified Massachusetts State Home Inspector License, and must carry Errors and Omission Insurance.

The BHA will review the home inspector's report to determine whether repairs are necessary prior to purchase, and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely costs of repairs and capital expenditures. For example, the home inspector's report might reveal foundation instability, and a defective roof and heating system that needs immediate replacement at great cost. Confronted with these facts the BHA would discuss the inspection results with the Family and decide whether to disapprove the Unit for assistance under the homeownership program because of the major physical problems and substantial correction costs, or whether it is feasible to have the seller make the necessary repairs prior to purchase.

15.11 Financing and Purchasing Requirements

A Family selected to participate in the Section 8 Homeownership program must secure their own financing. There are no Section 8 funds available for Home purchase financing. The Section 8 housing assistance will be provided monthly to the Family to meet Homeownership expenses.

The Family enters into a Purchase and Sale contract with the seller and is the party obligated by such contract. A copy of the Purchase and Sale contract must be provided to the BHA. Under federal law the contract must specify: the price and other terms of sale by the seller to the purchaser; provide that the purchaser will arrange for a pre-purchase inspection of the dwelling Unit by an independent inspector selected by the purchaser, provided that the purchaser is not obligated to purchase the Unit unless the inspection is satisfactory to the purchaser; provide that the purchaser is not obligated to pay for any necessary repairs; and

contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under HUD regulations.

Under the homeownership program, a borrower may use Section 8 rental assistance to help the borrower qualify for a mortgage. It is anticipated that mortgage lenders will consider the Section 8 assistance when underwriting the loan. If purchase of the Home is financed with FHA-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. Otherwise, all traditional underwriting standards apply. The manner in which an individual lender may structure a particular loan product can vary.

The Family has the discretion to choose which lender they use but the BHA must approve the financing before it is finalized. The BHA may disapprove proposed financing, refinancing, or other debt if the BHA determines that the debt is unaffordable, or if the BHA determines that the lender or loan terms do not meet the BHA's qualifications. In making this determination, the BHA may take into account other Family expenses, such as childcare, unreimbursed medical expenses, homeownership expenses, and other Family expenses as determined by the BHA. The BHA will not unreasonably withhold approval of financing. Generally, the BHA will withhold approval of financing to prevent the Family from falling victim to predatory lending practices.

The BHA will conduct a financing review to determine whether the monthly mortgage or loan payment is affordable after considering other Family expenses. The BHA may disapprove proposed financing, refinancing or other debt if the BHA determines that the debt is unaffordable.

The BHA will review seller-financing and variable rate financing on a case-by-case basis. The BHA may opt to prohibit seller financing, or to only allow seller financing in cases when the seller is a nonprofit or the purchase price can be clearly supported by an independent appraisal.

There is no prohibition against using local or State Community Development Block Grant ("CDBG") or other subsidized financing in conjunction with the Section 8 homeownership program.

The BHA requires a maximum loan to value ratio consistent with standard secondary market guidelines and prohibits balloon payments. The Family may not refinance, apply for an equity loan, or undertake any other loans using the Home as security without BHA approval.

15.12 Homeownership Payment Standards/Housing Assistance Payment (HAP)

A. Amount of monthly homeownership assistance payment.

The homeownership Housing Assistance Payment will equal the lower of: (1) the Payment Standard minus the Total Tenant Payment; or (2) the monthly homeownership expenses minus the Total Tenant Payment. The Family is responsible for the monthly homeownership expenses not reimbursed by the Housing Assistance Payment. (Total Tenant Payment is higher of the minimum

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rent, 10 percent of Monthly Income, or 30 percent of monthly-adjusted income.) The BHA must use the Utility Allowance schedule and Payment Standard schedules applicable to the Housing Choice Voucher rental program.

BHA homeownership program Housing Assistance Payments will be made directly to the lender on behalf of the Family. The BHA will pay the excess amount, if any, directly to the Family.

Before the Housing Assistance Payments begins, the Family and the BHA must execute a "Statement of Homeowner Obligations." The Section 8 tenant-based HAP Contract, RTA and Lease addendum are not applicable to the Section 8 Homeownership program.

After the homeownership Housing Assistance Payments begin, the BHA will annually reexamine Family income and composition at a Recertification appointment and make appropriate adjustments to the amount of the monthly homeownership assistance payment.

In calculating the homeownership assistance payments, the BHA will also include an allowance for "Homeownership Expenses", which may include:

- Principal & Interest on the mortgage debt;
- Principal & Interest on debt for improvements, if any;
- Taxes and Insurance;
- Mortgage Insurance Premium;
- Condo or Cooperative Fees;
- Utility Allowance; and
- Homeownership Allowances.

The Homeownership allowances are broken down into two categories, one for routine maintenance and one for major repairs. The BHA will allot one percent (1%) of the purchase price per year each for major repairs and one-half percent (.5%) for routine maintenance for a total allowance of one and one-half percent (1.5%). 24 C.F.R. § 982.635(c) or any successor provision details the expenses that the BHA will include when determining the Family's homeownership expenses. If the Home is a Cooperative or condominium Unit, homeownership expenses may include Cooperative or condominium operating charges or maintenance fees assessed by the condominium or Cooperative homeowner association. The principal and interest amount is the debt service amount for the initial (original) mortgage debt, any refinancing of such debt, and any mortgage insurance premium.

The Utility Allowance is the same Utility Allowance schedule as used in the Housing Choice Voucher Program. The BHA allowance for maintenance expenses is the amount the BHA determines is appropriate for routine maintenance for a Home. The BHA allowance for major repairs and replacements is the amount the BHA determines is appropriate for a replacement "reserve" for a Home. If a member of the Family is a Disabled Person, such debt may include debt incurred by the Family to finance costs needed to make the Home accessible for such person, if the BHA determines that allowance of such

costs as homeownership expenses qualifies as a Reasonable Accommodation so that the homeownership program is readily accessible to, and usable by such person, in accordance with 24 C.F.R. Part 8.

Families are not required to put the amount set aside for these two maintenance allowances in the bank or in escrow. Further, it is not expected that the monthly amounts for these allowances will cover all maintenance and capital expenditures.

An Example:

Major repairs allowance is calculated as follows:

Purchase Price	\$80,000
	x 1%
\$800	
Divided by 12 months =	\$66 per month

Routine maintenance uses the same calculation:

Purchase Price	\$80,000
	x .5%
\$400	
Divided by 12 months =	\$33 per month

Therefore, the total homeownership allowance per month is \$ 99.00. This would be added to the other expenses to determine total monthly "Homeownership Expenses."

B. Payment Standard for family

(1) The payment standard for a family is the lower of:

- (i) the payment standard for the family unit size; or
- (ii) the payment standard for the size of the home.

(2) If the home is located in an exception payment standard area, the PHA must use the appropriate payment standard for the exception payment standard area.

(3) The payment standard amount may not be lower than what the payment standard amount was at the commencement of homeownership assistance.

15.13 Continued Participation

Families participating in the Section 8 Homeownership Program must abide by the Rules and Regulations of the Section 8 Program. The Family is STILL a Section 8 Participant, the only difference is the Family owns the property instead of renting the property. If a Family violates any of the rules and regulations of the Section 8 Program, they may be terminated from the homeownership program.

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Annual Recertifications of Household income and Family Composition will be conducted to ensure that the Family is still eligible for assistance. If the Family is determined ineligible for Section 8 Assistance, their homeownership assistance will be terminated and the Family will be responsible for the entire mortgage. A Family must comply with the Statement of Homeownership Obligations and sign it annually at the Recertification appointment.

In the event that the BHA proposes to terminate homeownership program assistance, the BHA will inform the Family that it has a right to an informal hearing pursuant to the hearing procedures applicable to the Housing Choice Voucher Program. In the event the BHA terminates a Family's participation in the homeownership program, the Family is responsible for the entire mortgage payment and other homeownership expenses.

15.14 Statement of Homeowner Obligations

To be eligible to participate in the BHA's Homeownership Program the Family must agree to adhere to the following program Participant's Statement of Homeowner Obligations:

- Be a Section 8 Participant in good standing in the BHA's Section 8 program (see glossary for definition of a Participant in good standing);
- Have been a Family Self Sufficiency program Participant and have remained a Participant in good standing with respect to the contractual goals and requirements of the Family's FSS Individual Training and Service Plan;
- Have no ownership interest in other property.
- Meet all eligibility criteria as described in the Section 8 Homeownership Program Administrative Plan Amendment.
- Attend homeownership counseling prior to purchase and post-purchase as offered by ~~BHA-approved~~[HUD certified](#) counseling agencies;
- Secure financing through a lender acceptable to the BHA;
- Provide a down payment of at least three percent (3%) of the purchase price, with one percent (1%) of the down payment supplied from the Family's own resources;
- Be able to make the monthly payment of the Family's portion of the mortgage payment;
- Enter into a "Purchase and Sale Agreement" for a Home within 180 days of receiving a homeownership Voucher, provided the financing commitment has not expired prior to that date;
- Enter into this Statement of Homeowner Obligations Agreement and comply

with its provisions;

- Sign a certification form stating that they will comply with this “Statement of Homeowner Obligations” annually at the Family’s Recertification appointment;
- Sign a release allowing the BHA to exchange information with the lender and the lender with the BHA;
- Sign an acknowledgment form that the Family becomes obligated for the whole mortgage payment in the event of termination of assistance;
- Sign an acknowledgment form that the Family will continue to comply with the appropriate provisions of the HUD Section 8 Rental Assistance regulations, Family obligations and the BHA’s Section 8 rental assistance and homeownership administrative plans;
- Agree that the Family may not enter into an agreement to sell or refinance the Home unless the BHA has first approved the sale or the refinance;
- Agree to use the Home as the Family’s only residence;
- Agree to supply any information to the BHA regarding any mortgage or other debt incurred to purchase the Home, any refinancing of such debt, any satisfaction or payment of the mortgage debt, and any sale or other transfer of any Interest in the Home;
- Agree to notify the BHA before the Family moves out of the Home;
- Agree that during the period the Family receives homeownership assistance, no Family member may have any ownership interest in any other property receiving a subsidized rental payment; and
- Comply with applicable rules of the Housing Choice Voucher Program such as the requirements contained in the “Family Obligations”, including the rule to fully report household income and Family Composition annually at the Recertification appointment.
- Agree to maintain the condition of the home so as to comply with HUD Housing Quality Standards (HQS) (although the BHA will not inspect the home annually for HQS compliance).

15.15 Maximum Term of Assistance

Except for Elderly and Disabled Families, Section 8 homeownership assistance may only be paid for a maximum period of 15 years if the initial mortgage incurred to finance purchase of the Home has a term that is for 20 years or longer. In all other cases, the maximum term of homeownership assistance is 10 years. The BHA has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the

Family. The maximum term of homeownership assistance is not capped for Elderly and Disabled families. The maximum term for homeownership assistance applies to any member of the Family who has an ownership interest in the Unit during any time that homeownership payments are made, or is the spouse of any member of the Family who has an ownership interest in the Unit at the time homeownership payments are made.

The maximum term for homeownership assistance does not apply to an Elderly or Disabled Family. In the case of an Elderly Family, this exception only applies if the Family qualifies as an Elderly Family at the commencement of homeownership assistance. In the case of a Disabled Family, this exception applies if at any time during receipt of Homeownership assistance the Family qualifies as a Disabled Family. If, during the course of homeownership assistance, the Family ceases to qualify as a Disabled or Elderly Family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a Family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the Family is otherwise eligible to receive Section 8 homeownership assistance).

15.16 Relocation with Homeownership Assistance

The Family may purchase one Home in a one-year period. If the Family moves, the BHA may not begin continued homeownership assistance for occupancy of the new Unit so long as any Family member owns any title or other interest in the prior Home.

Most of the homeownership requirements applicable to the first Home purchase remain applicable to a subsequent purchase. For example, the Family must once again meet the employment threshold. The necessity of any counseling will be determined by the BHA. An independent Home inspection will be conducted and the BHA will determine the acceptability of the financing. The maximum term of homeownership assistance applies to the cumulative time the Family receives homeownership assistance. The only exception to eligibility requirements applicable to initial receipt of homeownership assistance is that the Family need not meet the first-time homebuyer requirement. See 24 C.F.R. § 982.637(b).

If the Family decides to sell the property, the BHA must be consulted before the Home is placed on the market and the BHA must approve any sale of the property.

The maximum term of assistance described in Section XV above applies cumulatively. Thus if a Family is eligible for a maximum term of assistance of 15 years and receives benefits for 10 years in one Home, then the Family is eligible for a maximum of 5 years of assistance in a second Home.

15.17 Defaults

The PHA shall not commence homeownership assistance for a Family that includes an individual who was an adult member of a Family at the time when

such Family received homeownership assistance and defaulted on a mortgage securing debt incurred to purchase the Home.

If the Family defaults on a mortgage securing any debt incurred to purchase the Home, the Family must notify the BHA within five days of receipt of a default letter. The BHA will not allow the Family to continue in or participate in the future in the BHA's Homeownership Program after a default on the mortgage by any member of the Family. The BHA must terminate Voucher homeownership assistance for any member of a Family that is dispossessed from the Home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA-insured or non-FHA) securing debt incurred to purchase the Home, or any refinancing of such debt. However, the Family may be eligible to receive continued Voucher rental assistance. The BHA may consider mitigating circumstances in determining whether to provide a Family with rental assistance after a mortgage default.

The BHA has the discretion to allow a Family to revert to Section 8 Housing Choice Voucher Program rental assistance after a mortgage default through the BHA's Homeownership Program. If the BHA denies rental assistance to a Family who defaults on a mortgage through the Section 8 to Homeownership program, the BHA will afford the Family the right to an informal hearing regarding such denial.

15.18 Prohibition of Ownership in a Second Residence

No Family member of a Family assisted by Section 8 program Home-ownership assistance may have a Present Ownership Interest in a second residence while receiving homeownership assistance.

15.19 Automatic Termination of Homeownership Assistance

Homeownership assistance for a Family terminates automatically 180 calendar days after the last Housing Assistance Payment on behalf of the Family. However, the BHA has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the Family.

15.20 Single Downpayment Assistance Program

The Boston Housing Authority does not offer a single downpayment assistance program as provided for in 24 C.F.R. § 982.625(ii).

Chapter 16: PROJECT-BASED VOUCHER (PBV) PROGRAM

16.1 General

16.1.1 BHA Administration of the PBV Program

The BHA administers the PBV in accordance with federal regulations, specifically 24 C.F.R. part 982 and 24 C.F.R. part 983, as well as State and local law.

16.1.2 Description of the PBV Program

- (a) The PBV Program is funded from the Voucher Annual Contributions Contract (ACC) between the BHA and HUD. Project-based means that the subsidy is attached to the Unit, whereas tenant-based assistance allows the tenant to move with the subsidy (see difference between project-based and tenant-based assistance at 24 C.F.R. § 982.1(b)).
- (b) The BHA enters into a HAP Contract with an Owner for Units in existing housing or in newly constructed or rehabilitated housing.
- (c) When the PBV housing is new construction or rehabilitation, the housing is developed under an Agreement to enter into a Housing Assistance Payments ("AHAP") contract between the BHA and the Owner.
- (d) During the term of the HAP Contract the BHA makes payments to the Owners for Units leased and occupied by eligible Families.

16.1.3 Goal of the PBV Program

It is the goal of the BHA to make project-based rental subsidies accessible so interested and eligible Families can afford safe, decent and sanitary housing; to provide the services with integrity and mutual accountability; and to create housing situations which will serve as catalysts for the transformation from dependence to economic self-sufficiency. It is also the goal of the PBV program to create new affordable housing resources.

16.1.4 Maximum Amount of PBV Assistance

The BHA may project-base up to twenty percent (20%) of the BHA's authorized units, dependent upon funding availability. The BHA may project base an additional 10% of its units above the 20% program limit provided the additional units are designated for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where the vouchers are difficult to use

- A. The following are not subject to the PBV unit limitation provided the unit was covered under a PBV contract that first became effective date on or after HOTMA (4/18/17); and in the five years prior to the date the PHA either issued the RFP under which the project was selected or selected the project based on a prior competition or without competition:

1. The unit received one of the following types of HUD assistance
 - a. Public housing capital or operating funds;
 - b. Project Based Rental Assistance (Section 8 Moderate Rehabilitation including SRO).
 - c. Housing for the elderly (Section 202)
 - d. Housing for Persons with disabilities (Section 811 of Cranston Gonzalez National Affordable Housing Act)
 - e. The Rent Supplement Program "Rent Supp".
 - f. Rental Assistance Program "RAP" (Section 236); or
2. The unit was subject to one of the following rent restrictions:
 - a. Section 236
 - b. Section 221(d)(3) or (d)(4) BMIR
 - c. Housing for the Elderly (Section 202)
 - d. Housing for Person's with disabilities (Section 811)
 - i. Existing and Rehabbed units are eligible based on criteria above.
 - a. New Construction maybe eligible under the conditions listed below:
 1. The unit for which the PBV unit is replacing must have received one of the forms of HUD assistance/ rent restrictions listed above.
 2. The newly constructed unit must be located on the same site as the unit it is replacing.
 3. One of the primary purposes of the planned development of the PBV new construction project is or was to replace affordable rental units that previously existed at the site, as evidenced by one of the following:
 - (i)Former residents of the original project are provided with a selection preference that provides the family with the right of the first occupancy at the PBV new construction project when it is ready for occupancy.
 - (ii)Prior to demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for redevelopment of the site.
3. Units under the RAD demonstration (RAD PBV units are excluded from both the total number of units under the ACC and the units committed to PBV when determining if the PHA has vouchers available to project base under the program limit requirements).

4. HUD VASH set aside vouchers
5. Additional categories as established by HUD regulation.

B. PHA Determination prior to selection

(1) Analysis of units and budget. PHA must calculate the number of authorized voucher units that it is permitted to project-base in accordance with § 983.6 and determine the amount of budget authority that it has available for project-basing in accordance with § 983.5(b), before it issues a request for proposals in accordance with § 983.51(b)(1), makes a selection based on a previous competition in accordance with § 983.51(b)(2), amends an existing HAP contract to add units in accordance with § 983.207(b), or noncompetitively selects a project in accordance with § 983.51(c).

5. (2) Analysis of impact. Prior to selecting a project for PBV assistance, a PHA must perform an analysis of the impact if project-basing 50 percent or more of the PHA's authorized voucher units. The analysis should consider the ability of the PHA to meet the needs of the community across its tenant-based and project-based voucher portfolio, including the impact on, among others: families on the waiting list and eligible PBV families that wish to move under § 983.261. The analysis performed by the PHA must be available as part of the public record.

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16.2 Selection of PBV Owner Proposals

16.2.1 Owner Proposal Selection Procedures

The BHA may use one of the ~~two~~ following methods to select Owner proposals:

(a) Request for Proposal (RFP)

The BHA may publicly issue a competitive request for PBV proposals. The BHA may not limit a Request for Proposal (RFP) to a single site or impose restrictions that explicitly or practically preclude Owner submission of proposals for PBV housing on different sites. The BHA will only use competitive selection procedures when non-competitive selection as described below, is not applicable.

(1) Public Notice Requirement

The BHA will publish a RFP in a newspaper of general circulation and will make the RFP available on its web site (www.bostonhousing.org). The public notice must specify the submission deadline. The BHA will provide detailed application and selection criteria at the request of interested parties.

(b) The BHA may determine to provide PBV funding to a proposal for housing assisted under a federal, state, or local government

housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded Low Income Housing Tax Credits have been provided), where the proposal has already been selected in accordance with such program's competitive selection requirements within three years of the BHA's PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive BHA PBV assistance.

(c) The BHA may provide PBV funding to a project where it has an ownership interest or control of the site, where the BHA is engaged in an initiative to improve, develop or replace a public housing property or site. In order to be subject to this noncompetitive exception the BHA must be planning rehabilitation or construction on the project with a minimum of \$25,000.00 per unit in hard costs. For the purposes of this section ownership interest is defined as the PHA or its officers, employees or agents are in an entity that holds any such direct or indirect interest in the building including but not limited to an interest as: title holder, lessee, stockholder, a member or a general or limited partner, or a member of a limited liability corporation. A list of the BHA's redevelopment plans that fall under this exception is incorporated at Appendix B of this Plan.

(d) The BHA may select, without competition one or more PBV projects with units made exclusively available to HUD VASH families on the site of a VA facility. The selection must comply with all other requirements under 24 C.F.R. 982.351.

16.2.2 Subsidy Layering Review (SLR) Prohibition of Excess Public Assistance

The SLR is intended to prevent excessive public assistance for the housing by combining (layering) housing assistance subsidy under the PBV program with other governmental assistance from federal, state, or local agencies, including but not limited to, assistance such as tax concessions or tax credits.

- (a) The BHA shall obtain from the Applicant all the information required by the HUD mandated SLR checklist.
- (b) The BHA must review the SLR package prepared by the Applicant for its completeness and consistency with program requirements.
- (c) If it appears complete and acceptable, the BHA shall forward the SLR package to HUD's Boston office. The HUD Boston office will also review the material and if found acceptable, submit it to HUD Headquarters for final review and approval.

- (d) The subsidy layering requirements are not applicable to existing housing.

16.2.3 Cap on Number of PBV Units in each Project Pre-HOTMA 4/18/17

- (a) The BHA may not select a proposal to provide PBV assistance for Units in a project or enter into an Agreement or HAP Contract to provide PBV assistance for Units in a project, if the total number of dwelling units in the project that will receive PBV assistance is more than 25 percent of the number of Units (assisted or unassisted) in the project, unless the project qualifies for an exception.

- (b) Exceptions to 25 percent per project cap.

- (1) Units in a single-family building (a building with no more than four dwelling units);
- (2) Units in a multifamily building that are specifically made available for:
 - (i) Elderly or disabled families; or
 - (ii) Families receiving supportive services.

- (c) Supportive Services that Qualify for an Exception

Supportive services that qualify for an exception are those services that assist a person with a medical condition or disability or services that assist a Family in becoming self-sufficient. Examples of supportive services that qualify for an exception include but are not limited to:

- (1) Household Training (e.g., homemaking, parenting skills, money management)
- (2) Job Training (e.g., preparation and counseling, job development and placement, follow-up assistance after job placement, completion of FSS Contract of Family Participation)
- (3) Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency)
- (4) Child Care (provide sufficient hours of operation and serve an appropriate range of ages)
- (5) Counseling for parents and other kinship relations caring for children with special needs (programs for families)

adopting children from MA Department of Social Services (DCF), foster care programs, Grandfamily programs)

- (6) Remedial Education (education for the completion of Secondary or post-secondary education)
- (7) Substance Abuse Treatment (counseling and treatment for substance abuse)

(d) Other Qualifications for Supportive Services

- (1) It is not necessary that the services be provided at or by the project, if they are BHA approved/qualified services.
- (2) A Qualifying Family must have at least one member receiving at least one qualifying supportive service.
- (3) The BHA may not require participation in medical or disability-related services as a condition of living in an excepted Unit, other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted Unit, although such services may be offered.

(e) Participant Completion of Services or Service Contract.

If a Family at the time of initial tenancy is receiving, and while the resident of an excepted Unit has received, FSS supportive services or any other supportive services as defined in the BHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the Unit continues to count as an excepted Unit for as long as the Family resides in the Unit.

(f) Participant Failure to Complete Supportive Services or Service Contract.

(1) Termination of Lease.

If a Family in an excepted Unit fails without good cause to complete its FSS contract of participation or if the Family fails to complete the supportive services requirement as outlined in this Administrative Plan, the BHA will take the actions provided under 24 C.F.R. § 983.261(d), and the Owner may terminate the Lease in accordance with 24 C.F.R. § 983.257(c). See also section 14.3.

(2) Termination of Assistance

At the time of initial Lease execution, the Family and the BHA must sign a statement of Family responsibility. The statement of Family responsibility must contain all Family

obligations including the Family's participation in a service program under this section. Failure by the Family without good cause to fulfill its service obligation will require the BHA to terminate assistance.

(3) Unit Continues to be an Excepted Unit

If the Unit at the time of such termination is an excepted Unit, the exception continues to apply to the Unit as long as the Unit is made available to another Qualifying Family.

(g) BHA Monitoring of Supportive Services

Providers of supportive services are obligated to report to the BHA regarding any changes in the supportive services at least on annual basis. The BHA may request more frequent reports from supportive service agencies at its discretion. A supportive service agency must inform the BHA immediately when a Family fails to meet their supportive service requirements.

(1) Set-aside for Qualifying Families.

- (i) In leasing units in a multifamily building pursuant to the PBV HAP, the Owner must set aside the number of excepted Units made available for occupancy by Qualifying Families.
- (ii) The BHA may refer only Qualifying Families for occupancy of excepted Units.

(h) Ninety Percent Cap

The BHA may require a 90% (ninety percent) per- project cap on the number of Units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted Units.

16.2.4 Cap on Number of PBV Units in each Project Post HOTMA 4/18/2017

- (a) The BHA may not select a proposal to provide PBV assistance for Units in a project or enter into an Agreement or HAP Contract to provide PBV assistance for Units in a project, if the total number of dwelling units in the project that will receive PBV assistance exceeds 25 units or 25 percent of the total number of Units (assisted or unassisted) in the project whichever is greater, unless the project qualifies for an exception.
- (b) Exceptions to 25 unit/ 25 percent per project cap.

- (1) Units in a single-family building (a building with no more than four dwelling units);
- (2) Units in a multifamily building that are:
 - (j) exclusively serving elderly families
 - (ii) made available for all Families that are eligible to receive supportive services, including families with a household member with a disability among other such populations. Supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance at the project
 - a) Supportive Services that Qualify for an Exception. supportive services that qualify for an exception are those services that assist a person with a medical condition or disability or services that assist a Family in becoming self-sufficient. Examples of supportive services that qualify for an exception include but are not limited to:
 - 1) Household Training (e.g., homemaking, parenting skills, money management)
 - 2) Job Training (e.g., preparation and counseling, job development and placement, follow-up assistance after job placement, completion of FSS Contract of Family Participation)
 - 3) Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency)
 - 4) Child Care (provide sufficient hours of operation and serve an appropriate range of ages)
 - 5) Counseling for parents and other kinship relations caring for children with special needs (programs for families adopting children from MA Department of Social Services (DCF), foster care programs, Grandfamily programs)
 - 6) Education (education for the completion of Secondary or post-secondary education)
 - 7) Substance Abuse Treatment (counseling and treatment for substance abuse)
 - (b) Other Qualifications for Supportive Services

(1) It is not necessary that the services be provided at or by the project, if they are BHA approved/qualified services.

(2) The BHA may not require participation in medical or disability-related services as a condition of living in an excepted Unit, other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted Unit, although such services may be offered.

(c) Participant Completion of Services or Service Contract. If a Family at the time of initial tenancy is receiving, and while the resident of an excepted Unit has received, FSS supportive services or any other supportive services as defined in the BHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the Unit continues to count as an excepted Unit for as long as the Family resides in the Unit.

(d) Participant Failure to Complete Supportive Services or Service Contract.

(1) Termination of Lease.

If a Family in an excepted Unit fails without good cause to complete its FSS contract of participation or if the Family fails to complete the supportive services and is no longer eligible for the supportive services and does not vacate the unit in a reasonable amount of time the BHA is required to remove the unit from the HAP contract as outlined in this Administrative Plan, the BHA will take the actions provided under 24 C.F.R. § 983.261(d) and the Owner may terminate the Lease in accordance with 24 C.F.R. § 983.257(b). See also section 14.3. Unless, it is possible to substitute a different unit for the formerly excepted unit in the project in accordance with 983.207(a).

(2) Termination of Assistance

At the time of initial Lease execution, the Family and the BHA must sign a statement of Family responsibility. The statement of Family responsibility must contain all Family obligations including the Family's eligibility to participate in a service program under this section. The Failure by the Family without good cause to fulfill its service obligation will require the BHA to terminate the assistance of those families who are no longer eligible for said services as a

result of the failure to complete the service contract. If a family is no longer eligible to receive the services offered, the family must vacate the unit within a reasonable period of time as noted above.

(3) Unit Continues to be an Excepted Unit

If the Unit at the time of such termination is an excepted Unit, the exception continues to apply to the Unit as long as the Unit is made available to another eligible Family.

(e) BHA Monitoring of Supportive Services

Providers of supportive services are obligated to report to the BHA regarding any changes in the supportive services at least on annual basis. The BHA may request more frequent reports from supportive service agencies at its discretion.

A supportive service agency must inform the BHA immediately when a Family fails to meet their supportive service eligibility.

(1) Set-aside for Qualifying Families.

(i) In leasing units in a multifamily building pursuant to the PBV HAP, the Owner must set aside the number of excepted Units made available for occupancy by eligible Families.

(ii) The BHA may refer only Qualifying Families for occupancy of excepted Units.

(f) Ninety Percent Cap

The BHA may require a 90% (ninety percent) per- project cap on the number of Units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted Units.

(d) Projects that are in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey 5-Year Estimates.

(e) Projects not subject to Project Cap

_(a) Certain types of projects that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are not subject to the Project Cap.

(1) Exception Requirements:

(i) the unit must be covered by a PBV HAP contract that first became effective after 4/18/2017, and

(ii) in the 5 years prior to the date the PHA either (a) issued the RFP under which the project was selected or (b) selected the project without competition, the unit met at least one of the two following conditions:

(a) the unit received one of the following types of HUD assistance:

(i) Public Housing Capital or Operating Funds;

- (ii) other Project Based Rental Assistance, including Moderate Rehabilitation and SRO Program;
 - (iii) Housing for Elderly (§202 of the Housing Act of 1959);
 - (iv) Housing for persons with Disabilities (§811 of the Cranston Gonzalez National Affordable Housing Act);
 - (v) The Rent Supplement Program (§101 of the Housing and Urban Development Act of 1965);
 - (vi) The Rental Assistance Program (§236(f)(2) of the National Housing Act; or
- (b) the unit was subject to a rent restriction as a result of one of the following HUD programs:
- (i) §236;
 - (ii) §221(d)(3) or (d)(4) BMIR;
 - (iii) Housing for Elderly (§202 of the Housing Act of 1959);
 - (iv) Housing for persons with Disabilities (§811 of the Cranston Gonzalez National Affordable Housing Act).
- (b) Any PBV assistance provided to these properties may be used to project base up to 100% of the units in the project.
- (c) Both existing units and rehabilitated units qualify for the exception under this section.
- (i) new construction units qualify as replacement housing if:
 - (a) the unit that it is replacing received one of the two forms of HUD assistance listed above within 5 years from the date the PHA either issued the RFP under which the PBV new construct project was selected or selected the PBV new construction project under a prior competition or without competition, the date of selection is the date the PHA notice of owner selection.
 - (b) the new unit is located on the same site as the unit it is replacing;
 - (c) one of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that existed at the site, as evidenced by at least one of the following:
 - (i) Former residents of the original project are provided with a selection preference that provided the family with the right of first occupancy at the PBV new construction project when it is ready for occupancy.
 - (ii) Prior to demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for redevelopment of the site.
 - (ii) The unit size confirmation and number of units may differ from the original project that the PBV units are replacing, as well as the total number of units. However, under no may the project cap exception be applied to PBV new construction units that exceed the total number of covered units in the original project that the PBV units are replacing.

16.2.5 Site Selection Standards

The BHA's site selection standards must comply with PBV goals, civil rights requirements, and HQS.

The BHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP Contract for Units on the site, unless the BHA has determined that:

- (a) Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the BHA Annual Plan, the BHA Administrative Plan, and 24 C.F.R. part 903. In developing the standards to apply in determining whether a proposed PBV development will be selected, the BHA shall consider the following:
 - (1) Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
 - (2) Whether a PBV development will be located in a census tract where the concentration of assisted Units will be or has decreased as a result of public housing demolition;
 - (3) Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;
 - (4) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement for the deconcentration of poverty at 24 C.F.R. part 903;
 - (5) Whether new market rate Units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate Units will positively impact the poverty rate in the area;
 - (6) If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the PHA may consider whether in the past five years there has been an overall decline in the poverty rate;
 - (7) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.
- (b) The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d(4)) and HUD's implementing regulations at 24 C.F.R. Part 1; Title VIII of the Civil

Rights Act of 1968 (42 U.S.C. §§ 3601-3629); and HUD's implementing regulations at 24 C.F.R. Parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 C.F.R., 1959-1963 Comp., p. 652) and HUD's implementing regulations at 24 C.F.R. Part 107. The site must meet the section 504 site selection requirements described in 24 C.F.R. § 8.4(b)(5).

- (c) The site meets the HQS site standards at 24 C.F.R. § 982.401(l).

- (d)

16.2.6 BHA PBV Site Selection Policy

- (a) Each prospective BHA PBV site applicant must demonstrate to the BHA that their respective project satisfies the goals of deconcentrating poverty and expanding housing and economic opportunity, regardless of the project's poverty rate as defined by the most recent census data. The BHA will make its assessment of an applicant project's compliance with achieving these goals based on the totality of the applicant's response, taking into consideration the target population to be served (i.e., Family, Elderly, Disabled, and populations needing supportive services).
- (b) The BHA will also further assess each proposal to determine if they achieve the following BHA Agency Plan objectives:
 - (1) Development and maintenance of an adequate supply of safe, decent housing that is affordable to residents with a range of income levels and household needs;
 - (2) Assurance that a resident with long term support needs have access to appropriate services and accessible community and housing options.
 - (3) Assurance of full and fair access to housing for all residents.

16.2.7 Environmental Review

The local governmental Unit responsible (RE or Responsible Entity) for the federal environmental review under the National Environmental Protection Act (NEPA) of 1969 (42 U.S.C. § 42331 et. Seq.)²³ will conduct environmental reviews in connection with the project-based program. If

²³ The Boston Environmental Department is responsible for environmental review under NEPA in the City of Boston. The department analyzes projects for potential environmental impacts on the City of Boston and its residents. The reviews identify specific environmental impacts and the department suggests potential solutions.

the responsible entity declines to do the review then HUD may perform the environmental review itself.

(a) Existing Housing

The RE will determine whether the existing building is excluded from environmental review. The RE will also determine whether or not the assistance is subject to review under the laws and authorities under 24 C.F.R. § 58.5.

(b) The BHA may not enter into an Agreement or HAP Contract with an Owner, and the BHA, the Owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the following HUD environmental requirements are met:

- (1) The RE entity has completed the environmental review and HUD has approved the environmental certification and request for release of funds;
- (2) The RE has determined that the project to be assisted is exempt from an environmental review or is categorically excluded and not subject to compliance with environmental laws under 24 C.F.R. § 58.35(b); or
- (3) HUD has performed an environmental review and has notified the BHA in writing of environmental approval of the site.

(c) Mitigating Circumstances

The BHA must require the Owner to carry out mitigating circumstances required by the RE or required by HUD.

(d) Verification

The BHA will keep verification of the review or verification of the exemption in the BHA file for the building.

16.2.8 BHA-owned Units

- (a) The selection of BHA-owned Units must be done in accordance with 24 C.F.R. § 983.51(e) and section 15.2.5 of this Administrative Plan.
- (b) Inspection and determination of reasonable rent by independent entity

- (1) The BHA will have the units inspected by an independent entity to be sure the Units meet the requirements of HQS and Chapter II of the State Sanitary Code.
- (2) The BHA will have the reasonable rent determined by a HUD-approved appraisal or, by a licensed HUD approved appraiser by a licensed state certified appraiser.

(c) Nature of independent entity

The independent entity that performs these program services may be the Unit of general local government for the BHA jurisdiction (unless the BHA is itself the Unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

(d) Payment to independent entity and appraiser

- (1) The BHA may only compensate the independent entity and appraiser from BHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The BHA may not use other program receipts to compensate the independent entity and appraiser for their services.
- (2) The BHA, independent entity, and appraiser may not charge the Family any fee for the appraisal or the services provided by the independent entity.

16.3 Dwelling Units

16.3.1 Housing accessibility for persons with Disabilities

(a) Program accessibility.

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. part 8. The BHA shall ensure that the percentage of accessible dwelling Units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as implemented by HUD's regulations at 24 C.F.R. Part 8, Subpart C.

(b) Design and construction.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 C.F.R. § 100.205, as applicable.

16.3.2 Inspecting Units

(a) Pre-selection inspection.

(1) Inspection of site

The BHA must examine the proposed site before the proposal selection date.

(2) Inspection of existing Units

If the units to be assisted already exist, the BHA must inspect all the units before the proposal selection date, and must determine whether the Units substantially comply with the HQS. To qualify as existing housing, Units must substantially comply with the HQS on the proposal selection date. However, the BHA may not execute the HAP Contract until the Units fully comply with the HQS.

(b) Pre-HAP Contract inspections

The BHA must inspect each contract Unit before execution of the HAP Contract. The PHA may not enter into a HAP Contract covering a Unit until the Unit fully complies with the HQS.

(c) Turnover inspections.

Before providing assistance to a new Family in a contract Unit, the BHA must inspect the Unit. The BHA may not provide assistance on behalf of the Family until the Unit fully complies with the HQS.

(d) Routine inspections.

- (1) At least biennially during the term of the HAP Contract, the PHA must inspect a random sample, consisting of at least twenty percent (20%) of the contract units in each building, to determine if the contract Units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph (c) of this section are not counted toward meeting this annual inspection requirement.
- (2) If more than twenty percent (20%) of the sample of inspected contract Units in a building fail the initial inspection, the BHA must re-inspect one hundred percent (100%) of the contract Units in the building.

(e) Other inspections.

- (1) The BHA must inspect contract units whenever needed to determine that the contract Units comply with the HQS and that the Owner is providing maintenance, utilities, and

other services in accordance with the HAP Contract. The BHA must take into account complaints and any other information coming to its attention in scheduling inspections.

- (2) The BHA must conduct follow-up inspections needed to determine if the Owner (or, if applicable, the Family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for Owner or Family violation of the HQS.
- (3) In conducting BHA supervisory quality control HQS inspections, the BHA should include a representative sample of both tenant-based and project-based Units.

(f) Inspecting BHA-owned Units

- (1) In the case of BHA-owned Units, the inspections required under this section must be performed by an independent agency designated in accordance with section 15.2.7 of this Administrative Plan, rather than by the BHA.
- (2) The independent entity must furnish a copy of each inspection report to the BHA and to the HUD field office where the project is located.
- (3) The BHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP Contract by the BHA Owner.

16.3.3 Requirements for Rehabilitated and Newly Constructed Units

An Owner or project sponsor, must enter into an Agreement to Enter in to a Housing Assistance Payments contract (AHAP) before any demolition, construction, or rehabilitation takes place. For the purposes of this section commencement of construction occurs when excavation, or site preparation (including clearing of the land) begins. This requirement only applies to non-existing PBV Units.

16.3.4 Purpose and content of the Agreement to enter into HAP Contract

(a) Requirement

The BHA must enter into an Agreement (AHAP) with the Owner to enter in a HAP Contract.

(b) Purpose of the AHAP

In the Agreement the Owner agrees to develop the contract units to comply with the HQS, and the BHA agrees that, upon timely

completion of such development in accordance with the terms of the Agreement, the BHA will enter into a HAP Contract with the Owner for the contract Units.

(c) Description of Housing.

The AHAP must describe the following features of the housing to be developed (newly constructed or rehabilitated) and assisted under the PBV program:

- (1) Site and evidence of site control;
- (2) Location of contract Units on site;
- (3) Number of contract Units by area (size) and number of bedrooms and bathrooms;
- (4) Services, maintenance, or equipment to be supplied by the Owner without charges in addition to the rent;
- (5) Utilities available to the contract Units, including a specification of utility services to be paid by Owner (without charges in addition to rent) and utility services to be paid by the Tenant;
- (6) Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 C.F.R. § 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. §§ 8.22 and 8.23 apply to units under the Agreement. If these requirements are applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement, as specified in paragraphs (c)(1 – 8) of this section.
- (7) Initial rents to Owner for the contract Units;
- (8) Description of the work to be performed under the Agreement. If the Agreement is for rehabilitation of units, the work description must include the rehabilitation work write up and, where determined necessary by the BHA, specifications, and plans. If the Agreement is for new construction, the work description must include the working drawings and specifications.

(d) Additional Requirements Established by the BHA

The BHA may also establish, in the AHAP, additional requirements for quality, architecture, or design of PBV housing, over and above the minimum requirements of HQS.

16.3.5 Conduct of New Construction and Rehabilitation Work

(a) Development requirements.

The Owner must carry out development work in accordance with the Agreement and the requirements of this section.

(b) Labor standards.

- (1) In the case of an Agreement for development of nine or more contract units (whether or not completed in stages), the Owner and the Owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing.
- (2) The HUD prescribed form of Agreement shall include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.
- (3) The Owner and the Owner's contractors and subcontractors must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 C.F.R. part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

(c) Equal opportunity.

(1) Equal employment opportunity.

The Owner must comply with federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 C.F.R., 1964-1965 Comp., p. 339), 11625 (3 C.F.R., 1971-1975 Comp., p. 616), 12432 (3 C.F.R., 1983 Comp., p. 198) and 12138 (3 C.F.R., 1977 Comp., p. 393).

(2) Eligibility to participate in federal programs and activities.

The Agreement and HAP Contract shall include a certification by the Owner that the Owner and other project principals (including the officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

(3) Disclosure of conflict of interest.

The Owner must disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract, or HUD regulations.

16.3.6 Completion of Housing

(a) Completion deadline.

The Owner must develop and complete the housing in accordance with the Agreement. The Agreement must specify the deadlines for completion of the housing and for submission by the Owner of the required evidence of completion.

(b) Required evidence of completion.

(1) Minimum submission.

At a minimum, the Owner must submit the following evidence of completion to the BHA in the form and manner required by the BHA:

- (i) Owner certification that the work has been completed in accordance with the HQS and all requirements of the Agreement; and
- (ii) Owner certification that the Owner has complied with labor standards and equal opportunity requirements in development of the housing.

(2) Additional documentation.

At the discretion of the BHA, the Agreement may specify additional documentation that must be submitted by the Owner as evidence of housing completion. For example, such documentation may include:

- (i) A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements);
 - (ii) An architect's certification that the housing complies with:
 - (A) HUD housing quality standards;
- (B) State, local, or other building codes;
- (C) Zoning;

- (D) The rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or
- (E) Any additional design or quality requirements pursuant to the Agreement.

(c) BHA determination of completion.

When the BHA has received Owner notice that the housing is completed:

- (1) Upon notice from the Owner, the BHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with the HQS and any additional requirement imposed by the BHA under the Agreement.
- (2) The BHA must determine if the Owner has submitted all required evidence of completion.
- (3) If the work has not been completed in accordance with the Agreement, the BHA must not enter into the HAP Contract.

(d) Execution of HAP Contract.

If the BHA determines that the housing has been completed in accordance with the Agreement and that the Owner has submitted all required evidence of completion, the BHA must submit the HAP Contract for execution by the Owner and must then execute the HAP Contract.

16.4 Housing Assistance Payments Contract

16.4.1 Purpose of HAP Contract

The purpose of the HAP Contract is to provide housing assistance payments for eligible families. The BHA makes housing assistance payments to the Owner in accordance with the HAP Contract. Housing assistance is paid for contract Units leased and occupied by eligible families during the HAP Contract term.

16.4.2 HAP Contract information.

The HAP Contract must specify:

- (a) The total number of contract units by number of bedrooms;

- (b) Information needed to identify the site and the building or buildings where the contract units are located. The information must include the project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- (c) Information needed to identify the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract Unit, the area of each contract Unit, and the number of bedrooms and bathrooms in each contract unit;
- (d) Services, maintenance, and equipment to be supplied by the Owner without charges in addition to the rent;
- (e) Utilities available to the contract units, including a specification of utility services to be paid by the Owner (without charges in addition to rent) and utility services to be paid by the tenant;
- (f) Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. part 8;
- (g) The HAP Contract term;
- (h) The number of units in any building that will exceed the 25 percent per building cap (as described in 24 C.F.R. § 983.56), which will be set-aside for occupancy by Qualifying Families; and
- (i) The initial Rent to Owner (for the first 12 months of the HAP Contract term).

16.4.3 When HAP Contract is Executed

- (a) BHA inspection of housing.
 - (1) Before execution of the HAP Contract, the BHA must inspect each contract Unit in accordance with 24 C.F.R. § 983.103(b).
 - (2) The BHA may not enter into a HAP Contract for any contract Unit until the BHA has determined that the Unit complies with the HQS.
- (b) Newly constructed or rehabilitated housing.
 - (1) In the case of newly constructed or rehabilitated housing the HAP Contract shall be executed after the BHA has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the Owner has furnished all required

evidence of completion (see 24 C.F.R. §§ 983.155 and 983.156).

- (2) In the HAP Contract, the Owner certifies that the units have been completed in accordance with the Agreement. Completion of the units by the Owner and acceptance of units by the BHA is subject to the provisions of the Agreement.

16.4.4 Term of HAP Contract

(a) Initial term.

The BHA may enter into a HAP Contract with an Owner for an initial term of up to twenty years for each contract Unit. The length of the term of the HAP Contract for any contract Unit may not be less than one year, nor more than twenty years.

(b) Extension of term.

At any time prior to the expiration of the contract, the BHA may agree to extend the term of the HAP Contract for an additional term of up to twenty years if the BHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension. If the project is a PHA owned project any change in the initial term and any subsequent extension is also subject to the approval of the independent entity as approved by HUD in accordance with 24 C.F.R. 983.59 and See also Section 15.2.7

(c) Termination by BHA.

- (1) The HAP Contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by the PHA in accordance with HUD instructions. For purposes of this section, "sufficient funding" means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments to the Owner for any contract year in accordance with the terms of the HAP Contract.
- (2) The availability of sufficient funding must be determined by HUD or by the BHA in accordance with HUD instructions. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP Contract, the BHA has the right to terminate the HAP Contract by notice to the Owner

for all or any of the contract units. Such action by the BHA shall be implemented in accordance with HUD instructions. The BHA reserves the right to exercise full and unencumbered discretion as to which HAP Contract may or may not be terminated due to insufficient funding, including all PBV contracts in those areas not specifically referenced by a HUD directive.

- (3) The BHA may terminate the contract or reduce the number of units under the contract if it is determined that the owner is not leasing to program eligible families in accordance with 24 CFR 983.253(a).
- (4) The BHA may reduce the number units on a contract that have been vacant for 120 days or more.

- (d) Termination by Owner--reduction below initial rent.

The Owner may terminate the HAP Contract, upon notice to the BHA, if the amount of the Rent to Owner for any contract Unit, as adjusted in accordance with 24 C.F.R. § 983.302, is reduced below the amount of the initial Rent to Owner (Rent to Owner at the beginning of the HAP Contract term). In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

16.4.5 HAP Contract Amendments

- (a) Amendment to substitute contract units.

At the discretion of the BHA and subject to all PBV requirements, the HAP Contract may be amended to substitute a different Unit with the same number of bedrooms in the same building for a previously covered contract Unit. Prior to such substitution, the BHA must inspect the proposed substitute Unit and must determine the reasonable rent for such Unit.

- (1) If an income ineligible family remains in occupancy of a PBV unit under contract, the owner can opt to have that unit reinstated once the family vacates, provided the project is fully assisted (See 15.5.4(b)(2)).

- (b) Amendment to add contract units.

At the discretion of the BHA, and provided that the total number of units in a building that will receive PBV assistance or other project-based assistance will not exceed the greater of 25 units (assisted or unassisted) in a non-exception project or 25 percent of the of the units in the project provided there is sufficient annual budget authority as provided in 24 C.F.R. § 983.6, a HAP Contract may be amended to add additional PBV contract units.. An

amendment to the HAP Contract is subject to all PBV requirements (e.g., rents are reasonable), except that a new PBV request for proposals is not required. The anniversary and expiration dates of the HAP Contract for the additional units must be the same as the anniversary and expiration dates of the HAP Contract term for the PBV units originally placed under HAP Contract. The BHA will exercise its discretion to add units to a PBV contract by mutual agreement with the owner from time to time. See Attachment for details regarding specific projects.

(c) Amendment to add a preference - At the discretion of the BHA and subject to all PBV requirements, the HAP Contract may be amended to add a preference.

(c) Staged completion of contract units.

Even if contract units are placed under the HAP Contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP Contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP Contract. The expiration of the HAP Contract for all the contract units completed in stages must be concurrent with the end of the HAP Contract term for the units originally placed under HAP Contract.

16.4.6 Condition of Contract Units

(a) Owner maintenance and operation.

- (1) The Owner must maintain and operate the contract units and premises in accordance with the HQS, including performance of ordinary and extraordinary maintenance.
- (2) The Owner must provide all the services, maintenance, equipment, and utilities specified in the HAP Contract with the BHA and in the Lease with each assisted Family.
- (3) At the discretion of the BHA, the HAP Contract may also require continuing Owner compliance during the HAP term with additional housing quality requirements specified by the BHA (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements may be designed to assure continued compliance with a design, architecture, or quality requirement specified in the Agreement.

(b) Remedies for HQS violation.

- (1) The BHA must vigorously enforce the Owner's obligation to maintain contract units in accordance with the HQS. The BHA may not make any HAP payment to the Owner for a contract Unit covering any period during which the contract Unit does not comply with the HQS.
- (2) If the BHA determines that a contract Unit is not in accordance with the housing quality standards (or other HAP Contract requirement), the BHA may exercise any of its remedies under the HAP Contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing

assistance payments, reduction of contract units, and termination of the HAP Contract. If the BHA terminates the HAP Contract for a particular PBV Unit the BHA will attempt to relocate the participant to another PBV Unit. If there are no PBV units available in the building or otherwise suitable, the BHA will offer the Family a tenant-based voucher if they are available. If the Family has been in the PBV program for more than one-year, the Family may request a tenant-based voucher.

- (c) Maintenance and replacement--Owner's standard practice.

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the Owner.

16.4.7 Owner Responsibilities

The Owner is responsible for performing all of the Owner responsibilities under the Agreement and the HAP Contract. 24 C.F.R. § 982.452 (Owner Responsibilities) applies.

16.4.8 Owner Certification

By execution of the HAP Contract, the Owner certifies that at such execution and at all times during the term of the HAP Contract:

- (a) All contract units are in good and tenantable condition. The Owner is maintaining the premises and all contract units in accordance with the HQS.
- (b) The Owner is providing all the services, maintenance, equipment, and utilities as agreed to under the HAP Contract and the Leases with assisted families.
- (c) Each contract Unit for which the Owner is receiving housing assistance payments is leased to an eligible Family referred by the BHA, and the Lease is in accordance with the HAP Contract and HUD requirements.
- (d) To the best of the Owner's knowledge, the members of the Family reside in each contract Unit for which the Owner is receiving housing assistance payments, and the Unit is the Family's only residence.
- (e) The Owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a Family residing in a contract Unit.
- (f) The amount of the housing assistance payment is the correct amount due under the HAP Contract.

- (g) The Rent to Owner for each contract Unit does not exceed rents charged by the Owner for other comparable unassisted Units.
- (h) Except for the housing assistance payment and the tenant rent as provided under the HAP Contract, the Owner has not received and will not receive any payment or other consideration (from the Family, the BHA, HUD, or any other public or private source) for rental of the contract Unit.
- (i) The Family does not own or have any interest in the contract Unit.

16.5 Occupancy

16.5.1 How Participants are Selected

- (a) Who may receive PBV assistance?
 - (1) The BHA may select Families who are Participants in the BHA's tenant-based voucher program and Families who have applied for admission to the voucher program.
 - (2) Except for voucher participants (determined eligible at original admission to the voucher program), the BHA may only select families determined eligible for admission at commencement of PBV assistance.
 - (3) The BHA maintains site based waiting lists for each PBV Development in its portfolio. An otherwise eligible applicant has the ability to apply for any and all open site based waiting lists
 - (4) An Eligible applicant with the earliest approval date, Priority and/or Preference(s) will receive one offer of an apartment of appropriate size at a PBV site of choice. Failure to accept the first housing offer will result in the withdrawal from the particular site where the offer was made.
Failure to accept the housing offer will result in the withdrawal from all PBV site based waiting lists. The Applicant will lose any approved Priority and/or Preference. Furthermore, the Applicant will only be eligible to re-apply after one year from the date of the most recent apartment assignment rejection

Withdrawal from a PBV site based waiting list(s) will have no effect on an applicant's position on either the BHA's tenant based HCVP waiting list or the BHA's Public Housing waiting list(s).

(b) Protection of in-place Families.

- (1) The term "in-place Family" means an eligible Family residing in a proposed contract Unit on the proposal selection date.
- (2) In order to minimize displacement of in-place families, if a Unit to be placed under contract that is either an existing Unit or one requiring rehabilitation is occupied by an eligible Family on the proposal selection date, the in-place Family must be placed on the BHA's waiting list (if the Family is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project Owner for an appropriately sized PBV Unit in the project. (However, the BHA may deny assistance for the grounds specified in 24 C.F.R. § 982.552 and 982.553.) Admission of such families is not subject to income-targeting under 24 C.F.R. § 982.201(b)(2)(i), and such families must be referred to the Owner from the BHA's waiting list. BHA shall give such families priority for admission to the PBV program. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.

16.5.2 BHA Information for Accepted Family

(a) Oral briefing.

When a Family accepts an offer of PBV assistance, the BHA must give the Family an oral briefing. The briefing must include information on the following subjects:

- (1) A description of how the program works; and
- (2) Family and owner responsibilities.

(b) Information packet.

The BHA must give the Family a packet that includes information on the following subjects:

- (1) How the BHA determines the total tenant payment for a Family;
 - (2) Family obligations under the program; and
 - (3) Applicable fair housing information.
- (c) Providing information for persons with Disabilities.

- (1) If the Family head or spouse is a Disabled Person, the BHA must take appropriate steps to assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet, including in alternative formats.
- (2) The BHA shall have some mechanism for referring to accessible PBV units to a Family that includes a person with mobility impairment.

(d) Providing information for persons with limited English ability.

The BHA will communicate with persons of limited English ability in accordance with section 1.3.4.

16.5.3 Leasing of Contract Units

(a) Owner selection of tenants.

- (1) During the term of the HAP contract, the owner must Lease contract units only to eligible Families selected and referred by the BHA from the BHA waiting list.
- (2) The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very Low-Income Families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.
- (3) An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

(b) Size of unit.

The contract unit Leased to each Family must be appropriate for the size of the Family under the BHA's subsidy standards. See section [16.5.9](#).

16.5.4 Vacancies

(a) Filling vacant units.

- (1) The Owner must promptly notify the BHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the BHA must make every reasonable effort to refer promptly a sufficient number of Families for the owner to fill such vacancies.

- (2) The Owner must Lease vacant contract units only to eligible Families on the BHA waiting list referred by the BHA.
- (3) The BHA and the Owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy.

(b) Reducing number of contract units.

- (1) If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the BHA to fill such vacancies), the BHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.
- (2) If a unit is occupied by a family whose income increases or exceeds the rent to owner the unit must be removed from the HAP contract 180 days after the last HAP payment .

The BHA may add units to the building by amending the HAP contract in accordance with section 15.4.5

16.5.5 Tenant Screening

(a) BHA option.

- (1) The BHA will screen tenants for eligibility. The owner is also responsible for screening tenants.

(b) Owner responsibility

- (1) The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a Family's background with respect to such factors as:

(i) Payment of rent and utility bills;

(ii) Caring for a unit and premises;

(iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(v) Compliance with other essential conditions of tenancy;

(c) Providing tenant information to owner.

- (1) The BHA will provide information to the owner in accordance with section 7.3.3:

16.5.6 Lease

(a) Tenant's legal capacity

The tenant must have legal capacity to enter a Lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the Lease and may enforce the terms of the Lease against the Owner.

(b) Form of Lease

- (1) The tenant and the Owner must enter a written Lease for the Unit. The Lease must be executed by the Owner and the tenant.
- (2) If the Owner uses a standard Lease form for rental to unassisted tenants in the locality or the premises, the Lease must be in a standard form.
- (3) In all cases, the Lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.
- (4) .

(c) Required information

The Lease must specify all of the following:

- (1) The names of the Owner and the tenant;
- (2) The Unit rented (address, Apartment number, if any, and any other information needed to identify the leased contract unit);
- (3) The term of the Lease (initial term and any provision for renewal);
- (4) The amount of the tenant Rent to Owner. The tenant Rent to Owner is subject to change during the term of the Lease in accordance with HUD requirements;
- (5) A specification of what services, maintenance, equipment, and utilities are to be provided by the Owner; and

- (6) The amount of any charges for food, furniture, or supportive services.

(d) Tenancy addendum

(1) The tenancy addendum in the Lease shall state:

- (i) The program tenancy requirements (as specified in this part);
 - (ii) The Family Composition as approved by the BHA (names of Family members and any BHA-approved Live-In-Aide).
- (2) All provisions in the HUD-required tenancy addendum must be included in the Lease. The terms of the tenancy addendum shall prevail over other provisions of the Lease.

(e) Changes in Lease

- (1) If the tenant and the Owner agree to any change in the Lease, such change must be in writing, and the Owner must immediately give the BHA a copy of all such changes.
- (2) The Owner must notify the BHA in advance of any proposed change in Lease requirements governing the allocation of tenant and Owner responsibilities for utilities. Such changes may be made only if approved by the BHA and in accordance with the terms of the Lease relating to its amendment. The BHA must redetermine reasonable rent, in accordance with 24 C.F.R. § 983.303(c), based on any change in the allocation of responsibility for utilities between the Owner and the tenant, and the redetermined reasonable rent shall be used in calculation of Rent to Owner from the effective date of the change.

(f) Initial term of Lease.

The initial Lease term must be for at least one year.

(g) Lease provisions governing tenant absence from the Unit.

The Lease may specify a maximum period of tenant absence from the Unit that is shorter than the maximum period permitted by BHA policy.

16.5.7 Owner Termination of Tenancy and Eviction

(a) In general.

24 C.F.R. § 982.310 applies with the exception that §§ 982.310(d)(1)(iii) and (iv) do not apply to the PBV program. (In the PBV program, "good cause" does not include a business or economic reason or desire to use the Unit for an individual, Family, or non-residential rental purpose.) 24 C.F.R. §§ 5.858-5.861 on eviction for drug and alcohol abuse apply to this part.

(b) Upon Lease expiration, an Owner may:

- (1) Renew the Lease;
- (2) Refuse to renew the Lease for good cause as stated in paragraph (a) of this section;
- (3) Refuse to renew the Lease without good cause, in which case the BHA would provide the Family with a tenant-based voucher, if available, and the Unit would be removed from the PBV HAP Contract.

(c) If a Family resides in a project-based Unit excepted from the twenty five percent (25%) per-building cap on project-basing because of participation in an FSS or other supportive services program, and the Family fails, without good cause, to complete its FSS contract of participation or supportive services requirement, such failure is grounds for Lease termination by the Owner.

16.5.8 Security deposit: amounts owed by tenant

- (a) The Owner may collect a security deposit from the tenant in accordance with Massachusetts State law.

16.5.9 Overcrowded, under-occupied, and accessible units

(a) Family occupancy of wrong-size or accessible Unit.

The BHA subsidy standards determine the appropriate Unit size for the Family size and composition. If the BHA determines that a Family is occupying a:

- (1) ___ Wrong-size Unit, or
- (2) Unit with accessibility features that the Family does not require, and the Unit is needed by a Family that requires the accessibility features, the BHA must:
 - (i) Within 30 days from the BHA's determination, notify the family and the owner of its determination; and
 - (ii) Within 60 days from the BHA's determination offer the family continued housing assistance, pursuant to paragraph (b) of this section.

(b) Offer of Continued Assistance.

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(1) The BHA will offer continued housing assistance in the forms listed below:

(i) PBV assistance in an appropriate size unit (in the same project or another project;

(ii) Other project-based housing assistance (e.g., by occupancy of public housing unit);

(iii) Tenant-based rental assistance under the voucher program; or

(iv) Other comparable tenant-based rental assistance. promptly notify the Family and the Owner of this determination, and of the BHA's offer of continued assistance in another Unit pursuant to paragraph (b) of this section.

(2) If no continued housing assistance as described above is available the BHA must remove the wrong size or accessible unit from the HAP contract to make voucher assistance available to issue the family a tenant based voucher

(c) BHA offer of continued assistance~~Termination of housing assistance payments..~~

(1) If a Family is occupying a:~~the BHA offers the family the opportunity to receive tenant based rental assistance under the voucher program:~~

(i) The BHA must terminate the housing assistance payments for a wrong sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the BHA) or the date upon which the family vacates the unit. Wrong size Unit, or

(ii) If the family does not move out of the wrong sized or accessible unit at the earlier of the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract. Unit with accessibility features that the Family does not require, and the Unit is needed by a Family that requires the accessibility features, the BHA must offer the Family the opportunity to receive continued housing assistance in another Unit.

(2) If the The BHA offers the family another form of continued housing assistance (other than tenant-based rental assistance under the voucher program) in accordance with section b above, the BHA must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP when: will offer continued housing assistance in the form of:

(i) In the case of an offer by the PHA of PBV assistance or other project-based housing assistance in an appropriate-size unit, the family

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does not accept the offer and does not move out of the PBV unit within a reasonable time as determined by the PHA, not to exceed 90 days. The family may request and the PHA may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing .PBV assistance in an appropriate size Unit (in the same building or in another building);

~~(A) When offering continued assistance in another PBV Unit, the BHA will first attempt to place the Family in the same project. If no units are available in the same project, the BHA will attempt to offer the Family a PBV Unit with same Owner. If a Unit is not available in the same project or with the same Owner, then the BHA will offer the Family any other PBV Unit that they qualify for.~~
~~Or:~~

~~(ii) In the case of an offer by the PHA of other comparable tenant-based rental assistance, the family either accepts or does not accept the offer but does not move out of the PBV unit within a reasonable time as determined by the PHA, not to exceed 90 days. The family may request and the PHA may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate, affordable, safe, and geographically proximate replacement housing. Tenant-based rental assistance under the voucher program~~

~~(de) BHA termination of housing assistance payments-Reinstatement. The BHA may reinstate a unit removed under paragraph (b)(2), (c)(1)(ii), or (c)(2) of this section to the HAP contract after the family vacates the property, in accordance with § 983.207(b).~~

~~(1) If the BHA offers the Family the opportunity to receive tenant-based rental assistance under the voucher program, the BHA must terminate the housing assistance payments for a wrong-sized or accessible Unit at expiration of the term of the Family's voucher (including any extension granted by the BHA) or the date the family vacates the unit, whichever comes first.~~

~~(a) If the family does not vacate the unit by the voucher expiration date, the BHA must remove the unit from the HAP contract.~~

- (2) ~~If the BHA offers the Family the opportunity for another form of continued housing assistance in accordance with paragraph (b)(2) of this section (not in the tenant-based voucher program), and the Family does not accept the offer within fourteen (14) days of the date of the offer (or rejects the offer), and does not move out of the unit or both, the BHA must terminate the housing assistance payments for the wrong-sized or accessible Unit at the end of the second month following the offer. The BHA must also remove the unit from the HAP contract.~~

16.5.10 Family right to move

- (a) The Family may terminate the assisted Lease at any time after the first year of occupancy.
- The Family must give the Owner advance written notice of intent to vacate (with a copy to the BHA) in accordance with the Lease. See also section 11.4.
- (b) If the Family has elected to terminate the Lease in this manner, the BHA must offer the Family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.
- (c) Before providing notice to terminate the Lease under paragraph (a) of this section, a Family must make a written request for tenant-based rental assistance if the Family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the Family's Lease of a PBV Unit, the BHA will place the Family on a waiting list by date and time of request to receive the next available opportunity for continued tenant-based rental assistance.
- (d) If the Family terminates the assisted Lease before the end of one year, the Family relinquishes the opportunity for continued tenant-based assistance.
- (e) Good standing requirement to receive continued assistance in the tenant-based voucher program. The BHA may deny the opportunity for a tenant-based voucher where there are grounds for denial or termination. See 24 C.F.R. § 982.314(e)(2).

16.5.11 When occupancy may exceed 25-percent cap

- (b) (a) The BHA may not select a proposal to provide PBV assistance for Units in a project or enter into an Agreement or HAP Contract to provide PBV assistance for Units in a project, if the

total number of dwelling units in the project that will receive PBV assistance exceeds 25 units or 25 percent of the total number of Units (assisted or unassisted) in the project whichever is greater, unless the project qualifies for an exception.

- (b) In referring families to the Owner for admission to excepted units, the BHA must give preference to Elderly or Disabled Families; or to Families receiving supportive services. Said preferences will be applied to those waiting lists in conjunction with the executed HAP contract.
- (c) If a Family at the time of initial tenancy is receiving and while the resident of an excepted Unit has received FSS supportive services or any other service as defined in the BHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the Unit continues to count as an excepted Unit for as long as the Family resides in the Unit.
- (d) A Family (or the remaining members of the Family) residing in an excepted Unit that no longer meets the criteria for a "qualifying Family" in connection with the 25 percent per building cap exception (e.g., a Family that does not successfully complete its FSS contract of participation or the supportive services requirement as defined in the BHA administrative plan or the remaining members of a Family that no longer qualifies for Elderly or Disabled Family status) must vacate the Unit within a reasonable period of time established by the BHA, and the BHA shall cease paying housing assistance payments on behalf of the non-qualifying Family. If the Family fails to vacate the Unit within the established time, the Unit must be removed from the HAP Contract unless the project is partially assisted, and it is possible for the HAP Contract to be amended to substitute a different Unit in the building in accordance with 24 C.F.R. § 983.206(a); or the Owner terminates the Lease and evicts the Family. The housing assistance payments for a Family residing in an excepted Unit that is not in compliance with its Family obligations (e.g., a Family fails, without good cause, to successfully complete its FSS contract of participation or supportive services requirement) shall be terminated by the BHA.

16.6 Rent to Owner

16.6.1 Determining the Rent to Owner

(a) Initial and Redetermined rents

- (1) The amount of the initial and redetermined Rent to Owner is determined in accordance with this section and 24 C.F.R. § 983.302.

- (2) The amount of the initial Rent to Owner is established at the beginning of the HAP Contract term.
 - (3) The Rent to Owner is redetermined at the Owner's request for a rent increase in accordance with this section and 24 C.F.R. § 983.302. The Rent to Owner is also redetermined at such time when there is a five percent or greater decrease in the published FMR in accordance with 24 C.F.R. § 983.302.
- (b) Amount of Rent to Owner
- Except for certain tax credit units as provided in paragraph (c) of this section, the Rent to Owner must not exceed the lowest of:
- (1) An amount determined by the BHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the Unit bedroom size minus any utility allowance;
 - (2) The Reasonable Rent; or
 - (3) The rent requested by the Owner.
- (c) Rent to Owner for Certain Tax Credit Units
- (1) The BHA will determine the rent on tax credit units in accordance with federal law.
- (d) Rent to Owner for Other Tax Credit Units
- Except in the case of a tax credit Unit described in paragraph (c)(1) of this section, the Rent to Owner for all other tax credit units is determined pursuant to paragraph (b) of this section.
- (e) Reasonable Rent
- The BHA shall determine Reasonable Rent in accordance with 24 C.F.R. § 983.303. The Rent to Owner for each contract Unit may at no time exceed the Reasonable Rent.
- (f) Use of FMRs and utility allowance schedule in determining the amount of Rent to Owner.
- (1) Amounts Used
 - (i) Determination of initial rent (at beginning of HAP Contract term). When determining the initial Rent to Owner, the BHA shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP Contract. At its discretion, the BHA may use the amounts in effect at any time during the 30-day period

immediately before the beginning date of the HAP Contract.

- (ii) Redetermination of Rent to Owner. When redetermining the Rent to Owner, the BHA shall use the most recently published FMR and the BHA utility allowance schedule in effect at the time of redetermination. At its discretion, the BHA may use the amounts in effect at any time during the 30-day period immediately before the redetermination date.

(2) Exception Payment Standard and PHA Utility Allowance Schedule

- (i) Any HUD-approved exception payment standard amount under 24 C.F.R. § 982.503(c) applies to both the tenant-based and project-based voucher programs. HUD will not approve a different exception payment standard amount for use in the PBV program.
- (ii) The PHA may not establish or apply different utility allowance amounts for the PBV program. The same PHA utility allowance schedule applies to both the tenant-based and the PBV programs.

(g) BHA-Owned Units

For BHA-owned PBV units, the initial Rent to Owner and the annual redetermination of rent at the annual anniversary of the HAP Contract are determined by the independent entity approved by HUD in accordance with 24 C.F.R. § 983.59. The BHA must use the Rent to Owner established by the independent entity.

16.6.2 Redetermination of Rent to Owner

(a) The BHA must redetermine the Rent to Owner:

- (1) Upon the Owner's request; or
- (2) When there is a ten percent or greater decrease in the published FMR in accordance with 24 C.F.R. § 983.301.

(b) Rent Increase

- (1) The BHA may not make any rent increase other than an increase in the Rent to Owner as determined pursuant to 24 C.F.R. § 983.301.
- (2) The Owner must submit a written request for a rent increase at least sixty (60) days prior to the date of the anniversary of the HAP contract to receive and increase in rent. A rent increase that is not submitted at least (60)

days prior to the date of the anniversary of the HAP contract shall not be processed until the following year.

(c) Rent Decrease

If there is a decrease in the Rent to Owner, as established in accordance with 24 C.F.R. § 983.301, the Rent to Owner must be decreased, regardless of whether the Owner requested a rent adjustment.

(d) Notice of rent redetermination

Rent to Owner is redetermined by written notice by the BHA to the Owner specifying the amount of the redetermined rent. The BHA notice of the rent adjustment constitutes an amendment of the Rent to Owner specified in the HAP Contract.

(e) Contract year and annual anniversary of the HAP Contract

- (1) The contract year is the period of 12 calendar months preceding each annual anniversary of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract term.
- (2) The annual anniversary of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted Rent to Owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP Contract.
- (3) See 24 C.F.R. § 983.206(c) for information on the annual anniversary of the HAP Contract for contract units completed in stages.

16.6.3 Reasonable Rent

(a) Owner Certification of Comparability

By accepting each monthly housing assistance payment from the BHA, the Owner certifies that the Rent to Owner is not more than rent charged by the Owner for comparable unassisted units in the premises. The Owner must give the BHA information requested by the BHA on rents charged by the Owner for other units in the premises or elsewhere.

(b) Determining Reasonable Rent for BHA-Owned Units

- (1) For BHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with 24 C.F.R. § 983.59, rather than

by the BHA. Reasonable rent must be determined in accordance with this section.

- (2) The independent entity must furnish a copy of the independent entity determination of reasonable rent for BHA-owned units to the BHA and to the HUD field office where the project is located.

16.6.4 Other Subsidy: Effect on Rent to Owner

(a) General

In addition to the rent limits established in accordance with Sec. 983.301 and 24 C.F.R. § 982.302, the following restrictions apply to certain units.

(b) HOME

For units assisted under the HOME program, rents may not exceed rent limits as required by the HOME program (24 C.F.R. § 92.252).

(c) Subsidized Projects

- (1) This paragraph (c) applies to any contract units in any of the following types of federally subsidized project:
 - (i) An insured or non-insured Section 236 project;
 - (ii) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
 - (iii) A Section 221(d)(3) below market interest rate (BMIR) project;
 - (iv) A Section 515 project of the Rural Housing Service;
 - (v) A project receiving low-income housing tax credits;
 - (vi) Any other type of federally subsidized project specified by HUD.
- (2) The Rent to Owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program listed in paragraph (c)(1) of this section.

(d) Combining Subsidy

Rent to Owner may not exceed any limitation required to comply with HUD subsidy layering requirements. See 24 C.F.R. § 983.55.

(e) Other Subsidy: BHA Discretion to Reduce Rent

At its discretion, a BHA may reduce the initial Rent to Owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

(f) Prohibition of Other Subsidy

For provisions that prohibit PBV assistance to units in certain types of subsidized housing, see 24 C.F.R. § 983.54.

16.6.5 Rent to Owner: Effect of Rent Control and Other Rent Limits

In addition to the limitation to 110 percent of the FMR in 24 C.F.R. § 983.301(b)(1), the rent reasonableness limit under §§ 983.301(b)(2) and 983.303, the rental determination provisions of § 983.301(f), the special limitations for tax credit units under § 983.301(c), and other rent limits under this part, the amount of Rent to Owner also may be subject to rent control or other limits under local, state, or federal law.

16.6.6 Payment to Owner

(a) When Payments are Made

- (1) During the term of the HAP Contract, the BHA shall make housing assistance payments to the Owner in accordance with the terms of the HAP Contract. The payments shall be made for the months during which a contract Unit is Leased to and actually occupied by an eligible Family.
- (2) Except for discretionary vacancy payments in accordance with 24 C.F.R. § 983.352, the BHA may not make any housing assistance payment to the Owner for any month after the month when the Family moves out of the Unit (even if household goods or property are left in the unit).

(b) Monthly Payment

Each month, the BHA shall make a housing assistance payment to the Owner for each contract Unit that complies with the HQS and is Leased to and occupied by an eligible Family in accordance with the HAP Contract.

(c) Calculating Amount of Payment

The monthly housing assistance payment by the BHA to the Owner for a contract Unit Leased to a Family is the Rent to Owner

minus the tenant rent (total tenant payment minus the utility allowance).

(d) Prompt Payment

The housing assistance payment by the BHA to the Owner under the HAP Contract shall be paid to the Owner on or about the first day of the month for which payment is due, unless the Owner and the BHA agree on a later date.

(e) Owner Compliance with Contract

To receive housing assistance payments in accordance with the HAP Contract, the Owner must comply with all the provisions of the HAP Contract. Unless the Owner complies with all the provisions of the HAP Contract, the Owner does not have a right to receive housing assistance payments.

16.6.7 Vacancy Payment

(a) Payment for Move-out Month

If an assisted Family moves out of the Unit, the Owner may keep the housing assistance payment payable for the calendar month when the Family moves out ("move-out month"). However, the Owner may not keep the payment if the BHA determines that the vacancy is due to the Owner's fault.

16.6.8 Tenant Rent; Payment to Owner

(a) BHA Determination

- (1) The tenant rent is the portion of the Rent to Owner paid by the Family. The BHA determines the tenant rent in accordance with HUD requirements.
- (2) Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the BHA to the Family and the Owner. See also section 8.6 of this Administrative Plan.

(b) Tenant Payment to Owner

- (1) The Family is responsible for paying the tenant rent (total tenant payment minus the utility allowance).
- (2) The amount of the tenant rent as determined by the BHA is the maximum amount the Owner may charge the Family for rent of a contract Unit. The tenant rent is payment for all housing services, maintenance, equipment, and utilities to

be provided by the Owner without additional charge to the tenant, in accordance with the HAP Contract and Lease.

- (3) The Owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the BHA. The Owner must immediately return any excess payment to the tenant.
- (4) The Family is not responsible for payment of the portion of the Rent to Owner covered by the housing assistance payment under the HAP Contract. The Owner may not terminate the tenancy of an assisted Family for nonpayment of the BHA housing assistance payment.

(c) Limit of BHA Responsibility

- (1) The BHA is responsible only for making housing assistance payments to the Owner on behalf of a Family in accordance with the HAP Contract. The BHA is not responsible for paying the tenant rent, or for paying any other claim by the Owner.
- (2) The BHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the tenant rent or to pay any other claim by the Owner. The BHA may not make any payment to the Owner for any damage to the Unit, or for any other amount owed by a Family under the Family's Lease or otherwise.

(d) Utility Reimbursement

- (1) If the amount of the utility allowance exceeds the total tenant payment, the BHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities ("utility reimbursement") and the tenant rent to the Owner shall be zero.
- (2) The BHA either may pay the utility reimbursement to the Family or may pay the utility bill directly to the utility supplier on behalf of the Family.
- (3) If the BHA chooses to pay the utility supplier directly, the BHA must notify the Family of the amount paid to the utility supplier.

16.6.9 Other Fees and Charges

(a) Meals and Supportive Services

- (1) Except as provided in paragraph (a)(2) of this section, the Owner may not require the tenant or Family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.
- (2) In assisted living developments receiving project-based assistance, Owners may charge tenants, Family members, or both for meals or supportive services. These charges may not be included in the Rent to Owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the Lease by the Owner in an assisted living development.

(b) Other Charges by Owner

The Owner may not charge the tenant or Family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises. If an Owner does charge extra amounts the BHA reserves the right to terminate all HAP Contracts with that Owner.

CHAPTER 17: RENTAL ASSISTANCE DEMONSTRATION (RAD)

HUD's Rental Assistance Demonstration (RAD) is a voluntary conversion program whereby Public Housing Agencies can convert housing stock to a different platform (PBV or PBRA) in order to access more stable funding for improvements and preservation.

The PBV rules and regulations as set out in Chapter 16 apply to RAD units, except as stated within this chapter.

17.1 Site Selection

RAD units will follow the Site Selection standards as set out in Chapter 16. 2.1 above, and in accordance with exceptions allowable under HOTMA.

17.2 Eligibility The following applies to in place families, both RAD and non RAD PBVs, at a converting site:

17.2.1 Eligibility at Conversion- All current residents are eligible at the time of conversion. No rescreening or re-certification will be performed at the time of conversion

17.2.2 Under-housing- In order for a unit to be included in the RAD HAP contract, the existing family must not be under-housed according BHA subsidy standards.

17.2.3 Eligibility at Turn-Over – Vacancies will be filled in accordance with eligibility requirements as set out in Chapters 5 & 16 of this Administrative Plan.

17.3 HQS (Housing Quality Standards)

17.3.1 Units are all eligible at the time of conversion with the exception of units that have health and safety violations, or units in which the family is under-housed.

(a) Individual Inspection approvals for each unit are not required at the time of RAD HAP execution. Individual Inspection approvals will be conducted in accordance with the RCC (RAD Conversion Commitment)

17.4 Initial Contract Rent and Rent Increases

Initial contract rent to owner is set by HUD, and based upon the amount of subsidy the project was receiving under the Public Housing Program.

17.4.1 Rent increases. The contract rent is adjustable annually at the anniversary of the RAD HAP contract upon request of the owner. The adjustment will be made using the Operating Cost Adjustment Factor (OCAF) published by HUD, and will be the lower of rent reasonableness or OCAF. The rent to owner will never be reduced below the initial contract rent.

17.5 Right to Return This applies to in place families, both RAD and non RAD PBVs, at a converting site:

Residents who are relocated during rehabilitation/construction shall have a right of return.

17.6 Payments to the Owner during Rehabilitation/Construction

17.6.1 RRAP (RAD Rental Assistance Payments) Owners are eligible for RRAP payments for units undergoing rehabilitation/construction during the term of the RCC for all units under the RAD HAP contract.

17.7 Tenant Share - The following applies to in place families, both RAD and non RAD PBVs, at a converting site:

17.7.1 Initial Tenant Share will be Participant's TTP or Flat rent at the time of conversion.

- (a) If the Participant's rent increases by more than the greater of 10% or \$25.00 solely as a result of the conversion the increase in the tenant share will be phased in over a three (3) year period.
- (b) If during the term of the phase in the TTP becomes less than or equal to the initial conversion TTP then the phase in will cease.
- (c)

~~(d) Earned Income Disregard (EID). See eligibility criteria in Sections 5.5.3(j) & 5.5.3(l). Participants who at the time of conversion are employed and are receiving EID shall continue to receive the EID after conversion until maximum twenty four (24) month time frame elapses.~~

~~(i) A Participant only receives one EID during their stay in assisted housing.~~

~~(ii) Upon the expiration of the EID the rent adjustment shall not be subject to rent phase-in~~

~~(e)~~(d) When TTP exceeds the gross rent, the requirement to remove the unit from the contract after six (6) months of nonpayment has been waived by HUD. The converting family may remain in the unit and when and if the converting family's TTP falls below the gross rent the converting family may be eligible to receive a subsidy. During the time the families TTP exceeds the gross rent all other PBV rules apply. .

17.8 Choice Mobility

17.8.1 Voucher Inventory Turnover Cap- If the BHA as a result of RAD, has a total number of PBV units (including RAD PBV units) under HAP contract which exceeds

twenty (20%) of the BHA's authorized units under its HCV ACC with HUD, the BHA may limit the issuance of vouchers to three quarter of its turnover vouchers in any single year to residents of the covered projects.

17.8.2 – Participants residing in RAD PBV units will be eligible for a Choice Mobility voucher one (1) year after the conversion of the property (effective date of the HAP contract) or one year after they move into the property, whichever comes later.

17.8.3 – The BHA will manage the Choice Mobility process in accordance with its policy and in concert with the Project Based owner.

CHAPTER 18: GENERAL ADMINISTRATIVE PROCEDURES

18.1 Fraud and Criminal Acts Against the BHA

17.1.1 Fraud Defined

Fraud is an intentional misrepresentation of the truth or concealing of material fact to induce another to act to his or her detriment.

18.1.2 Fraud by a Family

- (a) *Family Fraud Against the BHA.* Examples of fraud by a Family against the BHA include, but are not limited to:
 - (1) Misrepresentation of income, Assets, or deductions;
 - (2) Misrepresentation of the Family's residence or composition; and
 - (3) Subletting or assigning the Apartment.
- (b) *Termination or Denial of Assistance.* The BHA will propose termination of the Participant's assistance in accordance with Chapter 13 or deny assistance, in accordance with Chapter 6, to an Applicant who commits fraud. The BHA may use its discretion to enter into a repayment agreement with a family.
- (c) *Fraud Reporting.* The BHA may report any incident of Fraud to the HUD Office of the Inspector General or any other applicable law enforcement agency.

18.1.3 Owner Fraud and Program Abuse

- (a) Examples of fraud and program abuse by an Owner include, but are not limited to:
 - (1) Providing false information on a Rent Roll or RTA;
 - (2) Collecting extra or side rent payments from the Participant;
 - (3) Collecting assistance for Apartments not occupied by eligible families;
 - (4) Filing false vacancy loss or damage claims; and
 - (6) Bribing, or attempting to bribe, a BHA employee.
- (b) *Action for Owner Fraud or Program Abuse.* In cases of suspected or alleged Owner fraud, the Leasing Officer will ask the Owner for an explanation of the suspected or alleged abuse. If the Owner is found to have intentionally abused the program, the BHA may

cancel the HAP Contract (issuing the Family a new Voucher) and require the Owner to reimburse the BHA for extra or excessive HAP payments, overcompensated claims for vacancy loss, unpaid Tenant Rent, or damages. The BHA may require the Owner to reimburse the tenant for any overpayment, unauthorized side agreements, or utility costs. The BHA will ask the Owner for proof that the matter has been resolved.

The BHA may also seek redress in these matters through the Courts, with the HUD Inspector General's office, the Boston Police Department, or the Massachusetts District Attorney. In addition, the BHA may refuse to enter into a new HAP Contract with such an Owner.

18..2 Special BHA Analyses

18..2.1 Analysis of Utility Costs

The BHA will review Utility Allowances at least annually. The BHA will establish new Allowances if old Utility Allowances are inadequate. The BHA will always revise its Utility Allowance for any and all utility categories if there has been a change of ten percent (10%) or more in the utility rate since the last Utility Allowance revision. The BHA may revise the utility allowances for any change in rate supported by data analysis. The Administrator or his or her designee will approve all adjustments to the Utility Allowance schedules. The BHA will retain the documentation utilized in the annual review for seven (7) years.

When there is a change in the utility allowance schedule the BHA may implement the revised utility allowance immediately (upon 30 days written notice), but no later than the next reexamination.

18..2.2 Analysis of Rental Opportunities

To provide assistance in further expanding housing opportunities for Voucher holders, the BHA may periodically analyze rental prices both within and outside of the City, especially in areas with relatively low poverty and low concentrations of assisted housing, to determine whether the current Payment Standards allow families to find housing in a broad variety of areas. The BHA may also seek general adjustments or neighborhood exceptions from HUD as appropriate.

18..2.3 Housing Assistance Payments Register Review

On a monthly basis the Administrator or his or her designee shall review the Housing Assistance Payments register to ensure that it is current and reflects changes in payment due to Owners of Units assisted under the Section 8 program.

18.2.4 Revising the Payment Standard; Affordability Adjustments

The Payment Standard established by the BHA shall not exceed the greater of 110% of the metropolitan area FMR or an exception Payment Standard as permitted or approved by HUD. The Payment Standard shall not be less than 90% of the metropolitan FMR.

The BHA may establish a payment standard in between 90 and 110% of the applicable metropolitan area FMR in each zip code within the BHA's administrative jurisdiction.

The BHA may utilize up 110% Small Area Fair Market (SAFMR) as an exception payment standard in a zip code after considering the local rental market.

When a New Payment Standard is Applied. The BHA will apply the Payment Standard that is effective on the date the initial Lease and HAP Contract are effective. If the Payment Standard has increased, the BHA will change a Family's Payment Standard at the first annual reexamination after the New Payment standard is effective. If the Payment standard has decreased the BHA will make no change to the Family's Payment Standard for the duration of the HAP contract, except when the Family has a change in voucher size, or a waiver is granted by HUD, then the BHA will give 30 days written notice of said change.

- (a) *The Review Process.* On a periodic basis, the BHA will review the Tenant Share of Rent for families subsidized under the Voucher program. If the rent burdens are determined to be high, the BHA may decide to adjust the Payment Standard upward. In no instance shall the Payment Standard be raised above 110% of the Fair Market Rents except for Reasonable Accommodation and exception Payment Standards.
- (b) In the case of a Reasonable Accommodation request by a Disabled Person for a Payment Standard of 120% of the Fair Market Rent, where the requisite verification of the disability or handicap and the higher Payment Standard would accommodate the disability or handicap, the BHA will seek HUD approval of a higher Payment Standard.
- (c) *Local Factors.* The BHA will take into consideration local factors when reviewing the applicable Payment Standards. Survey and research data will be utilized to review any overall increase in rental prices for the city and their effect on Voucher subsidy holders.

18.3 Omitted Intentionally

18.4 Periodic Review of Administration

The Leased Housing Division will periodically review its procedures and revise them as necessary to accomplish its goals more efficiently and effectively and to assure compliance with the requirements of the Section 8 Management Assessment Program ("SEMAP"), and applicable federal, State, and local laws. The review and revision of this Administrative Plan is an example of such an undertaking.

18.5 Administration of Vouchers in Accordance with HUD NOFA.

The BHA has the ability to administer new Section 8 set-asides in accordance with such criteria as listed in HUD Notices of Funding Availability ("NOFA"). The BHA will track/monitor any special set-asides in a manner consistent with the NOFAs and HUD requirements.

Chapter 19: Glossary

1937 Act - 1937 Act means the United States Housing Act of 11037 (42 U.S.C. § 1437 et seq.).

Absence – Means that no member of the Family is residing in the Unit.

Absorption - In Portability, the point at which a Receiving Housing Authority stops billing the Initial Housing Authority for assistance on behalf of a portable Family.

ACC reserve account (Project Account) - The account established and maintained in accordance with 24 C.F.R. § 882.403(b).

Adjusted Annual Income - Annual Income of all family members, as verified by the BHA, after deductions, exceptions and exclusions are made with respect to each of the members of the Family to determine initial and continued program eligibility.

Administrative Fee - Fee paid by HUD to the BHA for the administration of the program.

Administrative Plan - This plan that describes the BHA policies for the administration of the HCVP.

Administrator - The chief executive officer of the BHA.

Admission - The point when the Applicant Family becomes a Participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a Family (first day of initial Lease term).

Adult - A Family Member who is 18 years or older, or who is the Head of the Household, or spouse, or Co-Head.

Agency Determination Form - The form used by the BHA to calculate the term of the Voucher and notify the Applicant or Participant of any Suspension period due to the submission of a RTA or and Extension granted by the BHA.

Agency Plan - The BHA Agency Plan is a comprehensive guide to BHA policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the BHA Plan: the Five-Year Plan, which the BHA submits to HUD once every fifth year, and the Annual Plan, which is submitted to HUD every year.

Agreement to enter into Housing Assistance Payments Contract (AHAP) - A written agreement between the Owner and the PHA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the AHAP, the PHA will enter into a Housing Assistance Payments Contract with the Owner.

Annual Contributions Contract (ACC) - The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the HCVP, and the BHA agrees to comply with HUD requirements for the program.

Annual Income -

- (a) **Annual income** means all amounts, monetary or not, which:
- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - (3) Which are not specifically excluded in paragraph (c) of this definition.
 - (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
- (b) **Annual income** includes, but is not limited to (See 24 C.F.R. § 5.609):
- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 - (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
 - (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this definition. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
 - (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for

the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this definition);

- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this definition);
- (6) Welfare assistance payments.
 - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
 - (A) Qualify as assistance under the TANF program definition at 45 C.F.R. § 260.31; and
 - (B) Are not otherwise excluded under paragraph (c) of this section.
 - (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)
- (c) Annual income does not include the following:
 - (1) Income from employment of children (including foster children) under the age of 18 years;

- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a Live-In-Aide, as defined in section 5.4.2 of this Administrative Plan;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
 - (i) Amounts received under training programs funded by HUD;
 - (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or Owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

- (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- (14) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- (15) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- (16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. § 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing Owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
- (d) Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

Apartment - Residential space for the private use of a Family. Also referred to as a Unit.

Applicant (Applicant Family) - A Family that has applied for Admission to a program but is not yet a Participant.

Appointment – the use of “appointment” in this Plan may mean: a telephone call, a written exchange (e.g. email), a virtual meeting or an in person meeting.

Assets - Assets generally means cash which is accessible to a person including: checking and savings accounts, stocks, bonds, equity in real property, and the cash value of tangible personal property such as furniture, automobiles and household effects. (Certain types of tangible personal property are included, such as coin collections or jewelry, but essential tangible personal property reasonably necessary for everyday living, such as furniture and automobiles are not included. For included real or personal property holdings, the value of the asset is the cash amount that would remain if the resident converted the asset to cash and deducted any outstanding mortgages, liens or selling expenses.)²⁴

Assisted Lease (Lease) - A written agreement between an Owner and a Family for the leasing of a dwelling Unit to the Family. The Lease establishes the conditions for occupancy of the dwelling Unit by a Family with Housing Assistance Payments under a HAP Contract between the Owner and the housing authority.

Area Median Income (AMI) - The median income of the greater Boston area as determined by HUD.

Base Rent - The base rent is calculated using the rent charged for the Unit or the estimated costs to the Owner of owning, managing and maintaining the rehabilitated unit.

Bedroom Size – See Unit Size.

Child - For purposes of Citizenship regulations, a member of the Family other than the Family head or spouse who is under 18 years of age.

Child Care Expenses - Amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to actively seek employment, be gainfully employed, or to further his or her education, and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen - A Citizen or National of the United States.

Co-Head of Household - A person who, with the Head of Household, assumes the responsibility and accountability for the Family and signs the Lease. The Co-Head of

²⁴ For more guidance on assets see HUD Handbook 4350.3, REV-1

Household is equal to and has the same rights and responsibilities as the Head of Household.

Congregate housing - Housing for Elderly or persons with disabilities that meets the HQS for congregate housing.

Consent Form - Any Consent form approved by HUD to be signed by assistance Applicants and Participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The Consent forms may authorize the collection of other information from assistance Applicants or Participant to determine eligibility or level of benefits.

Continuously Assisted - An Applicant is Continuously Assisted under the 1937 Housing Act if the Family is already receiving assistance under any 1937 Housing Act program when the becomes a Participant in the HCVP or any subprogram of the HCVP including the PBV program. Brief interruptions in assistance caused by transitioning from one form of assistance under one 1937 Act program to another will not be considered to break the continuity of assistance where the reason for the transition was through no fault of the family, including but not limited to, the expiration of a HAP Contract for a project-based development or termination of a HAP Contract for Owner breach or other extenuating circumstances.

Contract - See definition of Housing Assistance Payments Contract.

Contract Rent - The monthly rent payable to the Owner under the Lease and any amendments. The Contract Rent covers payment for any housing services, maintenance, and utilities that the Owner is required to provide and pay for.

Cooperative - Housing owned by a non-profit corporation or association, and where a member of the corporation or association has the right to reside in a particular Apartment, and to participate in management of the housing.

Cooperative Member - A family of which one or more members owns Membership Shares in a Cooperative.

Covered Person – A Tenant, any member of the Tenant's household, a guest or another person under the Tenant's control.

Dating Violence - Violence committed by a person:

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship shall be based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of the relationship; and

- (3) The frequency of interaction between the persons involved in the relationship.

Dependent - A member of the Family (except foster children and foster adults) other than the Head of Household, Co-Head of Household, spouse, or Emancipated Minor who is under 18 years of age, or is a Disabled Person, or is a Full-time student.

Disabled Family - A Family whose head, spouse, or sole member is a Disabled Person; or two or more Disabled Persons living together; or one or more Disabled Persons living with one or more Live-In-Aides

Disabled Person - For program eligibility, a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. § 423).

For Eligibility in Federally-Assisted Housing – A person who:

- (i) Has a disability defined as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or, in the case of a person who has attained the age of 55 and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he or she has previously engaged with some regularity and over a substantial period of time, or
- (ii) Has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, which substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or
- (iii) Has a developmental disability which is a severe, chronic disability of an individual 5 years or older which is attributable to a mental or physical impairment or combination of impairments and which is manifested before the age of 22 and is likely to continue indefinitely and which results in substantial functional limitations in three or more of the following areas of major life activity (self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living and economic self-sufficiency), and which reflects the individual's need for assistance that is lifelong or of extended duration and is individually planned and coordinated. Such term shall not exclude persons who have the disease acquired immunodeficiency syndrome ("AIDS") or any conditions arising from the etiologic agent for AIDS.

For all purposes other than Eligibility, a person with a physical or mental impairment which substantially limits one or more life activities, or has a record of such impairment, or is regarded as having such an impairment.

- *No individual shall be considered a person with a disability solely because of drug or alcohol dependence.*

Displaced Person - A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws." See also 24 C.F.R. § 5.403's definition of "displaced family."

Domestic Violence – Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the Massachusetts or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The BHA will form its Domestic Violence policies in accordance with federal, State and local laws.

Domestic Violence (for Priority Determination) - Continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Household Members by another Household Member or by a non-Household Member.

Domicile - The legal residence of the Family as determined in accordance with State and local law.

Drug – A controlled substance as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802).

Drug Related Criminal Activity - Illegal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

Elderly Person - A person who is at least sixty-two (62) years of age.

Eligible Non-Citizen Status - The admittance of a Non-Citizen to the United States under one of the following categories:

- (1) A Non-Citizen lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15) and 8 U.S.C. § 1101(a)(20)), excluding, among others, Non-Citizen visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
- (2) A Non-Citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. § 1259) [8 U.S.C. § 1259];
- (3) A Non-Citizen who is lawfully present in the United States pursuant to an Admission under section 207 of the Immigration and Nationality Act (8 U.S.C. § 1157) or pursuant to the granting of asylum (which has not been

- terminated) under section 208 of such Act (8 U.S.C. § 1158);
- (4) A Non-Citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. § 1182(d)(5))
 - (5) A Non-Citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243 (h) of the Immigration and Nationality Act (8 U.S.C. § 1253(h));
 - (6) A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act (8 U.S.C. § 1255a).

Emancipated Minor - Minor (under 18 years old) with a child who has otherwise established him/herself as a non-Dependent individual.

Extremely Low-Income Families - low income families whose incomes does not exceed the higher of thirty percent (30%) of the area median income or the federal poverty level.

Fair Housing Act - Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 et seq.).

Fair Market Rent (FMR) - The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

Family -

- (1) Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together;
- (2) This definition includes single persons.²⁵
- (3) Other persons, including foster children, Live-In-Aides²⁶, and members temporarily absent (including children temporarily assigned to foster

²⁵ Single persons include: a single man; a single woman who is pregnant at the time of admission; a single person who has secured, or is in the process of securing, the custody of any individual(s) below the age of 18; an Elderly person; a Person with a Disability or Handicap; a Displaced Person; or a Single Person who is not Elderly, disabled, handicapped or displaced, each as defined in Chapter 11 of this Policy.

²⁶ Live-in-Aidess do not have rights of tenancy, nor can they be considered the remaining member of a resident household unless they are found to be a licensed Live-inAide and select one of the options in Chapter 5, section 5.4.2(g).

care²⁷), may be considered a part of the household if they are living or will live regularly with the Household.

Family Break-Up - A Family Break-Up occurs when there one or more adult Household Members will no longer reside together and there is a dispute as to whom the subsidy will remain with. A Family Break-Up situation may often occur in instances including but not limited to: divorce, separation, or protective order. When a Family Break-Up occurs, the HCVP assistance does not necessarily remain with the Head of Household. Any adult Household Member, Emancipated Minor, or adult assuming responsibility for one or more minor family members could retain the HCVP Assistance.

Family Composition – See Household.

Family Self-Sufficiency Program (FSS Program) - The program established by the BHA to promote self-sufficiency or assisted families, including the coordination of supportive services (42 U.S.C. § 1437u).

FSS Contract - The FSS Contract includes the effective date, term, responsibilities of the Family and BHA and provisions for establishing an escrow account.

FSS Coordinator - The BHA employee that oversees Participants in the FSS program.

Family Share - The portion of rent and utilities paid by the Family or the Gross rent minus the amount of the Housing Assistance Payment.

Family Unit Size - The appropriate number of bedrooms for a Family as determined by the housing authority under the BHA's Subsidy Standards.

Full-Time Student - A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution shall include but not be limited to: college, university, secondary school, vocational school, or trade school.

Good Cause - A set of standards used by the Authority to determine the need for and special offer of housing in order to avoid a verifiable hardship. The basis for the special offer must be reliably documented and cannot result in discrimination on the basis of race, color, sex, sexual orientation, ethnicity, religion or national origin or handicap or disability.

Gross Rent - The sum of the rent to the Owner plus any utility allowances.

Group Home - A dwelling Unit that is licensed by a State as a Group Home for the exclusive residential use of two to twelve persons who are Elderly or persons with disabilities (including any PCA).

Head of Household - The Family member who assumes the responsibility and accountability for the Household and signs the Lease.

²⁷ See 24 C.F.R. § 5.403.

Home - In the homeownership option: A dwelling Unit for which the BHA pays homeownership assistance.

Homeless - A Household lacks a fixed, regular and adequate nighttime habitation OR the primary nighttime dwelling is one of the following:

- (a) A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing);
- (b) A public or private place not designed for, or ordinarily used as, a regular sleeping place for human beings.

Homeowner - In the homeownership option: A Family of which one or more members own title to the Home.

Homeownership Expenses - In the homeownership option: A Household's allowable monthly expenses for the home, as determined by the PHA in accordance with HUD requirements.

Homeownership Option - Assistance for a Homeowner or Cooperative Member under 24 C.F.R. § 982.625 to 24 C.F.R. § 982.641.

Household (Family Composition) - All persons residing in an Apartment who are listed on the HUD 50058 as Household Members. The Household may include an approved PCA, who resides in the Apartment.

Household Member - A person residing in an Apartment who is listed on the HUD 50058 form as a Household Member. A Household Member may be an approved PCA who resides in the Apartment. Household Members are listed on the HUD-50058.

Housing Assistance Payment (HAP) - The monthly assistance by the BHA or another housing authority paid to the Owner in accordance with the HAP Contract.

HAP Contract - The contract that governs the monthly assistance paid by the BHA to the Owner.

Housing Quality Standards (HQS) - The HUD minimum quality standards for housing assisted under the Section 8 program.

Housing Choice Voucher - A document issued by the BHA to an eligible Applicant selected for admission to the HCVP or issued to a Participant during a relocation process. This document describes the program what the eligible Applicant must do to Lease an Apartment. The Voucher also states the obligations of the Family under the program. No Housing Choice Voucher will be effective for more than 120 days.

Housing Choice Voucher Holder - An Applicant or Participant Family that has an unexpired Housing Choice Voucher.

Housing Choice Voucher Program (HCVP) - The program that HUD pays rental subsidies so eligible families can afford decent, safe, and sanitary housing.

HUD (U.S. Department of Housing & Urban Development) - The federal department responsible for the Section 8 and public housing program as provided for in the 1937 Housing Act.

Immediate Family Member (for definition of Stalking) – A person who is:

- (a) A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
- (b) Any other person living in the household of that person and related to that person by blood or marriage.

Imputed Welfare Income - The amount of Annual Income not actually received by a Family, as a result of a specified welfare benefit reduction, that is nonetheless included in the Family's Annual Income for the purposes of determining rent.

Individual Training and Service Plan (IT&SP) - The FSS Coordinator uses the needs assessment to develop an Individual Training and Service Plan (IT&SP) for the tenant. This IT&SP breaks the large goal of self-sufficiency into smaller interim goals and outlines the activities and services necessary, along with an estimated time frame to achieve FSS program goals.

Initial Housing Authority - In Portability both: (1) a housing authority that originally selected a Family that later decides to move out of the Jurisdiction of the selecting housing authority, and (2) a housing authority that absorbed a Family that later decides to move out of the Jurisdiction of the absorbing housing authority.

Initial Payment Standard - The Payment Standard at the beginning of the HAP Contract term.

Initial Rent to Owner - The Rent to Owner at the beginning of the initial Lease term.

In-place Tenants - Tenants living on a rehabilitated property at the time the HAP Contract is executed between the BHA and the Owner.

Interest in the Home - In the homeownership option:

- (1) In the case of assistance for a homeowner, "Interest in the Home" includes title to the home, any Lease or other right to occupy the home, or any other present Interest in the Home.
- (2) In the case of assistance for a Cooperative Member, "Interest in the Home" includes ownership of Membership Shares in the Cooperative, any Lease or other right to occupy the home, or any other present Interest in the Home.

Interim Recertification - A reexamination of a Participant's income, expenses, and Family Composition conducted between the annual re-certifications when a change in a Family's circumstances warrant such a reexamination.

Jurisdiction - The area in which the BHA has authority under State and local law to administer the program. Under Massachusetts Law the BHA Jurisdiction is anywhere within the Commonwealth of Massachusetts.

Lease - A written agreement between the Apartment Owner and the Head or Co-Head of Household for the occupancy of the Apartment.

Leased Housing Division - The division within BHA that is responsible for the administration of the Section 8 Programs and other various subsidized housing programs.

Leasing Officer - The employee of the BHA that assists the Participant with continued eligibility and participation in the Section 8 program.

Live-in Aide - a person who:

- (i) Is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) Is not obligated to support the Elderly or Disabled Person or persons; **AND**
- (iii) Would not be living in the Apartment except to provide the necessary supportive care; **AND**
- (v) Has no right to the Apartment as a Residual Tenant except as provided in section 8.9, **AND**
- (vi) Does not have his/her income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income and rent except as provided in section 8.9.

Lower Income Families – Families with incomes between 51 percent and 80 percent of the median income.

Low-Income Household - A Household whose Annual Income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller and larger families. [1937 Act]

Manufactured Home - A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS.

Manufactured Home Space - A space Leased by an Owner to a Family. A Manufactured Home owned and occupied by the Family is located on the space.

Medical Expenses - Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Minor - A Minor is a person less than 18 years of age. An unborn child will not be

considered as a Minor. (See also the definition of Dependent)

Mitigating Circumstances - Circumstances which would tend to lessen the negative impact of unsuitable behavior and which may overcome or outweigh negative information gathered in the Admissions or Termination process about the Applicant/Participant.

Mixed Family - A Family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.

Membership Shares - In the homeownership option: shares in a Cooperative. By owning such Cooperative shares, the share-owner has the right to reside in a particular Unit in the Cooperative, and the right to participate in management of the housing.

Moderate Rehabilitation – Section 8 Housing Program which requires rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- (1) Upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or
- (2) Repair or replace major building systems or components in danger of failure.

Monthly Adjusted Income - One twelfth of Adjusted Income Annual.

Monthly Income - One twelfth of Annual Income.

Mutual Housing - included in the definition of "Cooperative."

National - A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-Elderly Family - A Family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more Live-In-Aides.

Non-Citizen - A person who is neither a Citizen nor National of the United States.

Notice Of Funding Availability (NOFA) - For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance, and the criteria for awarding the funding.

Other Person Under the Tenant's Control - A person who, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the Tenant or other member of the household who has express or implied authority to so consent on behalf of the Tenant. Absent evidence to

the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the Tenant's control.

Overcrowded – A condition of occupancy where given its bedroom size and applicable HQS standards, too many people reside in an Apartment.

Owner – Any person or entity, including a Cooperative, having the legal right to Lease or Sub-lease existing housing.

Participant (Participant Family) – A Family that has been admitted to the housing authority's program and is currently assisted in the program. A Participant will also include those persons which the BHA has an obligation to offer Continued Assistance. The Family becomes a Participant on the effective date of the first HAP Contract executed by the housing authority for the Family (first day of initial Lease).

Participant in Good Standing – A Participant who has not violated any rules of the Section 8 program in the prior year is a Participant in good standing. If a Participant has violated Section 8 program rules but the violation has been resolved by agreement between the Participant and the BHA or another PHA, and, if applicable, the Participant has honored the terms of the agreement for the prior year, then the Participant is in good standing. If a determination is pending, the Participant will be considered "in good standing" pending the final decision or resolution of any pending proposed violation of Section 8 program rules and obligations.

Payment Standard – The maximum monthly assistance payment for a Family before deducting the Total Tenant Payment by a Family. For a Voucher tenancy, the housing authority sets a Payment Standard in the range from 90% to 110% of the current FMR or at any exception Payment Standard amount approved by HUD.

Perpetrator – A person who commits an act of Domestic Violence, Dating Violence Stalking, or Sexual Assault against a victim.

Personal Care Attendant (PCA) – See Live-In-Aide :

Portability - Renting a dwelling Unit with Section 8 tenant-based assistance outside the Jurisdiction of the Initial Housing Authority.

Preference - The BHA gives preference to an Applicant on the waiting list if they qualify for one of the Preference categories listed below. See section 3.3.6. Preference points are cumulative and are added to the Applicant's Priority points (if any) to determine an Applicant's position on each BHA waiting list. An Applicant may qualify for more than one Preference at a time. Specific Preference definitions and point information can be found in section 3.3.6 of this Administrative Plan.

Premises - The building or complex in which the dwelling Unit is located, including common areas and grounds.

Present Ownership Interest - In the homeownership option: "Present Ownership option" in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of Membership Shares in a Cooperative. "Present Ownership Interest"

in a residence does not include the right to purchase title to the residence under a Lease-purchase agreement.

Priority - Priority is a housing-related situation that affects an Applicant's present residential status. The BHA gives points to an Applicant with a Priority that ranks an Applicant higher on each waiting list than an Applicant without Priority. An Applicant can qualify for only one Priority at any given time. Certain Priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify.

Private Space - In Shared Housing: The portion of a contract Unit that is for the exclusive use of an assisted Family.

Proration of Assistance - The reduction in a Family's Housing Assistance Payment to reflect the proportion of the Household Members in a Mixed Family who are eligible for assistance.

Project (PBV) – a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

Public Housing Agency (PHA) - A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

Qualifying Family - An Elderly or Disabled family; or a Family receiving supportive services. To qualify, a Family must have at least one member receiving at least one qualifying supportive service. The BHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted Unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted Unit has received, FSS supportive services or any other supportive services as defined in the Administrative Plan, and successfully completes the FSS contract of participation or the supportive services requirement, the Unit continues to count as an excepted Unit for as long as the family resides in the Unit. If a Family in an excepted Unit fails without good cause to complete its FSS contract of participation or if the family fails to complete the supportive services requirement as outlined in the PHA administrative plan, the PHA will take the actions provided under 24 C.F.R. § 983.261(d), and the Owner may terminate the Lease in accordance with § 983.257(c).

Qualified Healthcare Provider - A medical or rehabilitation professional or expert, **OR** non-medical service agency whose function is to provide services to the disabled.

Rapid Re-Housing Assistance – The provision of housing relocation and stabilization services and short and/or medium term rental assistance (not to exceed thirty (30) months) as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.

Reasonable Accommodation - A change or modification to BHA rules, policies, practices, or services when such a change is reasonable and necessary because of a person's disability, and provided that the change does not pose an undue financial or administrative burden, or result in a fundamental Alteration of BHA policies.

Reasonable Modification - A change to the public or common use areas of a building or any change to a dwelling Unit when such a change may be necessary to afford the Disabled person full enjoyment of the premises occupied and is made at the expense of the Disabled Person. See 24 C.F.R. § 100.203.

Reasonable Rent - A Rent to Owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted Unit in the premises.

Receiving Housing Authority - In Portability, a housing authority that receives a Family selected for participation in the tenant-based program of another housing authority. The Receiving Housing Authority issues a Voucher, and provides program assistance to the Family.

Recertification - A reexamination of a Participant Family's income, expenses, and Family Composition to determine the Tenant Share of Rent for the following twelve (12) months.

Remaining Member of a Tenant Family - A Household Member listed on the Lease who continues to live in the assisted Unit after the Head of the Household has left.

Rent to Owner - See Contract Rent

Repayment Agreement - (24 C.F.R. 792.103) –Repayment agreement means a formal document signed by a tenant or owner and provided to a PHA which a tenant or owner acknowledges a debt in a specific amount, and agrees to repay the amount due at specific time period(s).

Residual Tenancy Applicant - An existing Household Member, (except a Live-in-Aide), or an adult (if all other Household Members in the Apartment are Minors or incapacitated adults), willing to assume guardianship where appropriate of an Apartment where the Head and Co-Head of Household vacates or becomes incapacitated.

Residual Tenant - A remaining Household Member, (except a Live-in-Aide), or an adult (if all other Household Members in the Apartment are Minors or incapacitated adults) who has been approved under this Administrative Plan to remain a BHA resident.

Section 8 – Refers to Section 8 of the United State Housing Act of 1937 (42 U.S.C. § 1437f) and its associated programs, such as the Housing Choice Voucher Program and Moderate Rehabilitation Program.

Shared Housing - A Unit occupied by two or more families. The Unit consists of both Common space for shared use by the occupants of the Unit and separate Private Space for each assisted Family.

Single Person - Someone living alone or intending to live alone who does not qualify as an Elderly Person, a Disabled Person, a displaced person, or the Remaining Member of a Tenant Family.

Single Room Occupancy Housing (SRO) - A Unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

Special Admission - Admission of an Applicant that is not on the housing authority waiting list, or without considering the Applicant's waiting list position.

Special Housing Types - Housing that includes: SRO housing, Congregate housing, Group Homes, Shared Housing, Cooperatives (including Mutual Housing), and Manufactured Homes (including manufactured home space rental).

Stalking – Means:

- (a) To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and
- (b) In the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:
 - (i) That person;
 - (ii) A member of the immediate family of that person; or
 - (iii) The spouse or intimate partner of that person.

Statement of Homeowner Obligations - In the homeownership option: The Household's agreement to comply with program obligations.

Statement of Family Responsibility – In the Moderate Rehabilitation Program, an agreement in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the Family.

State Wage Information Collection Agency (SWICA) - The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy Standards - Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension - Stopping the clock on the term of a Household's Voucher, for such period as determined by the housing authority, from the time when the Household submits a request for tenancy approval to Lease a Unit, until the time when the housing authority approves or denies the request, and upon BHA approval based on other extenuating circumstances. Also referred to as Tolling.

Tenant - The person or persons (other than a PCA) who execute(s) the Lease as lessee of the dwelling Unit.

Temporary Housing /Temporarily Housed - a person or family shall be considered temporarily housed if he/she has not entered into a tenancy. For this purpose a tenancy will be taken to mean an agreement (written or verbal) by which an individual or family occupies the real property (house or apartment) of another with permission and subject to a rental fee."

Tenant Share of Rent (Household Rent to Owner) - In the Voucher program, the portion of the monthly Rent to Owner paid by the Household. For calculation of Rent to Owner see 24 C.F.R. § 982.515(b).

Third-Party Verification - Oral or written confirmation of a Applicant/Participant's income, expenses, or Family Composition provided by a source outside the household, such as an employer, doctor, school official, etc.

Tolling - See Suspension

Total Tenant Payment (TTP) - Total Tenant Payment is the amount calculated under Section 3(a)(1) of the 1937 Act, which is the higher of: 30% of the Family's Monthly Adjusted Income; 10% of the Family's Monthly Income; Minimum rent; or if the Family is receiving payments for Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such an agency to meet the Family's housing cost, the portion of such payments which is so designated.

Transitional Housing Assistance- (as defined by HUD) means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months),. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

Underoccupied - A condition of occupancy where given its bedroom size too few people reside in an Apartment.

Unit - See Apartment

United States Department of Housing & Urban Development (HUD) - The federal department responsible for the Section 8 and public housing program as provided for in the 11037 Housing Act.

Use – For the purposes of drug related criminal activity, use will include simple possession of an illegal substance as defined by federal and or state law.

Utility Allowance - If the cost of utilities (except telephone) and other housing services for an assisted Unit is not included in the tenant rent but is the responsibility of the Family occupying the Unit, an amount equal to the estimate made of approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other such services for the Unit by an energy-conservative Family of modest

circumstances consistent with the requirements of a safe, sanitary, and healthful environment.

Utility Reimbursement - The amount, if any, by which the Utility Allowance for the Unit, if applicable, exceeds the Total Tenant Payment for the Family occupying the unit

Verification - The process of obtaining statements from individuals whom can attest to the accuracy of the amounts of income, expenses, or Family Composition (e.g., employers, public assistance agency staff, doctors).

Very Low-Income Families - Low-income families whose incomes do not exceed 50% of the median Family income for the area, as determined by the Secretary with adjustments for smaller and larger Families.

Veteran - The word "Veteran" as used in this Administrative Plan shall include the spouse, surviving spouse, dependent, parent or Child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a Child of a Veteran.

Visitor/ Guest Policy- Participants are allowed to have guests and other temporary visitors. However, the leased premises may not be occupied for more than fourteen (14) cumulative days, or as prescribed in the lease agreement, by any one visitor/guest in a calendar year without prior permission from both the BHA and the Owner.

Violent Criminal Activity - Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause serious bodily injury or property damage.

Voucher - See Housing Choice Voucher.

Voucher Holder - A Family holding a Voucher with unexpired search time.

Voucher Size – See Family Unit Size.

Welfare Assistance - Welfare or other payments to Families or individuals, based on need, that are distributed through programs funded by Federal, State or local governments. See 24 C.F.R. § 5.603(d).

Planned Use of Project Based Vouchers at Boston Housing Authority Properties Appendix B BHA Administrative Plan

Rev. 1/14/25

		PBVs	Other Affordable	Market Rate	Total Units	Scope of Work	Construction Cost per Unit
WHITTIER	MA002000111						
Phase 3		54	76	42	172	New Construction	> \$400,000
Off-site		50	0	0	50	New Construction	> \$400,000
Subtotal		104	76	42	222		
ORIENT HEIGHTS	state public housing						
Phase Three		30	93	0	123	New Construction	> \$400,000
Subtotal		30	93	0	123		
CHARLESTOWN	MA002000101						
Phase 1A		55	0	183	238	New Construction	> \$400,000
Subtotal		55	0	183	238		
OLD COLONY	MA002000124						
Phase 6		94	0	0	94	New Construction	> \$400,000
Subtotal		94	0	0	94		
MILDRED C. HAILEY	MA002107119						
Building 1A		44	56	0	100	New Construction	> \$400,000
Building 1B		47	75	0	122	New Construction	> \$400,000
Building 2		23	42	0	65	New Construction	> \$400,000
Building 3		22	38	0	60	New Construction	> \$400,000
Building 4		78	142	0	220	New Construction	> \$400,000
Building 5A		20	33	0	53	New Construction	> \$400,000
Building 5B		19	34	0	53	New Construction	> \$400,000
Subtotal		253	420	0	673		
Mary Ellen McCormack	MA002000101						
Phase 1.1A		100	0	0	100	New Construction	> \$400,000
Phase 1.1B		179	0	16	195	New Construction	> \$400,000
Subtotal		279	0	16	295		
St. Botolph	MA002000253	132	0	0	132	Rehab	\$300,000
Doris Bunte	MA002000242	165	0	0	165	Rehab	\$300,000
Ausonia	MA002000261	100	0	0	100	Rehab	\$300,000
Orchard Gardens	MA002002113; MA00200215	282	49	0	331	Rehab	TBD
Faneuil Garden	N/A	TBD	TBD	TBD	TBD	TBD	TBD
General Warren	MA002000214	96	0	0	96	Rehab	TBD
Total		1590	638	241	2469		



A home for every story

ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP) FOR BHA PUBLIC HOUSING PROGRAMS

Effective:
April 1, 20254

Style Definition: Heading 3: Font: Not Bold

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Reasonable Modification	<i>Error! Bookmark not defined.</i>
Residual Tenancy Applicant	<i>Error! Bookmark not defined.</i>
Residual Tenant.....	<i>Error! Bookmark not defined.</i>
Non-Smoking.....	<i>Error! Bookmark not defined.</i>
State-Aided Housing.....	<i>Error! Bookmark not defined.</i>
Temporary Housing.....	<i>Error! Bookmark not defined.</i>
Tenant Status Review (TSR).....	<i>Error! Bookmark not defined.</i>
Transitional Housing Assistance.....	<i>Error! Bookmark not defined.</i>
Transitional Housing Assistance.....	<i>Error! Bookmark not defined.</i>
Unauthorized Occupants.....	<i>Error! Bookmark not defined.</i>
Under-housed	<i>Error! Bookmark not defined.</i>
Uniform Federal Accessibility Standards.....	<i>Error! Bookmark not defined.</i>
Use and Occupancy Agreement.....	<i>Error! Bookmark not defined.</i>
Utilities	<i>Error! Bookmark not defined.</i>
Vacancy Action Form.....	<i>Error! Bookmark not defined.</i>
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CHAPTER 1: INTRODUCTION AND GENERAL POLICY

1.1 Introduction

Boston Housing Authority's Mission Statement: It is the mission of the Boston Housing Authority ("BHA" or "the Authority") to provide stable, quality affordable housing for low- and moderate-income persons; to deliver these services with integrity and mutual accountability; and to create living environments, which serve as catalysts for the transformation from dependence to economic self-sufficiency.

This Admissions and Continued Occupancy Policy (ACOP) describes the admission, occupancy and transfer policies by which the BHA determines eligibility for admission, selects prospective residents, assigns apartments, admits residents, and processes transfers, in a fair and nondiscriminatory manner.

This ACOP is applicable to BHA Public Housing Developments only. The BHA has additional housing units within its portfolio. Application information for those sites is on the BHA website.

1.2 Statement of Nondiscrimination

1.2.1 Compliance with Federal and State Laws

It is the policy of the BHA to comply fully with existing Federal and State laws¹ protecting the individual rights of applicants, residents, or staff and any laws subsequently enacted.

1.2.2 Civil Rights and Fair Housing

The Authority does not discriminate because of race, color, sex, sexual orientation, gender identity, religion, age, handicap, disability, national origin, ethnicity, familial status or marital status, in the leasing, rental, sale or transfer of apartments, buildings, and related facilities, including land that it owns or controls.²

¹ Title VI of the Civil Rights Act of 1964 and the implementing regulations at 24 CFR Part 1; Title VIII of the Civil Rights Act of 1968 (as amended by the Fair Housing Amendment Act of 1988); Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR Part 107; Section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR Part 8; the Age Discrimination Act of 1975 and the implementing regulations at 24 CFR Part 146; and the implementing regulations at 24 CFR Parts 100,108,110, and 121. Title II of the Americans with Disabilities Act and the implementing regulations at 28 CFR Part 35 and M.G.L. Chapter 151B. For BHA's state-aided housing, applicable regulations are found at 760 CMR 4.00, 5.00 and 6.00 covering housing developed under the Chapter 200, Chapter 667 and Chapter 705 programs.

² Buildings must be owned by the Authority and covered by a contract for annual contributions under the United States Housing Act of 1937 for properties in the Federal program, and/or a Massachusetts Department of Housing and Community Development Contract for Financial Assistance or operating funds for properties in the State program.

The BHA shall not, on account of race, color, sex, religion, age, sexual orientation, gender identity, disability, handicap, national origin, ethnicity, marital status or familial status:³

- (a) Deny to any Household the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to their needs;
- (b) Provide housing which is different from that provided others except as required or permitted by law and in accordance with this Policy;
- (c) Subject any person to segregation or disparate treatment;
- (d) Restrict a person's access to any benefit enjoyed by others in connection with the housing program;
- (e) Treat a person differently in determining eligibility or other requirements for admission;
- (f) Deny a person access to the same level of services available to other similarly situated individuals; or
- (g) Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

1.2.3 Fair Admissions

The BHA shall not automatically deny admission to a particular group or category of otherwise eligible Applicants (e.g., Households with children born to unmarried parents or Households where the Head of Household or Co-Head of Household is a student). Each Applicant in a particular group or category must be treated on an individual basis in the normal processing routine.

1.2.4 Reasonable Accommodations

The BHA shall make reasonable accommodations in policies and procedures and, if necessary and reasonable, make certain structural modifications for persons with disabilities (Applicants or residents) in accordance with the BHA's **Reasonable Accommodation Policy**.

- (a) The BHA cannot refuse to make a Reasonable Accommodation in rules, policies, practices or services when such accommodation may be necessary to afford a person with a physical or mental impairment equal opportunity to use and enjoy a BHA apartment, including public and common use areas.

³ See M.G.L. Chapter. 151B, § 4 and 42 U.S.C. § 3601

(b) The BHA must make a modification to existing premises, when requested by a Disabled person, if the modification is reasonable and necessary to afford equal opportunity to use and enjoy BHA premises.

(c) An accommodation or structural modification is not reasonable if it would impose an undue administrative and financial burden on the BHA, or fundamentally alter the nature of the public housing program. The burden of demonstrating that a requested accommodation is unreasonable and imposes an undue administrative and financial burden, or fundamentally alters the nature of the public housing program is on the BHA. If granting the requested accommodation would create an undue administrative and financial burden, the BHA shall approve the request to the extent that it can do so without undergoing the undue burden or fundamental program alteration as described above.

(d) Requests for accommodation with respect to documents used by the BHA should be made to the Authority's TDD phone number, TTY phone number, Civil Rights Department, Admissions Department, Development Manager's Office, or the Housing Service Center. In addition, although there are many different staff members who may review a request for reasonable accommodation, the BHA has a Reasonable Accommodation Coordinator who may be contacted for assistance. The Reasonable Accommodation Coordinator can be reached in the BHA's Office of Civil Rights.

1.2.5 Records of Applications for Admission and Transfer

BHA records with respect to applications for admission and transfer shall indicate the following for each application:

- (a) Date and time of receipt
- (b) The Applicant's choice(s) of development(s)
- (c) The determination of the BHA as to eligibility or non-eligibility of the Applicant or Resident
- (d) Where eligible, the apartment size for which eligible.
- (e) Where eligible the Priority and/or Preference category granted, if any and the date such eligibility is granted.
- (f) Race of Household Members (for statistical purposes only)
- (g) Status as a Disabled Household or Household Member
- (h) Name(s) of Household Member(s)
- (i) Address of Household including mailing address

(j) Client number

1.2.6 Records of Apartments Offered

The BHA will maintain a record of apartments offered and to whom offered, including the date, location, apartment identification, client number, circumstances of each offer, each acceptance or rejection, and the reason for any rejection.

1.2.7 Applicant/Transfer Applicant Appeal Procedure

An Applicant or resident who believes himself/herself to have been aggrieved by any action, inaction or decision of the BHA in the processing of their application for admission or transfer application shall have the right to a hearing. Applicants for admission are entitled to an appeal before a hearing officer pursuant to the provisions of this Policy and transfer applicants are entitled to a hearing pursuant to BHA's Tenant Grievance Procedures.

1.3 Domestic Violence

It is the policy of BHA to assist victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault who are otherwise eligible for the BHA Housing Programs, to access and retain safe and affordable housing. The BHA follows the provisions listed below and those in the BHA Violence Against Women Act ("VAWA") Policy when considering the denial or termination of assistance of a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault. See also BHA VAWA Policy.

(a) That an Applicant or Participant is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, is not an appropriate basis for denial of program assistance or for denial of admission, if the Applicant otherwise qualifies for assistance in accordance with this plan.

- i. (b) An incident or incidents of actual or threatened Domestic Violence, Dating Violence, Stalking, or Sexual Assault will not be construed as a serious or repeated violation of the Lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

(c) Criminal Activity directly relating to Domestic Violence, Dating Violence, Stalking, or Sexual Assault, engaged in by a member of a tenant's household or any guest or another person under the household member's control shall not be cause for termination of assistance, tenancy or occupancy rights if the tenant or an immediate member of the tenant's Family is the victim, or threatened victim of that Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

(i) Notwithstanding clause (c), the BHA may bifurcate a Lease under this section, in order to evict, remove or terminate assistance to any individual who is a tenant or a lawful

occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating the assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

(ii) Nothing in clause (c) may be construed to limit the authority of the BHA, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the Household members.

(iii) Nothing in clause (c) limits any otherwise available authority of the BHA to evict for any violation of a Lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided the BHA does not subject an individual who is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault to a more demanding standard than other tenants in determining whether to evict or terminate.

(iv) Nothing in clause (c) may be construed to limit the authority of the BHA to evict any tenant or lawful occupant if the BHA demonstrates an actual or imminent threat to other tenants or those employed at providing service to the property if that tenant is not evicted or the program assistance is terminated.

(d) Verification of Status as a Victim of Domestic Violence. When a Family member seeks to avoid an adverse decision by the BHA on the grounds of being the victim of Domestic Violence, Dating Violence

(1) BHA will require verification of the claimed incident or incidents.

(2) BHA will request this verification in writing.

(3) Verification must be provided within 14 business days (i.e., 14 calendar days, excluding Saturdays, Sundays, and federally recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

(4) The 14-day period may be extended for good cause.

The following documentation will be accepted for purposes of such verification:

(i) A HUD-approved form;

(ii) Documentation signed and attested under penalty of perjury by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the Domestic Violence, Dating Violence Stalking, or Sexual Assault, or the effects of the abuse, described in such documentation; or

(iii) A Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

(iv) Other forms of verification as deemed acceptable by the BHA.

(e) **Filing a VAWA complaint.** When a victim of Domestic Violence, Dating Violence, Stalking, Sexual Abuse, or Coercive Relationship Abuse, believes that the BHA's adverse action, towards a domestic violence victim was based upon an ongoing domestic violence related circumstances, they may file a complaint with the Office of Fair Housing and Equal Opportunity (FHEO) *here*.

https://www.hud.gov/program_offices/fair_housing_equal_opp/onlinecomplain

1.4 Accessibility and Plain Language

1.4.1 Accessible Facilities and Programs

Facilities and programs used by Applicants and residents shall be made accessible. Application and management offices, hearing rooms, community centers, laundry facilities, craft and game rooms and other public spaces will be available for use by residents with disabilities. If these facilities are not already accessible (and located on *accessible routes*), they will be made accessible so long as this does not impose an undue financial and administrative burden on the Authority.

1.4.2 Plain Language Paperwork

Documents intended for use by Applicants and residents will be presented in accessible formats for those with vision or hearing impairments and they will be written simply and clearly to enable Applicants and residents with learning or cognitive disabilities to understand as much as possible. Requests for accommodation with respect to documents used by the BHA should be made to the Authority's TDD phone number, TTY phone number, Civil Rights Department, Admissions Department, or the Housing Service Center.

1.4.3 Forms of Communication other than Plain Language Paperwork

At the point of initial contact, BHA staff shall ask all Applicants whether they need some form of communication other than plain language paperwork. Some alternatives might include: sign language interpretation, having materials explained orally by staff, either in person or by phone or video, large type materials, information on tape, and having someone (friend, relative or advocate) accompany the Applicant to receive, interpret and explain housing materials. The BHA will pay for sign language interpreters for the hearing impaired.

1.4.4 English Language Ability

Some Applicants will not be able to read (or to read English), so staff must be prepared to read and explain documents that they would normally hand to an Applicant to be read or filled out. Applicants who read or understand little English may need to be provided with

an interpreter who can explain what is occurring. The BHA will make an effort to have its written materials translated into those languages frequently spoken by Applicants and to provide oral interpretation, upon request, in accordance with its Limited English Proficiency Policy (LEP).

1.5 Income Mixing and Deconcentration (Federal Only)

In accordance with the Congressional mandate in the Quality Housing and Work Responsibility Act of 1998, the Boston Housing Authority has adopted the federally required policies to provide for deconcentration of poverty and to encourage income mixing in all federal Family (general occupancy) developments. BHA offers the plan below to facilitate both deconcentration and income mixing in BHA developments. The goals of the plan are to provide a sufficient mixture of extremely low-income, very-low, and low-income Households at all BHA developments, and to avoid circumstances wherein higher-income or lower-income developments are created with respect to the Authority-wide average income.

1.5.1 Definitions

For the purposes of this Admissions and Continued Occupancy Policy (ACOP), Lower-Income Households are defined as Households whose annual income does not exceed eighty (80) percent of the Boston area median income (AMI), with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development. In accordance with 24 CFR 5.603, HUD may establish income ceilings higher or lower than 80% of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low household incomes. However, with regard to state developments, state income rules of eligibility as defined in 760 CMR 5.00 or any successor regulations will apply. Within this category of Lower-Income Households, the following definitions apply:

(a) Low-Income Household

A Low-Income Household is defined as a Household whose annual income exceeds fifty (50) percent but does not exceed eighty (80) percent of the Boston AMI, with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

(b) Very Low-Income Household

A Very Low-Income Household is defined as a Household whose annual income exceeds thirty (30) percent of the Boston AMI but does not exceed fifty (50) percent of the AMI for the area with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

(c) Extremely Low-Income Household

An Extremely Low-Income Household is defined as a Household whose annual income does not exceed the higher of the federal poverty level or thirty (30) percent of the AMI for the Boston area, with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

1.5.2 Income-Mixing

(a) Income Mixing Goals (Federal Programs Only)

It is the goal of BHA to attain, within a reasonable period of time, a resident population in each development composed of Lower-Income Households with a broad range of incomes.

To achieve and maintain a population with a broad range of incomes, BHA will review its waiting list to determine whether there is a representative income mix of Low, Very-Low, and Extremely-Low Income Households. If there is not a representative income mix, BHA will consider strategies to encourage a greater income mix including, but not limited to, conducting targeted outreach efforts and/or establishing income Preferences.

(b) Targeting Requirements

Regardless of any discretionary strategies the BHA may adopt to achieve the goal of income mixing, the BHA will ensure that it meets the following targeting requirements as set forth by federal regulation:

(i) In federal developments only, at least 40% of new admissions to the BHA's public housing program during each fiscal year will be Extremely-Low Income Households.

(ii) BHA may reduce the required percentage of public housing apartments to which Extremely-Low Income Households must be admitted to the extent that the BHA has credits, in the same fiscal year, for admissions of Extremely-Low Income Households to its Section 8 tenant-based assistance program beyond the number required for that program. However, the BHA may not have more credits than the lesser of the following:

- Ten percent of the total number of Households admitted to the Section 8 tenant-based assistance program during the fiscal year,
- The number of the BHA's public housing apartments in developments located in census tracts with a poverty rate of 30 percent or more that are made available and filled by eligible Households who are not Extremely-Low income Households.

(iii) During any fiscal year and regardless of the number of credits from Section 8 tenant-based assistance admissions, at least 30 percent of BHA admissions to public housing apartments will be Extremely-Low income Households.

1.5.3 Deconcentration

The admissions policies contained in this ACOP are designed to deconcentrate poverty. This objective will be achieved by bringing higher-income Households into lower-income developments and/or lower-income Households into higher-income developments. While information regarding specifics of each development is contained each year in the BHA's Annual Plan, which is submitted to HUD and DHCD, below is an outline of BHA's deconcentration policy.

The BHA will accomplish the deconcentration goal in a uniform and non-discriminatory manner. While targeting certain levels of income for admission to BHA public housing, BHA will not intentionally concentrate lower-income Households, as defined below, in one public housing development or building within a development.

(a) Deconcentration – Identification Procedures

Annually, the BHA will calculate the average income at all BHA Family developments ("the Authority-wide average income"). The Authority will also calculate the average income of all Households at each Development separately ("the Development average income"). Developments in which the Development average income is above 115% of the Authority-wide average income will be considered "higher-income" developments. Likewise, Developments in which the Development average income is below 85% of the Authority-wide average income will be considered "lower-income" Developments.

(b) Definitions

(i) The Authority-wide average income: The average income of all Households residing in BHA Family developments. Such an average is used as a base measure from which Developments are either determined to be "higher-income" or "lower-income" for purposes of the BHA's deconcentration policy.

(ii) The Development average income: The average income of all Households residing in a single BHA Family Housing development.

(iii) Higher-income Development: A development in which the Development average income is above 115% of the Authority-wide average income.

(iv) Lower-income Development: A development in which the Development average income is below 85% of the Authority-wide average income.

(c) Remedial Action

Based upon the above-mentioned analysis, the BHA will review the need to offer incentives to eligible families that would help accomplish the deconcentration objectives at individual developments. Should the average income at a development(s) vary more than 15% from the Authority-wide average, the BHA may utilize some or all of the policies and/or incentives listed below:

- (i) Establish an income Preference in order to reach Applicant Households with lower or higher incomes as appropriate.
- (ii) Initiate affirmative marketing strategies to all eligible income groups.
- (iii) Provide additional applicant consultation and information.
- (iv) Provide additional supportive services and amenities.
- (v) Provide rent incentives authorized by Quality Housing and Work Responsibility Act of 1998 ("QHWRA")
- (vi) Targeting investment and capital improvements towards a development(s) below 85% of the Authority-wide average income.

1.5.4 Monitoring

As part of the BHA's Annual Plan submission to HUD and as part of an annual report to [EOHLCDPHCD](#), the BHA will annually monitor the income levels of Households residing in BHA housing and on the waiting list to assess its progress in attaining the deconcentration and income mixing goals. The BHA will calculate and compare the average Household incomes at each development with the Authority-wide average, as described above. In addition, the income status of Applicants on the BHA's waiting list will be analyzed to determine the percentage of Applicants with "Low," "Very Low" and "Extremely Low" incomes.

The BHA will also ascertain its progress in meeting the income-targeting goal that requires in federal developments that 40% of new admissions must be Extremely-Low Income Households. If the monitored data indicates any problems, BHA will alter its marketing and deconcentration strategies in accordance with this policy and federal and State requirements.

1.6 Civil Rights Protection Plan

It is the policy and obligation of the Boston Housing Authority to administer all aspects of its housing programs without regard to race, color, age, sex, sexual orientation, gender identity, national origin, ethnicity, religion, familial or marital status or handicap/disability. The BHA's **Civil Rights Protection Plan** ("CRPP") approved by the U.S. Department of Justice on July 26, 1999, is designed to protect Applicants, residents and their visitors from threats, harassment, violence or abuse while they are on BHA property. (Please refer to the BHA's CRPP for specific policies and procedures).

CHAPTER 2: MARKETING AND OUTREACH

2.1 Marketing Policy

It is the policy of the BHA to conduct marketing and outreach as needed to maintain an adequate application pool representative of the eligible population in the area. In marketing its developments, it is the policy of the BHA to comply fully with existing Federal and State laws protecting the individual rights of applicants, residents, or staff and any laws subsequently enacted.

2.1.1 Marketing Purposes

Marketing has two primary purposes:

- (a) to make all potential applicants aware of the housing and related services that BHA offers its residents; and
- (b) to attract specific groups of applicants, such as, those with Low- and Very low-income levels, as defined in Chapter 1, section 1.4.1 “Definitions,” of this policy, Disabled Persons who require units with accessible features, or those determined by an annual analysis of site-based waiting lists to be the least likely to apply for the housing market area.

2.2 Marketing Requirements

The following requirements apply to BHA marketing efforts:

2.2.1 Fair Housing

Materials must comply with the Fair Housing Act and any other federal, state and local, fair housing rules or requirements.

2.2.2 Accurate Descriptions

Materials shall accurately describe each development, its apartments by size and type, its application process, waiting list, estimated wait time, amenities and Priority and Preference structure and shall include the availability of apartments with accessible features, and any designation that applies to the property.

2.2.3 Plain Language

Marketing materials shall be in “plain language”. The BHA shall make an effort to use print media, videos and multi-media in a variety of languages.

2.2.4 Eligibility

Marketing materials shall make clear to individuals and Households, who is eligible for housing including people with physical and/or mental disabilities.

2.2.5 Reasonable Accommodations and Structural Modifications

BHA's marketing materials will include notice of the Authority's responsibility to provide reasonable accommodations and structural modifications for people with disabilities if reasonably required on account of disability.

2.3 Marketing and Outreach Strategies

2.3.1 When BHA Will Market Apartments

The BHA will undertake marketing efforts whenever there is a need to do so in order to address: changes required as a result of legislative or regulatory requirements; fair housing needs; apartment vacancy or turnover considerations; deconcentration and income mixing needs with respect to federal developments; an insufficient pool of Applicants on the waiting list; or any other factor which may require marketing efforts to further public housing program goals. The BHA shall assess these factors at least annually as part of its Agency Plan in order to determine the need and scope of the marketing effort.

The BHA shall widely circulate the marketing of apartments through print, and online media sources, as well as direct contact of local social service providers. Contacts shall be regularly updated and to ensure appropriate outreach.

State Public Housing 760 CMR 5.04 - Marketing

Each LHA has a continuing responsibility to ensure that households in its region of the state are aware of any availability of units and have an opportunity to apply. The LHA shall undertake a marketing effort whenever its waiting list for units is less than the number of applicants anticipated to be placed in the next 12 months.

The LHA shall undertake appropriate affirmative fair marketing efforts pursuant to 760 CMR 4.07: LHA Fair Housing Marketing Plan whenever the number of its minority tenant households and minority households on the waiting list for either family housing or elderly/handicapped housing is less than the number of households meeting its Affirmative Action Goal established pursuant to 760 CMR 5.10(3) for the respective program.

CHAPTER 3: APPLICATION SUBMISSION

3.1 Application

Applicants may apply for BHA subsidized housing by applying online or by submitting a paper application form. Further instructions are detailed at www.bostonhousing.org.

State Public Housing 760 CMR 5.05(1)-(2) – Application Procedures

Every applicant shall use the online Common Housing Application for Massachusetts Programs (CHAMP) or other application forms approved by the Department. The application forms shall be available at all BHAs' central offices or, upon request, by mail. The BHA shall provide reasonable assistance to applicants in completing the application forms. When an applicant submits a paper application form at any LHA, the BHA shall accept the application and promptly enter the information thereon into the Statewide Online Application System.

Every application entered into the Statewide Online Application System shall receive a date and timestamp for each program at each LHA to which the application is made. Applicants may return to their online applications to view their application status and to make changes at any time. Applicants may also make changes at any LHA in person or by mail.

The BHA Waiting Lists are organized by development in the Statewide Online Application System.

3.2 Development Choice

The BHA maintains separate waiting lists for each of its public housing developments. Applicants may choose to apply for any or all of the developments for which they meet the minimum threshold requirements.

State Public Housing 760 CMR 5.12(1)

Any grant or denial of a Preference, or determination of ineligibility or disqualification, that is made by an LHA shall only affect the application on that LHA's waiting list for the program for which the Applicant is being considered at that LHA. For example, if an Applicant is denied from a State Public Housing Family program development, the Applicant shall be withdrawn from all Family program development waiting lists.

3.2.1 Monitoring

As part of the Annual Plan submission to HUD and as part of a semi-annual report to DHCD, the BHA will monitor the racial, ethnic, and disability-related composition of Households residing at each BHA development and on each development waiting list. The purpose of this monitoring will be to assess changes in racial, ethnic, or disability-related Household composition at each BHA development that may have occurred during the implementation of the site-based waiting list.

In addition, at least every three years the BHA shall contract with an independent agency specializing in fair housing, to employ independent testers or other means satisfactory to HUD and DHCD, to assure that its site-based waiting lists are not being implemented in a discriminatory manner, and that no patterns or practices of discrimination exist. The BHA shall provide the results of this review to HUD and DHCD and shall take steps to remedy any problems found during the review including steps necessary to affirmatively further fair housing.

3.2.2 Remedial Action

Based upon the above-mentioned monitoring, the BHA will review the need to take steps to remedy any problems that surfaced during the review. These steps may include some or all of the following:

- (a) Initiate affirmative marketing strategies
- (b) Provide additional applicant consultation and information
- (c) Provide additional supportive services and amenities
- (d) Target investment and capital improvements towards a development
- (e) Modify marketing efforts in response to assessment of occupancy patterns and the composition of the waiting lists.

3.3 Processing Applications for Admission

3.3.1 Processing

It is the BHA's policy to accept and process applications in accordance with applicable BHA, Federal and State regulations and handbooks.

Applicants must supply complete and necessary information for an application to be processed. BHA will notify Applicants of incomplete Applications and make an effort to assist in completion of the application.

All applications shall receive a date/ timestamp and confirmation. Applicants shall be informed of their responsibility to notify the BHA of any change of address or Household composition and to respond to application update requests sent to them.

3.3.2 Communication Regarding Applications

(a) BHA to Applicants

All communications with Applicants will be by first class mail as a default, but by other means in addition, where accepted by the Applicant, including but not limited to communication through an applicant web portal or email. Failure to respond to BHA communications may result in withdrawal of an Applicant from all waiting lists.

Email or other electronic communications shall also be used as a method of communication to supplement any communication conducted by mail.

(b) Applicants to BHA

It is the responsibility of each Applicant to inform the BHA in writing of any change in address, telephone number, Household composition, change in Priority, Preference, Good Cause, or other information, which may affect the status of the application while on the waiting lists. For an Applicant with no fixed address, such as homeless Households, the address of a social service agency may be used for BHA contacts; however, if the Applicant finds permanent housing, the address must be reported to the BHA immediately.

(c) Confidentiality of File Information

BHA maintains all applicant, resident, and participant information in accordance with federal and state privacy laws.

3.3.3 Waiting List Updates

For non-state programs, the BHA shall conduct waiting list updates from time to time as necessary. The purpose of a waiting list update is to determine the applicant has continued interest. Applicants will have twenty (20) calendar days from date of a waiting list update notice to respond and express continued interest and provide any other updates to their current housing status. Failure to respond to a waiting list update notice shall result in the application being denied.

State Public Housing 760 CMR 5.14 – Update and Reclassification of Waiting List

- (1) Applicants who have not contacted an LHA or logged into the Statewide Online Application System for two years shall be contacted by the Department Systems Administrator by email, and if there is no response, by first class mail.

- (a) to determine whether:
1. applicant is still interested in obtaining state-aided public housing;
 2. the applicant's appropriate unit size or accessibility needs have changed;
 3. the applicant's claimed priority and preference status remain the same; and
- (b) to advise the applicant that a failure to respond within 30 days will cause the application to be made inactive in the Statewide Online Application System resulting in the application not being processed by any LHA. Any applicant whose application is made inactive shall be notified of the same and will be restored to the waiting list(s) if the applicant contacts an LHA or logs into the Statewide Online Application System within one year after the notice. If the applicant fails to log into the Statewide Online Application System or contact an LHA within one year after the notice, then the applicant shall be given notice of removal of the application from all waiting lists and the right to request review pursuant to 760 CMR 5.13 above by any LHA to which the applicant applied.
- (2) In its contact inquiry, the Department Systems Administrator will instruct applicants to update their applications in the Statewide Online Application System or to return the update form to an LHA. An LHA that receives a paper update from an applicant shall review all updated information and promptly log in on behalf of the applicant and enter any changes made by the applicant into the Statewide Online Application System.

All Applicants subject to a waiting list update receive notice explaining the BHA's responsibilities for providing reasonable accommodations and recites examples of what a reasonable accommodation might entail.

CHAPTER 4: ESTABLISHING AND MAINTAINING WAITING LISTS

4.1 Waiting List Management for State Public Housing

4.1.1 Organization of the Waiting Lists

The BHA shall maintain separate waiting lists for each of its state public housing developments through the Statewide Online Application System, also known as CHAMP. The lists will be managed and eligibility will be determined in accordance with the state regulations at 760 CMR 5.00, notwithstanding any waivers requested by BHA and granted by [EOHLC/DHCD](#).

Generally, when an applicant approaches the top of a waiting list, the BHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification required.

BHA manages the waiting lists transfers and supported housing programs outside of CHAMP, waiving certain provisions of 760 CMR 5.00 Supported Housing Program Applicants will be offered state public housing units from time to time in accordance with agreements with service providers and Chapters 7 and 10. Transfer Applicants shall receive offers to state public housing in accordance with Chapters 6 and 7.

All other Applicants shall be managed in accordance with 760 CMR 5.00.

4.1.2 Denial or Removal of an Application

If the BHA determines that an applicant is ineligible for a claimed priority or preference or is ineligible for housing, it shall send written notification to the applicant in accordance with Section 4.3.

State Public Housing 760 CMR 5.05 (3) - Determinations of Priority, Preference, Eligibility and Qualification.

(a) When an applicant approaches the top of a waiting list for a BHA program to which the applicant has applied, the LHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the BHA.

(b) If the LHA determines that an applicant is not eligible for a claimed priority or preference or is ineligible or unqualified for housing, it shall send written notification to the applicant of:

1. the determination;
2. the reason(s) for the determination detailing the material facts; and

3. the right to request a private conference to redetermine the applicant's priority, preference, eligibility and/or qualification pursuant to 760 CMR 5.13.

After a final determination of priority, preference, eligibility and/or qualification has been made by the LHA, that determination will govern the application only for the application to that program at that LHA in the Statewide Online Application System. If an applicant who has been removed from the waiting list reapplies for any program at that LHA, the reapplication will receive a new date and time stamp, and new final determinations shall be made on the application when the application reaches the top of the waiting list.

4.2 Waiting List Management for Federal Public Housing

4.2.1 Organization of the Waiting Lists

The BHA maintains a waiting list for each of its federally assisted public housing developments/AMPs. Each waiting list is maintained by apartment size, Applicants' Priority and/or Preference points and the date such points are granted and then chronologically according to application date.

Assignments to each waiting list shall be in order based upon suitable type and size of apartment, date Priority and/or Preference points are granted as established in these policies, and the date and time the application is received. Generally, an Eligible Applicant with the highest Priority and/or Preference points and the earliest date of approval of such Priority and/or Preference points per category of apartment size will be placed at the top of each waiting list. If no Application with approved Priority and/or Preference points exists, an Eligible Applicant with the earliest date and time of application will be placed at the top of each waiting list. This explanation does not pertain to State assisted public housing, which is detailed below and in 760 CMR 5.09 (1)

Priority and Preference points are added together to determine position on each selected development / AMP waiting list. The more points an Applicant has and the earlier the date such points are granted, the higher on the list the Applicant will be in relation to other persons who applied for the same bedroom size and hold the same date of preliminary application

In the event the BHA merges two or more waiting lists as a result of two or more developments being designated as one AMP, the BHA shall, after giving notice to the affected applicants, rank each applicant on the single waiting list by providing each client with their respective oldest application date and approved Priority and/or Preference sequence dates.

4.2.2 Opening and Closing Waiting Lists (Federal Programs Only)

(a) Opening the Waiting List (Federal Programs Only)

The BHA will give at least two weeks advance public notice that a Family may apply for housing assistance before opening any waiting list. The notice must state where and when a Family should apply. The notice shall also state any limitations on the criteria for the type of Family that may apply. The notice shall be posted on BHA's website, circulated in a local newspaper of general circulation, by minority media, and any other means that the BHA finds suitable. The notice shall also state the time limitation of the application period. Once a waiting list is open, the BHA must accept applications from a Family for whom the waiting list is open. Any opening of the waiting list will be publicized in accordance with the Marketing and Outreach requirements of this ACOP.

If the waiting list is open for special programs, it will only be open for the purpose of accepting applications for the special programs.

(b) Closing a Waiting List (Federal Programs Only)

The BHA may close a waiting list anytime that the BHA determines that the Applicant pool is large enough to fill the estimated amount of available units for the next twelve (12) months. The BHA may close an entire waiting list or close only a portion, keeping part of the waiting list open to a certain Priority, or for any special programs.

During the period when the waiting list is closed, the BHA will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

BHA will notify HUD and ~~EOHLC-DHCD~~ prior to closing and re-opening of any waiting list as required by regulation or guidance.

4.2.3 Removal of an Application from a Waiting List (Federal Programs Only)

Applicants whose applications are removed from any waiting list are entitled to an informal hearing where they may appeal this decision. A Request for an appeal must be made **in writing** and must be received by the BHA within 20 calendar days of the date of the notice removing them from the waiting list. BHA shall consider

Circumstances that will lead to removal of an Applicant from any or all waiting lists include:

(a) Voluntary Withdrawal

The Applicant requests **in writing** that their name be removed.

(b) Failure to Respond

The Applicant is non-responsive to a BHA request to determine continued interest or to schedule an interview. BHA shall communicate with the applicant using the most updated electronic email or physical mailing address information provided by the Applicant.

(c) Failure to Maintain a Scheduled Appointment

The Applicant fails to keep an appointment and fails to notify the BHA, within ten (10) days after the date of the appointment, of their inability to keep an appointment.

(d) Failure to Supply Information

The Applicant fails to supply requested documentation to the BHA in accordance with admissions or eligibility requirements.

(e) Denial of Assistance

The Applicant is denied assistance due to being ineligible for housing programs.

If the Applicant is denied assistance due to intentional misrepresentation, it may result in federal or state criminal prosecution for fraud, and removal from the waiting list, and disqualification from further consideration for admission or transfer for a three (3) year period beginning on the date of such determination by the BHA.

(f) Reject an Offer of Housing

The BHA will remove an Applicant from all federal Public Housing Waiting lists if they reject an offer of Federal Public Housing without good cause.

Furthermore, the Applicant will only be eligible to re-apply after two (2) years year from the date of the most recent unit rejection.

(g) Withdrawal Upon Becoming Housed

When an Applicant becomes housed, the BHA will withdraw the Applicant from all BHA waiting lists for which the Applicant no longer qualifies for as a result of becoming housed.

(h) Ineligible for Priority

The Applicant has no eligibility for any Priority category for which the waiting list is open.

4.3 Applicant Appeals – Informal Hearings

State Public Housing 760 CMR 5.13 - Review of Denial of Eligibility, Qualification, Priority or Preference Status

This section, 4.3 generally is the procedure required for state and federal applicants. The requirements in this section meet those set forth in 760 CMR 5.13

4.3.1 Requirements of Denial or Withdrawal Notice

All Applicants who are determined Ineligible for admission, issued a Notice of Withdrawal, denied Priority status or Preference(s) or denied Reasonable Accommodation or Good Cause by the BHA will be sent a notice that provides:

- (a) The reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s) or denial of Reasonable Accommodation or Good Cause;
- (b) The right to contest the decision in an informal hearing provided a request for a hearing is received within 20 calendar days of the date the Notice of Adverse Action is issued. Such request must be in writing and must state clearly the basis for requesting the informal hearing and be sent to the address provided on the notice.
- (c) The right to contest Applicant Background Check and Eviction Report information and/or CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility.
- (d) Language explaining mitigating circumstances for situations including, but not limited to Domestic Violence or the disability of a household member.
- (e) Provides a description of BHA's informal hearing process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal hearing, review the contents of their file in advance of the hearing, the right to submit additional documents and evidence and to testify at the hearing, the right to request reconsideration.
- (f) The right of an Applicant to a state aided program to request a review of the decision by the Massachusetts Executive Office of Housing and Livable Communities ~~Department of Housing and Community Development~~ within twenty-one (21) calendar days of the initial decision or after a decision on reconsideration.

4.3.2 Scheduling the Informal Hearing

(a) When a Hearing is Scheduled

Upon receipt of the Applicant's written request a hearing shall be scheduled within a 30-day period following the receipt of the Applicant's request for an informal hearing unless

the applicant requests it to be postponed as a “reasonable accommodation” or for “good cause” see 760 CMR 5.13(1)(d).

Late requests will be considered by the Administrator of Grievances and Appeals or their designee for thirty (30) days beyond the initial appeal period

(b) Scheduling Notice Requirements

The notice scheduling the informal hearing must contain the following information:

- (i) A letter scheduling the hearing shall be sent to the BHA Applicant's address of record.
- (ii) The letter shall list the date, time and place of the hearing.
- (iii) The scheduling notice shall state the Applicant's rights to present evidence and testify, review their file, request a reasonable accommodation or interpreter and be represented by an attorney or other individual at the hearing.

(c) Reasonable Accommodation Regarding Hearing Procedures

The hearing shall be held at a convenient time and at an accessible location for the Applicant and the BHA. If an Applicant requests a reasonable accommodation regarding the Informal Hearing procedures at the time of or after requesting an informal hearing, the decision regarding the accommodation will be made by the Grievance and Appeals Department staff.

(d) Failure to Attend the Informal Review

The Hearing Officer will uphold the BHA decision by default if the Applicant does not attend the informal review and did not attempt to reschedule at least twenty-four (24) hours prior to the scheduled date and time.

(e) Compelling Circumstances Related to Missed Hearings or Late Requests

The BHA will reschedule an informal review when an Applicant submits evidence of compelling circumstances that prevented the Applicant attending the hearing on the scheduled date or making a timely request. Requests submitted after the hearing date must be submitted within 30 days of the hearing date or deadline to request a hearing and must be supported by evidence of compelling circumstances that prevented the applicant from attending, rescheduling, or requesting a hearing in a timely manner.

When analyzing whether or not an Applicant's reasons for requesting a late hearing are compelling, the hearing officer will consider:

- (i) the written facts or circumstances submitted by the Applicant which show that the Applicant is not willful (a willful act is a deliberate, intentional or voluntary act) or culpable (culpable is to be responsible or liable) in making the late request, which would require more than mere action or inaction (for example the Applicant's reason for not

requesting a hearing timely should not due be to something the Applicant did or failed to do);

(ii) the swiftness with which the Applicant has attempted to remedy the default;

(iii) the existence of any meritorious defense to the underlying allegations; as well as, other equitable criteria such as: (a) whether the default resulted from a good faith mistake in following a rule or procedure; (b) the nature of the Applicant's explanation for not requesting a timely hearing; (c) the availability of other alternative sanctions; (d) whether not granting a late hearing would produce a harsh or unfair result.

4.3.3 Applicant Rights during the Informal Hearing

The informal hearing will conform to the following due process requirements:

(a) During the hearing, the BHA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, denial of Priority status or Preference(s) or denial of Good Cause or Reasonable Accommodation. The Applicant will be afforded an opportunity to present evidence and testimony rebutting the basis for the BHA's determination.

(b) If the Applicant requests, the BHA employee who made the decision must be present to provide available facts, and to be questioned, if still a BHA employee.

(c) An employee of the Authority who did not participate in the original decision must conduct the hearing.

(d) The decision must be based solely on evidence presented at the hearing as well as any evidence previously received by the BHA. All evidence submitted at the hearing shall be considered de novo, and the matter shall not be sent back to the Admissions Department for reconsideration due to submission of new evidence.

(e) The Applicant and/or their representative has a right to inspect the file prior to the hearing, provided the Applicant provides BHA with written authorizations permitting the representative to have access to the contents of the Applicant's file including CORI information.

(f) Either the Applicant or the BHA may request after close of the hearing that the record remain open for submission of new or rebuttal evidence. The Hearing Officer shall designate a date by which the record shall be closed and may extend it for good cause. The Applicant shall receive notice in writing of the date on which the record will close and of any extension. If BHA wishes to consider additional evidence not submitted at the hearing or submitted after the hearing, it shall give written notice to the Applicant with an opportunity to review such evidence and a reasonable period for the Applicant to respond.

4.3.4 Informal Hearing Decisions

(a) Hearing Decision Notice Requirements

After the informal hearing, all Applicants will be sent an “**Informal Hearing Decision**” from the BHA hearing officer. This notice shall:

- (i) Provide a summary of the hearing;
- (ii) Provide the decision of the hearing officer, together with findings and determination;
- (iii) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision
- (iv) Explain the rights of the Applicant to seek reconsideration by the BHA within 14 days of the decision;
- (v) Explain the rights of an Applicant to a state-aided program to request a review of the decision by the Massachusetts [Executive Office of Housing and Livable Communities Department of Housing and Community Development](#) within 21 calendar days of the decision or decision on reconsideration pursuant to 760 CMR 5.13(4).
- (vi) All informal hearing decisions shall be made within 15 working days of the close of the hearing or the record, whichever is later.

(b) Decision to Reverse BHA's Determination

If, as a result of information presented by the Applicant at the informal hearing, the BHA reverses its decision to deny or withdraw the Applicant, no new application is required and the application will be returned to its appropriate place on the waiting list(s) for all developments/AMPs previously selected by the Applicant using the original date and time of application and applicable Priority and/or Preference(s).

If the decision to deny Priority status and/or Preference(s), Good Cause or Reasonable Accommodation is reversed, the Applicant's position on the waiting list(s) for all developments/AMPs previously selected by the Applicant will be restored in accordance with the determination.

(c) Decision to Uphold BHA's Determination

If an appeal decision upholds the determination of Ineligibility, the Applicant may submit a new application for admission at a time when a waiting list is open but no earlier than 18 months after the decision of Ineligibility.

State program applicants may re-apply at any time.

Applicants who are found ineligible for any of the following reasons may re-apply at any time **if** they meet the preliminary eligibility requirements when they submit a new application and they shall be given a new application date effective the date the

application is received by the BHA's Admissions Department: 1) the Applicant's total household income was over the income limits; 2) the Applicant had failed to pay an outstanding balance owed to the BHA or other Federal or State housing assistance program; 3) the entire household had no eligible immigration status; 4) the pro-rated rent amount was more than 50% of the total household income; and/or 5) the applicant was not elderly or disabled and, therefore, did not qualify for the elderly/disabled housing program.

Applicants who are withdrawn may submit a new Application at any time provided a waiting list is open.

Applicants denied Priority Status, Preference(s), Good Cause or Reasonable Accommodation may re-apply for the same or a different Priority or Preference at any time provided a waiting list is open except as provided for in this policy.

4.4 Priorities and Preferences for Federal Programs

An Applicant for new admission or Transfer may qualify for a Priority and/or Preference that establishes their position on the waiting list and the order to which they are screened for program eligibility.

Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on each BHA waiting list.

4.4.1 Definitions

(a) Priority

Priority is defined as a housing-related situation that affects a Household's present residential status. The BHA gives points to Applicants with a Priority that ranks those Applicants higher on each waiting list than Applicants without Priority. An Applicant can qualify for only one Priority at any given time. Certain priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify.

(b) Preference

Preference refers to points given to BHA Applicants who are veterans, Displaced Boston Residents, a Disabled Person (Family Developments/AMPs only) or Elderly Households who apply for certain developments in accordance with State regulations and the BHA's Designated Housing Program. An Applicant may qualify for more than one Preference at a time.

4.4.2 Points for Priorities and Preferences

(a) The BHA assigns Priority points to each Applicant for New Admission and Transfer on all Waiting Lists.

Federal Housing Program Priority	Points
<u>Administrative Transfers</u>	<u>175</u>
Super Priority <u>Applicants</u>	75
Special Circumstances Transfers	67
Supported Housing Programs	50
Priority One Applicants	30
~~Displaced Due to Disaster~~	

• ~~Displaced Due to Domestic Violence/ Dating Violence/ Sexual Assault/ or Stalking~~ • ~~Displaced due to Being a Victim of Hate Crime~~ • ~~Displaced due Avoidance of Reprisal/ Witness~~ • ~~Protection~~ • ~~Displaced due to Court Ordered no Fault Eviction~~ • ~~Displaced due to Government Action~~ • ~~For Disabled Persons only, Inaccessibility of a Critical Element of their current Dwelling Unit~~ • ~~Displaced due~~ to Being Cost Burdened in Boston • Homeless	
Standard Applicants	0

(b) The BHA assigns Preference points to each Applicant for New Admission.

Federal Housing Program Preference	Points
~~Designated Housing not requiring Wheelchair Accessible units~~ ~~Veteran~~	~~100~~ 3
Single Elderly Disabled Preference	5
~~Veteran~~	~~3~~
~~Designated Housing not requiring Wheelchair Accessible units~~	~~100~~
Displaced Boston Tenant	2

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State Public Housing 760 CMR 5.09(1) – Priority Categories

Priority Categories. The BHA shall use the following priority categories in descending order in determining the order of tenant selection:

1st Priority. Homeless due to Displacement by Natural Forces an applicant, otherwise eligible and qualified, who has been displaced by:

1. fire not due to the negligence or intentional act of applicant or a household member;
2. earthquake, flood or other natural cause; or
3. a disaster declared or otherwise formally recognized under disaster relief laws.

2nd Priority. Homeless due to Displacement by Public Action (Urban Renewal) an applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:

1. any low rent housing project as defined in M.G.L. c. 121B, § 1;
2. a public slum clearance or urban renewal project initiated after January 1, 1947; or
3. other public improvement.

3rd Priority. Homeless due to Displacement by Public Action (Sanitary Code Violations) an applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II) or local ordinances, provided that:

1. neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings; and
2. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

4th Priority. Other Priority situations as described in the Housing Situation Priority Policy established by the Department pursuant to 760 CMR 5.11 [or other housing situations requested by BHA and granted as a waiver by BHA]

5th Priority. AHVP Participant an applicant, otherwise eligible and qualified, who is living in a non-permanent, transitional housing subsidized by the AHVP.

6th Priority. Transfer for Good Cause.

7th Priority. Standard Applicant an applicant, otherwise eligible and qualified, who does not fit within any of the previous six priority categories.

4.5 Priority Categories and Verification Requirements

State Public Housing 760 CMR 5.05 (3)(a) - Determinations of Priority, Preference, Eligibility and Qualification.

(a) When an applicant approaches the top of a waiting list for a BHA program to which the applicant has applied, the BHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the BHA.

Note: The BHA shall use the verification requirements outlined in the sections below as a guideline for verification for the State Public Housing programs.

4.5.1 Transfers

See Chapter on Transfers for explanation of Administrative Transfers and Special Circumstances Transfers.

4.5.2 Supported Housing Programs

See Chapter 10.

4.5.3 Super Priority

The BHA will admit an Applicant/Resident in good standing to the Public Housing program before all other Applicants/Resident on the waiting list if:

The Applicant was a resident in a BHA public housing site the has been converted to other low-income housing.

The Applicant Family is or will be temporarily displaced due to rehabilitation and modernization programs (an applicant family shall be deemed temporarily displaced from the time the family vacates the public housing unit until an offer is made to return to the site).

The Project Based Voucher (PBV) Family resides in a PBV unit where the BHA determined that the family is occupying a wrong size unit or Unit with accessibility features that the Family does not require, and a Family that requires the accessibility features needs the Unit.

4.5.4 Priority 1 for Federal Housing Programs ("P1")

(a) Verification of Priority 1 Timeline

The BHA grants Priority 1 status based on circumstances verified at two points:

(i) at the time of application with verification as determined by BHA, AND

(ii) immediately prior to the final eligibility interview for all relevant BHA programs by satisfying the verification requirements in the relevant section below.

(b) Changes of Priority 1 Status

Additionally, a change from one Priority 1 category to another Priority 1 category in between application and the final eligibility interview shall not disqualify an applicant from their original application date and time.

Priority 1 status shall not be re-verified after a determination of eligibility is made during final eligibility screening. The BHA will verify non-receipt of subsidized housing as described in 4.5.5(a)(iii) below prior to leasing.

(c) Determinations of Priority 1 Applicants on Multiple Waitlists

(i) Approval or Denial for Priority 1 on any BHA waiting list suffices as an approval or denial for Priority 1 on all applicable BHA waiting lists.

4.5.5 Priority 1 Displaced Categories

The **Displaced Priority** categories are:

1. Government Action
2. Disaster
3. Domestic Violence
4. Victim of a Hate Crime
5. Fear of Reprisal / Witness Protection
6. Court Ordered No-Fault Eviction
7. Cost Burdened in Boston
8. Inaccessibility to the Dwelling Unit
9. Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals

(a) Displaced Category Threshold Verification Requirements

In order to qualify as Displaced in one of the categories detailed below, the Applicant must meet the following threshold verification requirements:

(i) Displaced or Imminent Danger of Displacement: the Applicant must have been Displaced from their residence or is in imminent danger of being Displaced due to one of the categories set forth below, AND

(ii) Proof of Address: the Applicant must verify proof of residence at the address of displacement by providing a lease, utility bill(s), official mail from a government agency, or a written certification from the owner of the property or other government official, AND

(iii) No Receipt of other Subsidized Housing: The Applicant must not be in receipt of adequate subsidized or other low-income housing from the BHA or another government agency. An applicant will continue to be considered displaced if they reside in subsidized housing that is not permanent or is not accessible as defined below. ▸

(b) Displaced due to Government Action

(i) A Household is required to permanently move from their residence by a Federal, State or local governmental action such as code enforcement, public improvements or a development program.

(ii) Verification Requirements:

- third-party, written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be displaced in the next ninety days, as a result of action by that agency; AND
- the precise reason(s) for such displacement.

(c) Displacement Due to a Disaster

(i) Applicant was Displaced due to a disaster such as flood or fire, that results in the uninhabitability of an Applicant's apartment or dwelling unit not due to the fault of the Applicant and/or Household member or beyond the Applicant's control;

(ii) Verification requirements:

- A copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters, OR
- Written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be imminently be displaced, as a result of action by that agency, AND
- Verification the appropriate agency that the dwelling unit is now uninhabitable AND
- If applicable, the cause of the disaster. If you or a household member or guest was the cause of the disaster, approval for priority status will be denied unless mitigating circumstances are established to the satisfaction of the reviewing department.

(d) Displacement Due to Domestic Violence/Dating Violence / Stalking/ Sexual Assault

(i) Displacement or threat of imminent displacement from an address due to continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Applicant Family members.

(ii) Verification requirements:

- Submission of a fully completed "Certificate of Involuntary Displacement Due to Domestic Violence/Dating Violence/ Stalking/ Sexual Assault" HUD Form 5382, OR
- A document, (1) signed by an employee, agent, or volunteer of a victim service provider, an attorney or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, (2) signed by the applicant or tenant, (3) that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault or stalking is the grounds for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault or stalking under 24 C.F.R. 5.2003; OR
- A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency; OR
- At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.
- Verification will not be considered valid unless it: (1) supplies the name of the threatening or abusive Household Member or other legal occupant of the dwelling Unit if known is safe to do so, AND (2) describes how the situation came to certifier or verifier's attention, AND (3) Indicates that the Applicant was displaced because of the threats and/or violence and that the Applicant is in imminent danger where they now resides.

(e) Displaced Due to Being a Victim of a Hate Crime

(i) The Applicant or a member of the Household has been a victim of one or more hate crimes AND the Applicant Family has vacated a dwelling Unit because of this crime OR the fear associated with the crime has destroyed the peaceful enjoyment of the dwelling Unit.

(ii) "Hate crime", is defined as any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation, prejudice, or which otherwise deprives another person of their constitutional

rights by threats, intimidation or coercion, or which seeks to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation.

(iii) Verification must include:

- Submission the appropriate BHA form, OR
- Documentation from a law enforcement agency that the Applicant or a Household Member was a victim of such crime(s)

(f) Displaced Due to Avoidance of Reprisal or Witness Protection

(i) Relocation is required because an Applicant provided information or testimony on criminal activities to a law enforcement agency; and based upon a threat assessment, a law enforcement agency recommends the relocation of the Applicant to avoid or minimize risk of violence against Applicant as reprisal for providing such information.

(ii) Verification requirements:

- Submission of the appropriate BHA form or documentation from a law enforcement agency that the Applicant and/or a household member provided information on criminal activity; AND
- Documentation that, following a threat assessment conducted by the law enforcement agency, the agency recommends the relocation/re-housing of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information.
- This includes situations in which the Applicant and/or Family member(s) are themselves the victims of such crimes and have provided information or testimony to a law enforcement agency.

(g) Displaced Due to Court-Ordered No-Fault Eviction:

(i) Eviction occurred pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of:

- Landlord action beyond the applicant's ability to control or prevent, such as failure to accept an offer of a new lease; owner's desire to use the unit for personal use, or a non-residential purpose; a business or economic reason such as sale or renovation of the property or a desire to lease at a higher rent , AND
- the action occurred despite the applicant's having met all lawfully imposed lease conditions, AND
- Displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and overcrowded units or failure to accept a transfer to another unit in accordance

with a court order or policies or procedures under a HUD-approved desegregation plan.

(i) Verification Requirements:

- a copy of the Judgment of the Court (Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); AND
- If necessary, additional information to verify no fault if the judgment is not clear, such as the Summons and Complaint and or Notice to Quit.
- if applicable, a copy of the execution issued by the court.

(iii) The information contained in the above-referenced documents must clearly establish to the satisfaction of the BHA that:

- the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent; AND
- the action by the landlord or property manager occurred despite the Applicant Household having met all previously imposed conditions of occupancy; AND
- displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and over-crowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

(h) Displaced Due to Being Cost Burdened in Boston

(i) The Applicant can demonstrate paying more than fifty (50) percent of their total household monthly gross income towards housing and utilities in a Boston residence (excluding internet and telephone).

(ii) Verification requirements:

- A Lease providing the rent amount and showing Applicant is or was a tenant and confirming the rent, OR
- Rent Receipts or Bank Statements providing the rent amount paid over time, OR
- A mortgage statement providing the monthly payment amount and showing the Applicant is or was the owner of the property, AND
- Verification of the gross income, including all earned income and benefits, for the Applicant and all household members, AND

- Utility bills paid for by the Applicant or Applicant household members, AND
- Copies of any foreclosure notices, if applicable, AND
- Other applicable documentation to demonstrate that the non-payment eviction or foreclosure was due to unforeseen circumstances beyond the Applicant's ability to control or prevent the non-payment eviction or foreclosure

(i) Inaccessibility of a critical element of their current dwelling unit

(i) A Household Member has a mobility or other impairment that makes the person unable to use a critical element of the current Apartment or development AND the neither the Owner nor administering agency is legally obligated under the law pertaining to Reasonable Accommodation to make changes to the Apartment or dwelling Unit that would make these critical elements accessible to the Family member with the disability.

(ii) Verification Requirements:

- The name of the Family member who is unable to use the critical element;
- A written statement from a Qualified Healthcare Provider verifying that a Family member has a Disability (but not necessarily the nature of the Disability) and identifying the critical element of the dwelling which is not accessible and the reasons why it is not accessible; AND
- A statement from the landlord or official of a government or other agency providing service to such Disabled Person explaining the reason(s) that the landlord is not required to make changes which would render the dwelling accessible to the individual as a Reasonable Accommodation.

(j) Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals:

(i) A participant in a transitional housing program for Elderly or Disabled Persons which includes a supportive services component (e.g., the Shelter Plus Care Program) shall be considered to be imminently in danger of homelessness. Such a program participant shall be eligible as a Priority One Applicant if:

(ii) Verification requirements:

- The person has been a tenant in such a program for not less than twelve (12) months; AND
- The person no longer requires the or completed the program's services (as determined by the program service provider); AND
- As a result must relocate from such housing.

4.5.6 Priority 1 Homeless for Non-State Program

(a) Homeless Defined

The Applicant Household lacks a fixed, regular and adequate nighttime residence, meaning:

- (i) Has a primary nighttime residence that is a public or private place not meant for human habitation; OR
- (ii) is living in a publicly or privately operated shelter designated to provide temporary, living arrangements (including congregate shelters, Transitional Housing, and hotels and motels paid for by non-profit, charitable organizations, or by federal, state and local government programs); OR
- (iii) Is living in housing that is being funded or provided to offer homeless individuals and families with the interim stability and support to ultimately make the transition to and maintain permanent housing; OR
- (iv) An Applicant would otherwise be in shelter if not for a medical condition which precludes a person from staying in shelter as verified by a medical provider.

(b) Verification Requirements:

- (i) Submission of the applicable BHA form that providing that the Applicant is homeless as defined above; AND
- (ii) A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy; OR,
- (iii) In the case that the Applicant cannot be in the shelter due to a medical condition, written verification from a medical provider must be provided to demonstrate that the individual is unable to live in a public or private shelter, or any other place unfit for human habitation due to the applicant's severe medical condition or disability.
- (iv) The Applicant shall be verified as Homeless at the time the application is submitted and immediately prior to the final eligibility personal interview is scheduled. Gaps of non-homelessness in between those two points shall not result in denial of Priority 1 Homeless qualification.

4.5.7 Standard (no Priority) Applicants

Standard Applicants are those who do not qualify for any Priority category under this policy.

4.5.8 Housing Situation for State Programs

State Public Housing 760 CMR 5.11 – Housing Situation

The Housing Situation Priority Policy issued by the Department sets out the criteria to be used by BHA to determine the Priority to be granted to the applications of Homeless Applicants. The Priority of an application on the LHA waiting list shall be initially set by the Statewide Online Application System (CHAMP) based on the unverified Housing Situation that is claimed by the applicant on the application form.

When an application nears the top of BHA's waiting list, the BHA shall require the applicant to provide verification of the Housing Situation that was claimed on the application. If the applicant fails to submit all documentation necessary to verify the Housing Situation that was claimed on the application within ten business days of the BHA's request for verification, then the application will be granted Priority 7 Standard. If at any subsequent time the applicant submits verification of the previously claimed Housing Situation, the BHA will grant the verified Priority as of the date and time of the applicant's initial claim.

If an applicant submits documentation that fails to verify any criteria of the claimed Housing Situation Priority, then the BHA shall deny the Priority and inform the applicant of the right to appeal the determination pursuant to 760 CMR 5.13. An applicant may claim or delete an existing claim of Housing Situation Priority at any time. Any grant of a claimed Priority by a BHA shall be made only after verification of the circumstances that meet the criteria for the Priority as set out in the Housing Situation Priority Policy. Any change to an application's Priority, including the grant or denial of a Priority, that is made by BHA shall only affect the position of the application on that BHA's waiting list for the program [or developments] for which the applicant is being considered.

The DHCD Housing Situation Priority Policy shall be posted at all times on DHCD's website at <https://www.mass.gov/orgs/housing-and-community-development> and in the LHA's administrative office where applications are received and shall be a public record.

4.6 Admission Preferences

An Applicant may only apply for a Preference when the waiting list is open.

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Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on a BHA waiting list. An Applicant may qualify for more than one Preference at a time.

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A Priority One Applicant with a Preference will be ranked above a Priority One Applicant with no Preferences. Preferences are cumulative, so an Applicant with more than one Preference (e.g., Veterans and Displaced) will be ranked higher within his or her Priority category than an Applicant with only one Preference.

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Determinations of Preference: Approval or Denial for the Single Elderly or Disabled Preference, Veterans Preference or Displaced Boston Tenant Preference will suffice as an approval or denial for the Preference for all applicable BHA waiting lists.

~~Preference points apply only to Applicants for new admission on BHA waiting lists.~~

~~Preference points will be added to Priority points to determine an Applicants' placement on each BHA waiting list. For example, a Priority 1 Applicant with a residency Preference will be ranked above a Priority 1 Applicant with no Preferences. Preference points are cumulative meaning that an Applicant can receive points from more than one Preference category.~~

State Public Housing 760 CMR 5.09(2) – Preference Categories

Preference Categories. Apart from the affirmative action preference to be applied pursuant to 760 CMR 5.10(3) the LHA shall apply the following preferences in descending order within each of the priority categories in determining the order of tenant selection:

Veteran. Any veteran applying for elderly/handicapped housing receives this preference. A veteran applying for family housing receives this preference in all St. 1948, c. 200 units or, if the LHA has no St. 1948, c. 200 units, in all St. 1966, c. 705 units. In St. 1948, c. 200 and St. 1966, c. 705 units the order of preference is as follows:

1. Veterans with service-connected disability;
2. Families of deceased veterans whose death was service connected; and
3. Other veterans.

Local Resident. Any Local Resident applying for public housing receives this preference.

4.6.1 Designated Housing Preference

(a) Federal

(i) When Non-Elderly Disabled Resident Population is less than 20%

Disabled Head or Co-Head Applicants who are under 62 years of age and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the non-elderly disabled resident population is less than 20% AND who do not require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:

- Among households (i.e. within the same housing Priority category), first Preference shall be given to non-elderly disabled households whose Head and/or Co-Head is/are under 62 years of age.
- Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Elderly (62 years of age or older).

(ii) When Elderly Resident Population is less than 80%

Applicants who are 62 years of age or older and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the elderly resident population is less than 80% AND who do not require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:

- Among households (i.e. within the same housing Priority category), first Preference shall be given to households whose Head and/or Co-Head is/are 62 years of age or older.
- Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Non Elderly Disabled (<62 years of age).

(b) State

(i) General Provisions for Placements

Placements are to be made in elderly/disabled housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The BHA shall place applicants in accordance with 760 CMR 5.10(2) in order to attain or to sustain these percentages. Such placements shall also be made in accordance with any applicable priority and preference categories.

Any accessible or modified unit shall be offered to an applicant household that includes a person, regardless of age, who has a physical handicap which handicap necessitates one or more of the special design features of the unit.

(ii) Placements by BHA in Elderly/Disabled Housing

Prior to making a placement in elderly/disabled housing, the BHA shall determine the BHA's current percentage of c. 667 units occupied by disabled households. In making this determination the BHA shall count all c. 667 units including c. 667 congregate units, c. 667 section 8 new construction or substantial rehabilitation units, c. 667 modified units, and c. 667 conventional units. The BHA shall then place applicants as follows:

If the percentage of units occupied by disabled households is less than 13.5%, the BHA shall place one eligible and qualified disabled household for each eligible and qualified elderly household placed until the percentage of disabled households equals or exceeds 13.5%.

If the percentage of the units occupied by disabled households equals or exceeds 13.5%, the BHA shall place eligible and qualified elderly households until the percentage of disabled households falls below 13.5%.

If the percentage of units occupied by disabled households equals or exceeds 13.5%, but the BHA has exhausted its waiting list of eligible and qualified elderly households, the BHA shall place those eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old until such time as the percentage of disabled households falls below 13.5% or until there is an application from an eligible and qualified elderly household.

If the percentage of units occupied by disabled households equals or exceeds 13.5%, and the BHA has exhausted its waiting list of eligible and qualified elderly households and eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old, the BHA shall place eligible and qualified disabled households, without regard to age, until there is an eligible and qualified elderly household or, in the absence of such an elderly household, an eligible and qualified disabled household whose members have attained age 50 but who are less than 60 years old.

~~Veterans Preference~~

~~The Veterans' Preference shall be ranked above the residency Preference.~~

~~A "veteran", as used in this Admission and Continued Occupancy Policy (ACOP) shall include the Veteran, the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.~~

~~Verification Requirement:~~

~~Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom the Preference is claimed. The Veteran's Preference is only applicable to Veterans and/or immediate families of Veterans who were discharged under circumstances other than dishonorable.~~

4.6.2 Single Elderly and Disabled Preference

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The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category. Applicants who require a wheelchair will not receive these preference points since they shall be matched to wheelchair accessible units through the offers process.

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Note: A single woman who is pregnant at the time of admission, or a Single Person who has secured or is in the process of securing the custody of any individual(s) below the age of 18, will not be considered a Single Person for the purposes of this preference

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~~Single Elderly and Disabled Preference~~

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~~The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category. Applicants who require a wheelchair will not receive these preference points since they shall be matched to wheelchair accessible units through the offers process.~~

4.6.3 **Veterans Preference**

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The Veterans' Preference shall be ranked above the residency Preference.

A "veteran", as used in this Admission and Continued Occupancy Policy (ACOP) shall include the Veteran, the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.

Verification Requirement:

Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom the Preference is claimed. The Veteran's Preference is only applicable to Veterans and/or immediate families of Veterans who were discharged under circumstances other than dishonorable.

~~Designated Housing Preference~~

~~(a) Federal~~

~~(i) When Non Elderly Disabled Resident Population is less than 20%~~

~~Disabled Head or Co-Head Applicants who are under 62 years of age and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the non-elderly disabled resident population is less than 20% AND who do not require~~

~~wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:~~

- ~~• Among households (i.e. within the same housing Priority category), first Preference shall be given to non-elderly disabled households whose Head and/or Co-Head is/are under 62 years of age.~~
- ~~• Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Elderly (62 years of age or older).~~

~~(ii) When Elderly Resident Population is less than 80%~~

~~Applicants who are 62 years of age or older and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the elderly resident population is less than 80% AND who do not require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:~~

- ~~• Among households (i.e. within the same housing Priority category), first Preference shall be given to households whose Head and/or Co-Head is/are 62 years of age or older.~~
- ~~• Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Non Elderly Disabled (<62 years of age).~~

~~(a) State~~

~~(i) General Provisions for Placements~~

~~Placements are to be made in elderly/disabled housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The BHA shall place applicants in accordance with 760 CMR 5.10(2) in order to attain or to sustain these percentages. Such placements shall also be made in accordance with any applicable priority and preference categories.~~

~~Any accessible or modified unit shall be offered to an applicant household that includes a person, regardless of age, who has a physical handicap which handicap necessitates one or more of the special design features of the unit.~~

~~(ii) Placements by BHA in Elderly/Disabled Housing~~

~~Prior to making a placement in elderly/disabled housing, the BHA shall determine the BHA's current percentage of c. 667 units occupied by disabled households. In making this determination the BHA shall count all c. 667 units including c. 667 congregate units, c. 667 section 8 new construction or substantial rehabilitation units, c. 667 modified units, and c. 667 conventional units. The BHA shall then place applicants as follows:~~

~~If the percentage of units occupied by disabled households is less than 13.5%, the BHA shall place one eligible and qualified disabled household for each eligible and qualified elderly household placed until the percentage of disabled households equals or exceeds 13.5%.~~

~~If the percentage of the units occupied by disabled households equals or exceeds 13.5%, the BHA shall place eligible and qualified elderly households until the percentage of disabled households falls below 13.5%.~~

~~If the percentage of units occupied by disabled households equals or exceeds 13.5%, but the BHA has exhausted its waiting list of eligible and qualified elderly households, the BHA shall place those eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old until such time as the percentage of disabled households falls below 13.5% or until there is an application from an eligible and qualified elderly household.~~

~~If the percentage of units occupied by disabled households equals or exceeds 13.5%, and the BHA has exhausted its waiting list of eligible and qualified elderly households and eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old, the BHA shall place eligible and qualified disabled households, without regard to age, until there is an eligible and qualified elderly household or, in the absence of such an elderly household, an eligible and qualified disabled household whose members have attained age 50 but who are less than 60 years old.~~

4.6.4 Displaced Boston Tenant Preference

The BHA shall give two (2) Preference points to an Applicant who was displaced from a unit within the City of Boston ~~that was the Applicant's last permanent residence.~~

(a) No length of Residency Required

This Preference is not based on how long an Applicant has resident of the City of Boston, but only upon the establishment and proper verification of residency within the City Of Boston.

(b) Verification Requirements

To receive this Preference, an Applicant must verify that: (1) they were displaced from a unit within the City of Boston, ~~(2) that the unit was the Applicant's last permanent residence, and since the Applicant has been unable to obtain permanent housing.~~

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The following documentation is a non-exhaustive list of documentation that may be used, in conjunction with Priority documentation that establishes displacement, will verify the Displaced Boston Tenant Preference:

- ~~_____ (i) Landlord verification~~
- ~~(i) _____~~
- ~~_____ (ii) A copy of a Lease~~
- ~~(ii) _____~~
- ~~_____ (iii) Utility Bill (electric, gas, oil, or water)~~
- ~~(iii) _____~~
- ~~(iv) _____ Mortgage Payments~~
- ~~(v) Letter from School Department~~
- ~~(vi) Letter from Social Security Department~~
- ~~(vii) Taxes~~
- ~~(viii) Other verification deemed acceptable or necessary by BHA~~

~~(v) Taxes~~

~~(vi) Other verification deemed acceptable or necessary by BHA.~~

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4.7 Apartment Features Considered

Before applying Priorities and Preferences, BHA will determine the appropriate apartment size and special features based on Household composition and needs. In making the selection of a Household for an apartment with accessible features, the BHA will give preference to Households with the greatest number of Priority/Preference points, the earliest approval date for said Priority/Preference points and earliest application date that include a person with disabilities who has a specific need for the apartment features.

4.8 Changes in Priority and/or Preference

An Applicant is required to report any change in circumstances that may result in a change of priority or preferences.

Verification

To the extent that the verification determines that the Household does now qualify for a Priority and/or Preference, the Household will be moved up on any waiting list previously selected in accordance with its Priority and/or Preference(s), and the date such Priority and/or Preference(s) is approved.

Similarly, removal of a Priority and/or Preference (because a Household is discovered to be ineligible for a Priority and/or Preference) will result in a reduction of waiting list points, and therefore change of waiting list position, for the Household.

4.9 Applicant Family Break-Up Policy

An Applicant Family Break-Up occurs when a Head and Co-head of household will no longer reside together and/or there is a dispute as to who will retain the original Application date or any approved Priority and/or Preference(s). An Applicant Family Break-Up situation where only one individual signed the Application (i.e., where there is a Head but no Co-head of household) occurs in instances of domestic violence and where an Adult(s) who is/are not currently a household member(s) advance(s) a claim on behalf of a minor or incapacitated Head who is/are on the Application's household composition.

When the BHA receives notice that a Family has broken up or will imminently break-up, the BHA will make the determination of which Family member will retain what Application date and or any approved Priority and/or Preference(s) using the criteria and the procedure provided below.

4.9.1 Split between Head and Co-Head of Household

(a) When the Head and Co-Head of Household no longer wish to reside with each other, the BHA will split the application between the two.

(i) Application Date and Priority/Preference for Split Household

If both Head and Co-Head signed the original application and both qualified for the Priority and/or Preference(s) status that was selected by the united Family, prior to the Break-up, both the Head and Co-Head shall retain the original application date and Priority status. Otherwise, only the portion of the Family that qualifies for the Priority and/or Preference(s) status selected prior to the break-up shall retain such Priority and/or Preference(s).

(ii) If the Co-Head was added later, they shall be approved for the application date equal to the date when they were added to the application of the individual who originally applied. The BHA will determine if there are any applicable Priority and/or Preference(s) based on the documentation that was submitted when the Co-head was added to the application.

(b) BHA Determination in cases of a split between a Head of Household and other Adult Household member due to domestic violence:

(i) If a court has determined the disposition of the Family's Application in a divorce or separation under a court order or court approved settlement (provided that no provision is against State or Federal Housing regulations), the BHA is bound by the court's determination as to which Household Member(s) will continue with the Application. Such

a determination cannot be appealed through the BHA review process, as it is the court's determination and not the BHA's determination that governs.

(ii) In the absence of a court order, the BHA shall determine whether the Family member who did not sign the Application should be given a separate Application. The BHA will make this determination based on individual circumstances.

(iii) Verification Requirements

A third-party, written verification from the local police department, a social service agency, a court of competent jurisdiction, a clergy member, a physician, or a public or private facility that provides shelter or counseling to the victims of domestic violence.

Verification will not be considered valid unless it, (1) supplies the name of the threatening or abusive Household Member, and (2) describes how the situation came to verifier's attention, and Indicates that the threats and/or violence are of a recent (within the past six [6] months)

(c) Notice of Proposed Disposition of Application

A notice shall be sent to any and all addresses identified by the Head of Household and Co-Head of Household, and not solely to the last address for the Head of Household.

In cases where a Household Member who is an alleged victim of Domestic Violence, but is not a Head or Co-Head of Household requests a separate application, the notice shall describe what factors BHA utilized in arriving at its decision. The notice shall also state the alleged victim of Domestic Violence has twenty (20) days to request a review of the decision.

(d) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by the ACOP or its successor.

4.9.2 Applicant Family Break Up for Minor Households

Procedure Where There is a Family Break-Up and Adults Who Are Not Currently Household Members Advance a Claim on Behalf of Minor or Incapacitated Household Members.

(a) Where there has been an Applicant Family Break-Up with one or more remaining Minor and/or incapacitated Household Members and no remaining Co-Head, AND The result of the Break-up was due to reasons included but not limited to death, incarceration, or incapacitation of the Head, AND one or more adults who are not currently Household Members advance a claim that they wish to become the Head of Household on behalf of one or more remaining Minor or incapacitated Household Members, AND there is a dispute about who should become the Head of Household, the BHA shall determine which such claimant, if any, shall take over the Application.

(b) In the event the remaining Household Member(s) is an incapacitated Adult who is unable to fulfill the Family obligations, the proposed Applicant must be an adult who has been appointed either a temporary or permanent guardianship, and is willing to assume the obligations and responsibilities as Head of Household.

(c) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by the ACOP or its successor.

CHAPTER 5: DETERMINATION OF ELIGIBILITY

5.1 Eligibility

Eligibility for Federal programs is determined in accordance with federal regulations and this policy.

Eligibility for State Public housing is governed by 760 CMR 5.00

5.1.1 Threshold Eligibility Requirements

(a) Family Program and Elderly Disabled Program

In order to be preliminarily eligible for the Family Program or Elderly Disabled Program, a Household must meet the following threshold requirements:

- (i) The Household must be a Family as defined in this policy;
- (ii) The Household must have an Annual Income at or below program guidelines, as defined below; and
- (iii) The Applicant must not owe uncollected rent and/or miscellaneous charges (for any program administered by the BHA or Other Publicly Assisted Housing Program⁴).

An Applicant that owes a balance to the BHA, will be notified of the requirement to repay the balance prior to admission. The Applicant shall have the opportunity to dispute the past debt or to establish any mitigating circumstances and/or reasonable accommodation and of the right to seek a review of the determination on mitigating circumstances and reasonable accommodation.

In certain circumstances, such as a conversion action where public housing is being converted to another form of subsidized housing, the BHA may consider entering into a repayment agreement with the applicant.

(b) Elderly and Disabled Program Only

In order to be eligible for the Elderly and Disabled Program a Household must meet the above threshold requirements. In addition:

⁴ Other Publicly Assisted Housing Program – means residence in any housing program assisted under M.G.L. Chapter 121B (such as state-assisted public housing for families, elderly or disabled persons), or Massachusetts Rental Voucher Program or assisted under the United States Housing Act of 1937 as amended (42 U.S.C. 1401 et seq.) (such as federally-assisted public housing for families, elderly or disabled persons, Section 8 certificate/voucher, project-based certificate, moderate rehabilitation, loan management/property disposition leased housing program, Indian housing, or tenant-based assistance under the HOME program)

- (i) The Head of Household, Co-Head of Household or Sole Member must be 62 years of age or older (60 years of age or older for State-Aided Housing) or handicapped or Disabled.

State Public Housing 760 CMR 5.03 – Elderly Housing

Elderly Household. A household, residing in or applying for elderly/handicapped housing, containing at least one elderly person.

Elderly Persons of Low Income. Persons having reached 60 years of age or older who are income eligible for state-aided public housing. As used in 760 CMR 5.00, Elderly Person shall mean an elderly person of low income.

Elderly/Handicapped Housing. St. 1954, c. 667 housing managed pursuant to the provisions of M.G.L. c. 121B, §§ 39 and 40 for elderly persons of low income and handicapped persons of low income.

5.1.2 Eligibility Determination

To determine final eligibility of the Applicant, BHA will verify the following:

- (a) Whether the Applicant meets the definition of Family,
- (b) Elderly or Disabled status of the Applicant,
- (c) Income,
- (d) Appropriate bedroom size and features required for the family,
- (e) Priority and/or Preference,
- (f) Qualification of the Applicant with to the Screening Criteria set forth below,
- (g) Proof of Social Security Number,
- (h) Citizenship status, if applicable
- (i) The calculated pro-rated rent for admission shall not exceed 50% of the household's total gross income.

5.2 Verification Generally

When an application nears the top of a waiting list the BHA will request access to reliable and reasonably obtainable documentation verifying the accuracy of information appearing on the application form and the selected priority, preference, eligibility and qualification.

State Public Housing 760 CMR 5.12 – Verification of Preference, Eligibility and Qualification

(1) When an application nears the top of a waiting list for housing in a program at an LHA, the LHA shall require the applicant to provide the LHA access to reliable and reasonably obtainable documentation verifying the accuracy of information appearing on the application form or otherwise necessary for the LHA's final determination of the applicant's Preference, eligibility and qualification. If the LHA is unable to verify the information that was provided in the application within ten business days of the LHA's request for verification, then the LHA may make an offer of housing to the applicant appearing next on the waiting list for whom it has obtained fully verified information. If an LHA determines that the criteria for Preference, eligibility or qualification is not met, then the LHA shall deny the applicant's Preference, eligibility or qualification and inform the applicant of the right to appeal the determination pursuant to 760 CMR 5.13. Any grant or denial of a Preference, or determination of ineligibility or disqualification, that is made by an LHA shall only affect the application on that LHA's waiting list for the program for which the applicant is being considered at that LHA.

(2) Income of applicants shall be verified by the procedure specified for rent determination. If the LHA has verified any information when making a preliminary determination of eligibility for the applicant, and that information is more than 90 days old, the LHA shall reverify such information on its final determination of eligibility and qualification. Non-receipt of requested documentation, without good cause established by applicant, shall be cause for determining applicant unqualified.

(3) The LHA shall require an applicant to provide the names and current addresses of all landlords (or housing providers) for applicant and household members during the period five years prior to application through the date of the final determination. If, after request the LHA has failed to receive a reference from a landlord (or housing provider) it shall notify applicant of non-receipt, and the LHA shall request that applicant use their best efforts to cause the landlord (or housing provider) to submit the reference to the LHA. In the event the applicant uses their best efforts but is unsuccessful, the applicant shall cooperate with the LHA in securing information from other sources about the tenancy. Non-receipt of a reference from a landlord (or housing provider) shall be cause for determining an applicant unqualified, unless the applicant can show that they have used best efforts to secure the reference and that they have complied with reasonable requests for cooperation in securing other information.

(4) In determining qualification the LHA shall check Criminal Offender Record Information and Sex Offender Registration Information and make reasonable efforts to check available records of out-of-state criminal convictions. The LHA may also check: public records; other sources of public information; credit reports; and other reliable sources. The LHA may also make a home visit, which shall be scheduled reasonably in advance. Observations by the person making such a visit shall be promptly reduced to writing and placed in the applicant's file.

(5) Information regarding eligibility or qualification may be obtained by the LHA from interviews with the applicant and with others, from telephone conversations, letters, or other documents, and from other oral or written materials. All such information received shall be recorded in the applicant's file, including the date of its receipt, the identity of the source, and the person receiving the information.

5.2.1 Documentation

All documents used to determine or verify eligibility shall be maintained in the Applicant file. Files should be maintained in accordance with State and federal laws.

5.2.2 Applicant Release of Information

All adult household members will be required to execute releases of information to allow the BHA to verify eligibility.

Refusal to sign these forms or other documents required to process the Application or conduct screening will result in the withdrawal of the Application.

5.2.3 Verification Order of Preference for Federal Programs

The BHA will accept verification of screening and eligibility information in the following order of preference:

(a) Up Front Verification

Verification through the computer matching system employed by HUD (EIV) when available or required or another computer wage reporting system is the highest, most acceptable form of verification. This type of verification is not limited to income, but also pertains to verification of family composition, housing situation, and other factors that may be useful in determining admission and continued eligibility.

(b) Written Third Party Verification Supplied by Household

Written verification originated by a third party when Up-Front verification is not available, up to date or is disputed by a resident. Written third party verification includes resident-supplied original or authentic documents generated by a third party source. Resident-supplied documents must be dated within sixty (60) days of receipt by the BHA.

Certain documents, such as birth certificates and social security cards are not subject to change and do not need to meet the sixty (60) day requirements. See 5.3.4 below.

(c) Written Third Party Verification Responding to BHA Request

A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). The BHA will send the form directly to the third party source by mail, fax, or e-mail. This type of verification will be used if the resident is unable to provide acceptable documents that are generated by a third party.

(d) Oral Third Party Verification

Staff documented verification from a third party by telephone will be accepted where written verification is impractical, or the third party is unresponsive to BHA's written requests within ten (10) business days of mailing. Staff shall utilize the same form that would have been mailed to the third party. All the information required by the written verification form should be requested during the telephone contact. BHA staff will complete the form on the basis of such information. The contact person, date and time of conversation will be noted and the BHA staff person who made the telephone call will sign the form.

(e) Verification by Self-Certification

The BHA may choose to accept an affidavit from an Applicant regarding housing and employment history only when verification by a third party written or oral, and verification by documents is impossible to obtain.

5.2.4 Verification Timelines

General procedures applicable to screening information are as follows:

(a) Information subject to change

Generally, documents should be dated within sixty (60) days of receipt. Verification information is valid for ninety (90) days from the date received by the BHA. Information may be updated by telephone or fax for an additional thirty (30) days. After one hundred and twenty (120) days, the Applicant must obtain new verification documentation.

(b) Information not subject to change

BHA will verify this information (e.g. verification of age or place of birth) only once during the screening process.

5.2.5 BHA Right to Request Additional Verification

In the case that the documentation provided by the applicant is not complete or is otherwise doubtful, the BHA may require the Household Member to sign a release allowing the BHA to obtain the information directly from the third party.

The BHA has discretion to determine what constitutes adequate and credible documentation. If staff has doubts about the veracity or reliability of information received, they may examine alternative methods of verification with the Applicant or third parties until they are satisfied that the documentation is reliable or that reliable documentation is unattainable. The BHA will not offer housing to an Applicant household who has failed to provide requested documentation or to identify sources who can provide documentation which demonstrates the ability of the household to comply with the essential obligations of the Lease or meet other eligibility requirements.

5.3 Verification of Family Composition

5.3.1 Photo identification

The Head and Co-Head of Household must supply one of the following forms of photo identification:

- (a) Driver's license
- (b) Registry of Motor Vehicles picture ID
- (c) Passport
- (d) Student or employer ID
- (e) Other photo ID acceptable to BHA

5.3.2 Proof of Birth

Proof of Birth or Expected Birth for all Household Members (One of the following proof of birth documents in order of preferred documentation):

- (a) Birth Certificates
- (b) Passports
- (c) Original Baptismal Records
- (d) Original INS documents for eligible Non-Citizens (Federal only)
- (e) Other records as deemed appropriate by BHA (Marriage certificate, DDG214, Statement from Social Security Administration)

(f) A letter documenting pregnancy as well as anticipated date of birth will be required for all unborn children listed on application.

5.3.3 Proof of Relationships

Applies to minor children or the care of adults in guardianship situations. The following types of documents will be accepted:

- (a) Birth Certificates
- (b) Court records of adoption
- (c) Court records of guardianship
- (d) Other written documentation or designation from the minor child's parent or other such person having legal custody.

5.3.4 Social Security Numbers

Federal regulations require that the social security numbers of all Applicant household members must be verified except for those individuals who do not contend to have eligible immigration status. One of the following types of documents may be accepted:

- (a) Social security card. Copies of Social Security cards shall be destroyed if an Applicant becomes housed and the Social Security number is verified through the HUD Enterprise Income Verification (EIV) system.
- (b) Original Report from the Social Security Administration documenting the unavailability/non-assignment of a social security number for that Applicant household member
- (c) A written statement from the Social Security Administration documenting the social security number assigned for that Applicant household member.

5.3.5 Verification of Student Status

Federal Programs:

Full time student status for an Applicant household member 18 years of age or older shall be verified through statement on the letterhead or other official documentation of an accredited educational institution stating that the Applicant household member is enrolled as a full-time student at that institution.

State Programs:

A Household Member between 18 and 26 years old, who is the dependent of another Household Member shall be verified on the letter of other official documentation of an accredited institution stating that the Applicant household member is carrying a course load that is considered at least half-time for students under the standards and practices of the institution

5.3.6 Verification of Disability

The BHA shall verify status as a Disabled Household or Disabled Person for purposes of determining eligibility and rent calculation. The following documentation will be accepted for purposes of verifying the status of a household member as a Disabled Person:

- (a) The household member's sole source of income is SSI benefits, SSDI benefits, or disability retirement income (see income verification below);
- (b) A certification from a Qualified Health Care Provider verifying that the household member meets the criteria of a Disabled Person for the state and federal housing programs.(See Definitions for eligibility of Disabled Persons)

State Public Housing 760 CMR 5.07 – Verification of Handicapped Persons

- (1) The definition of handicapped persons of low income is set out in M.G.L. c. 121B, § 1. A handicapped person of low income, as so defined, may have one or more physical or mental impairments, which shall be considered in conjunction with each other if more than one exists.
- (2) The LHA shall determine whether non-elderly applicants for elderly/handicapped housing are handicapped persons of low income. Upon request, the applicant shall provide documentation sufficient for the LHA to be able to make a determination of eligibility. Such documentation shall be subject to third-party verification. As part of the determination process the following actions and findings are necessary.
 - (a) The applicant shall provide certification by a physician documenting a physical or mental impairment which is expected to be of long and continued duration, but at least for more than six months;
 - (b) the LHA shall determine that either certain special architectural design features or low- rent housing are not available in the private market and that the applicant is faced with living in an institution or decadent, substandard housing, or paying excessive rents; and
 - (c) the LHA shall determine an applicant to be of low income if the applicant's household income is within the income limits set for state-aided public housing.
- (3) Examples of a person with a qualifying physical impairment which may substantially impede their ability to live independently in conventional housing shall

include, but shall not be limited to, a person:

- (a) who is confined to a wheelchair;
- (b) who, because of the use of braces or crutches, or because of the loss of a foot or leg, or because of an arthritic, spastic, pulmonary or cardiac condition walks with significant difficulty or insecurity;
- (c) who, due to a brain, spinal or peripheral nerve injury, suffers from significant coordination deficits;
- (d) who is blind within the definition of blind person set out in 111 CMR 3.03: Definitions;
- (e) who is deaf within the definition set out in M.G.L. 6, § 191; or
- (f) who has a developmental disability which prevents the person from living totally independently and would benefit from the LHA's specialized housing (such a person may include, but is not limited to, a person with cerebral palsy, mental retardation, or epilepsy).

5.3.7 Verification of Need for Special Unit Features

During the application process, the Applicant will identify any required special features that may be required due to the disability of one or more family members. Such features could include first floor apartments, inability to live in a townhouse unit, need for accessible features such as wheelchair accessibility, and other factors.

The need for special features shall be evaluated and verified in accordance with Policy for Good Cause and/or Reasonable Accommodation verifications.

5.3.8 Verification of Citizenship Status (Federal Programs Only)

State Public Housing

Provisions with respect to Citizenship status and eligibility do **not** apply to State public housing programs.

(a) Citizen and Non-Citizen Eligibility Requirements

Each Household Member's status as a U.S. citizen, Eligible Non-Citizen or ineligible Non-Citizen must be verified except as indicated below. Determination of eligibility or partial eligibility for public housing benefits (federal program only) is affected by citizen or Non-Citizen status. At least one household member must be a citizen or an Eligible Non-Citizen. Immigration Status for all Non-Citizen household members must be verified through the U.S. Department of Immigration and Naturalization Service.

(b) Mixed Household

An eligible Mixed Household is defined as a Household containing members who are citizens or with Eligible Non-Citizen Status, as well as members without such status, and that meets the criteria for eligibility for continued assistance. Continued financial assistance may be provided to an eligible mixed Household, but it will be prorated based upon the percentage of Household Members that are eligible for assistance.

(c) Evidence of Citizenship Status

Evidence of U.S. Citizenship or "Eligible Immigration Status" will be required to be submitted for all household members regardless of their age, except as indicated below:

- (i) For Citizens, a signed Declaration of U.S. Citizenship
- (ii) For Non-Citizen who is age 62 or over, a signed Declaration of "Eligible Immigration Status" and proof of age.
- (iii) For Applicants not contending to have citizenship or eligible immigration status, a completed "Non-Contending" form certifying the lack of status.
- (iv) An Applicant who is a Non-Citizen who does not fall into one of the categories above must provide a signed Declaration of "Eligible Immigration Status," a signed Verification Consent Form and one of the original documents listed below:
 - Registered Alien Card (U.S. Immigration and Naturalization Service (INS) I-551 Form)
 - Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form); with one of the following annotations:
 - (a) "Admitted as Refugee pursuant to Section 207";
 - (b) "Section 208" or "Asylum";
 - (c) "Section 243(h)" or "Deportation stayed by Attorney General";
 - (d) "Paroled pursuant to Section 2112(d)(5) of the INAA"
 - Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form) not annotated, accompanied by one of the following documents:
 - (a) A final court decision granting asylum to which no appeal was taken.
 - (b) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting asylum (if application was filed on or after October 1, 1990) or from a U.S. Immigration and Naturalization Service (INS) District Director (if application filed before October 1, 1990).
 - (c) A court decision granting the withholding of deportation.
 - (d) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting withholding of deportation (if application was filed on or after October 1, 1990).

- Temporary Resident Card (U.S. Immigration and Naturalization Service (INS) I-688 Form or also known/replaced by the I-766 Form which must be annotated with the notation either: "Section 245A" or "Section 210")
- Employment Authorization Card (U.S. Immigration and Naturalization Service (INS) Employment Authorization Card I-688B Form or also known/replaced by the I-766 Form which must be annotated with the notation either: "Provision of Law 274a.12(11)" or "Provision of Law 274a.12")
- Receipt From the U.S. Immigration and Naturalization Service (INS) Indicating Application for Issuance of a Replacement Document

(d) Denial or Termination of Assistance

The BHA will deny assistance to an Applicant or terminate assistance to a resident in the following situations:

- (i) Evidence of citizenship or Eligible Non-Citizen status is not submitted by the date set by the BHA or by the expiration of any extension granted by the BHA;
- (ii) Evidence of Eligible Non-Citizen status is submitted in a timely fashion, but INS primary and secondary verification does not verify Eligible Non-Citizen status of a household member; and

The Household does not pursue an INS appeal or informal hearing rights; **or**

The INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the Household Member; **or**

- (iii) The BHA determines that a Household Member has knowingly permitted another individual who is not eligible for assistance to reside on a permanent basis in the public or assisted housing apartment of the Household Member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a Household if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the Household.

(e) Prohibition to Delay, Deny, Reduce or Terminate Assistance

The BHA will not delay, deny, reduce or terminate assistance to an Applicant or resident on the basis of ineligible Non-Citizen status of a household member if:

- (i) The primary and secondary verification of any immigration documents that were submitted in a timely manner has not been completed;
- (ii) The household member for whom required evidence has not been submitted has moved from the assisted apartment;

(iii) The household member who is determined not to be in an Eligible Non-Citizen status following INS verification has moved from the assisted apartment;

(iv) The INS appeals process has not been concluded;

(v) For residents, following notification of the INS decision on appeal, or in lieu of a request of appeal to the INS, an informal BHA hearing has been requested by the Household and said hearing process has not been completed (under the regulations, the BHA may delay but not deny assistance to an Applicant during the pendency of the informal hearing process);

(vi) Assistance is prorated in accordance with the applicable Federal requirement; or

(vii) Assistance for a mixed Household is continued in accordance with applicable Federal requirements; or

(viii) Deferral of termination of assistance is granted.

(f) Preservation of Assistance

(i) Prorated Assistance

For Resident Households prorated Assistance is available for a mixed Household that qualifies other than a Household who requests and receives Temporary deferral of Termination Assistance. Proration is calculated in accordance with Federal requirements.

(ii) Temporary Deferral of Termination of Assistance

A mixed Household that qualifies for prorated assistance but decides not to accept prorated assistance may be granted a Temporary Deferral of Termination of Assistance. The BHA will notify a resident Household in writing at least 60 calendar days in advance of the expiration of a deferral period if termination will no longer be deferred. An applicant for refugee or asylum status may receive a Temporary Deferral of Termination of Assistance pending a determination of status.

5.4 Verification of Income and Deductions

Projections of annual income shall be based on the best available information, with due consideration to the past year's income of all household members, current income rate and effective date; and shall include projections for each income recipient in the household.

HUD mandates use of Enterprise Income Verification (EIV) for current residents. However, EIV is not available to verify income of applicants.

The following outlines the types of verification of income, deductions, exclusions and assets will be accepted.

State Programs: Please note that the following verification is a non-exhaustive list of types of verification that may be required to verify income and assets as permitted under 760.CMR 6.04.

5.4.1 Income from Employment

Federal Program:

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) A statement from the Employer stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee, or

(c) Two (2) most recent and consecutive Pay stubs showing gross income for each pay period and all deductions. ~~taken for four consecutive weeks;~~

(d) The income of workers employed on an irregular basis will be estimated based on the verification of the best information available, with due consideration to earning ability and work history.

State Program:

For wages, interest, dividends, annuities, pensions or recurring lottery winnings, the Tenant shall submit copies of the prior year's tax reporting forms received by the Tenant (including W-2 forms, W-2G forms, and 1099 forms).

5.4.2 Income from governmental agencies

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc.), stating the amount of annual or monthly income provided, including the gross amount and any deductions taken.

5.4.3 Income from Retirement Accounts

(a) A statement from the source stating the amount of annual or monthly income provided, including the gross amount and any deductions taken

5.4.4 Income from the operation of a business or profession

Federal Program

- (a) Most recent audited financial statement of income and loss;
- (b) Most recent tax return showing income and loss from the operation of a business or profession.

State Program

For self-employment income the Tenant shall submit a copy of the prior year's Schedule C of US Form-1040

5.4.5 Zero Income

~~(a) When an adult Applicant household member reports zero income, the BHA will require the Applicant household to complete a budget or statement of financial responsibility. The sources of regular cash expenditures will be verified and will be used as income.~~

(a) When an Applicant household reports zero income, the BHA may require the Applicant household to complete a budget or statement of financial responsibility. Any sources of regular cash expenditures will be used as income.

5.4.6 Child Support, alimony, regular gifts and gambling proceeds

- (a) A statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or
- (b) Signed release form allowing the BHA to obtain information from the State Division of Child Support.

5.4.7 Income from Assets

(a) Income from assets shall be based on either the actual income received or imputed income based upon current passbook savings rates in accordance with federal and state regulations and guidance as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc.

Imputed income will be used for real property which is not rented, jewelry, coin collections, works of art and other non-income bearing assets. If the value of the asset is more than \$5,000 the higher of imputed income or actual income received will be used. Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered assets for the purposes of calculating income.

(b) Types of verification which will be accepted for purposes of determining the value and income received from an asset include:

- (i) ~~The~~he~~we~~ most recent statements for statement accounts, including bank accounts, money market funds, mutual funds, or other assets for which regular statements are issued;

- (ii) Original passbook for passbook savings accounts;
- (iii) Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and
- (iv) Appraised valuations of any non-essential personal assets such as jewelry, coin collections, antiques or classic cars.
- (v) For a family with net assets equal to or less than \$5,000, the BHA may accept a family's declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration. The BHA must obtain third-party verification of all family assets every three years.

5.4.8 Verification of childcare expenses or care of disabled household member deductions

- (a) Statement from the provider of childcare or care of Disabled Person who is a household member of the amount of payment made on a periodic basis by the Applicant household.
- (b) Filed income tax return stating the amount paid for childcare or care of a disabled household member and the person or agency to whom the expense was paid.

5.4.9 Verification of Medical Deductions

- (a) Payments for necessary medical expenses (including co-payment amounts) which are not covered by insurance or otherwise reimbursed are deductions from income, provided that such expenses are in excess of 3% of annual gross household income and are paid by household members. Payments for medical health insurance are also considered medical expenses are a deduction. For federal programs, the medical deduction is limited to resident households where the head or spouse is ~~not~~ a person who is at least 62 years of age or a person with disabilities. For State programs, this deduction is applicable to all households.

Eligible residents must submit evidence of the following medical expenses for all household members paid within the last twelve months:

- (i) Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
- (ii) Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc.);

- (iii) Signed printout of prescription costs from a pharmacy accompanied by proof of payment;
- (iv) Medical or dental bills for a household member paid by a household member;
- (v) Un-reimbursed reasonable attendant care and auxiliary apparatus expenses and for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.

5.4.10 Permissive Deduction in Excess of Monthly Stipend

The BHA shall deduct resident service stipend amounts in excess of the \$200 monthly limit from annual income for any period determined by its Administrator to be an emergency including but not limited to a pandemic when assistance is urgently required to assist BHA residents and when funding for stipends is available. Any such determination by the Administrator shall be in writing and include the duration of the emergency. The activities to be carried out as a result of the determination shall be clearly defined and will not include work that would ordinarily be performed by BHA staff.

5.4.11 Income Exclusions

Certain sources of income are excluded by the BHA in accordance with Federal and state regulations as set forth in 24 CFR 5.609(c) and 760 CMR respectively.

5.5 Screening for Suitability

Applicants are screened for suitability in accordance with BHA policies and HUD and [EOHLC DHCD](#) regulations (24 CFR Part 960.205 and 760 CMR 5.00 respectively), and guidance. BHA shall screen all members of the applicant's household who are 18 years or older and review the criminal background for all household members that are 14 or older, the age in Massachusetts at which a minor may be tried as an adult.

5.5.1 Purpose of Suitability Screening

BHA seeks to promote safety and stability in its communities by leasing to applicants who have a reasonable expectation of being able to consistently comply with the terms of their lease agreement. Accordingly, BHA's screening process to evaluates the ability of the applicant household to:

- (a) Pay rent in accordance with BHA's policies and lease provisions;
- (b) Comply with terms of a lease agreement, health and safety codes, applicable laws and regulations;

- (c) Properly maintain a residence in accordance with accepted standards of cleanliness, housekeeping, health, and safety; and applicable laws and ordinances;
- (d) Live harmoniously with other BHA residents and the community at large;
- (e) Comply with BHA policy and program requirements;
- (f) Behave in a manner that will not adversely affect the health, safety, and welfare of BHA staff, its agents or invitees; and
- (g) Not engage in criminal activity, including illegal drug-related activity, either on or off BHA premises.

The screening process may consider information, including, but not limited to the applicant's assets, income, criminal history, and housing history, and may be obtained from a variety of sources including credit reports, criminal records, rental references, criminal background reports, records of housing-related collections, evictions, and judgments.

5.5.2 Housing History

The Applicant Household shall provide a minimum of a one-year housing history upon request. The housing history shall be evaluated and verified for the criteria identified below to determine suitability for BHA housing. If the one-year housing history provides conflicting or insufficient or incomplete information, the BHA may request an additional two years of housing history from the Applicant. The BHA, at its discretion may request additional information from any of the verification sources provided or additional housing history beyond three years to clarify inconsistencies or to obtain sufficient information to evaluate an Applicant for suitability.

A BHA Applicant for the State Public Housing program shall be required to submit a five (5) year housing history in accordance with the current online application system and the State regulatory requirements.

5.5.3 Criminal History

(a) Use of Criminal History

A record of involvement in criminal activity by the Applicant or member of the Applicant Household in crimes of physical violence to persons or property, crimes of fraud, prostitution or larceny and other criminal acts including the use and/or distribution of an illegal drug, or the illegal use (or pattern of illegal use) and distribution of any illegal drug, or abuse (or pattern of abuse) of alcohol which may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Residents, as prohibited by the BHA Lease will be considered in the screening process.

For State public housing, the criminal record will be considered if the applicant or a household member in the past has engaged in criminal activity, or activity in violation of section four of chapter one hundred and fifty-one B, which if repeated by a tenant in public housing, would interfere with or threaten the rights of other tenants to be secure in their persons or in their property or with the rights of other tenants to the peaceful enjoyment of their units and the common areas of the housing development. See MGL 121B, Section 32(d).

BHA shall use Criminal Offender Record Information (CORI) provided by the Massachusetts Criminal History Systems Board, criminal histories provided by other states/jurisdictions, Federal authorities, court records, and other evidence of criminal activity including landlord references to prevent criminal activity that would adversely affect the health, safety or welfare or physical security of property of other Residents, BHA staff or guests.

BHA shall review both convictions and pending charges.

If the Criminal record information shows that a case is continued without a finding (CWOFF) or "placed on file" it cannot be used as a determination that the Applicant or household member, in fact, engaged in criminal activity without other independent evidence of the criminal activity charged. Independent evidence might include: police reports documenting criminal activity, statements from the arresting officer or other reliable information that the Applicant and/or a household member committed the crime charged.

Criminal record information shall be requested and maintained in accordance with guidance established by the Massachusetts [Executive Office of Housing and Livable Communities \(EOHLC\)](#) [Department of Housing and Community Development \(DHCD\)](#) and 803 CMR 5.00 and any other applicable laws.

The Applicant Household is required to allow the BHA to review the criminal background history for all Applicant Household members who are 14 years of age or older. Criminal History may be reviewed for minors who are 14 or older if they were tried as an adult, otherwise known as youthful offender information. The BHA will not review any juvenile offender information.

(b) Mandatory Denial

(i) Lifetime Sex Offender Registration Requirement. BHA shall use Sex Offender Registry Information (SORI) as permitted by law in the eligibility determination process. Persons convicted of sexual offenses and subject to a lifetime sexual offender registration requirement are permanently prohibited from admission to Federally assisted developments/AMPs and they are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances. The BHA will conduct criminal history background checks sufficient to determine whether any household member is subject to such a registration requirement.

(ii) Conviction for Manufacture of Methamphetamine. Persons that have been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of Federally-assisted housing are permanently prohibited from admission to Federally assisted developments/AMPs and are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances.

(c) Look back period

The review of criminal history shall be limited to a period of three (3) years for criminal activities which would be punishable as a misdemeanor or equivalent level of culpability under local law and seven (7) years (except where the Housing Authority has an obligation to ban applicants whose criminal activity is subject to mandatory denial) for an activity which would be punishable as a felony or equivalent level of culpability under local law. The look back period shall run from the date of conviction or the release date, whichever is later. The Housing Authority may deny an applicant whose criminal record shows a pattern of violent criminal activity, or activity that is inherently violent, even though the activity has occurred outside of the time frame set out above.

Once a criminal record has been sealed pursuant to G.L. c. 276, §100A, it may no longer be evaluated for the purposes of screening.

(d) Use of Illegal Drugs

(i) Current Use

BHA will not admit a current user of illegal drugs. The Fair Housing Act explicitly states that current users of illegal drugs are not a protected class. BHA will not exclude former users of illegal drugs solely because of their former illegal drug use.

(ii) Past Use Does Not Excuse Associated Behavior

The fact that an Applicant or household member may have been an illegal drug user in the past does not automatically excuse any disqualifying behavior that the Applicant or household member may have engaged in while an illegal drug user.

(iii) Documentation that a former illegal drug user is not currently using illegal drugs could include:

- Verification from a Qualified Health Care Provider stating that the former illegal drug user has been or is currently in treatment, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, that the Applicant is complying with the requirements of the treatment program, and is not currently using an illegal drug;
- Verification from a self-help program (for example, Narcotics Anonymous) stating that the former illegal drug user has been or is participating in their program, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, and is not currently using an illegal drug;

- Verification from a probation or parole officer stating that the former illegal drug user has met or is meeting the terms of probation or parole **and** that periodic screens have not revealed the presence of illegal drugs;
- Voluntary drug testing. An Applicant or household member cannot be required to undergo drug testing as a condition of eligibility. However, if they chooses to be tested, testing shall meet the following requirements: the drug test must be conducted at facilities that use the National Institute of Drug Abuse Guidelines (implementing EO 12564 and Pub. L. 100-71; these guidelines were published April 11, 1988 in the Federal Register) The test must screen for illegal drugs only and the Applicant's use of prescription drugs that contain controlled substances must be taken into account; and the BHA will pay for all costs associated with drug testing unless the costs are otherwise reimbursed.
- If an Applicant or household member is currently in treatment for illegal drug use (as opposed to having successfully completed treatment) or if an Applicant or household member has a history of drug treatment followed by further illegal drug use, the Applicant or household member must demonstrate why current situation and claim of non-drug use is different from the previous unsuccessful efforts to stop using drugs and that the likelihood of a change greater than in the past.
- In such cases, an Applicant or household member should successfully complete the current treatment program and maintain acceptable behavior in the community for a reasonable period established by the BHA.

(e) Treatment for Substance Abuse

Information related to an Applicant's or a member of an Applicant's household treatment by a substance abuse treatment facility. The BHA requires any Applicant or member of Applicant's household to sign a consent form authorizing inquiry to a substance abuse treatment facility where the BHA :

- Receives CORI information that indicates evidence of a prior arrest or conviction for criminal activity which would be a basis for denial due to reasonably current illegal drug use, OR
- Receives information from records from a prior tenancy of the Applicant or household member that demonstrate they were:
- Engaged in the destruction of property;
- Engaged in violent activity against another person;
- Interfered with the right to peaceful enjoyment of the premises by another tenant.

(f) Alcohol Abuse and Screening

An Applicant or household member who is an alcoholic may qualify as a person with a disability under State and Federal anti-discrimination laws and be entitled to certain protections afforded to Disabled Persons. If the abuse or pattern of abuse of alcohol may

threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, an applicant may be disqualified.

(g) Denial for Criminal Activity

The BHA shall not automatically deny an applicant based on the presence of criminal history.

If the Criminal record information indicates that an Applicant and/or household member has a record that would establish a basis for an Ineligibility finding, the Applicant will be notified of the negative information received, provided with an opportunity to review the information and to offer any information as a Mitigating Circumstance before a final determination of Ineligibility is made by the BHA.

(h) Right to Dispute Accuracy of the Criminal Record

If the Applicant believes that the Criminal record information is inaccurate, they must submit to BHA a written notice to this effect. The notice must be provided to BHA within the time specified in BHA's notice to the Applicant. Upon receipt of the Applicant's written notice disputing the accuracy of Criminal record information, BHA will provide the Applicant a reasonable amount of time to provide credible evidence of the report's inaccuracy.

5.5.4 Evaluation of Screening Criteria

The BHA shall deny an Applicant if it finds any of the following conditions are present and there is reason to believe the future behavior of the Applicant or Applicant household members will exhibit the same behavior, unless there are acceptable Mitigating Circumstances.

The history of the Applicant household's conduct must demonstrate that the Applicant household can reasonably be expected not to:

- (a) Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises or to adversely affect their health, safety, or welfare or the security of their property.
- (b) Violate the civil rights of any person, while on BHA property, in accordance with the BHA's Zero Tolerance policy.
- (c) Cause damage to the property or fail to pay rent in full and on time.
- (d) Violate the terms and conditions of the BHA lease.
- (e) Require services from BHA staff that would alter the fundamental nature of the BHA's program.

(f) Illegally use, possess or distribute a controlled substance,

(g) Give the BHA reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

5.5.5 Rehabilitation and Mitigating Circumstances

In the event of the receipt of unfavorable information with respect to an Applicant the BHA will notify the Applicant in writing, and the BHA shall permit the Applicant to show whether there are Mitigating Circumstances, which may include a showing of rehabilitation or rehabilitating efforts, sufficient so that when the potentially disqualifying conduct is weighed against the Mitigating Circumstances, the BHA is reasonably certain that the Applicant will not engage in any similar conduct in the future. In making this determination, the BHA shall consider all relevant circumstances, including the severity of the potentially disqualifying conduct, the amount of time which has elapsed since the occurrence of such conduct, the degree of danger, if any, to the health, safety and security of others or to the security of the property of others or to the physical conditions of the housing development/AMP and its common areas if the conduct recurred, the disruption and inconvenience which recurrence would cause the BHA, and the likelihood that the Applicant's behavior in the future will be substantially improved. The greater the degree of danger, if any, to the health, safety and security of others or to the security of property of others or the physical condition of the housing, the greater must be the strength of the showing that a recurrence of behavior, which would have been disqualifying, will not occur in the future.

5.5.6 Outcome of Screening Process

(a) Ineligible

An ineligible Applicant will be promptly notified. The Applicant will receive a Notice of Ineligibility from the BHA, stating the basis for such determination and advising them of the opportunity for an informal review of the determination. The ineligible Applicant will also be informed that they have a right to request reconsideration if the reason for denial of assistance is related to a disability and a reasonable accommodation on account of that disability may make it possible for them to be housed in accordance with the Screening Procedures.

(b) Eligible

Households determined to be Eligible and Qualified after screening will be notified by the BHA of the approximate date of occupancy insofar as that date can be reasonably determined. The BHA will make reasonable effort to estimate accurately an approximate date of occupancy. However, the date given by the BHA is not a guarantee that Applicants will be housed by that date. The availability of a suitable apartment to offer a

Household is contingent upon factors not directly controlled by the BHA, such as turnover rates, and availability of apartments of the appropriate size and/or with special features.

5.6 Personal Care Attendants / Live-in Aides

5.6.1 Definition [for Federal Programs](#)

Live-in Aide or Live-in Personal Care Attendant (PCA) is a person who:

- (i) Is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) Is not obligated to support the Elderly or Disabled Person or persons; **AND**
- (iii) Would not be living in the Apartment except to provide the necessary supportive care; **AND**
- (v) Has no right to the Apartment as a Residual Tenant, **AND**
- (vi) Does not have their income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income

Definition State Programs

Personal Care Attendant (PCA).

A person who resides with a Household Member with a disability and who:

(a) provides necessary assistance in activities of daily living to such Household Member insofar as he or she requires such assistance on account of his or her disability;

(b) is not obligated for support of the Household Member; and

(c) is paid for the fair value of such assistance.

Pursuant to 760 CMR 5.03: Family (Household)(b), if determined by the LHA to be qualified, a full-time, live-in PCA shall be deemed a Household Member for purposes of determining the appropriate unit size in public housing.

If a full-time, live in PCA's income is included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit, the PCA may receive permission for continued occupancy as a remaining member of the Family (Household) for purposes of 760 CMR 5.03: Family (Household)(b), provided all other criteria for remaining

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members of the Family (Household) contained in 760 CMR 5.03: Family (Household)(b) have been met.

If a full-time, live-in PCA's income is not included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then the PCA is eligible to be considered a remaining member of the Family (Household) if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit if, going forward, the individual's income will be included in gross household income for purposes of rent determination and all other criteria for remaining are met.

~~their~~

5.6.2 Policy on Addition of a licensed PCA or Live-in Aide to the Household

(a) Any Live-in PCA OR Live-in Aide must meet the definition of a PCA OR LIVE-IN AIDE as stated above.

(b) A Live-in PCA OR Live-in Aide can be a single person or a person with a household.

(c) No addition of a Live-in PCA OR Live-in Aide and their household, if applicable, shall result in overcrowding of the apartment.

~~(d) No Live-in PCA OR Live-in Aide and their household, if applicable, has/have the right to the apartment as a Residual Tenant~~

~~(e) Any Live-in PCA OR Live-in Aide and their household, if applicable, must sign a waiver of residual residency status.~~

~~(d)~~ Any Live-in PCA OR Live-in Aide and their household, if applicable, must meet the criteria in the BHA's Screening Policy.

~~(e)~~ Any Live-in PCA OR Live-in Aide and their household, if applicable, will be counted as a member of the resident's Household for the purposes of determining the appropriate apartment size ONLY

Federal Program only

(f) No Live-in PCA OR Live-in Aide and their household, if applicable, has/have the right to the apartment as a Residual Tenant (Federal Program only)

(g) Any Live-in PCA OR Live-in Aide and their household, if applicable, must sign a waiver of residual residency status. (Federal Program only)

(h) A family member who satisfies the definition of Live-in PCA or Live-in Aide will be notified in writing that they may be qualified as a PCA OR Live-in Aide and can choose one of the following two options:

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(i) They can qualify as a PCA OR Live-in Aide, which is considered a household member, but not a family member and choose not to include their income as part of the Total Household Income and sign a waiver of residual residency status, OR

(ii) They can qualify as a family member who cares for their disabled or elderly family member and have their income included as part of the total Household income and retain rights as a potential residual tenant.

CHAPTER 6: ASSIGNMENTS AND OFFERS

6.1 Apartment Occupancy Guidelines

6.1.1 Occupation by Households of Appropriate Size

It is BHA's policy that federally assisted apartments will be occupied by Households of the appropriate size as determined by the Occupancy Standards.

For state aided public housing, Appropriate Unit Size is defined at 760 CMR 5.03.

6.1.2 Table of Occupancy Standards

The following table of maximum and minimum number of persons per apartment and assignment standards will govern the number of bedrooms required to accommodate a household of a given size and composition:

Number of Bedrooms	Min. Persons/Apt.	Max. Persons/Apt.
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8
5BR	5	10
6BR	6	12

The Elderly/ Disabled Program does not have any Apartments larger than two bedrooms. Thus, Households requiring more than two (2) bedrooms may only apply for the Family Program.

6.1.3 Apartment Assignments

State Public Housing 760 CMR 5.03 – Appropriate Unit Size

State assisted housing -units shall be assigned using the size requirements in 760 CMR 5.03.

The size of a unit is appropriate for a household if the unit meets all the following criteria:

(a) Household members of the opposite sex, excepting husband and wife (or those in a similar living arrangement), do not have to share a bedroom, provided that children of the opposite sex younger than eight years old shall share a bedroom and provided that other household members of the opposite sex may elect to share a bedroom. Since

the BHA will be using CHAMP, the unit size and subsidy standards shall comply with the CMR.

(b) Persons of the same sex shall share a bedroom, provided that a household member, 21 years of age or older, may elect not to share a bedroom with their child, grandchild, or legal ward and provided that a household member does not have to share a bedroom if a consequence of sharing is or would be a severe adverse impact on their mental or physical health and if the LHA receives reliable medical documentation as to such impact of sharing.

(c) Each bedroom shall contain at least 50 square feet of floor space for each occupant and a minimum of 70 square feet and shall meet all other applicable requirements of 105 CMR 410.00: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* for a room occupied for sleeping purposes. No bedroom shall be shared by more persons than the number permissible under 760 CMR 5.03.

(d) Only bedrooms may be used for sleeping purposes by household members; the living room, kitchen, bathroom and hallways shall not be used for sleeping purposes by any household member.

Applies to current federally assisted resident or previously approved transfer households: ~~Federally assisted apartments shall be so assigned that:~~

(a) The Head of Household and their spouse or domestic partner shall be entitled to one bedroom.

(b) Household Members under the age of twenty-five (25) who are of the same sex shall share a bedroom, with the following exemptions:

(i) Household Members more than ten years apart in age and regardless of gender may qualify for separate bedrooms, if the older Household Member is fourteen years of age or older. For example, a fifteen year-old Household Member may be eligible for a separate bedroom when living with a one-year old Household member of the same gender. HOWEVER, a thirteen year-old Household Member can be required to share a bedroom with a five-year old Household Member of the same gender.

(ii) Persons of different generations or opposite sex, other than head and spouse or partner, are not required to occupy the same bedroom.

(c) An unborn child **shall** be counted as a person in determining apartment size for admission purposes only, not for qualification for transfer.

(d) Each Applicant shall be listed for only one apartment size. However, if the Applicant's Household qualifies for two apartment sizes, the Applicant may choose to be listed for either of these sizes.

(e) Single person Households may elect to be placed on a studio waiting list(s)/AMPs of choice and shall be assigned only to a studio Apartment. Applicants electing this option after housed may apply for an Special Circumstances Transfer to move to a one-bedroom at a development of choice **if**:

(i) Has been a BHA Resident for at least two years; and

(ii) Is a Resident in good standing. No waiver of this requirement shall be approved.

(f) Single person Households may elect to be placed on a one-bedroom waiting list(s)/AMPs of choice and shall be assigned only to a one-bedroom Apartment.

(g) Transfer Applicants currently residing in a studio or a one-bedroom unit shall not be offered studio/efficiency units.

(g) Spouses, partners and children who would otherwise be required to share a bedroom under BHA's policies may be assigned separate bedrooms for substantial health-related or reasonable accommodation reasons which are thoroughly documented by a Qualified Healthcare Provider.

(h) A living room will not be counted as a bedroom, except in BHA's studio/efficiency apartments or for the use of an overnight Personal Care Attendant (PCA) OR Live-in Aide.

Applies to all new admissions or transfers not yet approved: (Federal Public Housing only)

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(a) The Head of Household (and spouse or domestic partner, if applicable), shall be entitled to one bedroom.

(b) Two persons who are of the same sex shall only be entitled to one bedroom.

(c) The BHA shall inform the Applicant/Participant that s/he may elect to have a Child share a bedroom with another Child of the opposite sex, in order to be eligible for a smaller Unit Size.

(d) The BHA may assign an additional bedroom as a Reasonable Accommodation to a Disabled Family member.

(e) A single pregnant woman, as documented by a physician, with no other persons will be treated as a two-person Family. A pregnant woman whose Family includes other children will not be assigned an additional bedroom until the sex of the Child is determined and documented by a physician (either before or after birth). Once the sex of the Child is documented the BHA will assign the Family an additional bedroom if they are eligible.

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(f) A Child who is temporarily away from the home because of placement in foster care (as documented by the Department of Children and Families) is considered a member of the Family in determining Family Unit Size.

(g) Each Applicant shall be listed for only one apartment size. However, if the Applicant's Household qualifies for two apartment sizes, the Applicant may choose to be listed for either of these sizes.

(h) Single person Households may elect to be placed on a studio waiting list(s)/AMPs of choice and shall be assigned only to a studio Apartment. Applicants electing this option after housed may apply for an Special Circumstances Transfer to move to a one-bedroom at a development of choice if:

(i) Has been a BHA Resident for at least two years; and

(ii) Is a Resident in good standing. No waiver of this requirement shall be approved.

(i) Single person Households may elect to be placed on a one-bedroom waiting list(s)/AMPs of choice and shall be assigned only to a one-bedroom Apartment.

(j) Transfer Applicants currently residing in a studio or a one-bedroom unit shall not be offered studio/efficiency units.

(k) A living room will not be counted as a bedroom, except in BHA's studio/efficiency apartments or for the use of an overnight Personal Care Attendant (PCA) OR Live-in Aide.

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6.2 Offers

Offers to federally assisted housing are made in accordance with the Section below. Offers to state public housing are made in accordance with 760 CMR 5.00, except that eighth offer is made to a Special Circumstances transfer as defined in Chapter 7.

6.2.1 Allocation of Offers to Different Applicant Types

State Public Housing Offers
The BHA shall use the methodology outlined in 6.2.1 of this ACOP to offer units to applicants of state public housing. This is a waiver of provisions of 760 CMR 5.00.

(a) Counter System

The BHA uses a counter by waiting list, bedroom size, and apartment type, to allow every eighth apartment to be allocated to a special circumstances transfer.

The counter is established as units are vacated. Units will be offered as they become available.

(b) Offers Made Outside of the Counter System

(i) The counter process may be interrupted at any time in order to offer a unit to an Administrative Transfer applicant.

(ii) From time to time, the BHA shall fill a vacancy outside of the counter system with a Supported Housing Applicant. Supported Housing applicant lists are established by memorandum of agreement and referrals for those programs are received from non-profit partners that provide services to residents in exchange for housing opportunities. Memorandums of agreement for current Supported Housing Programs shall be posted to BHA's website.

6.2.2 Offers of Accessible Apartments

BHA seeks to occupy apartments with adapted features with residents that require the features due to a disability. The BHA shall take the following steps to achieve this goal:

(a) The BHA shall maintain a database of all of its Accessible Apartments and Apartments with adapted features, including wheelchair accessible units, first floor units, and units with zero steps.

(b) The BHA shall utilize this database to match residents and Applicants with a Household Member having a disability with appropriate apartments.

(c) The BHA will offer an available Apartment with adapted features in the following order:

(i) First, to a current Household of another apartment of the same development/AMP, or other public housing development/AMP under BHA's control, containing a member having a disability on account of which the adapted features of the vacant Apartment are needed. (In effect an Administrative Transfer of the resident Household with a disabled Household Member from the non-adapted Apartment to the vacant adapted Apartment).

(ii) Second, to an Eligible and Qualified Applicant Household on the waiting list/AMP with a disabled household member who requires the adapted features of the vacant Apartment.

(iii) Third, to an Eligible and Qualified Applicant or Transfer Applicant Household on the waiting list/AMP that does not require the adapted features of the vacant Apartment. In this case, BHA will require that the Applicant sign a BHA lease which provides that the Applicant will move to an alternative available Apartment of appropriate size within thirty (30) calendar days when a Disabled Household Member of another Applicant household is identified as needing the adapted features of the Apartment on account of their disability.

(d) The BHA shall also maintain a listing of all Apartments with adapted features where the current resident Household does not require the adapted features. If there is an Eligible and Qualified Applicant or Transfer Applicant on the waiting list with a need for the adapted features in an apartment that is currently occupied by a Household without a need, the BHA shall take the following action:

(i) The BHA will notify the current resident Household of the requirement to transfer due to the existence of an Eligible and Qualified Applicant or Transfer Applicant Household with a disabled household member who requires the adapted features available in the resident's Apartment. If the BHA identifies more than one Apartment with the necessary adapted features, the resident Household with the shortest tenure in its current Apartment will be required to Transfer.

(ii) The BHA will initiate an Administrative Transfer process for the current resident Household. The BHA will identify an alternative appropriately sized Apartment based upon the resident's current Household composition on a case by case basis pursuant to the Administrative Transfer procedure of this policy.

(iii) The BHA will offer the alternative appropriately sized Apartment to the resident Household. The BHA will also notify the resident Household of their requirement to move within thirty (30) days of this offer. The resident may request and the BHA may grant a reasonable extension. As part of the transfer process, the BHA will consider any resident request for a Reasonable Accommodation and/or on-site transfer.

(iv) If the resident Household fails to vacate the Apartment with adapted features after being properly notified and offered an alternative appropriately sized Apartment, the BHA shall initiate legal action in accordance with the BHA lease.

(v) Once the Apartment with adapted features becomes available, it will be offered to the identified Eligible and Qualified Applicant or Transfer Applicant Household with a disabled household member on the waiting list in accordance with the procedures outlined in this policy.

State Public Housing 760 CMR 5.10 – Placements and Offers

(1) General Provisions for Placements.

(a) Placements are to be made in elderly/handicapped housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The LHA shall place applicants in accordance with 760 CMR 5.10(2) in order to attain or to sustain these percentages. Such placements shall also be made in accordance with any applicable priority and preference categories and the affirmative action preference, if applicable.

(b) Any accessible or modified unit shall be offered to an applicant household which includes a person, regardless of age, who has a physical handicap which handicap necessitates one or more of the special design features of the unit.

(c) Except as provided in 760 CMR 5.10(1)(a) and (b) and subject to the affirmative action preference, if applicable, when a unit or rental assistance voucher becomes available, it shall be offered to the applicant for the applicable program with an appropriate household size who has the earliest date and time stamp in the highest preference category within the highest priority category.

(2) Placements by LHA in Elderly/Handicapped Housing. Prior to making a placement in elderly/handicapped housing, the LHA shall determine the LHA's current percentage of St. 1954, c. 667 units occupied by handicapped households. In making this determination the LHA shall count all St. 1954, c. 667 units, including St. 1954, c. 667 congregate units, St. 1954, c. 667 section 8 new construction or substantial rehabilitation units, St. 1954, c. 667 modified units, and St. 1954, c. 667 conventional units. The LHA shall then place applicants as follows:

(a) If the percentage of units occupied by handicapped households is less than 13.5%, the LHA shall place one eligible and qualified handicapped household for each eligible and qualified elderly household placed until such time as the percentage of handicapped households equals or exceeds 13.5%.

(b) If the percentage of the units occupied by handicapped households equals or exceeds 13.5%, the LHA shall place eligible and qualified elderly households until such time as the percentage of handicapped households falls below 13.5%.

(c) If the percentage of units occupied by handicapped households equals or exceeds 13.5%, but the LHA has exhausted its waiting list of eligible and qualified elderly households, the LHA shall place those eligible and qualified handicapped households whose members have attained 50 years of age, but are younger than 60 years old, until such time as the percentage of handicapped households falls below 13.5% or until there is an application from an eligible and qualified elderly household.

(d) If the percentage of units occupied by handicapped households equals or exceeds 13.5%, and the LHA has exhausted its waiting list of eligible and qualified elderly households and eligible and qualified handicapped households whose members have attained 50 years of age, but are younger than 60 years old, the LHA shall place eligible and qualified handicapped households, without regard to age, until there is an eligible and qualified elderly household or, in the absence of such an elderly household, an eligible and qualified handicapped household whose members have attained 50 years of age, but who are younger than 60 years old.

6.2.3 Acceptance or Rejection of an Offer

Generally, a vacant unit will be offered to the Applicant with the highest priority and preference. If multiple Applicants have equal priority and preference points the first offer will be made to the applicant with the earliest Priority and Preference approval date or the earliest application date for an Applicant without priority or preference (Standard Applicant). An Applicant will receive **one** offer at a time for housing for the first unit that is ready for occupancy that is an appropriate size at a development of choice, if applicable.

NOTE: An applicant will only be entitled to one offer at a time across federal and State portfolios.

State Public Housing 760 CMR 5.10 (4) – Accepting and Rejecting Offers

(4) Offers to Applicants.

(a) An applicant offered a unit must accept the offer within seven business days of the date of the written offer. For good cause, the LHA may extend the time for response. An applicant is entitled to only one offer of a unit of appropriate unit size provided that the LHA shall offer another unit when the applicant provides reliable documentation establishing that the unit offered is inappropriate and would cause severe and unreasonable hardship. An applicant who fails to accept the offer of a unit within seven business days or to provide such documentation within that period, shall

be removed from the waiting list for that program at that LHA and after being removed from the waiting list, if the applicant files a new application with that LHA, the applicant shall not be entitled to any priority or preference previously received based on information provided in that application for a period of three years. The LHA shall give the applicant notice of the removal of the application from the LHA's waiting list for that program and the right to request review pursuant to 760 CMR 5.13.

(b) An applicant who fails to accept three unit offers as set out in 760 CMR 5.10(4)(a) within a five-year period shall be removed from the waiting lists for all programs at all LHAs in the Statewide Online Application System for which the applicant applied, and any new application filed by the applicant for those programs at those LHAs will not be entitled to any priority or preference received based on information provided in prior applications for a period of three years. The LHA that made the third offer shall give the applicant notice of the removal and the right to request review pursuant to 760 CMR 5.13. An LHA conducting a review after a third failure to accept an offer may not consider the circumstances of the application's removal for failure to accept the first and second offers made, unless the applicant can clearly demonstrate a compelling reason for not requesting a timely review of the prior removals.

(c) An applicant offered an AHVP voucher shall make a diligent search to locate an apartment within the time specified in 760 CMR 53.00: Alternative Housing Voucher Program. An applicant who is unsuccessful in locating a unit within such time shall lose the voucher, and the LHA shall remove the applicant from the AHVP waiting list. When an applicant is on the waiting list for elderly/handicapped housing and becomes an AHVP participant the LHA shall drop the applicant to the bottom of that waiting list.

(a) Applicant Acceptance of Housing Offer

Once an Offer of housing is communicated in writing, the Applicant or Resident has seven (7) business days to accept or it will be considered rejected, unless extenuating circumstances can be established for failure to respond.

An Applicant must move to their assigned unit within 30 calendar days of the offer of housing unless otherwise agreed upon by the BHA in writing. Failure to move to the unit within the 30 calendar days or agreed date shall be considered as an unacceptable housing offer refusal.

If Resident fails to **completely** move to the offered unit within the 30 calendar days from their housing offer notification or BHA agreed date, the resident shall be subject to lease enforcement or rent charges as approved by HUD and/or [EOHLC-DHCD](#).

(b) Rejecting an Offer of Federal Housing

The BHA will remove an Applicant from all federal Public Housing Waiting lists if they reject an offer of Federal Public Housing. Furthermore, the Applicant will only be eligible to re-apply after two (2) years from the date of the most recent unit rejection. This is different than the policy for State Public housing as detailed above.

(c) Rejecting of Offer of Housing as a Special Circumstances Transfer Applicant

A Transfer Applicant is offered one housing unit of the appropriate size and type. Failure to accept the housing offer will result in the denial of the transfer Application and the resident may not re-apply for the same transfer type and Priority and Preference for a period of two (2) years from the date the housing offer was rejected.

(d) Change in Circumstances After Rejection

The BHA will allow an Applicant who rejects an offer of housing to re-apply as prior to the expiration of the two (2) year period if the Applicant experiences a change in circumstance that justify a different Priority/Preference(s) or Transfer type. BHA will recognize the new Transfer type and Priority and/or Preference status after verification and place the Applicant on a waiting list using the new status and the date of the new application/transfer.

(e) Rejecting an Offer of Housing as an Over or Under Housed Applicant

Under or Over Housed transfer applicants who reject an offer of housing will be ~~will be~~ subject to legal action(s).

(f) Rejecting an Offer of Housing Without Penalty

An Applicant or transfer applicant may reject an offer of an apartment without being removed from the waiting list only in the following circumstances

(i) apartment cannot be restored to move in condition within thirty (30) calendar days of the date of offer as verified by the manager

(ii) After successfully completing the final screening process, the Applicant's situation changed such that a new, different or additional Good Cause consideration has arisen and the Applicant was unable to notify the BHA of the change due to extenuating circumstances, i.e. documented hospitalization, or;

(iii) The transfer applicant's situation has changed after being approved for transfer and the resident was unable to notify the local management office or Admissions Department of the change due to extenuating circumstances, i.e. hospitalization or;

(iv) The hardship caused by acceptance of the offered apartment is due to a physical feature that was not included in the apartment characteristics inventory as documented by the applicant. This will be considered as an inappropriate housing offer.

6.2.4 Good Cause or Reasonable Accommodation

An applicant for admission or transfer may request special considerations with respect to the features of the unit or building or the location of the development. These requests may be approved as Good Cause or as a Reasonable Accommodation.

(a) Request for Good Cause or Reasonable Accommodation

Below is a description of the BHA's procedure for requesting an assignment or transfer for Good Cause or Reasonable Accommodation:

- (i) The BHA maintains a detailed inventory of physical characteristics for all of its apartments. Apartment characteristics, as well as location, will be used in matching an Applicant or transfer applicant in order to address the Good Cause or Reasonable Accommodation need.
- (ii) The Applicant must indicate to the Admissions Department staff prior to receiving an offer of housing, and a resident seeking transfer must advise staff in their management office at the time of the transfer request, that they require special consideration in identifying a particular type of apartment or placement in a particular area of the city.
- (iii) Changes in Applicant circumstances that occur during the final screening process or after the request for Transfer shall be considered.
- (iv) Good Cause or Reasonable Accommodation must be supported in writing by a Qualified Healthcare Provider, or other professional (such as a law enforcement official, medical services provider, or social service provider) familiar with the Applicant's or resident's need, and;
- (v) If the Authority determines, after reviewing the request for such consideration and the documentation submitted in support of it, that the Applicant or transfer applicant qualifies, they will be approved for an assignment for Good Cause or Reasonable Accommodation.

(b) Example reasons and supporting documentation

Example reasons and supporting documentation that could be considered Good Cause or related to a request for Reasonable Accommodation are listed below:

- (i) The aggravation of a serious, determinable physical or mental impairment

A statement from a Qualified Health Care Provider on letterhead stationery which establishes the precise reasons a particular apartment feature (or apartment location) is needed. The statement **MUST** provide information regarding the effect of the condition on the Applicant or household member and must document why a particular type of apartment (or apartment location) is needed.

(ii) Inaccessibility to supportive facilities or programs for elderly, handicapped, or disabled Household members.

A statement on letterhead stationery from a Qualified Healthcare Provider, which provides reliable documentation that a household member(s) has a condition which requires on-going regular or emergent care at a particular facility (hospital, clinic but not a practitioner's office), frequency of the treatment and anticipated length of treatment.

(iii) Participation in a Witness Protection program

Written documentation on letterhead stationery from a law enforcement agency, which indicates that a Household Member(s) is, or might be endangered because they have provided essential information in a criminal prosecution. Documentation must specify the development(s)/AMPs or areas of the city in which the affected Household Members might be endangered.

(iv) Domestic Violence/Dating Violence/sexual assault/or Stalking

The BHA prefers documentation from a court of competent jurisdiction, and/or from a law enforcement agency, in conjunction with a temporary or permanent restraining order issued pursuant to M.G.L. c209A specifying underlying circumstances which would require a Household Member(s) to be located in an area of the city away from the location of the person named in the order or their relatives or associates. If the Applicant has cause to believe that obtaining a restraining order will trigger a violent act by another person, a combination of the following documentation that establishes that an abusive situation exists shall be acceptable:

- Medical records reflecting incident(s)
- Police reports regarding incident(s)
- Court Reports regarding incident(s)
- Documentation that Applicant has attempted to obtain restraining orders
- Documentation that Applicant has filed charges against the accused abuser
- Legal action regarding incident(s)
- Letter from an attorney stating details of a case arising from incident(s)
- Evidence of participation in counseling regarding domestic violence/Dating Violence/Sexual Assault/or Stalking
- Psychological reports
- Letter from a director of a social service agency regarding incidents
- Documentation of changed address due to domestic violence

(v) Inaccessibility of Nighttime Transportation

The inaccessibility of public transportation for nighttime employment of the Head or Co-head of Household who does not own or lease a motor vehicle.

A statement from the employer, on letterhead stationery, detailing specific hours of nighttime employment, the date employment commenced, whether it is a permanent shift assignment and if not permanent, the length of the assignment, and a description of transportation benefits, if any.

(v) Other Reasons

The temporary hospitalization or on-duty military assignment of the Head or co-head of Household member, other Household member necessary for the care of the head or co-head of Household member, or a personal care attendant OR LIVE-IN AIDE listed on the final application or most recent Tenant Status Review (TSR).

A statement on letterhead stationery from a Qualified Health Care Provider indicating the name of the individual (must be the Head or Co-Head of Household or other Household Member necessary for the care of the Head or Co-Head of Household or personal care attendant or Live-in Aide), the date of admission, date of anticipated discharge (if known) or an estimate of the anticipated length of confinement or a statement from the individual's commanding officer indicating the date the active duty began and anticipated length of active duty.

CHAPTER 7: TRANSFERS

7.1 Transfer Categories

BHA divides transfer applicants into two separate categories: Administrative and Special Circumstances.

A resident of BHA Public Housing may request a transfer in accordance with the BHA lease.

State Public Housing – Transfers

The BHA ACOP waives State regulations with respect to transfers. This waiver will allow BHA to provide a singular transfer process across the BHA public housing portfolio, as residents transfer from state to federal properties and vice versa. Additionally the waiver enables a consistent interpretation of the BHA lease with respect regarding transfer rights and procedures regardless of the program funding source.

Specifically, the BHA ACOP waives the following regulatory provisions with respect to transfers.

1. The BHA policy waives the definition of a Transfer for Administrative Reasons as listed in 760 CMR 5.03 and substitutes with the definition below in Section 7.1.1.
2. The BHA policy waives the definition of a Transfer for Good Cause as listed in 760 CMR 5.03 and substitutes with the definition Special Circumstances Transfer as listed below in Section 7.1.2
3. The BHA will maintain waiting lists for all transfer applicants therefore, the 6th Priority as defined in 760 CMR 5.09(f) shall not be applied to applicants in CHAMP.

7.1.1 Administrative Transfer

An Administrative is a Transfer of a household from one unit to another within the BHA at the discretion of the Administrator for a sound administrative reason, including, but not limited to the reasons listed below:

(a) Uninhabitable

The current apartment has become uninhabitable and immediate relocation is required as a result of the following:

- (i) Destruction by fire or other disaster; or

(ii) The existence of a major maintenance problem that constitutes a substantial violation(s) of the state sanitary code and presents a serious danger to health and safety that cannot be repaired in a reasonable period of time or while the apartment is occupied.

(b) Capital Improvement

The apartment is located in a building or section of building scheduled for capital improvement pursuant to a funded capital improvement program or other major rehabilitation effort. (See BHA's Residential Relocation & Rehousing Policy for detailed procedures on transfers because of capital improvement programs.)

(c) Adaptive Features Required by Another Resident

The transfer is required to permit occupancy of an accessible apartment or apartment with adapted features by another resident or an Applicant with a disability.

(d) Temporary Relocation for Repairs

A temporary transfer is required to permit work required for a maintenance or repair problem that cannot be repaired while the apartment is occupied. The Resident will be returned to the same apartment if the apartment is of the appropriate size, following completion of the maintenance or repairs.

(e) Over-Under Housed Families

The BHA shall process over and under housed families as Administrative Transfers.

BHA may initiate an Administrative Transfers to bring residents into compliance with the BHA Occupancy Standards. On a regular basis, management will address over under transfer by reviewing the portfolio site by site and establishing a right sizing plan for review by the Administrator. Residents will be informed in writing that a transfer is necessary and pending. Residents who fail to transfer will be subject to eviction,

Generally, the BHA will attempt to resolve over and under housed families by relocating the most over and under housed families as a priority

Residents who are under-housed at sites where the correct unit size required does not exist shall be allowed to select other developments.

An elderly resident who is over housed by only one bedroom at a site that does not have the lower bedroom size necessary to accommodate the family will not be required to relocate to another site. See also Section 7.9 below.

(f) Domestic Violence

The relocation is necessary due to the household's current and on-going threat(s) as a result of domestic violence/sexual assault/dating violence/stalking which has been documented, investigated, and recommended by the BHA's Public Safety Department or other sources deemed acceptable by the BHA Director of Admissions or such other person as may be designated by the BHA Administrator.

The BHA shall attempt to relocate a household facing domestic violence using a tenant-based voucher and the project based programs in accordance with the Housing Choice Voucher program administrative plan. If the Applicant selects accepts a housing choice voucher or project based voucher, the Applicant is removed from all Public Housing transfer waiting lists. Any approved Domestic Violence transfer shall receive Housing Search Assistance.

BHA shall review data on an annual basis to establish the number of Domestic Violence Transfers as a way to plan for the coming year and set aside units.

(g) Medical Condition

A Household Member has a serious, medically determinable, physical or mental condition that is aggravated by the present housing such that the condition is life threatening or a condition not qualifying as life-threatening that can be alleviated and/or substantially improved only by relocation to another apartment; or

(h) Imminent Danger

The head or other Household Member is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion, which places them in imminent danger and that cannot be expeditiously remedied in any other way⁵; or

(i) Witness Protection

The Household needs to be relocated because of a Household Member's participation in a witness protection program or in order to avoid reprisal as a result of providing information to a law enforcement agency or participation in a witness protection program.

(j) Rent Burdened due to Proration

The Household is rent burdened due to one or more family members with lack of eligible immigration status and could benefit from a transfer to State aided Public Housing.

7.1.2 Special Circumstances

⁵ Transfers in this category is processed pursuant to BHA's Civil Rights Protection Plan ("CRPP").

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Special Circumstances Transfers are transfers necessary to the health and/or safety of one or more Household members.

The following are categories for Special Circumstances Transfers:

(a) Reasonable Accommodation

The transfer requested is for a person with a disability who requires reasonable accommodation to address dire circumstances posing serious and direct threat to health, life or safety which can only be alleviated by relocation to another apartment. The resident shall provide documentation of the disability and how the transfer will reasonably accommodate the disability.

(b) Designated Housing Transfer

(i) In accordance with the BHA's Designated Housing Plan, a Household with a Non-Elderly Disabled Head or Co-Head currently residing in the Elderly/ Disabled Federal Housing Program who wishes to transfer to the Federal Family Housing Program.

(ii) In accordance with the BHA's Designated Housing Plan, a Household with an Elderly Head or Co-Head currently residing in the Family Federal Housing Program who wishes to transfer to the Federal Elderly/Disabled Housing Program.

7.2 Transfer Process

7.2.1 Resident Initiated Transfer

A Transfer application may be initiated by a resident Head of Household occupying an apartment under a BHA lease, or under certain circumstances such as an apartment fire, under a Use and Occupancy Agreement pursuant to this Policy (Resident Initiated Transfer).

7.2.2 BHA Initiated Transfer

The BHA will initiate transfers required as a result of a scheduled capital improvement or building maintenance program; required use of an Accessible Apartment or an Apartment with adapted features by another resident or Applicant with a disability; Over or Under Housed Households; apartment conditions which seriously endanger health or safety and cannot be repaired in a reasonable period of time or while the apartment is occupied; or addition of a minor child to the Household at the future date specified by an Applicant during the final application process.

7.2.3 Transfer Review Process

To qualify for an On-Site or Special Circumstances Transfer, a Resident:

(a) Must have been in residence for at least one (1) year.

(b) Must be considered in “good standing” at the time of an Application for Transfer, at the time of determination of Transfer eligibility, and at the time of actual implementation. “Good standing” means the household is:

(i) Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law.

(ii) Not currently under a Fourteen (14) Day or a Thirty (30) Day Notice to Quit, Summary Process Action or action pursuant to Mass. Gen. Laws, Chapter 139, section 19.3.2

Some or all of these requirements may be waived in certain situations pursuant to the provisions of this policy. For example, a resident in a situation which may constitute a life-threatening situation to the health, safety or well-being of the resident or a Household Member who does not meet all of the criteria may have some or all of these conditions waived⁶. If the resident is a party to or under a Use and Occupancy Agreement, they may be transferred and any legal action against the resident will continue.

Residents seeking non-Special Circumstances Transfers may apply for an On-Site transfer only. Residents seeking a Special Circumstances Transfer will be placed on all of the BHA’s Public Housing waiting lists/AMPs for which their household meets the Threshold Eligibility Requirements exclusive of annual income limits (See 5.1.2) and in accordance with any approved requests for Good Cause and/or Reasonable Accommodation.

7.3 Good Cause or Reasonable Accommodation

In certain cases, residents seeking transfers may require special consideration regarding their transfer. This consideration is essential to address a particular verifiable need with respect to housing accommodations or to avoid a verified hardship. This documentation must be submitted with the transfer request. If the Authority determines, after reviewing the request for such consideration and the documentation submitted in support of it, that the Applicant or transfer applicant qualifies for such consideration, they will be approved for an assignment for **Good Cause or Reasonable Accommodation to a unit of appropriate size and type**. Good Cause or Reasonable Accommodation requests shall be submitted for review prior to a housing offer.

7.4 Verification of Reason for Transfer

(a) Residents will be asked to provide reliable documentation to verify and support the reasons for a Resident-Initiated transfer at the time the transfer is requested. Documentation may include, but not be limited to:

⁶ The Administrator or their designee may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to a Transfer applicant (See Section 10.8 Waiver Provision).

- (i) Letters from Qualified Healthcare Provider describing the need for a transfer as related to disability or other medical issues,
- (ii) Police reports,
- (iii) Civil Rights incident reports.
- (iv) Restraining orders,
- (v) Information on maintenance conditions,
- (vi) Documentation to show “Good Cause” or “Reasonable Accommodation” to move to or from a certain part of the city of Boston, or certain type of apartment, or
- (vii) Any other documentation that provides the BHA with evidence that the request for a transfer is based on fact and meets the transfer criteria.

7.5 Denial of Transfer Requests

In all instances, transfer approval shall be denied if the resident does not provide appropriate documentation to substantiate the transfer request; or if the BHA determines that the resident, other Household Member, or guest was the cause of the situation resulting in the need for transfer unless the existing condition of the apartment makes it uninhabitable in which case any approved transfer may be under a Use and Occupancy Agreement

7.6 Transfers on a Waiting List/AMP

Non-Administrative Transfers shall be placed on site-based Waiting Lists by bedroom size and unit type. Special Circumstances transfers will consider Priority and Preference Points as well as date and time of application.

7.7 On-Site Under or Over Housed Transfer Apartment Assignments

Transfer Applicants shall be Offered and Assigned units in accordance with the Offers and Assignments Chapter.

7.8 Transfer at Residents Expense

All transfers are at the resident's expense, except those required by capital improvement programs. See the BHA's Residential Relocation and Rehousing Policy (RRRP).

Residents offered a transfer to a unit of appropriate size and type must accept said offer, move to their new unit and vacate their current unit within thirty (30) calendar days from the offer of housing notification unless otherwise agreed upon by the BHA in writing.

BHA residents who will be relocating to another unit who fail to vacate and return the key by the determined and agreed date shall be responsible to pay a pro-rated use and occupancy for the unit being vacated in addition to their regular monthly rent for the new transferred unit. Once the unit is accepted, the resident must move to the new unit within ten (10) calendar days after they have received the key to the new unit. BHA will consider extenuating circumstances and/or reasonable accommodation requests.

7.9 Transfer Waiver/Reasonable Accommodation

An Elderly or non-elderly disabled BHA Household residing in a Family Development/AMP which is Over-housed by not more than one bedroom, may apply for a reasonable accommodation to remain in their current apartment instead of transferring. A household for which separate bedrooms have been approved for health reasons is not eligible for a waiver under this section. Denial of such a waiver is reviewable pursuant to BHA's Grievance Policy.

7.10 Continued Occupancy for Veterans

In State-aided housing only, pursuant to Massachusetts General Laws the BHA shall not, if a resident in an apartment consisting of two bedrooms or less is a veteran or a widow or widower of a veteran or is a Gold Star Mother and has lived in the residence for at least the last eight (8) consecutive years, deny such resident continued occupancy at such residence provided that the rent is not more than three (3) months in arrears.

7.11 Rejection of Approved Transfer by Resident

7.11.1 Special Circumstances and Administrative Transfers

Under the terms of the BHA *lease*, BHA is authorized to transfer Resident to an appropriate size apartment if Resident's current apartment is needed by the BHA as a reasonable accommodation for another BHA resident who is a qualified individual with a handicap.

Additionally, BHA is authorized to transfer Resident to another apartment if BHA determines that a transfer is necessary to protect Resident's health or safety, or if BHA determines to close Resident's building or Apartment.

A Resident who refuses to move under the above circumstances shall be subject to enforcement under the lease.

The rejection of transfers related to redevelopment are covered under BHA's Residential Relocation & Rehousing Policy.

For all other transfer requests the rejection of an offer without good cause or an approved reasonable accommodation of an Apartment of appropriate size and design

will result in revocation of the resident's approved Special Circumstances or Administrative Transfer status. The Resident will be removed from the transfer waiting list and the resident will not be eligible to apply for an Special Circumstances or Administrative Transfer for the same circumstances for a period of two (2) years from the date of the most recent rejection. During the two (2) year period, the BHA will consider a change in circumstances, good cause, or other reasonable accommodation that merit a new request for transfer.

In addition, Over Housed residents in the State housing program will be charged 150% of their monthly rent upon the housing offer refusal as required by State regulations.

7.11.2 On-Site Under or Over Housed Transfers

In the case of On-Site Under or Over Housed Transfers, BHA shall proceed with eviction against an Over or Under-housed resident who has rejected an offer of transfer without good cause.

In addition Over Housed residents in the State housing program will be charged 150% of their monthly rent upon the housing offer refusal as required by State regulations.

Residents seeking to relocate to other BHA sites for other reasons not described above shall apply as a regular, non-transfer Applicant. Priorities and Preferences shall apply accordingly.

CHAPTER 8: RESIDUAL TENANCY POLICY

A remaining member(s) of a resident Household may apply to become a BHA resident as a Residual Tenancy Applicant, in the event of the death, departure or incapacity of the Head of Household. The Residual Tenancy Application will only be approved by the BHA if the Residual Tenancy Applicant including all Household Members meet the criteria below.

8.1 Qualifications for Residual Tenancy

In order to assume the status of a resident under this policy, the Residual Tenancy Applicant must be:

An adult who has been a recorded member of a resident Household on the most current lease a) Tenant Status Review form if the Head or Co-Head has been removed due to death or incapacity, or b) for more than twelve months, if the Head or Co-Head departed to other non-BHA housing and whose income has been recorded and considered in the rent computations during the period of their occupancy unless they was without income or was a full-time student. In the case that the Applicant's recorded member status was in-process but not finalized, but his or her income was already recorded and considered in the rent computations for the appropriate time period as specified above, he or she shall be eligible to be considered for Residual Tenancy
OR

(B) The adult is a temporary or permanent guardian seeking to assume responsibility of the unit and household, on behalf of minor children who were tenants of record at the time of the Head of Household or Co-Head's departure due to death, or incapacity.

OR

(C) An adult, who is willing to assume responsibility for the apartment and enter into a lease, with temporary or permanent guardianship of an incapacitated adult Household member, who is unable to fulfill the responsibilities in the lease.

OR

(D) A SPAR Applicant, with an application date prior to the date of the Head of Household or Co-Head's death or incapacitation, who satisfies all of the requirements of Chapter 9.1.3., and who verifies that they did not reside in the BHA unit for the twelve-month period prior to the SPAR application date.

OR

State Program Only: A PCA If a full-time, live-in PCA's income was not included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then the PCA is eligible to be considered a remaining member of the Family (Household)

if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit if, going forward, the individual's income will be included in gross household income for purposes of rent determination and all other criteria for remaining are met.

AND

The Applicant and Applicant's Household, if any, for Residual Tenancy status must meet the eligibility requirements for Applicants as set forth in Chapter 5 of the Admissions and Continued Occupancy Policy (ACOP) or any successor plan.

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8.2 Divorce, Separation or Protective Order

In the event of divorce, separation, submission of the 14 day victim certification as required by the BHA's Violence Against Women Act (VAWA) policy, or a protective order issued by a court under Chapter 209A, the person(s) identified as the "victim" will be permitted to apply as a Residual Tenancy Applicant to become a resident provided he or she otherwise qualifies under this policy. Person(s) not so designated may not apply as a Residual Tenancy Applicant.

8.3 Residual Tenancy and Income

Individuals applying for residual tenancy status will be found ineligible based on income exceeding the eligibility limits for Applicants for admission to public housing.

8.4 Rent During Use and Occupancy Period

Pending a decision on the request for residual tenancy status, the Residual Tenancy Applicant will be required to pay a monthly use and occupancy charge. The charge shall be calculated pursuant to Federal and State regulations for all remaining Household Members. The Use and Occupancy Agreement shall permit the occupant to occupy the apartment pending determination of the Residual Tenancy Application without being permitted to sign a BHA standard dwelling lease.

8.5 Limitations of Policy

Federal Program

Remaining members of a resident household will not be considered for residual tenancy, if the departing or incapacitated Head or Co-Head of Household is relocating to another BHA apartment or BHA Leased Housing, is under eviction for non-payment of rent or for cause, or vacates with an outstanding balance due to the BHA (except in case of the Head or Co-Head's death). A resident shall be regarded as being under eviction if, after a private conference, the Manager has decided to proceed with eviction and the Manager's decision has not been overturned by the BHA's tenant grievance process. The limitations of this paragraph may not be applicable to remaining household members who were verified victims of domestic violence by the former Lease Holder(s).

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Approval of residual tenancy shall be conditional on the remaining members of a resident household being properly housed. Where applicable, any approved applicant for residual tenancy shall remain under a Use and Occupancy Agreement and will not sign a BHA standard dwelling lease until such time as they are transferred to an appropriately sized unit. Refusal to transfer to an appropriately sized unit shall be considered a violation of this policy and will cause the revocation of the conditional approval of residual tenancy.

State Program

(e) In the event the Tenant ceases to occupy the unit, provided that the tenancy has not been terminated and is not in the process of being terminated and there is no pending eviction action and provided that the conditions set out in the definition of Family (Household) in 760 CMR 5.03: Definitions have been met, a Household comprising of the remaining Household Members shall be given permission for continued occupancy. Any rent due or past due on the date when the Tenant ceases to occupy the unit shall become the obligation of the new Tenant in such Household

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8.6 Residual Tenancy – Right of Appeal

A Residual Tenancy Applicant who disagrees with a Residual Tenancy application decision made by the BHA may request an informal hearing. If the applicant has been determined ineligible for Residual Tenancy. The applicant's appeal rights shall include a hearing before the BHA Grievance Hearing Panel. An Applicant who meets Residual Tenancy eligibility requirements but does not meet the eligibility requirements for BHA housing programs for another reason, the applicant's right to appeal shall be an informal review/hearing before a BHA hearing officer.

CHAPTER 9: OTHER OCCUPANCY PROVISIONS

9.1 Lease Provisions

9.1.1 Leasing of Apartments

Federal Programs

(a) It is BHA's policy that all apartments must be occupied pursuant to a lease that complies with HUD & ~~DHCD~~ regulations as well as state and local law. ~~In state-aided housing, the lease must be approved by DHCD.~~

(b) The lease shall be signed by the Head of Household, and Co-Head of Household, if any, and by the authorized representative of BHA, prior to occupancy.

(c) All members of a Household shall be listed on the lease.

(d) If a resident transfers from one BHA apartment to another, a new lease shall be executed for the apartment into which the Household moves unless relocation occurs under the terms of a Use and Occupancy Agreement.

(e) If at any time during the term of the lease, a change in the resident's status or circumstances results in the need for changing or amending any provision of the lease, either:

(i) A new lease agreement will be executed, OR

(ii) A Notice of Rent Change will be sent to the resident, OR

(iii) An appropriate lease addendum shall be executed by the BHA and the Household and incorporated into the existing lease.

Only those persons listed on the most recent lease or approved recertification ~~Tenant Status Review form~~ shall be permitted to occupy an apartment on a continuing basis.

State Program

In state-aided housing, BHA will use the lease issued by EOHLC or will use a lease approved by EOHLC with the requirements outlined in 760CMR 6.06.

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9.1.2 Length of Lease

Federal Developments/AMPs only: In accordance with the Quality Housing and Work Responsibility Act, all BHA leases will be for a duration of 12 months. At the end of each 12-month term, leases will be automatically renewed, unless there is noncompliance by

an adult Household Member with the BHA's Community Service and Economic Self-Sufficiency Policy after its effective date.

State Developments only: Leases are continuous ~~unless terminated by the BHA for cause or at the request of the Resident or by operation of law, as described in the lease issued by or approved by EOHLC.~~

9.1.3 Additions to the Lease

(a) Request for Addition

The request for an addition of a person to the Lease must be made in writing by the Head or Co-Head of Household named in the Lease.

The addition of a household member shall be made in accordance with the lease and the ACOP. Residents who fail to notify BHA of additions to the Household are in violation of the lease. Residents who add a person or person(s) to the Household without the written permission of the BHA are also in violation of the lease. Any such persons will be considered Unauthorized Occupants by BHA and the entire Household will be subject to eviction action.

(b) Requirement for Good Standing

To qualify to apply for an addition of a person to the Lease, a Resident: must be considered in Good Standing at the time of request and addition, unless the addition is one of the categories in paragraph (c) below that does not require advance approval.

(c) Additions by Birth, Adoption or Operation of Law

Additions to the Household which occur by birth, adoption or operation of law (i.e., permanent custody, marriage) or addition of a caretaker relative or other responsible adult who has a guardianship order, or addition of a responsible adult who provides a written designation from the parent of a BHA Household Member to care for the minor Household Member, may occur subject to meeting the eligibility requirements in this plan.

(d) Other Additions to a Household

Other additions may be approved if the individual proposed as an addition is related by blood or has evidenced a stable, interdependent relationship with a current Household Member, including the sharing of financial resources and it does not create a severe overcrowded condition in accordance to the occupancy standards defined by the Massachusetts State Sanitary Code. Any such person must have the intention to live regularly in the apartment as their principal residence. In proposing an addition, the Head of Household shall submit the name(s) of the proposed addition(s) and identify the individual(s) as "proposed Household Member(s)".

An Applicant, at the time of final processing for admission, shall notify the BHA in writing that one or more of their natural or adopted minor children will be joining the Household at some future date following the leasing of the apartment. Admissions Department staff will record the name(s) of the minor child(ren) on a form attached to the Final application. At the time of assignment, the assignment transmittal notice will include this information. When the resident presents evidence to the manager that the MINOR child or children is/are ready to join the Household, the manager will add them to the Household composition and immediately generate a transfer application for a larger apartment, if necessary. The Transfer application will be processed in accordance with Authority transfer procedures.

State Program:

Before any person not named in the lease may be added as a Household Member (excepting a new born), Tenant and the person involved shall have applied in writing to the LHA for approval of a Household including such person and the LHA shall have screened the person, ten years of age or older, as an applicant and found him or her to be qualified. The enlarged Household shall meet all applicable eligibility requirements for a Household initially applying for housing, except income shall be within the limit for continued occupancy and the leased unit shall be of appropriate unit size for the enlarged Household.

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(ef) Change of Head of Household

A Family may request to change which Family member is designated the Head of Household ~~in situations where the Head of Household is frail or disabled and if~~ the current Head of Household continues to reside in the unit. The Family may also decide to designate or change a Co-Head of Household. The BHA will approve the change if the Family member is able to take on the responsibilities of being the Head of Household/Co-Head of Household, including, but not limited to, communicating with the BHA and the landlord. The proposed Head or Co-Head of Household will be fully screened.

(fg) Screening Criteria for Additions

Any person 14 years or older for the Federal Program, and 10 years or older for the State Program, proposed for residency in a BHA apartment, must meet BHA's eligibility and screening requirements. When a Head of Household requests permission for an addition(s) to the Household, the resident selection criteria shall be used by the Admissions Department to determine whether or not the proposed household member is eligible for admission.

Should the tenant/head of household expire subsequent to the Admissions Department receiving the completed application for the proposed addition to the tenant's household, the death of the tenant/head of household shall not result in withdrawal or denial of the application and the department's review of the application shall be completed and if the

subject of the application for the proposed addition to the tenant's household is determined eligible for admission to housing he/she shall be added to the household composition retroactive to the date of receipt of the application by the department and he/she shall be allowed to apply to become a BHA resident as a Residual Tenancy Applicant.

(g~~h~~) Right to Appeal

A resident who disagrees with an adverse action taken by the BHA regarding a request for an addition of a person to the Lease can request a grievance hearing pursuant to the BHA Grievance Policy.

9.1.4 Other Occupancy Provisions

(a) Removal of Household Member

Any Household Member who moves from the apartment shall be removed from the lease. The Head or Co-Head of Household has the responsibility to report the move-out within 30 calendar days of its occurrence. A former Household Member may not be readmitted to the apartment except as a temporary visitor without undergoing screening by the Admissions Department and securing BHA approval.

(a) State Program: The Tenant may delete a Household Member named in an existing lease by a new lease or a lease amendment signed by Tenant and the LHA. Any person so deleted shall cease to be a Household Member and shall cease to occupy the unit.

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Federal Program: Temporary visitors may occupy the apartment for no more than a total of forty-five calendar days within any twelve-month period.

(b) Unauthorized Occupants

Federal Program: A resident shall not permit the Apartment to be occupied by anyone other than Household Members, except temporary visitors, no one of whom may occupy the apartment for more than a total of forty-five (45) cumulative nights (or forty-five (45) days if the visitor regularly sleeps during the day), within any twelve-month period, unless the BHA for good cause otherwise consents to a longer period in writing before the expiration of 45 nights or such longer period as may have been authorized, or unless the visitor is first determined to be eligible to apply to be a member of the Household according to BHA policy, and an application is pending with the BHA.

Boarders and lodgers shall not be permitted to occupy an apartment, nor shall they be permitted to reside with any Household occupying an apartment.

State Program: The stay of any overnight Guest shall be limited to no more than a total of 21 nights (21 days if the Guest regularly sleeps during the day) during any 12-month period unless the LHA for good cause otherwise consents to a longer period in writing prior to the expiration of 21 nights or such longer period as may have been authorized

9.2 Annual Recertifications

9.2.1 Annual Recertification Requirement

The BHA shall re-determine Resident rent, apartment size, and continued eligibility for public housing, at least once annually.

9.2.2 Responding to BHA Requests for Information

For purposes of determination or adjustment of rent and/or for assignment or transfer to a proper size apartment, Resident agrees to submit, within thirty (30) days after a request from BHA, signed, complete, true and accurate statements and/or other information setting forth pertinent facts as to Resident's household income, employment, and composition. Resident further agrees to execute documents authorizing release of such information from third parties, pursuant to requirements of State and/or Federal law.

9.2.3 Fraud or Misrepresentation

Resident agrees to pay to BHA any rent which should have been paid but for Resident's misrepresentation of any written information furnished to BHA in Resident's application for an apartment, or in substantiating documentation, or in any documentation submitted on a redetermination, or for Resident's failure to supply, in a timely manner, documentation requested by BHA on a redetermination.

9.2.4 Imputed Welfare Income

For residents in Federal developments/AMPs, if household income derives in whole or in part from benefits from welfare or public assistance from a state agency under a program for which the Federal, State or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the household in an economic self-sufficiency program or a work activities requirement, and household income decreases as a result of failure to comply with the conditions of said program or requirement, rent will not be decreased, during the period of such income reduction (to the extent that the decrease in income is a result of the benefits reduction), in accordance with BHA policy and 42 USC §1437j(d). If such household income decreases as a result of fraud under said program or requirement, rent will not be decreased, during the period of such income reduction (to the extent that the decrease in income is a result of the benefits reduction), in accordance with BHA policy and 42 USCS §1437j(d). BHA shall not make any determination regarding non-compliance or fraud under such a program or requirement until BHA receives written notification from the relevant public agency specifying that household benefits have been reduced because of

such non-compliance or fraud. Any determination by BHA not to reduce rent pursuant to BHA policy and 42 USCS §1437j (d) shall be subject to BHA's Grievance Procedures and Policy. For residents in Federal developments/AMPs, the BHA shall consider any decrease in income that results from the reduction of any welfare or public assistance benefits received by residents under any Federal, State or local law regarding a program for such assistance if resident(s) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance, pursuant to 42 USCS §1437j (f). A reduction in benefits resulting from the expiration of a lifetime time limit for a household receiving said benefits shall not be considered as a failure to comply.

9.2.5 Zero Income Family

~~If a resident claims they have no income, management staff must use the zero income questionnaire to attempt to determine how household expenses are being paid. In the event that family and friends are assisting the household, this is considered income and needs to be verified and counted.~~

~~Households paying \$0 rent must be re-certified every ninety days. This rule requires Residents to report to the management office every 90 days to re-certify income and family status.~~

When a family reports zero income, the BHA may require the Household to complete a budget or statement of financial responsibility. In the event family and friends are paying bills, or providing regular cash to the household, this is considered income and will be counted.

9.2.6 Effective Date of Rent Share Change

When household income decreases, rent shall be decreased if requested by Resident, and if such rent decrease is in accordance with BHA policy. Rent decreases will be effective either as of the current month in which the change in circumstances is reported (if reported by no later than the fifteenth day of the month), or as of the first day of the next month after the change in circumstances is reported (if reported after the fifteenth day of the month). BHA may delay processing the rent decrease until Resident provides adequate verification of such change in circumstances justifying the decrease, but once verifications have been provided, the rent change will be made effective retroactively.

9.2.7 Notice of Rent Share Change

~~When~~ Before any change in Resident's rent is made, Resident will be notified by a written Notice of Rent Change containing the following information:

- (a) The new rental amount and the date it will be effective,

- (b) The amount of Resident's household income, household composition and other facts considered by BHA in determining Resident's new rent,
- (c) Resident's right to and the method of obtaining a timely hearing under the grievance procedure.

9.2.8 Choice of Rent Calculation Method

(a) State Developments

Rent will be determined in accordance with applicable State regulations, the BHA Lease and the BHA Rent Manual.

(b) Federal Developments/AMPs Only

As part of the annual Tenant Status Review (TSR) process, residents in Federal Developments/AMPs will be provided written information about the following two different methods for determining the amount of rent payable by the family, their right to choose the method of determining rent and under what circumstances they may request a change to the method utilized in determining rent. As part of this process, residents will be educated about the benefits of selecting one method over another and will be asked to notify the BHA in writing as to which option they choose, except in cases where the resident is over-income as described below.

(i) Flat Rent

A fixed rent determined for each unit size based on a rent reasonableness study conducted by the BHA pursuant to 24 CFR 960.253 (b) of comparable units available in the private market or 80% of fair market rents (FMRs) as published by HUD annually. Flat rent will be set at the amounts determined by the rent reasonableness study, if such amounts exceed 80% of FMRs and at 80% of FMRs if the amounts determined by the rent reasonableness study are less than 80% of FMRs. On an annual basis the BHA will update the flat rent amounts within 90 days after HUD publishes new FMRs. The new flat rent shall apply to all new admissions and to existing residents at the time of their next scheduled annual [recertification](#) ~~Tenant Status Review (TSR)~~. The BHA will maintain a current listing of its flat rent schedule as an appendix to the BHA Rent Manual and will provide this list to residents at least annually as part of the [recertification](#) ~~TSR~~ process.

Financial Hardship: Residents who choose flat rents may request to change to an income-based rent at any time if the family is unable to pay the flat rent because of financial hardship. A financial hardship exists for these purposes when a family's income is reduced or their deductions are increased to the extent that an income-based rent is lower than the flat rent.

(ii) Income-Based Rent

Rent determined by the family's income and allowable deductions in accordance with the BHA's Lease, the BHA's Rent Manual and applicable Federal regulations. Types of Income-Based rent include:

- The higher of 10% of Gross Annual Income or 30% of Adjusted Annual Income
- Ceiling Rent – a cap to the amount of income-based rent that a resident may pay for their unit, equal to the Flat Rent amount for the unit
- In the case of mixed families, Prorated Assistance
- A higher rent pursuant to the Over-Income Policy

9.3 Interim Recertification

A Family may request in writing an interim determination of **the household's rent** at any time because of a change in the Family's income, Adjusted Income (household deductions), family size, or composition. A Family must report changes in the circumstances described in the section below.

State Public Housing – Interim Re-determination of Rent 760 CMR 6.04(5)

(a) Increases.

If in any month the monthly gross household income of a tenant household increases by 10% or more from the amount contained in the most recent notice of rent as (re)determined by the LHA, the tenant shall report any such increase, including any changes in income, exclusions and deductions. The tenant shall report the increase to the LHA by the seventh day of the month following the month in which the increase occurred, provided that if the increase was anticipated in the prior computation of gross household income, the tenant need not report the increase. The LHA shall require verification of such increase in income. If as a result the amount of rent increases, at least 14 days before the effective date of a rent increase, the LHA shall give the tenant a written notice of the re-determined rent. Any such increase in rent shall be made effective on the first day of a month. The notice of re-determined rent shall set out the monthly gross household income and the monthly net household income, on the basis of which the re-determined monthly rent was calculated. In the event that a tenant shall have failed to report such an increase in income by the seventh day of the month following the increase, in addition to its other remedies, the LHA, upon discovery that increased rent was due, shall make the effective date of the increase in rent retroactive to the first day of the second month following the increase in income.

(b) Decreases.

If, in any month, the monthly gross household income of a tenant household decreases, the tenant may provide the LHA with verified information substantiating the decrease in gross income. Following receipt of such information, the LHA shall re-determine rent. The LHA shall give the tenant written notice of any decrease in rent which shall be effective on the first day of the month following receipt of the information or at such earlier time as the LHA shall find to be warranted in the event that circumstances delayed receipt of verified information. Provided, however, that until the termination of the state of emergency declared by the Governor under Emergency Order: Declaration of a State of Emergency to Respond to COVID-19, the decrease in rent shall be retroactively effective to the first day of the month following the date of the verified decrease in income. The notice shall set out the monthly gross household income and the monthly net household income, on the basis of which the re-determined monthly rent was calculated.

Late Payments of Income. If a Tenant receives any includable income at a date later than the date when the income would have been paid in the normal course (such as payment of past due workers' compensation benefits for lost wages, past due SSI or SSDI benefits, or retroactive salary increases, and if such income has not been included in the determination of Household income), Tenant shall report receipt of the income to the LHA within seven days after receipt. The LHA shall charge a one time retroactive rent charge on account of any part of such income which in the normal course would have been paid at a time when Tenant occupied an LHA unit. A Tenant who receives and timely reports receipt of such income shall pay any such retroactive rent due on account of such income without interest upon receipt of a bill from the LHA. If Tenant shall fail to report such income or shall fail to make such a one time retroactive rent payment within 30 days of receipt of a bill, the LHA may charge interest on the additional rent due for the period beginning 30 days after receipt of the income at a rate of interest in accordance with law and the LHA's rules.

9.3.1 Circumstances Requiring an Interim Recertification (Federal Programs)

(a) All Changes in Family Composition

Family Reporting Requirements:

A Family is required to inform and supply any necessary verification to the BHA within thirty (30) days of a birth, adoption, or court awarded custody. The BHA must approve the eligibility for any addition to the Family that does not result from a birth, court-awarded custody, or adoption

A Family must also notify the BHA in **writing** within 30 days of any departure of a Family member due to death, permanent institutionalization, or other reason, and provide the BHA with verification, including, where applicable, the verification of the new address of the departed Family member.

(b) Some Increases in Income

(i) Increase in Family income after reporting a decrease

The BHA will process an interim certification, if the family receives any increase in earned income after they had reported a decrease in earned income, but prior to the next regular annual recertification,

For example, the BHA will process an interim increase certification for seasonal employees who receive a decrease or loss of wages and prior to their next regular annual recertification receive an increase in earned income when the season begins.

(ii) Receipt of Unearned Income Resulting in 10% Increase

The BHA shall process an interim certification when the family begins receiving unearned income that increase annual income by ten percent (10%) or greater.

(iii) Increase in Family Income for Family without Income

The BHA shall process an interim certification of income when a without income receives any increase in earned or unearned income.

If a Family's income is too unstable to project for 12 months or if a Family temporarily has no income (a "zero-income Family") or if a Family has a temporary decrease in income, the BHA may schedule special Recertification with the site management every month, or at least quarterly, until the income stabilizes and/or an Annual Income can be determined.

Family Reporting Requirements:

If a Family has an increase in income \$200.00 dollars per month or more the family must report the increase in writing to the BHA within thirty (30) days of receiving the increase in income. The BHA shall make a determination as to whether or not an interim certification should be processed for the family. An increase in income is any increase or new source of income which was not being received at the last annual or interim recertification of the Family. If the family fails to report an increase in income, resulting in an increase in the household's rent, the rent shall be increased retroactively in accordance to the BHA's rent policy.

Residents shall report to BHA any increase in monthly gross household income of \$200 or more from the amount reported to BHA at the most recent annual rent determination or interim redetermination. Any such increase must be reported by the seventh day of the month following the month in which the increase occurs. Upon receipt of such a report, Resident's rent and family circumstances shall be reviewed in accordance with BHA's rent policy. Rent increases will be effective the second month after BHA sends Resident a Notice of Rent Change. If a Resident fails to report a change requiring a rent increase, rent shall be increased retroactively to the second month following the change.

(c) Decreases in Family income.

If a Family has a decrease in income, it must be reported to the BHA within thirty (30) days of the loss or decrease in income. When a decrease in family income is reported the BHA shall consider any effect that the reduction in income may have on child care or disability assistance expense deductions.

Family Reporting Requirements:

If a Family reports in writing a change in income within 30 days, a decrease in tenant share shall be effective the month following the verified decrease in income. For example, if a Family reports a decrease in income on March 3 that resulted from a job loss on February 20, the change in tenant share shall be processed effective March 1.

If the family fails to report the change in income within 30 days, the decrease in tenant share shall be made effective the month following the reported change.

9.4 Over-Income

State Public Housing – 760 CMR 5.06: Income Eligibility

(2) A household occupying a unit in elderly/handicapped housing shall remain eligible for continued occupancy until such time as 30% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located.

(3) A household occupying a unit in family housing shall remain eligible for continued occupancy until such time as 32% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located. (4) An AHVP participant shall remain eligible for continued occupancy in a unit until such time as the participant's rent share equals or exceeds the contract rent. The participant shall retain their AHVP voucher for 90 days from the date on which the LHA determines that the participant's share equals or exceeds the contract rent. At the end of that period, if the participant's share continues to equal or exceed the contract rent, the household will not be eligible for continued assistance under the AHVP.

Federal Public Housing

The "over-income limit" will be determined in accordance with 24 CFR 960.507. Families whose income exceeds the over-income limit for 24 consecutive months will have their tenancy terminated.

Determination of over-income limit

The over-income limit is set by multiplying the Very Low-Income level applicable for the area and the correct family size by a factor of 2.4. HUD will publish the income limits for each family size annually, and the BHA will calculate and post the over-income limits within 60 days following the effective date of the income limits.

Notifying over-income families

1. If the BHA, during the course of conducting an annual or interim rent redetermination, or at any other time, determines that the family's income exceeds the over-income limit, the family's over-income status will be documented in the family's tenant file and the BHA will send a written notice to the family of the over-income determination no later than 30 days after the income examination. The notice shall state that the family income exceeds the over-income limit and that by continuing to exceed the over-income limit for a total of 24 consecutive months results in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.
2. The BHA must conduct an income examination 12 months after the initial over-income determination. If the BHA determines that the family's income still exceeds the over-income limit, the BHA will send a second notice to the family of the over-income determination no later than 30 days after the 12-month income examination. This second notice shall state that the family income has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.
3. The BHA must conduct an income examination 24 months after the initial over-income determination. If the BHA determines that the family's income has exceeded the over-income limit for 24 consecutive months, the BHA will send a third notice to the family of the over-income determination no later than 30 days after the 24-month over-income examination. The third notice must state that: (i) the family's income has exceeded the over-income limit for 24 consecutive months and (ii) the BHA shall terminate the family's tenancy within six months of the third notice.

The over-income family will continue to be a public housing program participant until the tenancy is terminated and the BHA shall continue to charge the family's choice of income-based, flat rent, or prorated rent for mixed households during the period before the lease termination.

The 24 months must be consecutive for the tenancy to be terminated. If the BHA determines that the family is no longer over-income prior to the expiration of the 24-month period, the 24-month period is reset. The household will be entitled to a new 24-month grace period if the household income exceeds the over-income limit at another time.

If the family has been over-income for 24 consecutive months, their tenancy will be terminated even if their income subsequently goes below the over-income limit after the 24-month period.

Reporting Requirements

In accordance with 24 CFR 960.507(f) requirements, as amended, BHA will report the following data as of the end of the calendar year, i.e., December 31st, to HUD:

1. The total number of over-income families residing in public housing; and
2. The total number of families on waiting lists for admission to the public housing developments/AMPs.

Per the regulations, this information must also be made publicly available.

9.5 Use of HUD's Enterprise Income Verification (EIV) System (Federal Only)

The EIV System is a web-based application providing employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of HUD's Office of Public and Indian Housing (PIH). This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058. The EIV system is for use in the federal programs only.

9.5.1 Required Use of EIV

The BHA is required to review an EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. The BHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

(a) Disputing EIV Information and Resolving Discrepancies

In accordance with 24 CFR §5.236(b)(2)(3), the BHA is required to compare the information on the EIV report with family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the BHA is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and

- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the BHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively as far back as reliable information will support; and
- Take any other appropriate action as directed by HUD or the BHA's administrative policies.

(b) Requirement to Reimburse for Undercharged Rent

Tenants are required to reimburse the BHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the BHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the BHA **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any PHA-sponsored amnesty or debt forgiveness programs.

(c) Correction of Incorrectly Reported Information in EIV

(i) Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures tenants and PHAs should follow regarding incorrect EIV information.

(ii) Employment and wage information reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.

If the tenant disputes this information, they should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The tenant should provide the BHA with this written correspondence so that it may be maintained in the tenant file. If employer resolution is not possible, the tenant should contact the local SWA for assistance.

(iii) Unemployment benefit information reported in EIV originates from the local SWA. If the tenant disputes this information, they should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file.

(iv) **SS and SSI benefit information** reported in EIV originates from the SSA. If the tenant disputes this information, they should contact the SSA at (800) 772-1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

(v) The tenant may also provide the BHA with third party documents which are in the tenant's possession to support their dispute of EIV information. The BHA, with the tenant's consent, is required to submit a third party verification form to third party sources for completion and submission to the BHA, when the tenant disputes EIV information and is unable to provide documentation to validate the disputed information. The tenant's failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

(vi) **Debts owed to PHAs and termination information** reported in EIV originates from the PHA. If a current or former tenant disputes this information, they should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three (3) years from the end of participation date in the PIH program.

(vii) **Identity Theft.** Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual's SSN. However, a person using an individual's SSN can get other personal information about that individual and apply for credit in that individual's name. So, if the tenant suspects someone is using their SSN, they should check their Social Security records to ensure their records are correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>); and they should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The tenant should provide the PHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

Tenants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: www.annualcreditreport.com or by contacting the credit reporting agency directly. Each agency's contact information is listed below.

National Credit Reporting Agencies Contact Information

Equifax Credit Information Services, Inc.
P.O. Box 740241
Atlanta, GA 30374

Website: www.equifax.com
Telephone: (800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013
Website: www.experian.com
Telephone (888) 397-3742

TransUnion
P.O. Box 6790
Fullerton, CA 92834
Website: www.transunion.com
Telephone: (800) 680-7289 or (800) 888-4213

(d) Security of EIV Data

The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the BHA for the purpose of determining eligibility and level of assistance may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

9.6 Self-Sufficiency Income Exclusions

The earned income exclusion is only available for households under lease. It is not applicable at admission. Only adults can qualify for the earned income disallowance (because the earnings of family members other than the head or spouse are excluded if the family member is under age 18). Each person can receive only one 24-month disallowance period during their lifetime. There are three categories of individuals who qualify for the earned income disallowance:

9.6.1 Employment After Unemployment

A person whose annual income increases because of employment after having been unemployed for at least 12 months. A person is considered to have been unemployed if

he or she has earned less money in the previous 12 months than would have been earned working 10 hours per week for 50 weeks at the established minimum wage. (The minimum wage to be used is that applicable to the locality in which the determination is made.) The majority of families who qualify for earned income disallowances are likely to do so under this category. Note: An individual who was unemployed for some period of time before becoming a public housing resident or who earned so little in the previous period to be considered unemployed could qualify under this category, so long as there is a 12 month period of unemployment.

9.6.2 Income Increase After Training

A person whose annual income increases because of new or increased earnings during participation in an economic self-sufficiency or other job-training program. This requirement is not the same as the previous income disregard. The key concept in this eligibility category is that the individual receives the new or additional earned income while he or she is involved in economic self-sufficiency or job training, not after the completion of such training. Note: An example of this category of qualification occurs when people are studying for a variety of medical professions. Typically, classroom work is followed by a 'practicum' in a doctor's office, hospital or clinic, during which the individual is paid.

9.6.3 Income Increase After Receiving Welfare

A person whose annual income increases because of new or increased earnings, during or within six months after the household's receiving assistance, benefits or services from a program funded by any state program for Temporary Assistance to Needy Families funded under Part A of Title VI of the Social Security.

9.7 Community Service and Economic Self-Sufficiency Policy (Applicable to Federal Developments/AMPs Only)

As part of the Quality Housing and Work Responsibility Act of 1998, Congress imposed a requirement that all adult residents of federally funded public housing, unless specifically exempted, must perform community service activities or participate in an economic self-sufficiency program to remain eligible for public housing assistance. Therefore the federal public housing lease provides that all non-exempt residents must:

- Contribute 8 hours per month of community service (not including political activity); or
- Participate in an economic self-sufficiency program for 8 hours per month; or
- Perform eight hours each month of combined community service and self-sufficiency activities.

9.7.1 Definitions

(a) Community Service

For the purpose of this policy, community service is the performance of voluntary work or duties for the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community in which the resident resides. Community service is not limited to a single type of activity or a single location. Acceptable community service activities include, but are not limited to, improving the physical environment of the resident's development/AMP; volunteer work in a local school, hospital or child care center; working with youth organizations; or helping neighborhood groups on special projects. By statute, political activity is not an eligible form of community service.

(b) Economic Self-Sufficiency Program

For the purpose of this policy, an economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include, but are not limited to: programs for job readiness or training, employment training, work placement, basic skills training, education, English language proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work, such as substance abuse or mental health treatment.

9.7.2 Notification of Residents

The Boston Housing Authority will notify all new residents of the community service requirement at the time of lease signing. The notification will include an explanation of the program and will list the categories of individuals who are exempt from performing community service activities. Definitions and examples of community service and economic self-sufficiency activities will be part of the notice.

All current residents will be provided with a copy of this notice at the time of annual re-examination.

The notification will also advise families when the community service obligation will begin. Non-exempt residents will be required to begin performing community service at their first lease renewal date following the adoption of this policy.

9.7.3 Exemptions

The following residents over the age of eighteen are exempt from this requirement:

- (i) Resident household members who are 62 or older;

(ii) Resident household members who are blind or disabled as defined in the Social Security Act (Section 216 (i) (1) or Section 1614 of the Social Security Act (42 USC 416 (i) (1); 1382c);

The Social Security Act defines disability as the “inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months.”

Blindness is defined as “central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no less than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.”

Residents who claim exemption because of disability or blindness must also certify that because of this blindness or disability they are unable to comply with the community service requirement. If a resident does not meet this definition of blindness or disability and believes that he or she is unable to perform community service or economic self-sufficiency activity, he or she may apply for an exemption from the requirement as a reasonable accommodation under the BHA Reasonable Accommodation in Housing Policy (RAHP). An application for reasonable accommodation can be obtained at the development/AMP management office.

(iii) Resident household members who are the primary care giver of a blind or disabled individual as described in paragraph 2;

(iv) Resident household members who are engaged in a work activity as defined under section 407 (d) of the Social Security Act (42 USC 607 (d), for ten or more hours each week;

Work activities are:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Work experience, including work associated with refurbishing: publicly assisted housing, if sufficient private sector employment is not available;
- On-the-job training;
- Job search;
- Community service programs;
- Vocational educational training not to exceed twelve months;
- Job skills training directly related to employment;
- Education directly related to employment for a resident who has not received a high school diploma or a certificate of high school equivalency;

- Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalency for a resident who has not completed secondary school or received such a certificate; or
- The provision of childcare services to an individual who is participating in a community service program.

(v) Resident household members who are exempt from work activity under Part A of Title IV of the Social Security Act (42 USC Section 601 et seq.) or under any other state welfare program, including a State-administered welfare-to-work program; or

(vi) Resident household member of a family receiving assistance, benefits or services under a State program funded under part A of Title IV of the Social Security Act (42 USC 601 et seq.), or under any other State welfare program, including a State-administered welfare-to-work program or the Supplemental Nutrition Assistance Program (SNAP), and is in compliance with all provisions of that program.

In accordance with HUD guidelines, persons eligible for a disability deduction in rent are not automatically exempt from the community service requirement. A resident is exempt only to the extent the disability makes the person "unable to comply" with the community service requirement.

9.7.4 Initial Determination of Exemption

All applicants will be provided with an information sheet describing the community service/self-sufficiency requirement at the time they make their final application. At the time the lease is signed, the property manager will again provide the head of household with the community service information sheet. Each household member will be asked to declare if they are exempt from community service and provide the appropriate verifications.

In order to establish an exemption the following verification must be provided:

(a) Age 62 or over. Any birth certificate or proof of age already submitted by the resident to establish age or achieve eligibility for occupancy as a person 62 or older shall be deemed sufficient verification.

(b) Disability or blindness. Receipt by a household member of Social Security Disability or SSI benefits shall be deemed proof of disability under this policy. A household member whose application for disability benefits is pending shall be deemed disabled unless and until a denial of the application is received. Any resident who believes they meet the definition of disability included in this policy may submit a statement from their treating physician providing BHA staff with facts that will assist them in determining whether the resident is disabled within the definition applicable under this policy. If a resident does not meet this definition but still believes that he or she is unable to perform community service, the resident may apply for a reasonable accommodation under the BHA RAHP

policy. The manager will provide an application for reasonable accommodation upon request.

Residents who are determined to be exempt because of blindness or disability shall also sign a statement certifying that they are unable to comply with the community service requirement because of the blindness or disability.

(c) Primary caregiver of a disabled or blind person. A statement from the person being cared for or their guardian affirming that the resident seeking exemption acts as the primary caregiver and the period during which they are expected to continue in that role shall be adequate verification.

(d) Engaged in work activity. The verification of employment income provided to BHA for rent determination shall be adequate for this purpose. Verification of participation in job training or other qualifying program must be submitted by the providing organization or school.

(e) Exempt from work activity under state welfare program. Verification of the exemption should be obtained from the welfare department.

(f) Member of a family who receives assistance from a state welfare program and is in compliance with that program. Verification of receipt of program assistance and compliance should be obtained from the welfare department.

The manager will make a determination of exempt status and notify the resident. If the resident disagrees with the determination, he or she may file a grievance under the BHA grievance procedure.

The exemption status for each household member will be entered on the client worksheet. Families with non-exempt members will receive a list of community service and self-sufficiency opportunities.

9.7.5 Continuing Determination of Exemption and Compliance

Each year, as part of the Tenant Status Review, the property manager will determine whether each non-exempt household member has complied with the community service requirement and whether each exempt household member continues to be exempt.

Included with the letter requesting the head of household to come to the office for the status review will be a reminder that resident compliance with and/or exemption from community service will be determined as part of the status review. A list of exemption categories, a reminder that certain exemptions from the community service requirement must be reviewed annually and a description of the documentation needed to support each exemption will be attached to the letter. A Verification of Compliance form for each household member who was required to perform community service will be provided at the recertification appointment. These forms must be completed and returned

to the property manager at least thirty (30) days before the lease term expires. The form includes confirmation of:

- the number of hours of community service/self-sufficiency work completed,
- the type of work completed
- the community organization where the work was completed
- the signature, name, title, address and phone number of the person supervising completion of the work.

At the time of the status review the manager will reconfirm the exemption status of each household member. The head of household may provide the property manager with the required documentation for any change in status claimed by an adult family member. The manager will reconfirm the following exemption categories annually:

- Blindness or disability
- Primary caregiver
- Engaged in work activity
- Exempt from work activity under a state welfare program
- Exempt through receipt of assistance, benefits or services from a state welfare program and in compliance with all provisions of the program.

If a household member becomes exempt from the community service requirement during a lease term and informs the manager so that the exemption can be verified, he or she shall be exempt from performing community service for the entire year. Unemployed residents, for example, may request an exemption if they find work or start a job training program. If a resident is determined by BHA to become exempt during the year, they will be excused from the entire annual 96-hour requirement. There is no obligation for a resident to report a change in status from exempt to non-exempt between regular status reviews. If a resident previously determined to be exempt becomes non-exempt during a lease term, he or she is not required to report the change in status to the manager until the next status review.

If the household is found to be in compliance with the community service/self-sufficiency requirement as well as all other requirements for continuing occupancy, the lease will be automatically renewed. An annual lease signing process is not necessary.

9.7.6 Non-Compliance

If the BHA determines that a non-exempt resident has not complied with the community service/self-sufficiency requirement, ~~the BHA staff, or in the case of privately managed properties, site staff~~ the property manager must notify the head of household of the noncompliance in writing. This notification must also inform the resident that:

- the determination of noncompliance is subject to the BHA's grievance procedure;
- unless the resident enters into an agreement to cure or the non-compliant adult no longer resides in the unit, the lease of the family of which the noncompliant adult is a member shall not be renewed; and
- the resident has the opportunity to cure the noncompliance during the next twelve-month period.

To take advantage of the statutory opportunity to cure, the noncompliant adult must sign an agreement stating that the noncompliant adult will complete, over the next 12-month term of the lease, the additional hours of community service or economic self-sufficiency activity needed to reach the required total of 96 hours for the prior year. These additional hours must be performed in addition to the 96-hour requirement for the current lease year.

As is required by law, continued non-compliance will result in the commencement of eviction proceedings against the entire household, unless the noncompliant family member is no longer part of the household.

9.7.7 Documentation

BHA staff, or in the case of privately managed properties, site staff

The property manager must retain documentation of community service participation and/or exemption in the resident's file.

At lease signing for new residents or at annual recertification~~the Tenant Status Review~~ for current residents, the manager must ensure a Certification of Exemption Status form is completed for each adult household member claiming an exemption from the community service/self-sufficiency requirement. Supporting documentation will be requested of the resident to verify exempt status and copies of the verification will be retained in the file.

At the time of the annrecertification~~ual Tenant Status Review~~, the head of household is responsible for ensuring that a Verification of Compliance form is completed by the appropriate authority for every non-exempt household member. This form will also be maintained in the resident file.

9.7.8 Grievance Procedure

Upon filing a written request, as provided in the Boston Housing Authority grievance procedure, any resident who disagrees with any Boston Housing Authority (BHA) action or failure to act in accordance with the Community Service Policy shall be entitled to a grievance hearing.

9.7.9 Prohibition Against the Replacement of Employees

In implementing the community service requirement, the Boston Housing Authority will not substitute community service for work ordinarily performed by public housing employees or replace a job at any location where community work requirements are performed.

9.7.10 Third Party Coordinating

The Boston Housing Authority intends to exercise its option to administer the community service/self-sufficiency requirement through one or more of the following alternatives:

- directly administer some qualifying community service and
- economic self-sufficiency activities;
- make such activities available through a contractor; or
- make such activities available through partnerships with qualified organizations, including resident organizations and community agencies or institutions.

9.8 Inspections

In accordance with the lease, apartment inspections are performed at three times: pre-occupancy, upon move-out, and at least once annually and as further provided in the BHA lease.

9.8.1 Pre-Occupancy Inspections

The BHA and the resident or their representative will inspect the apartment prior to occupancy by the resident. The BHA will give the resident a copy of the statement of conditions showing the condition of the premises, interior and exterior as applicable, and of any appliances provided with the apartment.

The statement of conditions shall be signed by a BHA representative and resident and a copy of the form retained in the resident's folder. Any deficiencies noted on the statement of conditions will be corrected by the Authority before the resident moves in, and at no charge to the resident.

9.8.2 Annual Inspections

The BHA will inspect all apartments at least annually and more frequently if apartment conditions are not safe, sanitary and in good repair. Residents will be notified as to the date and time of inspections in accordance with provisions in the lease.

Annual inspections will evaluate the following: any need for repairs; housekeeping conditions; safety violations; and resident's compliance with other obligations under the lease. The resident will be informed of any deficiencies and notified of any action required by the resident or the BHA to correct deficiencies.

BHA will correct deficiencies determined to be the BHA's responsibility.

Where resident action is required, re-inspections will be conducted.

Where the resident fails to take required action to correct deficiencies, the BHA may correct the deficiencies and bill the resident. The resident shall also pay promptly, upon receipt of a bill, for lock replacements or re-keying and for the cost of all materials and/or labor for repair of any damage to BHA property caused by the negligence or intentional

act of the resident, a member of resident's Household or a guest; the bill shall clearly state the items for which the charge is made, the work done, and the cost of labor and materials; the bill shall not become due and payable before the first day of the second month following the month in which the charge is billed; BHA will post in each management office a list of the hourly rate charged for labor. The resident may dispute the bill through the BHA grievance procedures.

9.8.3 Move-Out Inspection

The BHA will inspect the apartment after the resident vacates the apartment and give the resident a written statement of conditions, repairs, cleaning and replacements for which the resident is responsible. The resident and/or their representative may join in such inspection, unless the resident vacates without notice to the BHA.

9.9 Lease Termination Procedures

The lease of a BHA resident provides the terms and procedures for termination of the lease.

9.9.1 Recordkeeping Requirements for Lease Termination

A written record of every termination and/or eviction shall be maintained by BHA in the resident file, and shall contain the following information:

- (a) Name of resident, number and identification of the apartment occupied;
- (b) Date of the 14-Day Notice, 30-Day Notice, or other notice of Intent to Terminate and the
- (c) Notice to Vacate;
- (d) Specific reason(s) for the Notice(s), indicating the section(s) of the lease allegedly violated, and other facts pertinent to the issuing of the Notices described in detail;
- (e) Date and method of notifying the resident;
- (f) Summary of any conference held with the resident including date, names of conference participants and conclusion.
- (g) Decisions of any grievance panel hearings.

CHAPTER 10: MISCELLANEOUS PROVISIONS

10.1 Deprogramming Apartments

BHA will seek approval from ~~EOHLC-DHCD~~ and HUD prior to deprogramming any apartment in Federal or State-assisted developments/AMPs in accordance with applicable regulations. A deprogrammed apartment is one that is no longer available for occupancy under a BHA resident lease.

10.2 Supported Housing Programs

10.2.1 Social Service Agreements

At its discretion, and if required with HUD and/or ~~EOHLC-DHCD~~ approval, the BHA may enter into an agreement with social service or other agencies to provide supportive services to Applicants and residents, including targeted populations, who need special help in order to establish and maintain tenancies, provided that evidence exists that the agencies are reliable organizations with experience at providing related services and are fiscally sound.

Assistance required under such agreements shall include, but is not necessarily limited to, the following services:

- (a) Assistance in evaluating applicants for program participation;
- (b) Checking to see if the residents are paying their rents and other charges and are properly maintaining their units;
- (c) Helping residents to maintain their households, including managing their money;
- (d) Providing specialized supportive services and crisis intervention in order to obtain necessary treatment to avoid eviction action.
- (e) All Applicants and residents who participate in these programs must meet the Threshold Requirements for the program for which they are applying.
- (f) All Applicants and residents who participate in these programs must meet the Applicant Screening Criteria as specified in this policy and/or any Memorandum of Agreement between the BHA and the service organization.

10.2.2 Apartment/Development/AMP Designations

Supported Housing Programs may be established for a development/AMP or certain designated apartments within a development/AMP.

10.3 Designated Housing Program

10.3.1 Plan Description

The BHA will allocate units in the Federal Elderly/Disabled developments/AMP in order to move towards a ratio of 80% designated to elderly families and 20% to non-elderly disabled families. In order to achieve these percentages additional admission Preference Points will be applied to Elderly and Non-Elderly Disabled Applicants at designated Elderly/Disabled Program developments/AMPs. The Preference Points will be applied when: 1) Applicants who are Elderly and are on an Elderly/Disabled Program development/AMP wait list where the Elderly resident population is less than 80% and who **do not** require wheelchair accessible units will receive Preference Points in addition to any they may already have and 2) Applicants who are Non- Elderly Disabled and are on an Elderly/Disabled Program development/AMP wait list where the Non-Elderly Disabled resident population is less than 20% and who **do not** require wheelchair accessible units will receive Preference Points in addition to any they may already have.

Under this Plan, there are times when BHA selects elderly applicants ahead of non-elderly disabled applicants in order to reach agreed-upon percentages in its housing developments. Non-elderly disabled applicants who are bypassed may become eligible for a Section 8 Housing Choice Voucher from a set-aside created by the Designated Housing Plan.

10.3.2 Development/AMP Designation

The BHA will monitor the percentages of elderly and non-elderly disabled households living in each Elderly/Disabled Development/AMP on a monthly basis. When the percentage of elderly households occupying a development/AMP reaches 75%, the development/AMP will be flagged so that each subsequent offer of housing will be reviewed by a Manager in the Admissions Department. When the percentage of elderly households occupying a development/AMP reaches 80%, the BHA will turn off Designated Housing preference points to elderly applicant households for this development/AMP. If the percentage of elderly households occupying a development/AMP falls below 80%, the BHA will turn on Designated Housing Preference points to elderly applicant households for this development/AMP. The BHA shall also monitor closely when the percentage of non-elderly disabled households occupying a development/AMP reaches 20%, the BHA will turn off Designated Housing preference points to non-elderly disabled applicant households for this development/AMP. If the percentage of non-elderly disabled households occupying a development/AMP falls below 20%, the BHA will turn on Designated Housing Preference points to non-elderly disabled applicant households for this development/AMP.

10.4 Resident Custodians and Special Assignment Laborers

10.4.1 Rules Governing Residency

Resident custodians and special assignment laborers (BHA employees living in BHA apartments as a condition of employment under a license agreement) must be

determined eligible in accordance to the Resident Custodian or Special Assignment Laborer license agreement. They shall not be considered public housing residents. They are not subject to the same requirements (including the waiting list procedure) and do not have the same rights as public housing residents. In particular, they:

- (a) Do not have to qualify as a Low Income Household;
- (b) Are not subject to the BHA's resident selection procedures;
- (c) May be charged a reasonable rent or may be provided a BHA apartment rent-free;
- (d) Are not subject to BHA lease and grievance procedures, but have a license agreement for occupancy with the BHA; and
- (e) Are not entitled to remain in the same apartment in public housing if their employment is terminated, but shall be entitled to apply for public housing.

10.4.2 Admission as Residents

Upon change in status, resident custodians and special assignment laborers may apply to become BHA residents, but may only be admitted to a BHA apartment after they have been determined Eligible and Qualified as defined by the BHA's ACOP. Upon the successful completion of the final eligibility determination process a housing offer assignment will be made pursuant to the Resident Custodian or Special Assignment Laborer license agreement.

10.5 Occupancy by Police Officers (Federal Developments/AMPs Only)

10.5.1 Definition of Police Officer

For purposes of this subsection, a police officer is defined as a person who is employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of a local police force or an accredited police force of a housing agency may qualify.

10.5.2 Purpose of Policy

In order to increase security for BHA public housing residents, the BHA may allow police officers to reside in a public housing apartment, even if such police officers might not otherwise qualify, based on income, for BHA public housing.

10.5.3 Terms of Tenancy for Police Officers

(a) Occupancy

Police Officers who apply for BHA housing will be subject to the same terms, standards (other than income) and procedures that are applied to all other BHA Applicants.

(b) Verification

Police officers will undergo the same verification procedures applied to other BHA Applicants. Those procedures are outlined in this Admission and Continued Occupancy Policy. Screening criteria contained in this policy therefore apply.

(c) Waivers

Police Officers approved for occupancy in BHA apartments will be given a waiver that allows them to be chosen for BHA housing without being placed on the Authority's waiting list.

(d) Lease

Police Officers shall execute a lease or occupancy agreement with the BHA providing for the terms of occupancy of an apartment.

(e) Annual Re-certification

Continued employment as a police officer as defined in this subsection, will remain a determining factor in the renewal of a Police Officer's lease or occupancy agreement. Police Officers are therefore required to submit annually to the BHA proof of continued employment as a police officer.

(f) Failure to remain employed as a Police Officer will therefore result in a refusal to renew a Police Officer's lease or occupancy agreement.

If a person is no longer a Police Officer, but meets the BHA eligibility standards, the Police Officer may apply for admission as a BHA resident.

10.5.4 Apartments to be Occupied by Police Officers

The BHA will offer apartments to Police Officers based upon BHA-determined security needs. In no event shall the number of apartments allotted for Police Officers exceed one Police Officer per development/AMP with more than 100 apartments but less than 500 apartments, and not more than two Police Officers for any development/AMP with over 500 apartments.

10.6 Pet Policy

BHA residents may have pets, in accordance with the BHA's current Pet Policy for the specific development(s)/AMP(s) at which they select to live. The Pet Policy is in accordance with HUD or ~~EOHLC-DHCD~~ requirements.

10.7 Policy Waivers

10.7.1 ACOP Waivers

The Administrator, or their designee who shall be a senior management employee, may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to an Applicant or a transfer applicant. Each decision to waive a provision of the ACOP must be documented in writing. No waiver shall be contrary to federal, state, or local law. No waiver shall be in violation of Chapter 1, Section 1.1 of this ACOP. Examples of situations in which a waiver may be requested and approved include but are not limited to: individuals with a potentially terminal illness, for example, AIDS, who are experiencing a housing crisis, a Household which must abandon its current housing in a distant location in order to relocate to Boston so that a seriously ill Household Member can receive specialized medical treatment available at a Boston area medical facility.

10.7.2 Waiver of State Regulation

The BHA follows the code of Massachusetts regulation, 760 CMR 5.00 and 6.00 in administering state public housing. However, this policy waives certain provisions of state regulation with the purpose of increasing customer service and effective management of BHA programs. Specific waivers contained within this policy have been requested by BHA and authorized by ~~EOHLC-DHCD~~. Waiver requests and approvals shall be posted on www.bostonhousing.org.

Commented [CK2]: This is not being done.)

10.8 Non-Smoking Policy

The BHA has incorporated its non-smoking policy into the non-smoking Lease Addendum.

Region 1 – 617-988-5061 email: smokefree1@bostonhousing.org

Region 2 – 617-988-5062 email: smokefree2@bostonhousing.org

Region 3 – 617-988-5063 email: smokefree3@bostonhousing.org

Region 4 – 617-988-5064 email: smokefree4@bostonhousing.org

CHAPTER 11: DEFINITIONS

Accessible Route	For persons with a mobility impairment, a continuous unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards. For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.
Accessible Apartment	When used with respect to the design, construction or alteration of an individual apartment, means that the apartment is located on an Accessible Route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps or disability. An apartment that is on an Accessible Route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 [the Uniform Federal Accessibility Standards] is "accessible" within the meaning of this paragraph.
Adaptable	Ability of certain elements in an apartment to be changed to accommodate the needs of disabled persons; or ability of certain apartments to meet the needs of persons with different types & degrees of disability.
Administrator	The chief executive officer of the Boston Housing Authority.
Alteration	Any change in an apartment, building or common area or to its permanent fixtures or equipment. It does not include: normal maintenance or repairs, re-roofing, interior decoration or changes to mechanical systems.
Asset Management Project (AMP)	For purposes of Asset Management HUD requires PHA's to designate a unique identifier for a development, or groupings of scattered sites or small developments, or phases of a development for purposes of implementing asset based management for HUD funded federal public housing units.
Apartment	Residential space for the private use of a Household. The number of bedrooms contained within a BHA apartment is from 0 bedrooms (studio/efficiency) to 6 bedrooms.

Applicant	A person or household member who is not a BHA leaseholder and has submitted an application for public housing that has been accepted by the Authority and entered into its management information system with a client number assigned.
Appeals	An Applicant for admission to BHA, who is dissatisfied with a decision regarding their application, may request an appeal before a BHA Hearing Officer. (See 4.1.4).
Applicant Information Briefing Session	A regularly scheduled meeting (or other form of communication that may be designated by the BHA) whose purpose is to: provide prospective Applicants with an explanation of the process for Application and admission to BHA Public Housing; make Applicants aware of the Priorities, Preferences and housing options available to them as a BHA Applicant; familiarize Applicants with the Preliminary Application and Related Forms; bring staff in contact with Applicants to assist Applicants in completing the application process (See Chapter 3).
Area Median Income (AMI)	The median income of the greater Boston area as determined by HUD.
Assets	Assets generally means cash which is accessible to a person including checking and savings accounts, stocks, bonds, equity in real property, and the cash value of life insurance policies, but does not include the value of tangible personal property such as furniture, automobiles and household effects. (Certain types of tangible personal property are included, such as coin collections or jewelry, but essential tangible personal property reasonably necessary for everyday living, such as furniture and automobiles, are not included. For included real or personal property holdings, the value of the asset is the cash amount that would remain if the resident converted the asset to cash and deducted any outstanding mortgages, liens or selling expenses.)
Boston Resident	A person whose last permanent address was within the City of Boston or a person who is a

resident and presently domiciled in the City of Boston at the time of application and at the time of determination of eligibility and qualification, or a person who is employed or about to be employed in the City of Boston as verified by the BHA. A person with a temporary residence in the City of Boston with relatives or friends is not a resident unless the person's last residence or domicile was in the City of Boston. The burden of establishing Boston residency is on the Applicant.

CHAMP

CHAMP is the Common Housing Application for Massachusetts Programs, the online application system for State Public Housing.

Co-Head of Household

A person who with the Head of Household assumes responsibility and accountability for the Household and signs the lease. The Co-Head of Household is equal to and has the same rights and responsibilities as the Head of Household. This shall include a spouse even if not designated as Co-Head of Household on the application or lease.

[Executive Office of Housing and Livable Communities](#)
[Department of Housing and Community Development](#)
[EOHLC\(DHCD\)](#)

The agency responsible for the oversight and monitoring of the State's public housing program.

Dependent

A member of the Household, other than head, co-head, sole member, foster child, or Personal Care Attendant or Live-in Aide, who is under 18 years of age, a Disabled Person, or a full-time student.

Development

Refers to low income housing developed, acquired or rehabilitated by BHA under the U.S. Housing Act of 1937 (other than Section 8) for which there is an annual contributions contract (ACC) between the U.S. Department of Housing & Urban Development or one or more public housing apartments developed and/or administered by the BHA with a separate contract for financial assistance with the Massachusetts Department of Housing Community Development under the Chapter 705, Chapter 200 or Chapter 667 program.

Disabled Person	For program eligibility, a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or defined as “handicapped persons of low income” in M.G.L. C121B § I and in 760 CMR 5.07.
Disabled Person (For Eligibility in State-Aided Housing)	A person who has been determined to have an impairment which is expected to be of long continued and indefinite duration, which substantially impedes the ability to live independently in conventional housing and which is of such nature that such ability could be improved by more suitable housing conditions.
Disabled Person (For Eligibility in Federally-Assisted Housing)	– A person who 1) Has a disability defined as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or, in the case of a person who has attained the age of 55 and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which they have previously engaged with some regularity and over a substantial period of time, or 2) Has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, which substantially their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or 3) Has a developmental disability which is a severe, chronic disability of an individual 5 years or older which is attributable to a mental or physical impairment or combination of impairments and which is manifested before the age of 22 and is likely to continue indefinitely and which results in substantial functional limitations in three or more of

the following areas of major life activity (self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living and economic self-sufficiency), and which reflects the individual's need for assistance that is lifelong or of extended duration and is individually planned and coordinated.

Such term shall not exclude persons who have the disease acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS

A. For all purposes other than Eligibility, a person with a physical or mental impairment which substantially limits one or more life activities, or has a record of such impairment, or is regarded as having such an impairment.

B. No individual shall be considered a person with a disability solely because of drug or alcohol dependence.

Elderly Household

A Household whose Head of Household, Co-Head of Household, or spouse (or sole member) is an Elderly Person.

Elderly Person

A person who is at least 62 years of age. For state assisted housing a person who is at least 60 years of age.

Eligible

A person or household that has met the three threshold requirements pursuant to Section 5.1.2 for Preliminary Eligibility.

Eligible Household

A household who is determined Eligible for residence in public housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1437) or under M.G.L. c121B and provisions of this Policy.

Eligible Non-Citizen Status

(For Federal Program only) - The admittance of a Non-Citizen to the United States under one of the following categories:

1) A Non-Citizen lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C.

1101(a)(20), excluding, among others, Non-Citizen visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

2) A Non-Citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained their residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) [8 USCS § 1259];

3) A Non-Citizen who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

4) A Non-Citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));

5) A Non-Citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

6) A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act [8 USCS § 1255a].

7) Lawfully admitted for temporary or permanent residence (amnesty granted under Immigration and Naturalization Act Section 245A).

Emancipated Minor

Minor (under 18 years of age) with a child (or children) or who has otherwise established him/herself as a non-dependent individual.

Fair Housing Act	Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)
Family	A single person, two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together in BHA housing. Other persons, including foster children, Personal Care Attendants or Live-in Aides, and members temporarily absent (including children temporarily assigned to foster care[1]), may be considered a part of the Household group if they are living or will live regularly with the Household. For the federal housing programs as defined by the Department of Housing and Urban Development (HUD) at 24 CFR 5.403.
Federally-assisted Housing	For purposes of this policy, housing assisted under the U.S. Housing Act as defined in 42 USC 1437a and following provisions.
Full-time Student	For Eligibility in Federally-assisted Housing A person who is carrying a subject load which is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school or trade school. For Eligibility in State-assisted Housing- a household member between the ages of 18 and 25, who is the dependent of another household member and who is enrolled in and attending an accredited educational or vocational institution and is carrying a course load that is considered full-time for day students under the standards and practices of the institution. Full-time student status shall remain in effect as long as the individual carries a full-time student course load in pursuit of a bachelor's degree, an associate's degree, or a diploma from an accredited institution or a certificate from an accredited vocational program (excluding apprenticeship programs). In no event shall full-time student status last longer than the

	length of time normally required for day students to complete the required course of study.
Good Cause	A set of standards used by the Authority to determine the need for and special offer of housing in order to avoid a verifiable hardship. The basis for the special offer must be reliably documented and cannot result in discrimination on the basis of race, color, sex, sexual orientation, gender identity, ethnicity, religion or national origin or handicap or disability.
Good Standing	Good Standing means the household is: Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law and Not currently under a Fourteen (14) Day or a Thirty (30) Day Notice to Quit, Summary Process Action or action pursuant to Mass. Gen. Laws, Chapter 139, section 19.3.2
Grievance	1) An allegation, by a tenant or a remaining Household Member of a tenant's household, that the BHA or a BHA employee has acted or failed to act in accordance with the tenant's lease or any statute, regulation, or rule regarding the conditions of tenancy and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the tenant or a Household Member; or 2) An appeal by a data subject pursuant to 760 CMR 8.00. The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or Household Member, in which the BHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any Household Member of another tenant.
Head of Household	The member who assumes responsibility and accountability for the Household and signs the lease.
Household	All persons residing in an apartment who are listed on the apartment's lease as household members or Tenant Status Review (T.S.R.); and may include an

	approved PCA OR LIVE-IN AIDE, who resides in the apartment.
Household Member	A person residing in an apartment who is listed on the apartment's lease as a household members or Tenant Status Review (T.S.R.); and may include an approved PCA OR LIVE-IN AIDE, who resides in the apartment.
Home Visit	A visit by BHA Admissions Department staff or contractor to the home of an Applicant pursuant to the provisions of this policy.
HUD (U.S. Department of Housing & Urban Development)	The Federal department responsible for the public housing program as provided in the 1937 Housing Act. HUD provides operating subsidies to the BHA through an Annual Contributions Contract.
Imputed Welfare Income	(In Federal Developments Only) The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for the purposes of determining rent.
Last Permanent Residence	The last main or the only residence (home) at a fixed address a "Dwelling" or "rental dwelling." This means a unit that was owned or rented by or to one or more tenants and landlord authorized household member(s) as occupants for use as a permanent residence under a lease or tenancy at will. The term does not include a room rented to overnight guests or doubled-up guests/visitors.
Lease	A written agreement between the BHA and Head or Co-Head of Household for the occupancy of an apartment.
Minor	A person less than 18 years of age. An unborn child will not be considered to be a minor (Also see the definition for Dependent and Emancipated Minor).
Mitigating Circumstances	Circumstances which would tend to lessen the negative impact of an unsuitable housing history or unsuitable behavior and which may overcome or outweigh negative information gathered in the

	screening process about an Applicant or Transfer Applicant.
Mixed Family	A family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.
National	A person who owes permanent allegiance to the United States, for example, because of birth in a United States territory or possession.
Near-Elderly Family	Near-elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more Live-in aides.
Non-Citizen	A person who is neither a citizen nor National of the United States.
Admissions Department	The department within BHA that is responsible for the admissions and screening process. The department has responsibility for marketing, intake, waiting list management, screening, and making offers of public housing apartments to qualified Applicants and transfer applicants. The Admissions Department administers the Admissions and Continued Occupancy Policy including eligibility for resident transfers.
Overcrowded	See Under-housed.
Over-housed	A condition of occupancy where too few people reside in an apartment according to BHA standards for occupancy.
Personal Care Attendant (PCA)	(or Live-In Aide) A person that regularly provides care and support and who may or may not reside with an Elderly, Handicapped, or Disabled person or persons. (See 5.5 for full definition)
Police Officer	For the purposes of this policy, a police officer is defined as a person to be employed on a full-time basis as a duly licensed professional police officer

	by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency is a police officer.
Preference	BHA gives Applicants Preference if they are veterans, Boston Residents, or non-elderly disabled with a Household. Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on the BHA waiting list. Specific Preference definitions and point information can be found in Chapter 4 of this policy.
Priority	A defined housing related situation that necessitates a Household's relocation. The BHA gives points to Applicants with Priority that ranks those Applicants higher on the waiting list than Applicants without Priority. An Applicant can qualify for only one Priority at any given time. Certain priorities are given more points than others. Specific Priority definitions and point information can be found in Chapter 4 of this policy.
Qualified	An Applicant who is Eligible and has been approved for admission to BHA housing after meeting all requirements of the BHA Screening Policy.
Qualified Healthcare Provider	A medical or rehabilitation professional or expert, OR non-medical service agency whose function is to provide services to the disabled.
Rapid Re-Housing Assistance	The provision of housing relocation and stabilization services and short and/or medium term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing
Reasonable Accommodation	A change or modification to BHA rules, policies, practices, or services or a Reasonable Structural Modification when such a change is reasonable and necessary on account of a person's disability to afford the person the ability to use and enjoy a BHA apartment or common areas, provided that the change does not pose an undue financial or

administrative burden, or result in a fundamental alteration of BHA program.

Reasonable Modification

A change to a BHA apartment or to a common area which is reasonable and necessary on account of a person's disability to afford the person the ability to use and enjoy BHA premises and which does not pose an undue financial and administrative burden or result in a fundamental alteration of BHA program.

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Resident

A Family that has been admitted to the housing authority's program and is currently assisted in the program. A Resident will also include those persons, which the BHA has an obligation to offer Continued Assistance. The Family becomes a Resident on the effective date of the first day of initial Lease.

Resident in Good Standing

A Resident who has not violated any terms of their lease in the prior year is a Resident in good standing. If a Resident has violated the term of their lease but the violation has been resolved by agreement between the Resident and the BHA or another PHA, and, if applicable, the Resident has honored the terms of the agreement for the prior year, then the Resident is in good standing. If a determination is pending, the Resident will be considered "in good standing" pending the final decision or resolution of any pending proposed violation of the term of their lease..

Residual Tenancy Applicant

An existing Household Member ((Federal Program:Except a Personal Care Attendant or Live-in Aide; State Program a PCA may qualify as outlined under 760CMR), or, (except a Personal Care Attendant or Live-in Aide), or an adult (if all other Household Members in the apartment are minors or incapacitated adults), willing to assume guardianship where appropriate of an apartment where the Head and Co-Head of Household vacates or becomes incapacitated.

Residual Tenant	A remaining Household Member, (Federal Program), ~~fe~~ Except a Personal Care Attendant or Live-in Aide; State Program a PCA may qualify as outlined under 760CMR), or an adult (if all other Household Members in the apartment are minors or incapacitated adults) who has been approved under this policy to remain a BHA resident.
Non-Smoking	A designation whereby smoking is prohibited inside an apartment or building (including common areas) and within a defined distance of the building.
State-Aided Housing	A low-rent housing development aided or financed by loans and/or annual contributions from EOHLC , ~~DHCD~~ .
Temporary Housing	(or Temporarily Housed) - A person or family shall be considered temporarily housed if they have not entered into a tenancy. For this purpose a tenancy will be taken to mean an agreement (written or verbal) by which an individual or family occupies the real property (house or apartment) of another with permission and subject to a rental fee.
Tenant Status Review (TSR) Recertification	The process and the document used to complete the required ~~annual~~ reexamination of all BHA residents.
Transitional Housing Assistance	As defined by the Department of Housing and Urban Development (HUD), Transitional housing means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children
Transitional Housing Assistance	As defined by the Department of Housing and Community Development's (DHCD) statutory regulations for the state funded properties.
Unauthorized Occupants	Individuals or families who are staying in an apartment leased by a BHA resident who: (a) have not been approved in writing by the BHA as additions to the Household; (b) have applied but

	have not yet been approved by the BHA as additions to the Household; (c) are staying beyond the limits established in the lease for temporary visitors.
Under-housed	A condition of occupancy where too many people reside in an apartment according to BHA standards for occupancy.
Uniform Federal Accessibility Standards	Standards for the design, construction, and alteration of publicly owned residential structures to ensure that mobility and/or sensory impaired persons will have ready access to and use of such structures.
Use and Occupancy Agreement	A temporary agreement between BHA and the occupant of a BHA apartment whereby the occupant is entitled to use and occupy the apartment under specified conditions but is not entitled to reside as a tenant under a BHA lease or otherwise.
Utilities	Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, and sewerage services. Telephone service, laundry, and cable service are not included as utilities.
Vacancy Action Form	Document by which BHA staff report the status of a vacated apartment (see Section 6.2.3 for status categories).
Vacate Date	The date on which a tenant vacates, abandonment proceedings are concluded; or the tenant is evicted.
Veteran	Anyone who is a veteran as defined in M.G.L. c4, § 7, clause 43. The word "Veteran" as used in these policies shall include the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.
Veterans' Preference	A Preference that is given to Veterans, as defined above, when applying for BHA housing.

Comments and Responses to the BHA Federal Five-Year (April 2025-March 2030) and Annual Plan (April 2025 through March 2026).

The following document contains the comments and responses received on the BHA's Federal FY 2025-2029 Five-Year and FY 2025 Annual Plan. BHA staff met with the Resident Advisory Board from September through December discussing the Plan process and documents and sent copies of the Plans to the RAB and Local Tenant Organizations. The Plans were put out for public comment on November 1, 2024 and the comment period closed on December 15, 2024 with a virtual public hearing held on zoom December 9, 2024 at 11 am and in-person hearing at 6 PM the same day at Boston City Hall. BHA also hosted an event November 9th to gather the community together and share the draft Five-Year Plan and discuss the future of the BHA that included a presentation by the Administrator along with more than a dozen resource tables.

The BHA took several steps to notify the public of the Federal Plans and the opportunity to comment. The BHA placed an advertisement in the Boston Globe, included a notice with the rent statement of public housing residents, requested mixed finance partners to share the same notice with their BHA ACC-subsidized tenants, sent a mailing to Leased Housing participants in Boston and nearby towns notifying them of the Public Hearing. The BHA also sent letters to many local officials and advocacy groups. The Plan was made available for review at Boston Public Library Copley Square branch, BHA's headquarters at 52 Chauncy St., and on its website www.bostonhousing.org.

Many comments are specific to Plan attachments. Comments on the Five-year Plan are grouped together:

AP: Annual Plan template

S: Supplement

Administration

Comment: Pine Street Inn, Inc. (PSI) is pleased to comment on the Boston Housing Authority (BHA) FY2025 Annual Housing Plan.

For over 30 years, Pine Street Inn has partnered with the Boston Housing Authority to provide affordable, supportive housing for persons experiencing homelessness. Since its inception in 1969, Pine Street Inn has served persons in Greater Boston experiencing homelessness through various responsive, community-based programs and services. PSI is the largest nonprofit homeless services agency in New England. PSI provides food, clothing, shelter, day and night-time street-based outreach, access to health care, job training, affordable housing, and other critical resources for over 2,000 individuals each day and night at its 45 locations throughout Metropolitan Boston.

Pine Street Inn's mission is to end homelessness by making permanent housing a reality for all.

Pine Street Inn has successfully developed and operated affordable, permanent housing for individuals experiencing homelessness and various other hardships for over 50 years. Pine Street Inn has designed housing and housing-based services for persons with disabilities, including mental illness, HIV/AIDS, chronic substance use disorder, dual diagnosis, and mobility limitations. Units meet the complex needs of the hardest-to-serve homeless individuals. With 1,100 units of permanent supportive housing in the portfolio, PSI is a prominent provider in Boston's homeless services Continuum of Care (CoC). PSI also participates in the Consolidated Plan as a developer and provider of affordable supportive housing and street outreach and is pleased to see the BHA's commitment to the Consolidated Plan. This commitment will enhance the BHA's community partnerships, including PSI's Street Homeless Housing project, which provides supportive services to formerly homeless individuals who now reside in BHA housing.

PSI enthusiastically supports the Boston Housing Authority FY2025 Annual Plan. Among its impactful policies are the BHA's plans to increase the number of project-based vouchers and to convert tenant-based assistance to project-based assistance. With more than 4,000 project-based units under contract with the BHA by the end of 2024, PSI is pleased that the BHA will continue to provide essential opportunities and funding to support homeless individuals. With homelessness surging in the City of Boston, these plans provide needed additional resources to address the homelessness crisis.

PSI also commends the BHA for continuing to include homeless individuals as priority and preference populations. The Boston Housing Authority is one of only a few, if not the only, Housing Authority in Massachusetts with this priority admissions preference. This preference is critical in permanently housing our most vulnerable constituents. In order to better support individuals experiencing homelessness, PSI urges the BHA to adopt HUD's definition of homelessness. As it currently stands, the BHA's definition does not include individuals exiting an institution where they temporarily resided, such as a correctional or medical facility. HUD's definition of homelessness expands upon the BHA's definition, and its use will create consistency between housing programs in the City, as well as allow the BHA to serve more individuals experiencing homelessness.

Additionally, PSI appreciates the BHA's efforts to identify the need for one-bedroom permanent housing units and to use Small Area Fair Market Rents (SAFMRs) to reduce artificial rent inflation. These policies will expand housing options for the extremely low-income tenants PSI serves, giving them access to previously unaffordable areas. PSI requests that the BHA include SAFMRs in all project-based voucher programs to make this opportunity available for a greater number of tenants and to encourage property owners to collaborate with the BHA.

Pine Street Inn is grateful for and appreciative of our ongoing collaboration with the Boston Housing Authority. We hope to continue this collaboration by housing individuals with BHA vouchers in PSI units, including those with mitigation vouchers.

Additionally, we aim to facilitate information sharing between tenants, the BHA, and PSI in order to help tenants retain housing. With the BHA's support, PSI will soon open a new affordable housing facility at 900 Morrissey Boulevard.

BHA's 16,651 vouchers are crucial to the availability of affordable housing in Boston. The BHA's knowledgeable staff, essential services, and informed guidance are invaluable. We pledge to work together in partnership with the Boston Housing Authority to preserve, create, and provide access to affordable housing for people experiencing homelessness.

Response: We appreciated the positive comments and the continued partnership with Pine Street Inn.

Comment: S. p.3--Number of eligible households in Boston increased by 14,000 to 139,000, and 2024 draft Con Plan and Community Survey added as sources of data. Does BHA/City know when draft Con Plan will move from "draft" to final?

Response: BHA staff were informed by City staff that the approved version has been posted by the end of December 2024.

Comment: S. p. 9—this discusses increasing employment and training of targeted Section 3 workforce and expand M/WBE contracting and subcontracting opportunities, including through Project Labor Agreement mechanisms. Is this discussed further elsewhere in the Plan in terms of what new efforts BHA is making? If not, that should be detailed.

Response: Please see Five Year Plan goal on creating economic opportunity.

Comment: S. (also Capital) B.2.25, Other Capital Grant Programs (p. 91)
BHA says that there are no changes here (p. 1), and the text summarizes grants that were received from other sources in 2023 (such as for work at Ausonia, McCormack, or ARPA healthy homes or housing hazard money). As with other statements of financial resources, this should be double checked, and if there is anything else that has been received or anticipated for receipt beyond regular HUD public housing capital grant sources, this should be updated.

Response: The information in the table is accurate.

Comment: (Administration / Human Resources)S. B.2.26, Organizational Chart (p. 92)
This has been updated, and as in the past, this is a very important document for the RAB and residents to help navigate who is responsible for what at the BHA and how supervision works. There are a number of changes (including some important vacancies that need to be filled). The RAB may want to go over this at a future meeting with BHA staff. It would be helpful for the RAB and resident leaders to get periodic updates to this chart if there are changes, rather than having to wait for this until the next PHA Plan cycle. Can BHA do that?

Response: Yes, an updated Org Chart (outside the 5-year plan cycle) can be distributed upon written request to the HR Director.

Comment: AP. p. 1 – Note reduction of federal public housing units by roughly 500, and increase in Section 8 units by over 1,000, with net gain of over 600 units in comparison to last year's template.

Response: Thank you for the comment.

Comment: AP. p. 2, Section B.1 - As noted in comments on Supplement, BHA may want to revise this as to what portions of the Annual Plan have been changed and which have not. For example it is likely that the statement of Financial Resources is not identical to those for last year. Since the Limited English Proficiency Four Factor Analysis is now done and has been provided, BHA should update the statement about "will be available soon".

Response: The Annual Plan template has been updated to reflect sections that have or have not been revised.

Comment: AP. p. 2, Section B.3, Progress Reports, BHA has clarified that since it is submitting the next 5-Year Plan this year, it does not submit a progress report for the past year, and will instead submit Progress Reports in future years regarding the new 5-Year Plan. Nonetheless, it would be helpful to know how BHA ultimately did in meeting 5-year goals in the last Plan.

Response: Thank you for the comment. BHA staff meet throughout the year with the RAB and are available upon request to attend a Board meeting.

Admissions

Comment: Can you help me transfer my re-occupancy to help a fellow BHA housing tenant who is a US veteran?

Response: Thank you for your comment. Please contact the Transfer Process Coordinator by calling 617-988-4545 or the status line at 617-988-3400.

Comment: S. Pp. 3-6—No changes are noted in the waiting list figures (for Public Housing and Leased Housing). It would be helpful if BHA could show how any of these changed from last year's report. As has been noted in many RAB/GBLS comments in the past, there is a marked discrepancy between the number of Asian households on the Leased Housing waiting list and the Public Housing waiting list (1% versus 8%) and it's likely that this is due to Priority 1 playing a much larger role with Section 8 admissions and Priority 1 categories possibly not matching priority needs in the Asian

community (fewer households that are listed as homeless, and more that are severely overcrowded or doubled-up). BHA has promised in the past to study the priority categories and make adjustments. Where does this stand?

Response: BHA staff note the point and expect to continue the discussion as BHA moves forward with work on affirmatively furthering fair housing.

Comment: S. p. 8—Strategy to Target Available Assistance to Families with Incomes at or Below 50% of Area Median—this is revised to eliminate the Home Base Program, and to add an additional title (Living Well at Home) to several existing programs. BHA should explain why the HomeBase program was removed.

Response: This is a cleanup following the expiration of our partnership with MHB in 2017.

Comment: S. On pp. 14-15, for Public Housing Admissions, BHA revised the elder/disabled preference language for such single persons over other single persons. This is also captured in ACOP revisions.

Response: Thank you for your comment.

Comment: S. On p. 20, for Leased Housing Admissions, the Priority 1 list is revised to include applicants (i) with mental and/or physical disabilities exiting institutions or who are at serious risk of institutionalization, (ii) who are referred by partnering homeless service organization or consortia of homeless service organizations, or (iii) who are homeless in or displaced from Boston twelve (12) months or longer as defined in the plan. This is not new under the Admin Plan but these additional groups weren't fully listed in the prior PHA Plan description.

Response: Thank you for your comment.

Comment: S. On p. 22, for Leased Housing Admissions, the preference point chart is revised to also capture preference points for former Section 8 Mod Rehab participants who were converted to Section 8 Project Based Vouchers under the Rental Assistance Demonstration (RAD) program.

Response: Thank you for your comment.

Comment: S. B.2.20, Occupancy by Over-Income Families (p. 84)
There are no changes proposed here (p. 1), and BHA included an Over-Income Public Housing policy a few years ago and subsequently updated it as required by HOTMA. Note that the Over-Income policy for Public Housing has longer transition periods than the Leased Housing program (where tenants are only given 6 months of zero subsidy status before they will be removed from the program).

Response: Thank you for your comment.

Comment: S. B.2.21, Occupancy by Police Officers (p. 84) There are no changes proposed here (p. 1), and unlike other parts of the country, while the option is open under the ACOP, there are no public housing units occupied by police officers.

Response: Thank you for your comment.

Admissions including ACOP

Comment: In General - As BHA mentions at beginning and with reference to Chapter 9, certain terms have been replaced by others. The Executive Office of Housing & Livable Communities (EOHLC) is now the new State housing agency, in place of the Department of Housing and Community Development (DHCD). And the old term “Tenant Status Review (TSR)” is replaced by “recertification”.

4.4.2 (pp. 26-27) In the Priorities and Preferences charts, additional points were added to the Administrative Transfer category (boosting it from 50 to 175), word “Applicants” added after “Super Priority” to make this clearer, Priority 1 categories were deleted (as they are listed elsewhere), and chart reordered to match how points are ranked. Does the underlining of “Veteran” mean this is a new preference for the Federal program—thought this was already the case?

Response: No, this is not a new preference.

Comment: 4.5.3 (p. 29) In addition to Super Priority Applicants, Super Priority can apply to Participants who are in good standing, such as those who are in the Section 8 PBV program who are in wrong-sized units or who do not require the accessibility features of a unit and there are others who do. It would be helpful, for reviewers, to have the portion of the ACOP that defines “Participant” so it’s clearer about what this means (i.e., that Section 8 PBV participants can be switched to a public housing unit) and “in good standing” (for example, if a Section 8 PBV participant is on a repayment agreement and is honoring that agreement, is the person in good standing). Does Super Priority for Participants solely apply to PBV (as in the specific examples included in the text), or could it apply to a regular HCVP, MRVP, or City Voucher Participant? What about situations where all of the units in a PBV development have certain accessibility features (such as elevators)--should avoid a situation where a PBV participant is displaced due to not having needs for accessible unit where the situation is no different from anyone else in the building.

Response: Thank you for your comment. We agree that it would be helpful to define both “participant” and “participant in good standing.” We have added these definitions in response to this comment. For details, see Chapter 11: Definition. The ACOP will define “participant” and “participants in good standing” in the context of federal and state public housing, while the Admin Plan includes definitions for Section 8 participants and

participants in good standing. Additionally, the super priority for PBV families residing in a PBV unit, where the BHA determined that the family is occupying the wrong size unit, applies only to PBV participants. This does not include HCVP, MRVP or City Voucher participants.

Decisions about unit assignment and accessibility features are made based on a variety of factors, including individual needs, available resources and overall unit accessibility. BHA will not unnecessarily displace a household without finding alternative suitable replacement housing.

Comment: 4.6 (p. 38) The word “Admissions” is added before “Preferences” and the overall text is revamped to clarify how Preferences are applied within Priority categories to those on all open waiting lists, to clarify this section.

Response: Thank you for your comment.

Comment: 4.6.1 (pp. 38-40) BHA has revised the language on how elder and non-elderly disabled preferences work within federal and state elderly/disabled developments, consistent with EOHLC regulations, and has removed the veterans preference language here (it is discussed later). There is no change in how the federal Designated Housing Plan (or for State units, EOHLC regulations) operate aside from incorporating EOHLC changes.

Response: Thank you for your comment.

Comment: 4.6.2 (pp. 40-41) The single elderly/disabled preference is revised to make clear that it does not apply to someone who is pregnant or is in the process of obtaining custody of a minor (such persons will not be considered single persons for the purpose of this preference).

Response: Thank you for your comment.

Comment: 4.6.3 (pp. 41-43) The Veterans Preference is found here (and, as noted, deleted from its earlier placement), and the Elderly/Disabled Designated Housing Preference that was here is deleted (and moved to 4.6.1). Note that consistent with the HERO Act, EOHLC has recently revised its Veterans Preference, and it may be that different preferences would apply to the State and Federal programs. BHA should review this and advise the RAB/public if any further tweaks are needed here to conform to these recent changes.

Response: Thank you for your comment. BHA has reviewed, no additional edits are necessary at this time.

Comment: 4.6.4 (pp. 43-44) Language has been removed from the Displaced Boston resident preference to remove the requirement that the applicant show that the Boston residence was the last permanent placement. It would be helpful for BHA to explain

why this change was made, since most displacement preferences, following on the old “federal preference” model from the 1990’s, provide that preference can be lost if the person subsequently obtains standard permanent replacement housing (even if that housing ultimately turns out to be unaffordable or unstable). BHA has also expanded the list of verifications that can be used to show this status, which is helpful.

Response: BHA removed this language because we were not capturing households originally displaced from a unit in Boston who later had to relocate outside of Boston due to their circumstances.

Comment: 5.3.5 (pp. 54-55) The language on verification of student status is revised, so the existing language is limited to the federal program, and for the State program, recent EOHLC revisions are incorporated that expand eligibility to students that are at least half-time.

Response: Thank you for your comment.

Comment: 5.4 (p. 60) Language is added prior to 5.4.1 to make clear that for the State program, the following list of acceptable verifications is not exclusive, and other forms of verifications may be acceptable as provided in EOHLC regulations. This change wasn’t noted in the summary of changes.

Response: Thank you for your comment.

Comment: 5.4.1 (p. 60) Language is added that for the federal program, BHA will ask for the two most recent and consecutive pay records, and for the state program, BHA will require tax reporting forms. The 2 paystubs change is welcome, and the State change is required by EOHLC. BHA may want to consider, if in any site it (rather than a Mixed Finance partner) is administering LIHTC along with federal public housing subsidy, including similar ACOP language on tax reporting forms, so that it is not necessary to do this twice.

Response: Thank you for your comment.

Comment: 5.4.4 (pp. 60-61) Language is added distinguishing what’s required for federal and state programs and adding EOHLC required language for State programs (regarding use of tax reporting documents to verify business income).

Response: Thank you for your comment.

Comment: 5.4.5 (p. 61) For households reporting zero income, BHA has revised the language to mandate always providing a budget or explanatory statement, but has left this as something that may be required. The language is clarified so that sources of regular cash expenditures for the household are counted as income. It may be helpful, either in the ACOP or in other internal guidance, to distinguish between situations where contributions are “sporadic” (such as gifts or occasional contributions from family or

friends) and non-countable from what would be considered “regular” and countable. As provided in prior HUD guidance, it is also important for families to understand that the counting of regular contributions is not evaded where the contributions are indirect (for example, regular purchases of groceries, or regular paying for cable or internet).

Response: Thank you for your comment. BHA will work with staff at regular meetings to discuss and decipher examples of sporadic and regular income.

Comment: 5.4.7 (p. 61) Verification of assets is revised so that only one statement of assets is required, as opposed to prior language that required two statements. BHA should, here or in the HOTMA Appendix (see below), identify if there may be additional changes regarding asset verification that it is required to, or may as a matter of discretion, adopt consistent with HOTMA changes once there is a HOTMA implementation date.

Response: Thank you for your comment.

Comment: 5.4.9 (pp. 62-63) BHA caught a couple of typos in the existing text here, both in the title (a missing “of”) and in the text (deleted a “not”). This was not noted in the summary of changes, but these are fine.

Response: Thank you for your comment.

Comment: 5.6.1 (pp. 70-71) The language is revised so existing language is limited to the federal program, and EOHLC language is added for the different requirements for State programs and Live-In Aides/Personal Care Attendants (PCAs) as required by EOHLC revised regulations.

Response: Thank you for your comment.

Comment: 5.6.2 (pp. 71-72) This is revamped to strike certain language that previously conditioned approval of live-in aides or PCAs for all programs, and to then have a separate subsection where the federal program imposes additional requirements that are no longer applicable to the State program (given EOHLC revised regulations).

Response: Thank you for your comment.

Comment: 6.1.3 (pp. 74-76) This is a very important change and is worth discussion with the RAB and residents so that they fully understand it. Moreover, the use of the term “participants” may throw people since they may think it means HCVP, PBV, MRVP, or City Voucher participants, but as I understand it, this is a term that would also apply to existing federal public housing tenant households. It is also not clear, for the new language (where revised occupancy standards will be applied to new applicants and to those who don’t already have approved transfers), if it is just for the federal programs—that’s likely the intent, but BHA should clarify this. See also GBLS’ subsequent inquiry

about how the changed standards will affect size qualification determinations for those who already identified transfer needs but who do not yet have an active transfer. BHA has had different occupancy standards for its public housing and Section 8 programs for a long time. This typically has meant that public housing applicants would be assigned to a larger bedroom size than would be the case than if they were assigned, say, to a PBV unit. The purpose of this change would be that the Section 8 standards would be adopted across the Board—but this would only impact existing federal public housing households if they are being transferred (with an approved transfer date after a particular implementation date—not clear when that would be). Otherwise, the existing public housing occupancy standards would continue to be applied to them.

This issue has arisen, for example, in the discussion of modernization transfers at the Mildred C. Hailey Apartments. BHA has indicated that when modernization is completed, the revamped apartment will continue to be public housing for a while, and then after a period of time (18-24 months), will be converted to the Section 8 PBV program. However, if the public housing occupancy standard did not change, such households, if they were wrong-sized under Section 8, could potentially be required to relocate a second time. Use of the revised occupancy standard (as a public housing standard) at the time of the relocation transfer back to a revamped apartment would avoid doing two moves, and could make sure that the “right-sized” move is covered under BHA-covered relocation expenses. GBLS favors this approach to minimize moves as hardship, but we understand that this is a much bigger issue for residents and is worth a full airing and explanation by BHA staff.

Response: Thank you for your comment. We originally used “participant” but upon review, we agree that “resident” is the correct terminology in the ACOP. The ACOP now clearly defines “resident” in the context of federal and state public housing. The new occupancy standard will be implemented effective 4/1/25 and will apply to all Federal Public Housing applicants and residents at their lease effective dates. For transfers and new admissions approved prior to 4/1/2025, the old occupancy standard will remain in effect.

Comment: 8.1 (pp. 94-95) A new subsection (E) is added to the Residual Tenancy policy for the State program, following revised EOHLC regulations which permit, in certain circumstances, PCAs to be considered for residual tenancy even if their income had not been included in household income for rent determination purposes previously.

Response: Thank you for your comment.

Comment: 8.5 (pp. 95-96) Existing language on limitations on the Residual Tenancy policy is now prefaced by the qualification that this is for the federal program, and there is a separate paragraph about the state program, following revised EOHLC regs. BHA should remove the “(e)” before the paragraph describing the state program (that was likely an inadvertent carryover from Section 8.1).

Response: Thanks for flagging this. BHA removed the (e) as described above.

Comment: 9.1.1 (p. 97) This paragraph about the lease is now separated into separate subsections for the federal and state program. The paragraph on the federal program likely should eliminate the reference to EOHLC regulations, since those would not apply to the federal program, although BHA might decide, on its own, to include language from the state program in the federal lease which otherwise did not conflict with federal requirements. BHA has for a long time sought to have one consolidated lease and grievance procedure that it could use for both federal and state programs, and has previously obtained waivers from EOHLC and HUD to do this.

Response: Thank you for your comment. Removed the reference to EOHLC on the Federal side as flagged above.

Comment: 9.1.2 (p. 98) Regarding the length of the state lease, BHA has removed language that might qualify the continuous nature of the lease, and instead has substituted reference to EOHLC regulations and the lease as mandated or approved by EOHLC. (EOHLC does not have the requirement, mandated by HUD for the federal Community Service requirement, that leases have a one-year term and might not renew if tenants are out of compliance with Community Services obligations.)

Response: Thank you for your comment.

Comment: 9.1.3 (p. 99) This looks like it is missing a designation of a subsection (e)--it goes from (d) to (f). New language is added based on EOHLC regulations for additions to the household for State public housing (including that income is within continued participation limits and the unit is of the right size for the reconfigured household. There may be a question of what process should be followed if addition of household members would require transfer to a larger unit, particularly if these are additions to the household due to birth, adoption, or court-awarded custody of a minor, given federal fair housing familial status requirements. Subsection (f) makes clear that there will be screening of persons age 10 and older for State public housing, and of persons age 14 and older for Federal public housing. In addition, language is deleted that would limit the ability to change the head of household to ones where the head of household is elderly or disabled. This change is welcomed, since the prior language was too restrictive, and there may be a range of reasons why a family might ask to change the head of household (such as the former head being away from the apartment for prolonged periods for employment, military service, or the like).

Response: Thank you for your comment. Corrected the lettering. Agreed prior language on changing the head was previously too restrictive. Transfers to larger units based on family composition will be addressed by the transfer policy and depend on unit availability.

Comment: 9.1.4 (pp. 100-101) Subsection (a) is revised to make clear that existing language is for the federal program, and to add new language for the state program, including a limitation in the state program to temporary visitors for 21 days. Subsection

(b), on Unauthorized Occupants, is similarly revised to provide for different guest/visitor limitations for the federal and state programs. GBLS would suggest a few changes here-- Change the heading to subsection (a) to not only cover removal of household members, but also temporary visitors.

Revise the description of the state limitations in subsection (a) so that, similar to the "unauthorized occupant" provision in (b), a longer period of stay for a temporary visitor can be approved by BHA staff for good cause (for example, an out-of-state visitor becomes ill during a stay and cannot return home within 21 days).

In both sections, provide that if there is a request for someone who was a temporary visitor to become a household member, the person can remain in occupancy pending screening and approval (but subject to inclusion of the proposed addition's income in the rent). (This could be done as a cross-reference to the section about the process for adding household members and the conditional right to continued occupancy of the proposed addition.)

Response: Thank you for your comments, revisions adopted.

Comment: 9.2.1 (p. 101) BHA has not proposed any change to the language on annual recertification. However, HOTMA and other statutory changes authorize dispensing with annual recertification in certain circumstances, such as where a resident is on flat rent or has a fixed income. It may be that BHA will be addressing this when it implements HOTMA changes, but it likely would want to cover that in its HOTMA Appendix.

Response: Thank you for your comment. BHA will address this.

Comment: 9.2.5 (p. 102) Consistent with what is discussed above in Section 5.4.5 (p. 61), this provides for BHA discretion regarding additional information for zero income cases, instead of mandating it in all cases, and eliminates the requirement to automatically reverify zero income status every 90 days. However, consistent with other ACOP language, the household would be required to promptly notify BHA of any change from zero income status. As discussed above, while regular contributions toward household income or coverage of household expenses by third parties are countable (this is not new), it would be helpful for BHA to provide some guidance since gifts or sporadic assistance would not be countable. Perhaps EOHLC's guidance on this can be used for both state and federal public housing for simplification

Response: Thank you for your comment. BHA will review HLC guidance on this subject and determine if it is appropriate to sync policies.

Comment: 9.2.7 (p. 102) Substitutes "When" for "Before" regarding giving of notice of rent change. This is helpful, as it clarifies that there is only one notice (as opposed to an advance notice), and the notice is effective as to the rent change.

Response: Thank you for your comment.

Comment: 9.2.8(b) (p. 103) There is very helpful language here for the federal program that says that if the tenant household hasn't clearly exercised an option between "flat rent" and income-based rent, as permitted in federal public housing, the lower of the two numbers will be the default option imposed, but the household can contact BHA promptly if this wouldn't have been its choice. This is a sensible approach and GBLS supports this.

Response: Thank you for your comment. We appreciate GBLS's support of this approach.

Comment: 9.3 (pp. 104-105) The interim recertification language is revised, for the State public housing program, to eliminate the special pandemic rules where rent could be adjusted downward to reflect the date of income loss, and to return to the prior rule where the effective date is the 1st month after information is provided justifying the adjustment (with some flexibility for circumstances where documentation is delayed). The state language also includes the provision for interim reporting of lump sum awards and one-time assessments based on such lump sums but adds language that interest could be charged on this amount if there is a delay in payment. This tracks EOHLC regulations.

Interim recertification is one of the areas that will change for the federal program due to HOTMA, and while BHA is not yet implementing HOTMA changes (because of HUD system delays), the HOTMA Appendix (below) discusses this. There should be further discussions about discretionary options on interim recertification and what BHA and its residents may favor.

Response: Thank you for your comment. The BHA is committed to a public process and discourse around changes that will affect how income and rent is determined.

Comment: 9.6 (pp. 112-113) BHA has not proposed a change here (to the Self-Sufficiency Income Exclusion). However, this is an area where HUD has made clear that BHA can no longer offer this for its federal public housing program (the state public housing self-sufficiency exclusion still exists but is far more limited). There may be households that qualified for the income exclusion prior to 2024 who would get the benefit of any months left to the disregard period that began before January 1, 2024. HUD has made clear that this change does NOT depend on its system changes for implementation. Therefore, it makes sense for BHA to make clear to its residents what the current rules are for the exclusion.

Response: Thank you for your comment. BHA will make clear the distinction between Self-sufficiency incentives are required under 24CFR 960.255 and the Earned Income Disallowance (EID) which HUD sun-setted on 1/1/24.

Comment: 9.7.4 (p. 117) The last paragraph is revised so that information about any exemption status for an adult family member under the federal Community Service requirement is contained in the notice of tenant rent share, rather than in a client worksheet. This reflects BHA's consolidation about how recertifications are handled

between Public Housing and Leased Housing operations, and the elimination of prior outmoded public housing terminology (such as “client worksheet” and “TSR”).

Response: Thank you for your comment.

Comment: 9.7.5 (pp. 117-118) Terms “BHA staff” and “recertification” are substituted for “Property Manager” and “tenant status review (TSR)” for Community Service Requirement compliance. The word “appointment” is also stricken (since recertification may not necessarily require an appointment, and the most important thing is getting in proper documents). “Annual” is used before recertification since Community Service compliance is reviewed on an annual basis. Note that in the strike-out, next to last paragraph, “us” was inadvertently deleted from the word “status” (and this use of “status” should be retained, since it’s not “tenant status review”).

Response: Thank you for your comment. Revised.

Comment: 9.7.6 (p. 118) As above, the reference to “Property Manager” is deleted and “BHA staff” substituted, since functions no longer limited to BHA property managers. It should be noted, however, that sometimes this function is carried on by private management companies under contract with BHA (and subject to BHA review and oversight).

Response: Thank you for your comment. Revised.

Comment: 9.7.7 (p. 119) As above, “BHA staff” and “recertifications” substituted for prior terms “Property Manager” and “Tenant Status Review (TSR)”. Here again, it may be helpful to clarify that the ACOP standards also apply to private management companies under contract to administer BHA public housing.

Response: Thank you for your comment. Revised.

Comment: Definitions (pp. 138-139) For both Residual Tenancy Applicant and Residual Tenant, the terms are redefined to make clear that for the State program, sometimes personal care attendants (PCAs) can qualify for residual tenancy as provided in EOHLC regulations. The term “TSR” is replaced with “recertification”, and any reference to “annual” review has been eliminated (since it may be that the review is more or less frequent than annually). As noted above, it may be helpful to have the existing definitions of “Participant”, “in good standing”, and “Veteran” available for reviewers, and the “Veteran” definition may need to be revised if required by recent EOHLC or state statutory changes.

Response: As stated above Participant and Participant in good standing are to be defined in the ACOP.

Comment: HOTMA Appendix (*This is not numbered, and not included in the Summary of Changes*) HUD has delayed the effective implementation date for HOTMA because

of some delays in setting up necessary reporting systems but has required PHAs to say what policies they intend to implement once there is an effective date. GBLS asked if residents/RAD needed to comment on BHA discretionary HOTMA policy changes at this time, or would have a separate opportunity to comment on these later (say as part of an mid-year PHA Plan Amendment). BHA is not sure what HUD will say. Note that BHA will retain its discretionary deduction of extraordinary medical expenses for all families (not limited to elderly/disabled families), but the change in the deduction threshold from expenses above 3% of annual income to those above 10% of annual income will be phased in for existing households, and will be implemented immediately for any new households (similar to how this is handled for elderly/disabled families). BHA hasn't addressed some other discretionary choices and GBLS/ is requesting a separate later opportunity for the RAB and residents to comment on the full set of HOTMA changes once an implementation date is set and BHA is in the process of making further revisions to its policies, leases, and procedures.

Response: Thank you for your comment.

Budget

Comment: S. On p. 24, and at the beginning of the summary of Supplement changes (p. 1), no changes are listed for this, but it is likely that the numbers for available anticipated resources in 2025-2026 are not identical to those in the prior PHA Plan Supplement, and BHA should look at this and revise as needed.

Response: The financial resources table was updated.

Comment: AP. p. 3, Section B.5, this says there were no findings to address from the latest audit. Can BHA provide the latest audit (as this is a supporting document)?

Response: See BHA website, Fiscal, Financial Information with the latest available and historical information.

Capital

Comment: S. B. 1.12 & B.1.13, Substantial Deviation and Significant Amendment (p. 65) BHA indicates on p. 1 that this has been revised, but the text does not show any updates (new language or strike-throughs), and that may be an error. BHA did have to revise this in past years to reflect RAD-related changes that HUD mandated.

Response: Please see referenced section text revision to non-emergency work items.

Comment: AP. p. 3, Section B.4, the approval date for the last rolling 5-year Capital Plan is revised from March 2023 to May 2024.

Response: Thank you for the comment.

Civil Rights

Comment: AP. p. 4, Section D.1, this refers to the latest Assessment of Fair Housing (AFH), and correctly notes that HUD has not yet required this as an element of PHA Plan submissions. A BHA staff member did share with the RAB, by email, a latest update to work on AFH recommendations, but there was no formal presentation to the RAB on this. It would be helpful to provide greater detail on what has been done so far and what steps BHA and the City expect to take on this in the coming year somewhere in the PHA Plan or in response to comments. This is particularly true given that AFH involvement is part of the RAB's mission.

Response: The 2024 AFFH Summary Report was provided to the RAB in early January 2025. BHA staff meet throughout the year with the RAB and are available upon request to attend a Board meeting or arrange a presentation.

Economic Mobility / Family Self-Sufficiency

Comment: Can you create an economic opportunity program initiative to help motivated lower income American citizens receive grants to serve those fellow BHA housing tenants who are marginalized? For example, with a financial grant budget of \$500,000 to \$1 million dollars, we can purchase a vacant land lot in the Commonwealth and pay general contractors to build a unique small business career development networking home center to help BHA housing tenants, lower income Americans and US veterans excel in entrepreneurship. All American housing tenants should be able to live in homes with heating access during anytime of season. Lower income Americans should be able to buy land, build desired homes and receive grants to equally participate in rural and urban community housing and mixed use land development.

Response: Thank you for the comment and proposal. While the BHA does not have discretionary funding for this purpose, BHA continues to partner with the City of Boston and other agencies on efforts to promote homeownership, entrepreneurship, and other advancement. The BHA seeks to pull levers that activate paths to self-sufficiency and economic mobility for BHA residents. Two examples of that are: (1) the First Home program where the BHA has leveraged City and federal resources to allow BHA more than 75 households to purchase homes in the past 2 years, and (2) the Family Self-

Sufficiency (FSS) program that builds assets for families as their earned income increases. The FSS program currently has more than 8 million dollars in shared escrow for the more than 1500 BHA households that participate.

BHA also strives to ensure that housing meets code requirements with respect to being heated and cooled appropriately.

Five-Year Plan

Comment: (Administration) p. 1, Section B.1. I believe this is the first time BHA has set out these 4 key principles for the agency, i.e.,

Public support for housing works: Boston, like most major cities, is facing a housing crisis. The BHA's publicly supported housing programs are longstanding anchors of affordability that must continuously evolve to meet the needs of the present and future.

We are people, not buildings: The BHA is not about buildings or vouchers. It's about people: those residents we support through our services, and the employees who, day in and day out, dedicate their lives to our mission.

There is no home without community: Community is at the center of everything we do. We don't just provide access to affordable housing; we foster diverse, healthy communities and improve quality of life for everyone.

We are essential to Boston: Our staff, residents, and partners are all part of a system that fosters the kind of city we want to live in: diverse, equitable, and inclusive.

These are all excellent. It may be helpful to have a formal process to present the thinking that went into these principles and to solicit any further resident/public feedback. This is not realistic within the current PHA Plan submission framework (limited time for discussion at RAB meetings and need to get information out about planned capital expenditures, changes in the ACOP and Admin Plan, etc.) but there may be space for it during the upcoming monthly RAB meetings.

Response: Thank you for the comment.

Comment: Under Lead With Customer Service, a. (Administration) p. 2, Section B.2. Under Lead With Customer Service, BHA indicates an intent to establish Authority-wide resident surveys which will help evaluate performance and improvements, with metrics both as to how many surveys were completed and how many residents agree that BHA is responsive. No timelines have been set for implementation of the survey for Public Housing and Leased Housing programs, nor how this will be incorporated within Mixed Finance housing. When will report backs be provided, and will residents, RAB, LTOs, and BHA Monitoring Committee be among those who get these reports?

Response: The BHA plans to launch an updated resident wide survey in 2025. BHA staff presented a draft survey to the RAB in 2024 and plans to provide an update to the RAB in early 2025. BHA will review and share summary level survey findings on an annual basis.

Comment: Under Lead With Customer Service, b. (Communications) On website design and accessibility, in addition to being ADA compliant, the website should also be readable by most residents (in plain/simple English) and be clear regarding how limited English proficient households obtain translation and interpretation.

Response: BHA is currently engaged in reviewing the BHA website's accessibility components and will be implementing some improvements in this area. As part of that effort, we will also look at readability and translation information. The BHA website is connected to google translate, which is available for all text sections, as well.

Comment: Under Lead With Customer Service, c. (Customer Service) On customer service training (and related metrics on % of staff who've completed training and residents who respond to survey that they received quality customer service), what is the anticipated timeframe to start trainings and to have done a first round of training Authority-wide? Would it make sense to merge this and the next item (staff training to increase familiarity with policies and procedures & cultural competency), so that scheduling, etc., can be synchronized? Should those with expertise outside the BHA on issues of customer service & cultural competency be drawn into this?

Response: All things considered, Summer 2025 will be the best time to launch the first in a series of training sessions to improve and enhance resident and potential residents' experience whenever interfacing with BHA employees. This includes the experience BHA provides in person, over the phone, and all email correspondence. There will be several rounds of training (smaller groups perhaps with customized materials) and the goal is to have cycled through every department at least once by the end of 2025. BHA staff will seek to synchronize additional training sessions, such as cultural competencies, policy and procedure, etc. during the same time period. Customer Service staff believe we will need outside help for certain pieces of staff training, especially around specific and sensitive topics such as cultural competency.

Comment: Under Lead With Customer Service, d. (Admissions) On reducing applicant time in the screening process, what is the current average? Inclusion of the 30-day metric will be helpful to track improvements. If there are separate standards for screening of proposed additions to the household, these should be added.

Response: Thank you for your comment. Currently, the average time applicant screening is 60 days. We appreciate your suggestion about tracking improvements, and we will indeed focus on the 30-day metric moving forward. Additionally, we recognize the importance of having separate standard for screening proposed additions to households, including PCA and residuals. We are committed to reducing these screening times to no more than 30 days to enhance efficiency and responsiveness.

Comment: Under Lead With Customer Service, e. (Operations/Inspections) On the goal of closing 95% of resident-initiated non-emergency work orders within 60 days, GBLS would recommend that BHA be more ambitious to resolve these within 30 days. Such a goal would be closer to Sanitary Code and NSPIRE standards.

Response: BHA agrees that 30-days should be the standard. Ensuring that 95% are closed within the 60 days is an incremental goal BHA is seeking to ultimately achieve the 30 day mark excluding any repairs that are delayed for reasons outside of the BHA's control.

Comment: Invest in high quality maintenance, management, and inspection a. (Operations) On p. 3, under Invest in high quality maintenance, management, and inspection, regarding maintaining & tracking 97% occupancy rate, GBLS would ask that BHA report on this not only at the Authority-wide level, but also at each development, so if there are particular problems at particular sites, these can be readily identified and site-specific strategies adopted.

Response: Thank you for your comment. BHA wide occupancy rate tracking is available through HUD's website dashboard:
https://www.hud.gov/program_offices/public_indian_housing/programs/ph/PH_Dashboard

Comment: Invest in high quality maintenance, management, and inspection b. (Leased Housing) Under Section 8 Management Assessment Program (SEMAP) High Performer status, BHA should justifiably be proud that it has maintained this status for quite a few years and should keep it up.

Response: Thank you for your comment.

Comment: Invest in high quality maintenance, management, and inspection c. (Operations / Inspections) Under Public Housing Inspections, in addition to arranging for 100% of units to be inspected annually, the turn-around time on non-emergency work orders should also be 30 days, rather than 60 days (see comment above on resident-initiated work orders, and n. 1).

Response: Thank you for your comment. The BHA's incremental goal is to ensure that all work orders are closed within 60 days, which it hopes to achieve by the end of 2025. Ultimately, the BHA seeks to have all work order closed within 30 days, with some exceptions for work that may take longer to complete due to delays in receiving supplies or other vendor delays.

Comment: Invest in high quality maintenance, management, and inspection d. (Administration) Under Implement Resident Service Plans for 8 BHA elderly/disabled sites, why over the 5-year period will only 5 sites get these plans? Should there be a more ambitious goal? If BHA resources will not permit Resident Service Plans for all developments, how will BHA decide which sites get these plans? What will be the schedule for implementing the plans over the course of the 5-year period?

Response: Thank you for this comment. The BHA is working to standardize resident services across BHA communities to ensure consistent service delivery and resident

support. Given current funding constraints and the depth of need, the BHA plans to gradually roll out more formal resident service plans that are tailored to the needs and priorities of BHA elderly/disabled communities as developments undergo conversion to project based section 8 that provide additional resources that can be used to strengthen resident services. The BHA will continue existing partnerships related to resident services and continue to pursue grant funded opportunities to provide enhanced resident services at our communities.

Comment: Invest in high quality maintenance, management, and inspection e. (Civil Rights / Administration / RED) Under Monitor and Enforce Fair Housing Obligations, what are the fair housing obligations that need to be carried over for the various programs? Since BHA and the City have not yet finalized the Assessment of Fair Housing (AFH), will there be some delay in determining this, and if so, what's the likely schedule for determining the protocols and monitoring and compliance mechanisms? How does BHA intend to monitor/enforce these within Mixed Finance sites—do existing contracts or performance measures need to be modified?

Response: BHA has formed a working group to address monitoring fair housing compliance at Mixed Finance sites and throughout various programs.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff a. (Administration/Procurement) On pp. 3-4, under Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff, the first item discusses improving Section 3 outcomes both for hiring and for pre-apprenticeship. It would be good to get a lot more detail on this, since it has been difficult to increase Section 3 participation, and this may require long-term engagement with unions and with individual residents over prolonged periods to identify and address barriers to resident participation in available workforce positions.

Response: The BHA is working on multiple strategies to increase resident opportunities including Section 3 hiring. Increased partnership with union pre-apprenticeship programs is one of the above. The BHA's tenant coordinator work, used in concert with construction and energy project, has been a reliable way of supporting public housing and Section 8 employment. The BHA sees additional opportunities in areas like internet access expansion and education for Section 3 employment.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff b. (Economic Mobility / First Home) Under Support 120 new BHA homebuyers, would this mean the creation of 120 new homebuyers over the next 5 years (i.e., roughly 24 per year), or would this be support to new homebuyers that have already been generated by BHA over the past 5 year period?

Response: Thank you for this comment. The BHA plans to support 120 new homebuyers during the 5 Year Plan period. The BHA is also exploring supports for new homebuyers who purchased during the past 5 year period.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff c. (Leased Housing / Economic Mobility / ECHO) Similarly, under Support 100 families who wish to relocate to Expanded Choice Communities, would this be a net increase of 100 households over those already doing this? Some explanation of what the Expanded Choice Communities are would be helpful. Tracking the metric of successful relocation is helpful, but it would be good to include statistics for families that tried to pursue these options but were not successful, and what the barriers were to success.

Response: ECHO+ (Expanding Choice in Housing Opportunities Plus), is a program designed to help improve the housing search process for program eligible Boston Housing Authority families in Boston and Greater Boston. As a program that also provides customized information on communities and affordable housing, ECHO+ helps overcome common barriers that Housing Choice Voucher families often face.

Commenter can find more info here: [https://www.bostonhousing.org/en/For-Section-8-Leased-Housing/Voucher-Programs/Expanding-Choice-in-Housing-Opportunities-\(ECHO\).aspx](https://www.bostonhousing.org/en/For-Section-8-Leased-Housing/Voucher-Programs/Expanding-Choice-in-Housing-Opportunities-(ECHO).aspx). In terms of supporting 100 families that wish to relocate to Expanded Choice Communities, BHA would only count the people who used ECHO services as opposed to naturally occurring participants moving.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff d. (Operations) Under FSS enrollment of 2,000 families, again, it would be important to know how much of this would be adding households versus maintaining households. From other material in the PHA Plan supplement, it appears that there are about 1,450 FSS households (with all but about 100 in the Leased Housing program), and so the goal would be to increase capacity by a bit over 500 participants and to maintain that as FSS families successfully graduate and are replaced by new families on the FSS waiting list. BHA should track progress here separately for Leased Housing and Public Housing, and it may be helpful to have site-specific tracking where particular FSS initiatives have been adopted (and particularly as new public housing developments are added to FSS, since so far this has been very limited). Should “FSS and participants” just be “FSS participants? In addition to the total amount in escrow, would having an escrow average report help? What is Boston Saves, and what is a realistic participation goal for this—is this separate from FSS participation (i.e., could people be in Boston Saves but not be in FSS, or is this a subclass of the FSS participant group)

Response: Thank you for your comments on FSS which staff will take under advisement. Regarding Boston Saves it is the City of Boston Children's Savings Account Program that gives each K2 student in Boston Public Schools an account with \$50. The money in this account can be used when your child graduates high school, for college or job training costs. For this special opportunity, BHA is partnering with Boston Saves to provide BPS students in BHA housing an additional \$500 for their Boston Saves accounts. Five hundred students will be selected by lottery to receive the stipend; all other eligible students will be placed on a waitlist and be entered into a lottery if more funding becomes available.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff e. (Administration) Under Increase resident participation in Workforce development/Self Sufficiency sessions by 50%, some likely collaborations (such as with Charlestown Adult Education and Northeastern), are flagged, but YouhBuild should also be included. Moreover, BHA should include a goal to get Northeastern to open up its program to Leased Housing as well as Public Housing participants. This is particularly important as the Northeastern program was originally targeted to Mission Main, and all residents there now have RAD/PBV assistance, rather than public housing, and subsidy conversion is the path for the future for many family public housing sites. BHA should also explore what other higher education programs may be good partnerships, including community colleges.

Response: BHA will take this comment under advisement.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff f. (Digital Literacy) For digital literacy (and the goal of hosting 100 classes where at least 95% of participants achieve at least one training goal), this is likely a longer discussion, since it is not clear what support will exist from what sources over the next 5 years for digital literacy and what collaborations (with BPS, BPL, adult ed and ESL programs, etc.) and delivery models may be best in light of this. In addition, it is not clear what common training goals would be, and whether BHA hosting the classes is the best way to ensure that a large number of BHA families are gaining digital literacy (or that such attainments are getting measured).

Response: BHA is exploring options to continue funding digital literacy programs over the next 5 years, including with support from external community partners and the City of Boston. Our delivery model includes two BHA Digital Equity Coordinators providing digital literacy instruction, recruiting and training BHA residents, local college students and other community members to serve as digital navigators. BHA digital equity staff measures and evaluates participants' goals and skill attainments through pre-and post-class surveys and regular community engagement. Our main intention is to help BHA residents become confident users of technology and the internet. The common training goals are: 1) residents can confidently use the internet on a phone, laptop/desktop, and or tablet; 2) residents use the internet safely and responsibly; and 3) residents are able to communicate online using email, social media and other platforms such as Zoom.

Comment: Create economic opportunity-job training, career ladders, wealth building—for BHA residents and staff g. (Administration) The last item in this subsection is the sole piece to focus on BHA employees (in terms of annual briefing on transportation and tuition benefits). BHA may want to include, here or elsewhere, a separate piece on enhancing employee retention and professional development, particularly for those who can become the next generation, and for ensuring that beneficial institutional memory is conveyed while preparing for the next 5 years.

Response: Thank you for this comment.

Comment: Partnering with Residents and Community Stakeholders to Promote Community Safety a. (Economic Mobility / Youth) On pp. 4-5, Partnering with Residents and Community Stakeholders to Promote Community Safety, there is discussion of growing after-school programs at 4 BHA communities, 3 of which are listed here (Hailey, Commonwealth, and Franklin Field) and measuring over time the number of sites with place-based after school and youth programs. Which is the 4th site? How did BHA choose these sites, and is there any potential to spread this program further to other sites over the 5-year plan?

Response: BHA is working to identify and invest new resources in youth programming at BHA communities. In 2023 the City of Boston committed new resources to support the development of an after school program at Franklin Field which was chosen due to the site's youth population, on-site youth center, absence of past investment, and history of violence. The BHA is seeking to expand youth programming to Mildred C. Hailey in Jamaica Plain for similar reasons. In 2024 the BHA received new funding to hire a dedicated youth services coordinator for BHA communities in Brighton. The BHA has not yet identified the fourth site for youth programming, the selection will depend on availability of funding, space to host a youth program, community interest, and a site's history with youth violence. To date, we have chosen sites based on the four criteria outlined above, with funding availability being a significant determinant. We are very open to expanding programming beyond four sites within the next five years and are actively seeking grant and funding opportunities to support this. The BHA anticipates that demonstrating the impact of the pilot program at Franklin Field will help us secure additional funding for new sites.

Comment: Partnering with Residents and Community Stakeholders to Promote Community Safety b. (Administration / Public Safety) The second item here identifies developing & implementing site-based community safety plans at 10 sites over 5 years. Does BHA have a schedule for likely roll out, and does it know which sites will be selected, or what process will be used to choose the sites?

Response: BHA staff from public housing and public safety will work closely to develop a schedule and selection framework for community safety plans including such factors as resident call volume and feedback from our safety and our police divisions. We will have the first two sites selected by the end of winter. BHA Public Safety would welcome the opportunity to meet with the RAB upon their request.

Comment: Partnering with Residents and Community Stakeholders to Promote Community Safety c. (Administration / Public Safety) The third item here discusses investing in technology that will enhance residents' "sense of safety" and discusses metrics both as to the number of sites with new intercom systems and the number of surveys reporting favorable on sense of safety. Two thoughts here - (a) wise technology investments should not only increase the sense of safety but actual safety (and can include things such as fob systems, cameras, and security lighting. (b) The use of surveys to track improvements should not be limited to technology

improvements, but include the other protocols listed in this section (such as site-based community safety plans and after-school and youth programming).

Response: Staff agree that technology investments can increase safety and each of the items mentioned have been and will continue to be part of BHA's safety investments. The surveys are a tool to gather information from residents and improve understanding of trends across several areas.

Comment: Create Green and Healthy Communities a. (Capital) On pp. 5-6. Create Green and Healthy Communities, it is not clear how the comprehensive capital plans will help to achieve this result, and BHA should say more.

Response: Comprehensive Capital Plan Projects combine resources to develop holistic site-wide plans and capital projects that improve the comfort and quality of living by introducing sustainable and fossil fuel free heating and hot water systems; improving fresh-air, ventilation and air-conditioning; providing a better thermal envelope (windows, roofs, insulation); and incorporating safe, climate resilient and user friendly exterior patios, courtyards, playgrounds and greenspaces.

Comment: Create Green and Healthy Communities b. (Administration / Capital) The second item here discusses the Mayor's plan to decarbonize BHA sites and to weatherize, insulate, and provide heat pumps for 1,500 units. More should be said here about a year-by-year and development by development plan to achieve these overall goals (including how it may relate to the City's BERDO implementation). At some sites, it may be that one approach is favored over another. It is also not clear if the 1,500 units are in both the BHA's federal and state public housing portfolios, and what the plans would be for BHA's federal portfolio, or for supporting decarbonization efforts in the Mixed Finance portfolio.

Response: BHA appreciates the need and desire for more clear project detail, timing, schedule and breakdown. The BHA plans to, at minimum, weatherize, insulate, and/or provide heat pumps for 1,500 units across BHA's federal and state public housing portfolio. These units may encompass federal and state properties and in certain cases not all measures may be useful or appropriate. To provide more specificity, the BHA is currently planning insulation measures at its Alice Taylor, General Warren and Pond Street properties. The BHA is also exploring insulation measures at its Heritage Apartments PBV property. The BHA is currently designing holistic system improvements at certain Mildred Hailey and Franklin Field buildings. The BHA is installing heat pumps at the Ashmont Apartments.

Since 2023 BHA has performed this work for over 500 public housing units and BHA currently has several projects underway that will increase this count. BHA identifies, develops, and prioritizes projects through the Capital Construction 5 Year Plan, which combines physical needs assessments from BHA communities, management and maintenance needs, and feedback from public housing residents. Over the 5 Year Plan

period the BHA will develop a mechanism for sharing completed and upcoming projects related to creating green and healthy communities.

Comment: Create Green and Healthy Communities c. (Administration / Capital) The third item lists Modernizing 2,700 BHA Apartments. BHA should break this out and indicate what work is anticipated at what sites over what schedule. Here, as with other items, it is important to not have items overlap and be double counted as that will create confusion and will not promote transparency.

Response: The BHA and our redevelopment partners are currently undergoing several comprehensive modernization and large scale redevelopment projects at BHA communities. These significant modernization and transformation projects will be counted as “modernizing 2,700 BHA apartments.” These projects include comprehensive modernization projects at BHA elderly/disabled communities as well as redevelopment activity underway at Mildred Hailey, Charlestown, and Faneuil Gardens.

Comment: Create Green and Healthy Communities d. (Administration/Capital) The fourth item lists Complete (10) accessibility and open space projects, and metrics refers to “green workforce supported projects”. Which sites and work is anticipated, and over what schedule? The accessibility and open space description doesn’t necessarily conjure up “green workforce”, so BHA should explain more regarding the connections.

Response: The BHA is considering multiple state and federally-assisted properties for open space investments and is seeking to enhance its regular program of accessibility improvements. Generally speaking, projects are in early conceptual stages and sites have not been selected. The BHA has included open space projects in its rehabilitation of the Mildred C. Hailey apartments and the Franklin Field apartments, ranging from rain gardens to recreational spaces and playgrounds to gardens for food production. The BHA has also worked on designs for open space improvements at the state-assisted Archdale Apartments.

With regard to open space and (green) workforce, the BHA is seeking to build on its longtime Section 3 hiring and more recent partnerships with PowerCorps Boston, among other partners, to train and employ or contract with projects that improve public amenities, climate resiliency, control of urban heat island effect, and stormwater retention.

Comment: Create Green and Healthy Communities e.(Administration/Capital) The fifth item identifies Completing solar development at 10 projects. Here again, it would be good to know which sites, what work is anticipated, and over what schedule (i.e., x site will be done in 2025-2027, but y site isn’t planned until 2028)

Response: The Capital Construction 5-Year Plan combines Physical Needs Assessments of the individual developments, management/ maintenance needs and feedback from the Residents to prioritize, plan and develop specific projects for specific

sites. Over the 5 Year Plan period the BHA will develop a mechanism for sharing completed and upcoming projects related to creating green and healthy communities.

Comment: Create Green and Healthy Communities f. (Administration/Capital) The sixth item lists Partnering with green workforce training programs for 20 site-based sustainability projects. BHA should identify which sites, what likely work, and the likely schedule over the 5-year period.

Response: The BHA is considering multiple state and federally-assisted properties for open space investments and is seeking to enhance its regular program of accessibility improvements. Generally speaking, projects are in early conceptual stages and sites have not been selected. The BHA has included open space projects in its rehabilitation of the Mildred C. Hailey apartments and the Franklin Field apartments, ranging from rain gardens to recreative spaces and playgrounds to gardens for food production. The BHA has also worked on designs for open space improvements at the state-assisted Archdale Apartments.

With regard to open space and (green) workforce, the BHA is seeking to build on its longtime Section 3 hiring and more recent partnerships with PowerCorps Boston, among other partners, to train and employ or contract with projects that improve public amenities, climate resiliency, control of urban heat island effect, and stormwater retention.

Comment: Long-Term Financial Sustainability at BHA a. (Administration / RED / Leased Housing) On p. 6, Plan for Long-Term Financial Sustainability at BHA, this discusses Converting at least 5 Public Housing properties to BHA owned project-based vouchers. To avoid overlap/double-counting/confusion, BHA should be clear about what fits within this item and what may fit within items in the Build New Public Housing item below. For example, Patricia White was just a straightforward conversion to PBV, but it is not clear how the renovation work at Hailey would be classified. In addition, rethinking about Section 18 conversions versus RAD/Section 18 blends (see notes/comments on the Supplement and RAD Addendum) may affect both timing and how much additional revenue may be expected to help support renovations and ongoing costs. Can BHA identify which sites it is putting under this item? There may be a similar question to items below as to whether this is ambitious enough over 5 years or, on the other hand, may be realistic given the need for public approvals, LIHTC funding, and any relocation required.

Response: The BHA has prioritized the ongoing modernization and reinvestment in its elderly/disabled properties and is working to reposition such sites while maintaining public control and ownership. Where appropriate and where resources are available, the BHA may also consider family sites for repositioning.

Comment: Long-Term Financial Sustainability at BHA b. (Operations) The second item here discusses Reducing Accounts Receivable by 25% Annually. How did BHA come up with this figure, and which accounts? Is this all rent-related, or are there other areas

(such as utility costs) where other efforts are likely to reduce costs? Rent collection and timely recertification has been a challenge for the BHA since the 2020 pandemic and it would be helpful to identify what strategies will be used (see also separate section below on Avoiding Resident Displacement and Helping Residents Weather Changes).

Response: The Accounts Receivable balances are related to rent. The BHA will avoid displacement wherever possible by entering into court ordered repayment agreements that allow residents to repay amounts owed to BHA over time. If a repayment agreement is active and current, the AR balance will remain low. However, displacement may occur in instances where residents fail to maintain their agreement. Collecting rents at a high percentage is critical for the long-term financial sustainability of BHA.

Comment: Build New Public Housing a. (Administration/RED) On p. 6, Build New Public Housing, the first item lists completing 4 Faircloth to RAD transactions during the 5-year period on publicly or privately owned land. It would be helpful for BHA to list what is already in the pipeline, such as it has elsewhere in the RAD Addendum (West End Library, Chinatown parcel, Amory Street, and Faneuil Gardens). Are these the 4 transactions that BHA is thinking of here? If so, is this an ambitious enough goal for the 5-year period? Moreover, the 4th item under this Priority Area (regarding the Mayor's/BHA's goal of building all available Faircloth units in the next decade) seems much more ambitious than this, and it may be helpful to have a map of how this is done over a decade and what realistically could be done in the next 5 years (acknowledging that some work is already underway in the current 5-year period).

Response: Thank you for the comment. Please see the revised RAD attachment. The final version of the 2025 RAD Attachment includes several prospective Faircloth-to-RAD projects. As additional projects are put forward from year to year, BHA will include them in future updates to the RAD Attachment, and BHA will track overall progress in 5-Year Plan updates. BHA expects to articulate more ambitious targets as we proceed over the next five years.

Comment: Build New Public Housing b. (Administration / Leased Housing) The second item lists Redeveloping 3 public housing sites to increase housing opportunities for persons with developmental disabilities, older adults, and families with children. It is not clear, without stating more, how this would be "new housing" (i.e., increased supply), as opposed to preservation and full utilization (which is of course very important). Which sites is BHA thinking of here? Since, as noted in the Supplement and RAD Addendum, BHA is ambitiously pursuing redevelopment at many more than 3 sites in both its Family and Elderly/Disabled portfolios, it is not clear if this is an ambitious enough goal for the next 5 years. BHA may want to say more about which 3 sites it has in mind and whether there are particular strategies at particular sites (beyond the Faircloth to RAD transactions earlier discussed) which would both improve opportunities and provide "net new" housing.

Response: Thank you for this comment. The BHA plans to conduct capacity studies over the next year to identify potential locations for new public housing and will work closely with residents during the planning and development process.

Comment: Build New Public Housing c. (Administration / Leased Housing) The third item here discusses redeveloping a BHA owned site to increase opportunities for veterans. Which site is planned here, and will such a site only be for veterans or will it also serve a range of other households with housing needs?

Response: The BHA is planning to leverage different resources and programs to support the goal of building new public housing in the City of Boston. In addition to HUD's Restore Rebuild program, the BHA will also explore the utilization of the HUD-Veterans Affairs Supportive Housing (VASH) program to create housing opportunities for veterans experiencing homelessness. BHA plans to conduct capacity studies over the next year to identify potential locations for new housing and will work closely with residents during the planning and development process.

Comment: Promote well-being and leadership for BHA residents and staff a. (Resident Capacity) On pp. 6-7, Promote well-being and leadership for BHA residents and staff, this includes a goal of completing 28 local tenant organization (LTO) or resident council elections during the course of the 5 years. BHA should indicate where it came up with this figure. Moreover, this goal is not properly stated. The goal must be to both complete all LTO elections that are overdue due to the pandemic or other reasons, and to then get back to the completion of regular elections on the regular cycle required by HUD (every 3 years). This depends both on how many recognized or conditionally recognized LTOs exist and are overdue on or will need new elections in the 5 years, as well as supporting efforts by residents at sites that don't have an LTO to form one (this would require both developing bylaws and doing elections).

Response: The figure used is based on internal capacity to complete elections and a realistic assessment of what it takes to conduct an election alongside the other departmental responsibilities. It includes task forces that may be overdue (Hailey and Charlestown for example – those sites are now in the election process) as well as encouraging elections at sites that do not have task forces currently (Fairmount for example – also starting the election process). Holding elections at sites that do not have a current LTO is very challenging as it takes multiple meetings to get residents adequately engaged to form an election committee and have sufficient declared candidates to hold elections. At some sites, we just do not get enough participation and have to revisit multiple times over a period of time despite efforts from staff. Staff also spend a considerable amount of time assisting boards to fill vacant seats, even shortly after an election. RSC staff will do their best to complete as many elections as possible each year.

Comment: Promote well-being and leadership for BHA residents and staff b. (Administration / Communications) The second item discusses coordinating with the Youth Council. There need to be more robust conversations to fold more sites into the

Youth Council and to include initiatives such as Youth Build and Design Corps which provide training and employment opportunities for youth related to expanding Section 3 as rehabilitation work is done on sites. Focus should not just be on arts and after-school programs but interactions with groups like Charlestown Adult Education and its success in helping youth with high school equivalency and job readiness, including obtaining drivers licenses, OSHA-10 training, and the like. The metrics here should not merely be on the number of youth who develop public speaking and policy expertise, but on fostering long-term economic opportunity for their families and modeling success for other young people in BHA communities.

Response: Staff are working on how to best incorporate the work of the Youth Council with more BHA sites, although there are related transportation and staffing level challenges (BHA does not get sufficient funding to fully support youth services generally). We are hoping to see some improvement in this area this coming year. The Youth Council is informed about career and other training opportunities both through Spoke and BHA and there is coordination between the Youth Council, other BHA youth programs, and the Charlestown Adult Education Center. In some cases youth from both the Youth Council and in other BHA youth programs have been referred to and attended the Charlestown Adult Education Center for additional services, especially for those that have graduated high school and are looking for assistance with next steps or for those that need to attend HiSet classes. This generally happens behind the scenes, and again, there are transportation challenges, so this activity may not be publicly apparent but staff are aware that the Charlestown Adult Ed Center can be used as a referral source for both youth and adult BHA residents. Lastly, while we agree the above items are important, we also believe that the arts, public speaking, policy expertise and after school programming are critical for youth opportunity and advancement.

Comment: Promote well-being and leadership for BHA residents and staff c. (Administration) The third item discusses increasing staff participation in leadership development training. It would be helpful to say more about what's intended here—would this be leadership development within the BHA organization, and what would that involve, or is it BHA staff reaching out to youth and families in BHA's Public Housing and Leased Housing programs? What staff could be most helpful? What skills will be developed? In addition, is there any intent to involve resident leaders in helping other residents develop leadership skills and how would that best be done?

Response: The BHA will continue to invest in leadership and professional development for BHA staff through the Management at its Best program, which is a voluntary program for new managers and staff interested in developing management and leadership skills. BHA plans to increase the number of staff participating in this program and will develop new programming options for staff that have previously participated in the management training program.

Comment: Promote well-being and leadership for BHA residents and staff d. (Administration/Operations) In addition to the Priority Areas, Goals, and Metrics already

included in Section B.2, pp. 2-7 of the 5-Year Plan, BHA may want to add Avoid Resident Displacement and Help Residents Weather Changes. This would be for both the Public Housing and Leased Housing programs. This could include VAWA relief, arrearages that develop for circumstances outside of families' control, private landlord decisions to increase rent beyond what's affordable to the resident or to pursue eviction for business or personal reasons, families unable to adjust quickly to subsidy standard adjustments due to household size changes, required relocations due to being wrong-sized or no longer needing accessibility features, and participants required to move because landlords do not make repairs and subsidy is withdrawn. BHA is also implementing HOTMA changes and some discretionary options may better help residents remain in BHA affordable housing (such as making withheld HAP payments available for relocation and retaining the discretionary medical expense deduction for all public housing families). Metrics could include evaluating success rates (how many families are able to successfully use their vouchers to move) and rent burden (how many HCVP households are paying more than 30% of income for rent), measuring the percentage of PBV participants who've requested to exercise mobility choice who've been issued and successfully leased up with tenant-based vouchers, and evaluating what percentage of families who had HAP contracts terminated for HQS violations were able to successfully lease up elsewhere (either through use of a tenant-based voucher or through transfer to a PBV or Public Housing unit).

Response: Staff will take the comment under advisement.

Comment: Promote well-being and leadership for BHA residents and staff e. (RED / Administration / Resident Capacity) BHA may also want to include as a Priority Area/Goal Reviving and Enhancing its Mixed Finance meetings. Prior to the pandemic, this became a good forum for resident leaders at the various BHA sites undergoing redevelopment (many with non-BHA partners) to share their experiences and for BHA and residents to discuss with Developer partners important issues like resident participation, LTO funding, grievance rights, and tenancy preservation and to help insure consistency between BHA and Mixed Finance protocols. BHA did Authority-wide resident conferences in 2019 and 2022 to share Principles of Redevelopment. Unfortunately due to the pandemic these meetings ended. While it is true that sometimes meetings with specific Developer partners may be beneficial rather than with the larger group, residents did find these forums to be helpful, and senior BHA staff were engaged in follow-through.

Response: Thank you for this comment. BHA is planning to organize a mixed finance meeting in 2025.

Comment: Promote well-being and leadership for BHA residents and staff f. (Administration) On p. 7, Section B.3, Progress Report. While BHA has not, in the past, provided a progress report on the final year of its last 5-year plan the same year that it generates a new plan, this is a matter on which HUD does not provide guidance, and in fact it would be beneficial, going into the new 5-year plan, to reflect back on what was

achieved and what remained to be accomplished in the prior 5-year plan. Comparison may also be instructive in development of the new plan.

Response: Staff will take the comment under advisement.

Comment: Promote well-being and leadership for BHA residents and staff g. (Legal) On p. 7, Section B.4, VAWA, see separate notes/comments in the PHA Plan supplement. While it is true that the VAWA policy is found there, rather than here, as noted in those comments, the 5-year benchmark is a good time to revisit whether the VAWA policy, notices, etc., need to be revised and to bring in outside reviewers to this process.

Response: Noted. The BHA reviews its VAWA policy from time to time.

Comment: Promote well-being and leadership for BHA residents and staff h. (Administration / Civil Rights) On pp. 7-8, Section D.1, Affirmatively Furthering Fair Housing (AFFH), as noted in separate notes/comments on the Annual Plan template, while BHA is not yet required by HUD to submit AFFH materials, BHA and the City of Boston have devoted substantial time to this, and in October, 2024, BHA staff shared an update on Assessment of Fair Housing (AFH) goals and indicated that a more substantial document would be available for the BHA's website in December, 2024 (as noted above, this is not yet available as of the deadline for PHA plan comments). GBLS has submitted separate comments on the October 2024 report. Given that the RAB's mission explicitly includes AFFH, it would be good to have a RAB session devoted to this topic, and the AFFH progress and planned implementation should be included somewhere in the PHA Plan submission (possibly as part of BHA's response to comments).

Response: The 2024 AFFH Summary Report was provided to the RAB in January 2025. BHA staff meet throughout the year with the RAB and are available upon request to attend a Board meeting or arrange a presentation.

Grievance Procedures

Comment: S. (Grievance, Legal, Asset Management) B.1.6, Grievance Procedure (pp. 37-38) BHA has not proposed changes (see also p. 1), and GBLS is not suggesting any. However, it should be noted that as additional developments, or portions of development, either convert to Section 8 or undergo Mixed Finance modernization and redevelopment, this may require substitution of the Mixed Finance Grievance Procedure (finalized by BHA in 2019) for the regular BHA Grievance Procedure, and BHA should make sure that all such sites have done this so that residents and participants are getting the benefit of grievance protections accorded by law and/or BHA policy. BHA should also set up a system of response where it is identified that a Mixed Finance site does not appear to be providing the Mixed Finance Grievance protections. An issue

arose this year where it appears that the J.J. Carroll site (redeveloped as Section 8 PBV housing from its prior elderly/disabled public housing status) hadn't implemented this.

Response: BHA previously updated its RAD Attachment by appending sections of the HUD RAD Notice. With respect to the question about what to do if a developer is not complying: Residents and others should please report suspected noncompliance to BHA's Asset Management department. Raul Leon is BHA's Director for Asset Management.

Language Access including Four Factor Analysis

Comment: p. 1 –This chart shows that, as in the past, there is fairly significant usage of Language Access resources to assist applicants and Public Housing and Leased Housing residents. Of the 1,064 requests for assistance during the past year, over half (566) are for Spanish, with Chinese coming next (192, or 18% of the requests), then Haitian Creole (140, or 13%), and then Cape Verdean and Vietnamese (both between 4-5%). One question here is whether BHA should add Haitian Creole as one of the languages into which it translates vital documents? Right now, this only happens for Spanish and Chinese. The chart also shows that the bulk of language needs are handled by the Language Access division of the BHA (60%), with contractors/vendors handling another 28%, BHA staff in regular departments who are bilingual handling 11%, and only 1% handled by clients' own interpreters. It also shows that the greatest demand is in Leased Housing, then Admissions, then Resident Engagement (which often involves translating materials for large tenant meetings with multiple languages), and then Grievances and Appeals.

Response: While Haitian Creole is at 13% of the language we assisted in the 2023-2024 FY (Out of the 1064 interpretation services recorded, 140 were for Haitian Creole), it is still less than 5% of the whole BHA population. Haitian Creole speaking population is only 2.3% of our public housing residents, 2.9% of our applicants on the waitlist, and 1.16% of our Leased Housing participants. However, we acknowledge that the need for Haitian Creole interpretation and translation services has increased since the inception of the BHA Language Access Division, and as such, we are working on translating and updating some of our most frequently used documents, such as the application and the public housing recertification form. We hope to have these documents available online before the end of the year.

Comment: On the second page, there is some discrepancy between the numbers shown in the chart and those in the text (for example, left hand chart shows 586 but text says 386, and right hand chart shows 5,322 cumulative new documents, but text says 4320). These should be reconciled. The bulk of the demand again is from Resident Engagement (33%), with Admissions and Real Estate Development also creating significant demand (14% each)

Response: Thank you for this comment. This has been updated. In the 2023-2024 FY, the Language Access Division translated 586 pages and updated 13 pages, a total of 599 pages. The total cumulative of pages translated and updated since 2010 is 6154. The resident Engagement Department groups our Wellness Connect, ROSS, and Resident Empowerment programs, thus the high number of translations.

Comment: The third page shows use of the BHA multilingual language line, and that there were over 17,000 calls involving its use over the past year. Here again, the heaviest demand was in Spanish (almost 90%), with Chinese between 5-6%, Haitian Creole about 2%, and other languages below 1% each. Admissions and Leased Housing again had the highest demand, with work orders and Development-related communications then following.

Response: Thank you for the comment.

Comment: The fourth page discusses the Volunteer Interpreter program, which has been a vital aspect of the BHA program for many years, particularly given the limited budget that BHA has to meet language access needs. This reflects both maintaining a robust pool and training and taking on new volunteers, as well as the volunteers' involvement at a number of sites for multilingual resident engagement. It may be useful to track 2023-2024 accomplishments with those in prior years so that if there are any needs for tweaks or any barriers that should be addressed (for example, recruitment is insufficient to address turnover), appropriate strategies can be added.

Response: The Language Access Division is working on a system to be able to track areas of need and strategies to improve recruitment, which enormously declined after the pandemic.

Leased Housing

Comment: I now live in Randolph, MA. I want to know why a leasing officer can increase a residents rent without an inspection of the apartment. This new wing of apartments are for seniors. There are about 43 units and I have had a problem every month I have lived here. I received a change in contract rent on October 8, 2024 hand delivered by a maintenance person from BHA at 7:40 pm. I moved in October 2023 a year ago. I received annual inspections every year in Boston and now live in Randolph. What is the reason Randolph, MA does not follow the same rules? I called staff Oct 3rd and Oct 9 and my daughter send an email and we did not get a phone call or an answer to the email and no answer to this date. Mass Housing Finance / HUD was here and a letter was posted in the elevator if you want your apartment inspected call the office and I did. I got no answer from them. I would think apartments that have problems would be addressed.

Response: BHA now conducts Housing Quality Inspections on a biennial basis (every other year). However, if there are issues at an apartment that detract from health and safety of the residents, the BHA will conduct an inspection upon request. The BHA Inspection Department can be reached at 617-522-0048 or contacted by other means available here: <https://www.bostonhousing.org/en/For-Section-8-Leased-Housing/Inspections.aspx>

Comment: S. On p. 33, the number of public housing and leased housing families served, as well as expected turnover, increased slightly. The NAACP litigation vouchers, previously listed at 276, have dropped to zero. One speculates that this may reflect the final closeout of the litigation and that no further voucher assistance can be expected from this source—can BHA confirm?

Response: Thank you for your comment. Yes, that is correct this reflects the final closeout of the litigation vouchers. The BHA has completed its obligation to continue monitoring these vouchers and reporting to HUD. The funding for these vouchers has been rolled into the larger housing choice voucher program.

Comment: S. B.1.7., Homeownership Programs (pp. 39-43) On pp. 41-42, language about the Section 8 Homeownership Program is revised to make clear (similar to Admin Plan proposed changes discussed in other notes) that homeownership counseling agencies are HUD certified and not BHA approved. In the paragraph on the bottom of p. 41, appears there is a typo, and the language “or working for” before “agency” should either be deleted or placed elsewhere.

Response: Thank you for your comment.

Comment: S. (also RED) B.2.23, Project-Based Vouchers (pp. 87-89)
There are revised statistics here on the number of units in BHA’s portfolio, as well as how the project-based cap has increased somewhat. Increases in the number of RAD units (both new ones added this year, and ones anticipated to be added soon) are also relevant, since such RAD units are not factored into the project-based cap. All of this is good news, since robust use of the PBV program is key to the BHA’s future and preservation of affordable housing. It’s not clear from this draft if BHA is anticipating development of new project-based housing outside of what it may do within repositioning of its public housing portfolio. As noted in separate comments on proposed revisions to the Admin Plan BHA should provide the analysis regarding any impact additional project-basing may have on community needs for tenant-based assistance or for PBV participants to utilize the Choice Mobility option through available tenant-based vouchers.

Response: Thank you for your comment. BHA will prepare an analysis when the BHA is project-basing 50% or more of its authorized voucher units. We have not yet met this threshold.

Comment: S. (also RED) There is also a question of reconciling the number of existing RAD units (and anticipated RAD units by the end of 2024) with the RAD Addendum and other information. This says that there are 469 RAD units currently and that a further 100 RAD units will be added by end of 2024. However, this does not match with the RAD Addendum, which appears to yield a higher number of current RAD units and other Supplement material calls into question how there will be additional RAD units by the end of 2024.

Response: Staff have reconciled the Supplement and RAD Addendum.

Leased Housing Administrative Plan

Comment: 3.3.5(b), (e)(8) (pp. 21-24, 30) Similar changes to ACOP to include Participants as well as Applicants within the Super Priority category, as long as they are in good standing. As noted in ACOP notes, it would be good to have the Participant and Good Standing definitions to be clear which programs this may apply to (i.e., is this just PBV, or does it include HCVP, MRVP, and City Voucher program)? Would “good standing” include participants that are honoring agreements with BHA (such as repayment agreements)? This makes clear that Public Housing tenants are considered Applicants (rather than Participants) if a transfer to the PBV or other Leased Housing program is being considered, but there should be clear language elsewhere that different income limits apply to them as opposed to other new Applicants. Language is also added so that Super Priority can be provided if (i) a City voucher was issued for a limited time period, (ii) a special purpose voucher was issued but funding is no longer available for that special purpose (such as stability vouchers, emergency housing vouchers, or VASH, and the household is otherwise Section 8 eligible, or (iii) a Foster Youth Initiative (FYI) participant has successfully completed the Family Self-Sufficiency (FSS) program and the FYI term has expired. Is the FSS reference correct, or should this be FYI?

On the Inaccessibility Priority, language is revised (deleting “For Disabled Persons only”) so this matches what is in the ACOP, but there is no change in meaning (i.e., the person would still need to show that a household member had a mobility or other impairment that made the person unable to use a critical element of existing housing.

Response: Thank you for your comment. Yes, the being in good standing includes active repayment agreements. The definitions of “participant” and “participant in good standing” can be found in the Admin Plan on page 276. Income eligibility is outlined in Chapter 5, Section 5.5.1, which details income eligible families. Yes, the reference to FSS is correct. According to FYI regulations, an eligible youth participating in the FSS program is entitled to receive assistance for up to 24 months, BHA decided to prioritize the youth who enter the FSS program.

Comment: 3.3.7 (pp. 33-34) In the opening paragraphs, language is added so that it is clear that the granting or denial of various preferences for elderly/disabled, veteran status, and displaced Boston resident applies across the board for all BHA waiting lists. In subsection (a), subheadings are added to distinguish between the single elderly/disabled preference (over other single applicants) and the elder preference category (which may only apply to certain PBV sites as such designation is listed in the HAP contract. In subsection (b), the word “veteran” is added so it is clear that the veteran can have this status, as well as the various family members of a veteran as listed. Note questions on the ACOP about whether changes in state law on the definition of a veteran and veterans preference may require any changes to the Admin Plan, either to the definition of “Veteran” or otherwise.

Response: Thank you for your comment. BHA has reviewed, no additional edits are necessary at this time.

Comment: 3.3.9 (p. 38) Language about “Preference For” prior to “Former Moderate Rehabilitation” deleted as necessary (since all of the items here are preference categories).

Response: Thank you for your comment.

Comment: 5.5.1 (p. 60) This establishes exceptions to the extremely low-income eligibility that generally applies to Section 8, particularly with exceptions where people are being transferred/converted from the federal or state public housing programs or other Leased Housing programs. The language here doesn’t look like it changed, but it may be that BHA deleted some of what was listed (since originally it went to subsection (k) and would now end at subsection (j)), and there is reference to VASH eligibility of up to 80% of area median income (AMI). Can BHA clarify what was removed? Is any additional language needed here for City Voucher tenants who may have time-limited assistance or whose assistance ended (or where transfer to Section 8 may otherwise be advisable, such as may be needed for reasonable accommodation)?

Response: Thank you for your comment. This section was incorrectly labeled, and nothing was deleted. We apologize for the oversight in the summary of changes. Agreed, BHA has made those edits.

Comment: 5.5.3 (pp 62, 64-66) A number of items under Determining and Verifying Family Income are revised. In (f)(7), while information on assets will be collected annually, it will only be verified every three years. As mentioned elsewhere, BHA may need to revise asset verification once HOTMA changes are fully implemented, and there may be some households that do not have annual recertifications due to largely having a fixed income. In (i), language is added to clarify what are deductible health and medical care costs (including insurance premiums) for elderly and disabled families. Here again, as HOTMA is implemented there will be major changes in how such deductions are applied for existing participants (phase in of changed deduction threshold) and new participants (use of the new threshold). In (l), the earned income

disregard for family members with disabilities is eliminated, as required by HOTMA (this provision is already in effect and is not affected by HUD's delayed HOTMA implementation on other items).

Response: Thank you for your comment.

Comment: 5.9.2 (pp. 72-75) Language on Conducting Briefing Sessions is revised to (i) add information on unit selection that HUD provides, (ii) for persons with disabilities, add reference to effective communication requirements of ADA regulations and briefing information on the reasonable accommodation process, (iii) add information on the right to seek exception payment standards as a reasonable accommodation for persons with disabilities, (iv) add information about BHA's duty to provide information on accessible units to persons with disabilities and where needed to provide assistance in locating a unit, (v) providing information on family obligations in the briefing packet, and (vi) including information on the advantages of looking for units in areas of higher opportunity. Language is also added about BHA's obligation to provide assistance to families with Limited English Proficiency (LEP). GBLS would like an opportunity to review the briefing packet materials in case we may have any suggestions for improvement.

Response: Thank you for your comment. BHA will share with GBLS once the briefing package been has updated.

Comment: 9.3.2 (p. 110) BHA has revised its protocols on Inspections, so that there will be a First, Second, and a Final (Third) inspection in those instances where either the Family was not home or denies access, and these get scheduled automatically without the need for the family to follow up or provide an excuse. Inability to obtain access by the Final Inspection will lead to issuance of a notice of proposed termination. GBLS supports these improvements. BHA should continue best practices of texting/calling tenants when they are on the way and when they have arrived (not relying solely on doorbells that may not work or a knock that may not be heard) as well as using alternative means of communication with family members and interpreters where this may be necessary for effective communication. Moreover, if the reason for lack of access for all three inspections is understandable and can be cured (for example, the participant was hospitalized during the entire period, and just arrived home), termination should be withdrawn.

Response: Thank you for your comment.

Comment: 9.5.1 (p. 111) BHA deleted language that referred to also complying with the time standards in the State Sanitary Code. It would be helpful if BHA explains why this was deleted—i.e., if it was because of conflicts with HUD timelines, revised NSPIRE language, or the difficulty in its staff keeping up to date with both NSPIRE and Sanitary Code standards on time periods for repairs. (Note that the Sanitary Code was revised in 2023 and there may be different provisions now in some areas than was the case in the

past, and presumably there would have been staff training to get up to speed on any revisions, if needed.)

Response: Yes, that is correct BHA has deleted these references because it conflicts with HUD timelines, and revised NSPIRE language.

Comment: 9.5.3 (p. 112) Language here is revised about what occurs on reinspection if the inspector finds that not all items are completed. Previously this would just result in a recommendation of suspension of subsidy. This is revised so that the inspector could recommend either extension or suspension. Language is also added that if owner is working in good faith to address repairs but seeks an extension, this too will be considered. A supervisor will then review the inspector's recommendation or owner request and decide what notice will be given (i.e., for suspension or for extension). These revisions make sense.

Response: Thank you for your comment.

Comment: 12.2.1 (p. 136) This adds the requirement that a family is in "good standing" if it is to be received into the BHA Leased Housing program from another jurisdiction. It would be helpful to spell out what "good standing" means (for example, it should include those who are on repayment plans but are otherwise in compliance with such plans) and how BHA determines this for families being received from other jurisdictions. Since HUD has made clear that receiving PHAs cannot rescreen for eligibility (see 24 C.F.R. 982.355(c)(9)), BHA should explain how this additional language does not run afoul of the portability regulation.

Response: Thank you for your comment. The definition of "participant" is outlined in the Admin Plan on page 275. We are not rescreening portability participants; we are following our own Admin Plan, which stipulates that our participants cannot relocate due to adverse action resulting from disclosure by the initial Housing Authority. If the participant is not in good standing as determined by the initial housing authority, the voucher will not be issued by the BHA and the portability will be returned.

Comment: 14.2.1 (pp. 162-163) Language here is added on the Mainstream Voucher Term, Expiration, and Extension. It is not clear why this is needed as a separate section, but likely is based on some new HUD requirements. It appears that the initial period and extension period are consistent with those that BHA uses for the overall Section 8 Housing Choice Voucher Program (the portions of the Admin Plan that discuss this generally are in a different chapter).

Response: Thank you for your comment. This is in response to PIH notice 2024-30.

Comment: 14.7.5 (p. 173) For the VASH program, this adds language to clarify that VA-connected service benefits are excluded in the calculation for program eligibility but are counted for the purpose of determining the tenant share and subsidy payments.

Response: Thank you for your comment.

Comment: 14.7.6 (p. 174) There is additional language added to this subsection, but the subjects of the new language don't readily mesh with the section's title (which has to do with the VASH voucher period), and so readers may miss that these topics are addressed in this section. It may make sense to have a new overall section heading, or to have subheadings. The content is fine—it adds flexibility for a pool of VASH inspected units, as well as for lease-up in advance of inspection if there was a recent enough inspection that found no violations, as well as for the use of a higher payment standard as a reasonable accommodation for a person with a disability.

Response: Thank you for your comment. Agreed, BHA has made those edits.

Comment: 14.7.9 (pp. 174-175) New language is added here regarding portability of VASH vouchers, including that there is no rescreening by receiving PHAs. The new language in the last two sections should be reviewed-- (i) while this creates some VAWA exceptions to VA approval of a port, the VAWA list is not complete (it does not include dating violence), and (ii) the last paragraph (on veterans seeking to port outside the VA catchment area) is incomplete.

Response: Thank you for your comment. Agreed, BHA has made those edits.

Comment: 14.7.10 (pp. 175-176) This revises language on VA Medical Center (VAMC) case management responsibilities for VASH applicants and participants. The language seems fine, but there is an unnumbered subsection on housing search which probably needs to get into the numbered bullets, and there is a last numbered bullet which has no content after the number.

Response: Thank you for your comment. Agreed, BHA has made those edits.

Comment: 14.7.12 (pp. 176-179) The language here in (a) on VASH Project-Based Assistance adds a new category entitled “Zero HAP option” where VASH units could be provided within a VA facility or there are VASH supportive services provided on-site. This is described as a “waiver” in the body of the description, but nowhere else is this described as a waiver, and it may be that additional language is needed here or elsewhere to make a waiver effective. The units are “zero HAP” because families “will not be removed from the HAP contract as there is no last housing assistance payment that would trigger removal after 180 days”. It would be helpful if BHA could explain this further. This sounds like it could be an innovative housing model where there may be appropriate facilities. However, there may also be questions of what happens for these Zero-HAP VASH families if they no longer choose to subsequently move (see subsection (c)). Consistent with HUD regulations, the revision also states that VASH project-based assistance is not counted in the overall project-basing income mix cap. It would be helpful to discuss subsection (c)(3) further. While subsection (c) is entitled “Right to Move”, subpart (c) concerns those who have to move from a VASH PBV unit because it is wrong-sized or the unit has accessibility features the participant no longer

needs. (As we've discussed in other contexts, BHA may have some flexibility with waivers for those who might elect to be underhoused and do not wish to move.) While the initial language here about 30-day and 60-day notices makes sense, what does NOT make sense and/or is not clear is what happens if there is not available VASH assistance within the 60-day period, and the potential adverse consequences to the participant and to economic feasibility of the project. Since the particular PBV regulation doesn't apply (as noted here), what does compel this, and is this open for further discussion? It does not appear that subsection (d) answers what happens here, for the participant, since it is couched in language regarding a participant choosing to move, and not where a move is required for wrong-sizing or accessibility adjustments. Some of this may also relate to ACOP options (where a participant could get super-priority for a public housing unit).

Discussion would also be beneficial regarding subsection (e), which provides for termination of VASH PBV if a family is not participating in case management services without good cause. It is acknowledged here that there may be participants no longer in need of such services, and there would NOT be termination of assistance in those cases. Termination of payments, however, may adversely affect the provider, and it may make more sense for the provider to proceed with diligent efforts to enforce related lease provisions regarding noncompliance, with money continuing to flow for the unit, while court resources are available to seek out appropriate alternatives. In addition, as BHA has done with its "Graduate" Priority 1 category, it would make sense to have a path for VASH PBV participants who no longer need case management services, but who do need affordable housing, to access alternative programs (such as the Housing Choice Voucher Program) and free up units where case management services would be beneficial to new VASH admittees.

Response: Thank you for your comments.

- The term "waiver" has been changed to "provision"
- Section a(2) outlines that units under this provision will not be removed from the contract, and participants will not be required to relocate.
- Section c(3) has been relabeled for clarify to indicate it is not under "Right to Move."
- Section d (ii) clarifies what happens if there are no available VASH vouchers.
- Section 3.3.5 (a)(9) still includes graduates of PBV units who have fulfilled supportive services as a Priority One category.
- For the full VASH provisions, please refer to the Federal Register Volume 89, No. 156, published on 8/13/24.

Comment: 15.1 (p. 190) The Section 8 Homeownership language is revised to reflect that homeownership counseling may be by a HUD-certified program (not necessarily BHA approved) and that the FSS counseling may be by BHA or a third party agency (such as Compass).

Response: Thank you for your comment.

Comment: 15.2.1 (p. 192) Under Qualifying for Homeownership Assistance, subsection (b)(1), this provides that the additional income that BHA requires may either be above 50% of area median income (AMI) or “the minimum wage time 2000 hours”, whichever is greater. There’s likely a typo here, and it should be “times” rather than “time”. (That same typo appears in existing Admin Plan text at 15.2.3.)

Response: Thank you for your comment. Agreed, BHA has made those edits.

Comment: 15.2.5 (pp. 195-196) It appears that something was deleted in the text here (old subsection (c)), but the deleted text has not been provided for comparison.

Response: Thank you for your comment. This section was incorrectly labeled, and nothing was deleted. We apologize for the oversight in the summary of changes.

Comment: 15.4 (p. 196) Language here is simplified to simply refer to a HUD certified homeownership counseling program, and to eliminate any reference to BHA having a role with this.

Response: Thank you for your comment.

Comment: 15.12 (pp. 200, 202) The section is retitled to add “Payment Standards” after “Homeownership”. A subsection B. is added to reflect that the payment standard is the lower of that based on the family size or the home size, that it is adjusted if the unit is in an exception rent area, and that the payment standard may not be lower than that which was in effect at the start of homeownership assistance. The language here on “exception area rent” should be clarified—how would this relate to Small Area FMRs that might otherwise be applicable?

Response: Agree that this paragraph could be updated for accuracy. The BHA’s Payment Standard chart reflects payment standards that are based off the Metropolitan Area FMRs or the Small Area FMRs (zip code based). The Metropolitan Area FMRs are non-exception area payment standards while the Small Area FMR based Payment Standards are exception payment standards as permitted by HUD’s policy allowing use of up to 110% of the SAFMR where the SAFMR exceed the FMR.

Comment: 15.14 (p. 204) Language is added to the Statement of Family Obligations (for the Homeownership program) to say that the home will be maintained to comply with HUD HQS standards (although BHA will not inspect the unit annually for HQS compliance). Question here and throughout the Admin Plan—should NSPIRE be used in place of HQS references?

Response: The BHA will replace HQS with NSPIRE.

Comment: 16.1.4 (p. 209) Under Maximum Amount of PBV Assistance, a new subsection B on PHA Determination prior to Unit Selection is added. BHA is required to determine how many units it is permitted to project-based and whether it has budget

authority prior to issuing a request for proposals, making a selection based on a previous competition, amending an existing HAP contract to add units, or noncompetitively selecting a project. In addition, the BHA must prepare an analysis of what the impact would be of project-basing 50% or more of its authorized voucher units, particularly with regard to community needs for tenant-based vouchers and PBV participants' desires to exercise Choice Mobility options. Has BHA prepared such an analysis, and can it be shared with GBLS and the RAB?

Response: Thank you for your comment. BHA will prepare an analysis when the BHA is project-basing 50% or more of its authorized voucher units. We have not yet met this threshold.

Comment: 16.2.1 (pp. 209-210) The word "two" was deleted from the beginning of this section (since there are more than two ways for BHA to select owner proposals). A new subsection (d) is added for noncompetitive selection of VASH PBV proposals on VA facilities, similar to the Zero HAP waiver option discussed above in Section 14.7.12.

Response: Thank you for your comment.

Comment: 16.5.9 (p. 240-243) This section about what happens if a family occupies a wrong-sized PBV unit, or does not require accessibility features that the unit may have, requires more discussion. The general language about identifying the problem within 30 days and offering assistance within 60 days makes sense. (As noted above under VASH PBV comments at 14.7.12, it should also be recognized that some underhoused families may elect a permissible waiver to remain in place.) However, the options available to households, and the consequences that occur to the families and to PBV owners and when they occur require more talk. In some instances, it may be that the public housing program could offer appropriate referrals. In addition, it may be that all units in a PBV development are accessible (or have certain desirable accessibility features, such as elevators), and so requiring a family to move because it does not need those accessibility features doesn't make sense since it would be virtually impossible to determine who should be required to move.

Response: Thank you for your comment, BHA is open to discussing further.

Comment: BHA's HOTMA Admin Appendix (unnumbered pages) This is not in the BHA's summary of changes. However, as BHA staff explained in an email exchange on 10/31/24, this is required by HUD's HOTMA implementation notice, which has delayed HUD's HOTMA implementation until various systems changes are made. HUD requires housing agencies to describe how they will implement the provisions of Sections 102 and 104 of HOTMA once HUD has established a date.

As noted in the ACOP notes/comments from GBLS, BHA is not clear what opportunity HUD may later provide for resident/public review and comment on how BHA finally implements HOTMA, and therefore GBLS would intend to get in comments on this now to the extent that it can, without foreclosing the opportunity for later review and comment if this is feasible. However, these are not yet prepared.

Response: Thank you for your comment.

Legal

Comment: Why each resident not have a BHA Real ID? To understand my question, it is complaint about my opinion. If BHA had Real ID it would be good or excellent for residents of BHA to see who is living there under the law of BHA paying rents and some many things else. Because some residents have someone living free and they are not report it to the local offices. You know how much money BHA is losing? Some people are rich and they are living in BHA. They are living free. Also they have properties in their countries out of USA. Rich people and owner of properties outside of USA. This is not good. But it is for only poor people whom can't afford it, only poor whom have nothing else. Think about it. If you want to visit each neighborhood, do it soon and can you bring the police or FBI too to check it out?

Response: The BHA requires all residents of public housing to meet the applicable federal or state eligibility requirements at the time of admission and every year thereafter at the annual recertification. If you are aware of any fraud, please contact the BHA through its zendesk portal: <https://bostonhousinghelp.zendesk.com/hc/en-us> .

Comment: S. B.1.9, Safety and Crime Prevention (Including VAWA) (pp. 49-61) BHA has made very minor changes to its VAWA policy (referring to non-binary individuals on p. 51 and referring to the public housing lease as having some relevant language on p. 52). It would be worthwhile for advocates who are knowledgeable on how HUD has revamped VAWA guidance over the past decade to review and comment on the existing VAWA policy with appropriate BHA staff, as well as to review standard forms to make sure they are in plain language, understandable, and internally consistent.

Response: Thank you.

Comment: S. B.1.10, Pet Policy (pp. 62-63) Two small and non-controversial changes have been made to the pet policy. First, there is a reference to pet policies being incorporated into the BHA public housing lease. Second, in addition to tenants needing to supply information on vaccinations, etc., they are required to provide information about municipal registration (where that is required). Can BHA provide more information about the municipal registration piece, and if this is just general HUD language, or if this is something new intended to complement City of Boston requirements, and what those requirements would be? Many residents who have pets registered with BHA may not be aware of municipal registration requirements if they are new (and this may not apply to all pets).

While BHA is not proposing a change, it should be noted that there is some very old language in the original pet policy adopted in the early 2000's which talks about a pet registration fee. It may not make sense to keep that, and most residents and managers don't have any sense of whether a fee was required or paid.

One thing that should be noted is that as public housing developments are redeveloped or repositioned, it is important to insure that tenants' rights to have common household pets are protected in their new housing (both as to existing pets and as to new pets that might be added to the household in the future). Unfortunately this is not an area that HUD has addressed in its RAD guidance. It is also important that distinctions between pets and support/assistance animals for persons with disabilities be made, and that new owners be as familiar with reasonable accommodation requirements for support/assistance animals for disabled persons as BHA has been.

Response: Per state law, all dogs must be registered in the city or town in which they reside. For further information on how to license a dog in the City of Boston, please visit, www.boston.gov/departments/animal-care-and-control/how-license-your-dog. The City charges a license fee for all dogs (except for dog owners 70 and older). The BHA charges a one-time pet ownership fee in federal family developments.

Service animals and emotional support animals are not pets. They are assistance animals needed by a person with a disability. All dogs, whether they are pets, emotional support, or service animals, need to be registered with their town/city, but there is no separate official registry of assistance animals. For more information on assistance animals in housing, including situations where a housing provider may deny or revoke a request for a reasonable accommodation to have an assistance animal, please see www.mass.gov/info-details/assistance-animals-in-housing.

Operations

Comment: Can you please restore the basic human rights for lower income housing tenants to choose the desired home heating temperature rate in each public and subsidized housing unit? And can you please use your prominent position to help create economic opportunities for motivated lower income housing tenants to have resident empowerment through community economic urban development?

The state mandate standard temperature requirement laws are cruel and inhumane. Every law abiding American citizen should have the freedom rights to control, and choose the desired the home heating temperature rate in every home or public/subsidized housing unit.

How can we live in a democracy where high minded progressive policymakers dictate and determine when lower income housing tenants can have the heat turned on in their housing units? This cruel and inhumane home heating standard temperature requirement law is a prime example of an authoritarian rule of governance.

We the American people should always be able to exercise our basic human rights to control and choose when we want to turn on the heat inside our homes or housing (apt) units regardless of the temperature outside.

Creating more vital economic opportunities for motivated lower income American citizens (who live in public housing for more than 10 years) to be able to exercise their constitutional rights to freely purchase small vacant idle land parcels from the Department of Neighborhood Development. This proposed economic empowerment inclusive initiative, should be a top priority to promote resident empowerment and provide self-sufficiency for the less fortunate.

America was originally established upon the righteous biblical ideals of inclusive capitalism, with the intent to protect and preserve individual citizens' constitutional rights. Taking away the basic human rights for lower income housing tenants to control and choose the desired home heating temperature rate in residential housing units is oppressive and destructive to the American Democracy.

Thank you again for your time and consideration. May Almighty God bless all your future endeavors, as you faithfully seek Godly biblical insight-wisdom and righteously serve humankind.

Response: BHA strives to ensure that housing meets code requirements with respect to being heated and cooled appropriately. Regarding economic mobility opportunities, BHA continues to partner with the City of Boston and other agencies on efforts to promote homeownership, entrepreneurship, and other advancement. The BHA seeks to pull levers that activate paths to self-sufficiency and economic mobility for BHA residents. Two examples of that are: (1) the First Home program where the BHA has leveraged City and federal resources to allow BHA more than 75 households to purchase homes in the past 2 years, and (2) the Family Self-Sufficiency (FSS) program that builds assets for families as their earned income increases. The FSS program currently has more than 8 million dollars in shared escrow for the more than 1500 BHA households that participate.

Comment: S. B.1.4, Rent Determination (pp. 25-30) On p. 1, it is stated that this section is revised. However, in reviewing the section, I did not see any revisions (new language added, or strike-throughs of prior language). Could BHA clarify? HOTMA implementation will mandate significant changes in Public Housing and Leased Housing rent determination, and this is discussed slightly in the HOTMA Appendices to the ACOP and Admin Plan (see separate notes on that), but as noted, GBLS is hoping that BHA will have a robust engagement process with residents on any changes and BHA discretionary policies, to the extent permitted by HUD, and that topic isn't covered in comments here.

Response: The Flat Rent section was revised in the referenced section.

Comment: S. B.1.5, Operation and Management (pp. 31-36)

The list of developments that are BHA managed versus those that are privately managed (on pp. 31-32) appears unchanged, and does not include sites that have converted to Mixed Finance operations (such as Franklin Hill, etc.)

Response: Franklin Hill is included in the table referenced.

Comment: S. BHA revamped its note on p. 34 about FSS expected graduation and replacement with new FSS participants. As noted under Section B.1.8 below, if FSS goals previously set have not been achieved, it would be good to have information about why and what new goals BHA thinks are feasible. Moreover, as noted in other comments, much of the BHA's FSS program has been for Leased Housing participants, and relatively few Public Housing residents and sites have been able to participate. A long-term goal should be to add more public housing residents and sites to the FSS program. The 5-year plan could lay out the plan for which additional sites and expected numbers of public housing residents can take advantage of this program over each of the next five years.

Response: See Five-Year Plan goal on creating economic opportunity.

Comment: S. B.1.8, Community Services and Self-Sufficiency (pp. 44-48) On pp. 45-46, there is an updated statement of various programs that BHA Public Housing tenants and Leased Housing participants utilize. Some (like the HomeBase set aside and the JRI program in public housing) have been eliminated, and others (like the Elders Living at Home Program) have been merged under new headings. Should the Justice 4 Housing initiative with BHA, which includes the SHARPP program (to improve housing access for criminal justice-involved individuals returning to the community), be added here, or is that just related to the City Voucher program? On p. 47, there are updated figures on current Family Self-Sufficiency (FSS) enrollment –88 public housing families and 1366 Leased Housing families. While this is impressive, it would be helpful to compare these with FSS utilization goals that BHA included in its last 5-Year Plan Progress Report, and see if the goals were achieved and if not why.

Response: Thank you for the comment. The details of the SHARPP program is not necessary for addition as it is subject to ongoing changes. Changes to lookback periods and the emphasis on review of mitigating circumstances have been updated in recent Admin Plan versions and those policies are the lynchpins of the commitment to housing participants with a criminal history.

Comment: S. B.1.11, Asset Management (p. 64)

There is nothing new here (see also p. 1), and more of the focus in recent years has been on Mixed Finance and Demolition/Disposition Strategies, which are discussed further below, as well as in the RAD Addendum (for which separate notes/comments have been submitted).

Response: Thank you.

Comment: S. B.2.17, Designated Housing for Elderly and/or Disabled Families (pp. 80-82) While p. 1 indicates that this portion of the Supplement was revised, no revisions appear in the text, other than stating "Oct. 2024" after the chart with units at various

BHA federal elderly/disabled public housing sites. It would be helpful for BHA to provide a highlighted/strike-through version of any changes made from the prior version of this section/chart, or if it turns out that there were no changes, revise p. 1 accordingly. Note that while the Designated Housing Plan does not need to be extended or newly submitted in the coming PHA Plan year, it will expire in February 2027, and BHA would need to take appropriate action with HUD prior to that date.

Response: The referenced section table was updated in October 2024.

Comment: S. B.2.18, Conversion of Public Housing to Tenant-Based Assistance (p. 83) While p. 1 indicates that this portion of the Supplement was revised, no revisions appear in the text, and it still contains Per Unit Month figures from the fall of 2023, as opposed to the fall of 2024. (The page does say "Oct. 2024 at the bottom", and it may be that the number of occupied units for the various federal family developments is updated, although there are no strike-throughs or highlights to indicate revision.) BHA should review and update this.

Response: The referenced section table was updated in October 2024.

Comment: S. (also RED/Asset Management) B.2.24, Units with Approved Vacancy for Modernization (p. 90) This is an updated list and includes vacancies at Eva White in the South End (slated for demo/dispo Mixed Finance activity, as listed above), 91-95 Washington Street in Brighton, and General Warren in Charlestown (a proposed demo/dispo and Mixed Finance site). It would be helpful to get more information on the strategy to eliminate these vacancies, which may differ based on future plans for each site.

Response: Staff welcome opportunities to address the RAB on topics of importance such as this.

Comment: John Lewis states: "Do not get lost in a sea of despair. Be hopeful, be optimistic. Our struggle is not the struggle of a day, a week, a month, or a year, it is the struggle of a lifetime. Never, ever be afraid to make some noise and get in good trouble, necessary trouble."

1. Re-Open for use all the Family Units Trash Chutes at 29 Jette Ct and 31 Jette Ct and the other Family Buildings Trash Chutes at Commonwealth Development in Brighton.
2. Daily Clean the high-rise buildings. Examples for cleaning are the elevator floors and walls and wash the front and back hallway floors each day.
3. Heating for all Residents, new Honeywell thermostats that can be-regulated by the Residents.
4. Remove the present Bathroom Toilets and put-back again the toilets that had water in the tanks so the Resident can see the water rising in the tanks for use and flushing. Note: The toilets that are presently in the resident's units are consistently not working and Residents have told me that he/she is having to remove the poop(unsanitary) with plastic spoons because there is not enough water in the toilet for flushing.

5. Safety concern. New apartment doors needed. Resident's apartment entry doorknobs are-covered by a piece of silver-tin. Also, the doors are too high-up off the floor and cold-air and pest can get inside of Resident's unit.
 6. New Windows with better ventilation that do not sweat in the hot and freezing temperatures (? mold).
 7. New Elevators for all high rises. The elevators breakdown weekly and sometimes daily, and the elevator ceiling fan has not worked for 10 years or more and elevator has poor air circulation.
 8. More Street lighting throughout the property for the residents' Safety.
 9. More Cameras on the property for Residents' Safety.
 10. Repair Roofing for all high-rises
 11. When a Resident request repairs, we are asking for the repairs to be-done under the original work order requested number. Instead, Residents are-being-told to call back three & four times to get additional work order numbers because the repairs are-not-being-done at the technician first visit to the unit. Residents should not have to be-told that the original work order number was simply to assess the repair work to be-done.
 12. Safety Concern: Residents must have camera access to see who is ringing the doorbell or door-buzzer to get entry into their building.
- Note: Residents' doorbells and door buzzers are ringing throughout the nighttime.

Response: Thank you for the comment and list of priorities, some of which can be found in the BHA's Capital Plan. BHA welcomes and incorporates resident input as part of the annual capital planning process. BHA staff will take all comments under advisement. Specifically Items 1, 2, 3, 4 & 8 may be reviewed with Operations staff if this has not been addressed; Item 5, had a Unit doors replaced in CFP 18 and 19 (recently completed), if new weatherstripping or a door sweep is required it can be reviewed with Operations staff; Item 6 is being reviewed with current Envelope/Masonry Repairs noted in CFP 21, 22 & 23; Item 7 have the elevators at Commonwealth Elderly out to Bid funded currently in CFP 22 and CFP 21 have planning review of the Commonwealth Family Elevators in Design with budgeting of added City Funds; Item 9 had significant cameras added through CFP 18, project was completed in Nov. of 2021; Item 10 Roofing at Commonwealth was last completed in 2002 with replacement scheduled for 2027 (will be added in CFP Budgets for 2027 & 2028). Item 11 Staff agree that a work order is not just for assessment only but should cover the repair, in most instances; Item 12 it should be noted that upgraded intercoms are in the Five Year Capital Plan for all of our developments. We are focusing on the Elderly Buildings first (the Butterfly System) then the Family Sites.

Public Hearing

Comment: Hello. I came to BHA a few years ago into section 8 moderate rehab with my daughter into a two bedroom and later I had a son and now I need another room for my son and tried to send in paperwork and on waiting list for three bedrooms. Now apartment is too small. Contact my caseworker but told I can't do anything about it.

Landlord said can't do anything for me but I thought I was approved for a three bedroom. My son is four now, so I need a room for him. I don't know what I can do now.

Response: BHA staff took down her name and contact information and will follow up about her specific situation.

Comment: Hello, I applied back in 2021 and am now living in a shelter. I am an applicant and provided some paperwork, a lot of paperwork and I sent it to them. I am wondering what is the next step. I sent everything they asked for.

Response: BHA staff took down her name and contact information and will follow up about her specific situation.

Comment: I will do something brief and also sent in pieces in writing. Two quick things Victor Williams presented to monitoring committee with updated information that made it appear there were positive developments and would be good to merge into annual plan and update the final version of the PHA plan submission. So that's one thought. Another that was discussed briefly at the RAB meeting with Katie McGonagle and Taylor Cain regarding the five-year plan that was drafted before the election of Nov 5th and some things may change a bit. BHA staff made a good response saying a lot of the five-year plan is aspirational, it's what our best hopes and intentions for what BHA hopes to get done in the next five years and what needs to happen in Boston. Though there may be some challenges in terms of federal resources so just a thought that the Authority may want to blend into the final version any thoughts along those lines to still the plan to proceed forward and accomplish as much as possible, but there may be some challenges and that all of us will need to be thoughtful in figuring out how to, to respond to challenges that may lie ahead. That's all I had.

Response: BHA staff thank you for the comment and participation as always and staff will consider making updates to the Annual or Five Year plan.

Comment: Could you give a high level overview on how heavily the opinion of the RAB board weighs on this five-year plan, for example, if residents are in disagreement with parts of the plan? Could you go over to what the process would be? Is it just an opinion? Is there a process in which we come to an understanding where we all on the same page?

Response: That's a tough question to directly answer. I think we do everything here at the BHA with the residents and leased housing participants in mind. We know are trying to move certain things in a particular direction. For example, we are redeveloping some of our public housing sites because we believe that it is critical for the financial viability of the housing authority and necessary to provide low-income housing for the long-term future. So that's something we at the BHA strongly believe in. So while that's the ultimate goal, how we get there is to be determined, how does that work? How are the leases going to be under the new management, what rights are residents going to have? Those are all things that we're looking for resident participation and opinion on,

so we can come to a common understanding or really understand what residents are valuing. And so, this is hard to answer generally without diving into the specific issues. I don't know how to answer it, except that I do know from working at the BHA a very long time, that, we take the RAB's opinion very seriously. And while we don't always agree, we certainly try to figure out how can we come to a place where all parties are okay with moving forward or a compromise that could help both parties or all of us move forward and be okay with that direction.

So again the RAB is critically important for the BHA. I think we're extremely lucky. I've actually had a chance to do consulting at other housing authorities where there's not such a strong resident advisory board. And I think we're very lucky to have that kind of have a good group of public housing residents and Section eight participants that come together and really advise us on issues, and, somewhat attributed to I think to Mac and John and the great job that they do around keeping everything together. But again, it's just something we are going to do and it's part of the BHA's core mission is to really take that resident feedback and do the best we can to advise our policies with that. So, happy to talk on specific issues at some other point in time as well, if you'd like.

Comment: I appreciate your response. And this is my first year with the RAB. And so from my perspective, it seems like a logical and proactive approach versus a reactive approach. So it seems like there's this grassroots platform, which is the RAB, right? Where you're having bottom up conversation so that you can provide that top down solution piece and making sure that you're meeting the needs for the residents. So I kind of knew the answer, but I just wanted to put it out there so that you could say it for the people.

Response: Thank you. Appreciate that.

Comment: Can I add maybe a little bit on that one, uh, Heather, if that's okay? So, an example a few years back was Bill McGonagle had come to the RAB to propose basically scrapping having the tenant grievance panel. And there was a strong resident reaction both at developments and at the RAB about that. And so, Bill said, wait a minute, I'm going to slow this process down. And he came up with a modified proposal, which was basically, sure, I'll have a hearing officer system, which might be faster, but if residents really want to have it go to the panel as well that's an option that people can do. So he basically tried to keep the best of both worlds. The other example is that BHA has from time to time, spent additional time talking through with RAB members ideas that it has. So I know David was part of a conversation, I think it was last year or maybe the year before where we were doing stuff. There was stuff about criminal history revisions and the screening times being done for criminal history. And that was a really good conversation because then residents understood from a BHA standpoint, I think there were also some residents there from Justice for Housing that explained what their concerns were about giving people second chances. And so being able to do that kind of diving in to understand the whole range of issues was, was incredibly helpful.

Response: Thank you, appreciate that.

Comment: So I'm a resident at Heritage over in East Boston. And so I find it interesting that you're speaking about a five-year plan, but in late January there's going to be a four year plan beginning. So I'd like to address that issue. I hope it fits within this discussion, but it is been reported in various media outlets that the president elect has directed federal officials to find ways to cut funding to cities controlled by Democrats. So Boston certainly fits that case and he's also threatened by executive order to take federal funds away from sanctuary cities who don't implement his policies regarding illegal immigrants so Boston also falls within that category. So my question is if these measures really take hold and are presented to the nation, does Boston Housing have measures which could legally oppose such funding or cuts in funding from the federal government? And if they do, I would hope that they would make them public to all of us. So that's my question. That's my comment. I appreciate you.

Response: Thank you for your comment. Really appreciate you coming out tonight and giving a comment. I don't think I have a really substantive answer for you because a lot of what we're facing is somewhat speculative, right? We are certainly concerned about what's on the horizon in terms of federal funding and what may happen or what may not happen. So we are certainly alert but not taking any steps at this point to do anything in advance that might be harmful to us. We are waiting. The majority of our funding comes through HUD and they already have formulas to distribute that funding across the nation. I think it would be somewhat difficult to remove HUD funding from so-called sanctuary cities. There's probably other areas where that might be a little bit easier to do, but again, I'm just speculating and so we're all anxiously awaiting what may happen and keeping our fingers crossed that the need for housing will cut across the aisle in Washington. I understand your anxiety around the issue and I think we all at the housing authority have the same concerns.

Comment: So I said a lot of everything up here, but to highlight just how important it is for people to get involved. We are having purposeful conversations with BHA. So I heard you sir, mention how you have concerns. One of the great things about the RAB is that we're able to get an insight on what's coming down the pipeline. There's no questions that are off limits. So if there are any concerns that you have, you bring them to these conversations that we have on a monthly basis. And if they don't have the answer, the great thing about BHA and I don't work for BHA and if I had an issue, I would really say it is that if they don't have the answer, they'll get it to you and they'll get it to you in record time. And so I just can't say it enough. I'm just so pleased with how they've been handling the communication piece. And the other piece too is we don't always agree. A lot of times we don't agree with what's happening, but it's okay to agree to disagree because we also have to take into consideration that we live in a space where housing isn't really stable for anybody. So to have these protections and BHA really standing on the front line and really fighting for us, you really feel that when you're having these meetings with them. So again, I just wanted to highlight, be part of the conversation so that you can understand where we're going and then you can share your comments and then be part of the plan and that's really how you walk away feeling. So that's it.

Response: Thank you for your comment and see above response about RAB / resident involvement.

Comment: Good evening. Good evening. I'd like to discuss a few things. I am very interested in becoming a member of the resident advisory board. The second thing is customer service. When we call housing authority, no one answered the phone. When they do, they sound like they just woke up, like we bother them. You can hardly hear 'em. You hear your voice right after you speak coming back and then they get very combative, very disrespectful customer service. I used to work in offices. One of the person they taught us, you learn how to speak to people and you learn how to dress. Not like a model but decent and pleasant, not anything hanging out. Sean just woke up and jumped out his bed and came to work. And the third thing is advocacy. Why in the world can't our, I don't know what you call 'em today, the people who are supposed to represent us, why can't they advocate for us? They don't do anything. When we have a problem with the manager or the housing where we live, they're absent. They nowhere to be found. That's ridiculous. Thank you.

Response: Thank you. Just a brief response but I will say that the BHA recently hired a director of customer service and the main goal of that role of that person is to improve the level of service that you receive when you call the work order center and so that those folks can be much more responsive to your needs. We're also working very hard to reduce the timeframes around work orders and how quickly they are resolved. And so one of our goals for 2025 is to ensure that 95% or more of the work orders are resolved within 60 days. Of course the emergency work orders will be resolved within 24 hours, but I acknowledge that we have can improve significantly with respect to customer service. Once we get the work order center staff at a level that we believe is appropriate, we're going to continue going outward from there and making sure that not only management staff but everybody at the BHA is more responsive and more customer service oriented. So that is something that is at the forefront of the work that I'm doing. I appreciate your comments and just wanted to let you know that we are certainly working on that and I know that we haven't been the best in the past, so thank you for your comment. Staff also followed up with a phone call and sent the commenter information about the RAB in the mail.

Comment: Thank you. This is my first time here. I live at 140 Clarendon street side. I've been there for a year and a half and recently I'm on disability and my SSI check they were supposed to start giving me retroactive money and I used that money to pay my rent and instead of giving me the money, they sent me a bill that said that I owed up \$1,500 because while I'm in school trying to earn my degree and improve my life, I was homeless in Boston and took three years to get that apartment. They took my SSI check because I made a thousand dollars, \$1,408 a month and their own documents say that I can earn \$1,650. So I filed an appeal and the mail, so the mail in my bill, I know the mail lady, she does a real good job of getting us the mail. The mail basically they never got the mail. I tried to bring it to hand deliver the appeal to the office. They said I had to send it to Washington State and I sent it. I said I took pictures of it but I couldn't pay my rent and I didn't know what to do. I had a hip replaced. I couldn't work the whole month

of June so I had no money coming in and they still haven't given me my check back. I'm on disability. I have several issues. I have a part-time job so I can pay my rent right now, but I was behind. I just don't know what to do.

Response: BHA staff gathered contact information and followed up to work on these issues.

Comment: Hi, I have been at the Charlestown development for 10 years and I would like to mention two problems. I have two problems which basically interfere with my life mode of living. I'm student at the Bunker Hill Community College and for the past year and a half, the site has had a very annoying high pitch construction site noise. It can be very, very annoying, believe me, it's not on a scale that it would deafen you, but it is extremely annoying and it is present in the apartment constantly. I have spoken with the head of the BHA a month ago and it lessened somewhat the noise, but it's still very, very considerable and it has turned my life into a living hell because I'm a student. And what it sounds like, it sounds like beep, it's a backup signal, it's a reverse signal noise which is present all the time.

It's like beep, beep, beep, beep beep and it's the whole day from 6:00 AM to 4:00 PM and I don't know how to solve it because I do not have much power in that question. I did complain. I left a note, I written note at the meetings. It seems that it has lessened a bit but it's still there and it has interfered with my grades at the college because it's quite challenging to be a community or college student. I can assure you.

A second problem is doors entrance, doors prop open any time of the year for the whole day. Some unlawful resident, someone who is anonymous opens the doors and I haven't been able to solve it. Management installed a sign to the wall today, not to leave the doors open, but as I was leaving for this meeting, I found the door wide open again. Someone puts a broom into the door. So I don't know how to solve it because it's a security concerned, aware anyone can walk in. Actually Massachusetts is bear country. I don't know if you are aware Massachusetts is a bear country. There's not a lot of bears in Charlestown though. Well then I read that in Charlestown, Rhode Island, that bears were spotted in the navy yard, which scared me but it turns out to be Rhode Island. But the bears, they are present. When I lived in the Berkshires, I actually had pictures of them. They are present in Massachusetts. They are. That's true. They're small black bears but they are there. So that is my concern. Thank you for your time. But the main concerns, the two things is construction noise and the door being propped open.

Response: Staff gathered commenter contact info to refer to management to follow-up about these issues.

Comment: Okay. Hello everyone again. So I have a couple of concerns. One of the concerns that I have is the porch pirates, when you get your packages stolen by random people when they're delivered and the lack of security that we have at our site, especially as an elderly disabled division building. We believe that we have to have security and if it's not 24 /7, at least some hours of the night, where a lot of the mischievous activities have been happening. We do not have security at all at the Ausonia apartments and a lot of things have happened, like strange activity has

happened and it's never deescalated. There's a huge complaint about packages getting stolen. I've had to have my medicine delivered to another location just to not have it stolen. I've had over a hundred dollars worth of medicine stolen and stuff that I need forever and it's extremely frustrating, especially when you are fixed income that money is not something you could just pull off of trees. So the fact that we do not have any secure place for our packages to go or even a security guard looking out for the residents is crazy. I would like to know what BHA can do about giving this that building security or at least in having an Amazon locker put into the building lobby of some sort or some kind of something because people are having a lot of important things stolen and it's not fun having to go through the whole process of having medication sent again because now they have to investigate and you're going days without what it is you need and your routine is messed up. That's one of the things that's been really bothersome to a lot of the people at the Ausonia is lack of security and stolen things. I see other sites have security and we don't.

Response: Thank you. That's definitely an issue we can follow up on, especially with respect to the packages and I think your idea about an Amazon locker or something similar to that could be a viable solution. So I'm going to speak with Raul Leon who's in charge of the asset management division and oversees Ausonia. And we'll discuss some feasibility there and then get back to you on that specific issue on the packages with respect to security.

Comment: Hello. Good evening everybody. I live at Barkley Apartments known as Cathedral several years ago. I have lived there for approximately 25 years. I really didn't know that it's going to be a bunch of people and really this is my first time that I participate in this event and I'm glad that you are here to listen to our voice. Thank you for that. I really appreciate this opportunity. But tonight I have a bunch of comments that I would like to address. I told you I live there for 25 years. One of the problems that personally my family is facing and I know that my neighbors are facing is this smoking problem in the building. Even we know that there are signs on the main door of each building from BHA that smoking is prohibited and it's not allowed. But some residents, they don't consider that there is a policy that they cannot smoke even inside the halls or inside their apartments. And this has been an issue, a big issue and I can say from my perspective because my family have suffered asthma for several years. We have complaining this problem with the smoking department and also we have address with our manager, but we haven't seen a response from them. Instead, we have some issues now with our neighbor who is the one who smokes and his family smoke and also his guests coming to smoke, even drugs and marijuana to detect from my apartment. This is something that really make me to make a lot of police reports. If I wouldn't know, I wouldn't bring just evidence I was going on. Even though one of these days last year we have an argument with this family and his wife came into my apartment trying to attack me and also making comments and trying to attack my husband who is a BHA employee besides. So these problems have been increasing and this is something that I'm telling you that I am not the only one who has been complaining about these people. There are some families that, or people who wouldn't want to talk because they are afraid of any retaliation from these tenants. It's sad

because these apartments have been very, very quiet, very nice people. I told you I believe for 25 years, but recently these people move in no more than one year ago. And this is something desperate that I really need your consideration and to address this problem.

Some other thing that besides that is the other tenant say some of the packages have been in stealing from our doors. Also vandalism and sometimes we just found our tires flat. Someone take the air from our tires. So we really are concerned about this.

Regarding the other thing that is that also the music, love music. Many tenants don't consider people who really need to get up early to go to work and they play the radio music so loud even until 1:00 AM or the parties begin at 12:00 PM and ending until 1:00 AM the next day even. So we understand that holiday sometimes they can enjoy or we have parties, but people still, especially those who work for the public service and BHA, they need to get up early, doesn't matter that is next another day or holiday, they have to be working and something that need to be addressed.

Another thing I'm really happy that BHA is trying to give the opportunity to tenants to have our first home. Something that I really would like to do. I am enrolled in that program, but I want to just suggest something regarding that. I know that many of us would like to fix our credit grade or sometimes we have our jobs so we have very good records of our credit. This is not enough to us in order to get our home. I will suggest if for example, all the history of the payments or the credit that we have paid, many of us 25 years paying rent on time and with our efforts working, sometimes we have been single mother, single parents or both parents, we have worked hard in order to pay our rent. So we just do approach this suggestion if you can consider that our payment history, rent payment history will be taken in account in order to have our approval ready for this. Other problems that I've seen not only in other families is that sometimes some of them are self-employed and when they go to the bank to request for the credit. They are denied because the minimum of working should be two years for a business support. And I think that if someone is self-employed is because we can see that people really is interpreter and they really work hard in order to pay the rent. So I think that if BHA really wants to help tenants, they should do it in appropriate way. I know that you are doing the best but also consider that the BHA serve people who really is not rich people. It's people who have been struggling. We have our children in college. Thanks God and thanks BHA. My, I have two, one daughter and one son in college. I am proud to say that my son have a scholarship for school and my daughter have a scholarship for UMass. So BHA should be proud of these people like my children and other people who really, I know you have daughters, sons and grand sons, granddaughters who have been working hard for this. So thank you so much. I really appreciate this opportunity.

Response: Thank you for your comments. Thank you. Staff gathered commenter contact info to pass on to manager for follow-up. Regarding credit scores suggestion, the credit score requirement to BHA's First Home Program mirrors a mortgage lender's requirement in order for a client to obtain a mortgage loan, and they are subject to other rules/regulations around credit score. So, even if BHA waived our program credit score requirement it would not assist families with achieving homeownership as they will still need to obtain pre-approval from a mortgage lender (and have a credit score high

enough to do so). Congratulations on sharing the information about the children in college.

Comment: Okay, greetings everybody. I don't even think I need a mic with this big mouth. I put my email over there and my phone number just in case anybody here wants to give me call soon as I'm done with not grievances or worse complaints, but maybe a little bit of hope. So I heard a lot everybody, everything that you've said, I know that there is a, people are think what four or five year plan supposed to be good things and promise you it'll be less than half of that, okay, that you'll start to see things in about six months. It's going to be good. Now, one of those people that you were talking to recently actually attempted to take my life. I've been doing a lot of weird stuff here and I don't know that some of you might've heard or know me, but if you don't, that's fine. What's most important is though is that it's very hard to stop something that's good, what's going on. So there are people who are trying to make very good people suffer and it won't happen. Back in it was 1947, I don't remember when John F. Kennedy passed away, what he did. He said, we have nothing that's a fear but fear itself. So there are some people trying to put that on you. You have sustained this long four years and it's going to get better. Okay? Now what I can tell you to do is honestly just pay attention to, it's going to sound crazy, but the weather now if you contact me, my cell phone is off for right now to the end of the month, but I do have an email. I'm using public wifi wherever I might go to. But I did hear some good things. I also was able to see pretty well. So thank you very much for letting me speak and I'm going to actually head out now. Okay, bless you all. Thank you, thank you.

Response: Thank you very much for that.

Comment: Hi, I'm a volunteer at Greater Boston Legal Services, used to be on staff at Greater Boston Legal Services. My colleague is in the audience. Just wanted to talk about six things, which I'm going to try to get through in three minutes. So one, I wanted to thank the BHA for including in the five-year plan, a mission statement, which is a brand new mission statement. And I don't think very many people mentioned that at all, but it's actually a very interesting mission statement and I think people should take a look at it because it sort of lays out some new things about where the BHA is with regard to the city and with regard to its residents and its vision of itself. And I just think it's a very interesting vision. So take a look.

Second, I wanted to mention a couple of things about the five-year plan that I think maybe could get tweaked a little bit. So in one area there's discussion about performance included in the performance has to do with turnaround time on basically tenant generated work orders and turnaround time on vacancy work orders. And I think David had mentioned this earlier, setting a goal of 60 days on that. Well, the state sanitary code sets a goal of 24 hours for emergency work orders and 30 days for all other work orders to get done. And those are the same standards that BHA holds landlords to for the section eight program. And so there is a question about whether or not a 60 day standard for yourself is what you really want to have for that work order goal. And so that's something to take a look at. The other one is vacancy reduction is really important. Sometimes it's a question of what's necessary to get a unit turned over

through the screening process, people who are going through the process, getting screened, getting approved, but then there's also the work when someone moves out of the unit to make sure it's ready for the next tenant to move in. The vacancy work order part is that second part, which is making sure the work gets done so that somebody can move in. And BHA, it's important for the BHA to be able to turn around work orders and get them leased up so it doesn't end up with negative scores for the PHAS program as well as possibly negative consequences for the NSPIRE standards. And so it's another thing to possibly look at. I understand that for both the work order production and vacancies, sometimes there are problems. Sometimes there are things, for example, I know that Administrator Bok spoke very eloquently at the city council recently about all the problems with the elevators at Cathedral/ Ruth Barkley and necessary in order to get that work done. And those are very real, but at the same time, whatever the BHA can do to try to get things done within those time periods would be good.

An additional goal the BHA may want to include, and I think it's actually included in what it has, but could add a little bit, has to do with restarting the mixed finance residents group. That group basically met prior to the pandemic. It was a way in which residents and the developers and managers of different mixed finance sites could get together in a room and say, what are we all doing here and where are there gaps? And oh, you did something good here at Washington Beach, can we do that same thing over here at Franklin Hill? Oh, what are your eviction records look like? What could we be doing? Granted with the pandemic, all that ground to a halt. And I know that there is also discussions about whether or not sometimes having cluster groups that just focus on particular developers is helpful. And I do think that that could be the case like with a Trinity meeting or a Beacon meeting. But I do think that we've lost a little bit of something without getting all the residents together from the mixed finance sites. And this is particularly true when there are a lot of developments that are going through that route and that is projected to be the route going forward for the future. BHA may also want to look at the issues that were brought up through the ISHI process and the conference that we had with Mayor Wu in 2021 about trying to get mixed finance management protocols standardized similar to what was already done on the mixed finance grievance procedure and the mixed finance tenant participation. Granted, not everything works, not everything's the same size, got to have flexibility, understood, because pursuing lots of different sources of money and oftentimes they contradict each other. But whatever can be done to sort of simplify the process and say, we've figured this out here, here and here is what's good. And then when we need to change it, we can. It's just I think a good goal for the authority to have system-wide.

I know that what was mentioned before about an additional goal you may want to include is about avoiding displacement and helping people weather changes that are outside of their control. So certainly that's something that came up loud and clear during the pandemic, but it's not something that's unique to the pandemic. People have circumstances in which they lose income and aren't able to pay rent. There's a family debt, they have to borrow money to do a funeral. There are domestic violence situations and reasonable accommodation situations or people needing to get services of one sort or another, whether or not that's for a hoarding issue or a mental health problem or what have you. But just including that as one of the goals that the BHA has of both helping

avoid displacement and helping ensure that people have systems that they can go to help weather storms.

At the same time, I hear completely what Administrator Bok at the monitoring committee recently that we need to get expectations back about rent, getting rent paid, people recertifying on time, et cetera. I hear all that, but it just would be good to incorporate that as a goal. An earlier commenter mentioned a very important point, which is, gee, what's going to happen in the next four years? And I know when the draft plan was done, it was done before November the fifth. The one thing I would add to what was said earlier is there's a whole community and there's a whole group of residents that are out there. And if the Authority needs help, please contact the residents, please contact the community and let us know how we can be of help you. I know that in 2013 had to go through a major dilemma around sequestration. There were about to be 500 families tossed off the section eight program. There were more residents that turned out for those public hearings than for any public hearings that BHA ever had. And so if there's the need for that, again, please feel free to call on the community.

And so finally, I would just say that it would be good on HOTMA stuff and other things that I know are paused a little bit that if you're going to get into greater detail on any of that and there's an opportunity to have more discussions with residents, please do that. We know that sort of all that's a little up in the air because you keep waiting for HUD to tell you what they're doing and you've had to sort of just do rough sketches in the meantime because HUD says, get us a rough sketch of this. But to the extent that we can talk through any of that stuff with residents, that's really important because it's people's rent. People need to understand how they're rent is being set and understand what the choices are and have a good dialogue with you. And on that note, thank you very much for the opportunity to speak with you.

Response: Thank you. I appreciate those comments and I know you probably submitted those in writing as well. The mission statement has been around the past couple years but appreciate the sentiments. But I will say on the 60 day work order turnaround, I think that is an incremental goal for the BHA. I think we're going to continue to get those numbers down, but I think that's the initial goal is that 60 day number. BHA staff agree that the mixed finance resident group has been helpful in the past and will look at reconvening this group. Regarding circumstances where a resident loses income and aren't able to pay the rent that BHA encourages residents in this situation to report the loss of income and go through the recertification process. Regarding assistance from BHA residents advocating for vital affordable housing programs and policies, as BHA has done in the past so it will continue in the future. Regarding HOTMA, staff will actively engage with residents as HUD moves closer to implementation. Again I want to just thank everybody for coming out tonight. Very much appreciate your attendance again and the terrible rainy weather out there. But thanks again for participating and hope to see you all again soon. Thank you everybody.

Real Estate Development

Comment: S. B.2.14, HOPE VI or Choice Neighborhoods (p. 66) There are no revisions to this section indicated (see also p. 1), and this is no surprise since BHA's last HOPE VI project was the first phase of Old Colony redevelopment and the Whittier Street Choice Neighborhoods grant was obtained a number of years ago. One question may be whether the Whittier Street project is close to close-out, and if that should be listed here (in lieu of "activities pursuant to an approved Transformation Plan underway"). But it may be that that would be for the following year.

Response: Thank you. While the redevelopment of the original Whittier site is expected to be completed in 2025, there are other grant activities that will not conclude until later. As suggested, we do not expect grant closeout until a future year.

Comment: B. 2.15, Mixed Finance Modernization of Development (pp. 67-68) There are a number of useful updates here, including:
Revised expected completion dates for Old Colony Phases V and VI (p. 67)
A revised construction start date for 127 Amory St. (p. 67)
Confirmation that J. J. Carroll was completed in January 2024 (see separate note under Section B.1.6 on the Mixed Finance Grievance Procedure there) (p. 67)
Removal of Torre Unidad from the projected Mixed Finance list, and substitution of General Warren with expected RAD/Section 8 blend with renovations (p. 67). A similar substitution is found on p. 68.
Faircloth to RAD language was revised to add 2024 solicitation of proposals, to remove reference to the Mayor's Office of Housing, and to indicate that this would be part of private affordable housing developments (p. 68).

Response: Thank you.

Comment: S. B.2.16, Demolition and/or Disposition (pp. 69-79)
Here again, there are a number of updates
For Charlestown (p. 70), it's noted that the first building will be open for occupancy in December 2024 (this should be revised to January 2025).

Response: Yes, thank you, the first building is indeed ready for occupancy as of January 2025.

Comment: S. For Hailey (pp. 72-73), Buildings 1A and 1B in the Centre Street Partners (CSP) Phase I portion of the site are to be completed by summer 2025. There is some revised language to discuss how BHA will conduct the renovation of the balance of the site, but since the approaches will be different, it may be best to list this under a separate heading. As noted in separate notes on the RAD Addendum, it appears that BHA is reconsidering whether the BHA renovation portion of the site should be done as a RAD/Section 18 blend. (This is similar to BHA's reconsideration for the Ausonia, St. Botolph, and Bunte dispositions.) As noted there, this should be discussed thoroughly with residents so they understand how this may affect timing and expectations. In addition, BHA staff have explained, in an email exchange, how the numbers shifted

from 526 to 516, but it may be helpful to also include this explanation in the responses to comments in the PHA Plan process.

Response: In order to clearly separate the two components of Hailey (demolition with new construction versus renovation) we have further revised the entries to remove mention of the renovation component from the demolition/new construction component.

As of this time, BHA does not expect to need to resort to a RAD/Section 18 blend at Hailey. In the event that we do end up needing to use RAD in any way, BHA will absolutely discuss with residents what that would mean.

Regarding the shift from 526 to 516, this was simply to correct a prior error. The correct figure should have always been 516. (The error was the result of counting 10 non-residential units that should not have been included.)

Comment: S. For McCormack (p. 73), it's updated to reflect that necessary approvals for Phase 1 (of two phases) were obtained in 2024, and it is anticipated that demolition and construction will begin in the first quarter of 2025.

Response: Thank you.

Comment: S. On Eva White (pp. 73-74), the description is revised to make clear that this is a RAD/Section 8 blend, and BHA is awaiting the RAD Conversion Commitment with conversion anticipated January 2025 and construction start in the first quarter of 2025.

Response: As an update, BHA received the RAD Conversion Commitment in December 2024, and the conversion was effective 01/01/2025. We have updated the Annual Plan Supplement accordingly.

Comment: S. On Lenox Street (p. 74), language was added to make clear that construction completed in 2023.

Response: Thank you.

Comment: S. For J.J. Carroll (pp. 74-75), this now reflects that work is completed (not just projected).

Response: Thank you.

Comment: S. For Patricia White (p. 75), while this properly reflects the disposition and subsidy conversion, there was to be later renovation work. Could this be updated (here or elsewhere) to reflect current status?

Response: BHA and resident representatives have been working with a design team of architects and engineers to assess physical needs, project costs, and plan for upcoming

construction work. Resident task force representatives have participated as well. We aim to share and advance the latest concepts in 2025.

Comment: S. For St. Botolph (pp. 75-76), while a Section 18 demo/dispo application was approved in 2020, new language has been added that due to changes in HUD Section 8 requirements, BHA is now considering this as a RAD/Section 18 blend, with a planned start date in 2025 and completion date in 2027. Can BHA provide more information on this (including what's changed)? This development has had this work long-deferred. There may have been some cost challenges here, but it is important to make sure residents and the RAB are up to speed.

Response: The planned work was indeed been delayed due to cost challenges, but BHA is very confident that construction will begin in 2025. The reason we may need to pursue a RAD/Section 18 blend has to do with changes to HUD regulations that were partially implemented in 2024—essentially, without a RAD component, housing authorities cannot undertake construction work immediately upon a Section 8 conversion. BHA is seeking a waiver from HUD that would allow us to proceed as long planned. But, if needed, BHA would pivot to a RAD/Section 18 blend to ensure that construction may start as planned.

Comment: S. For Doris Bunte Apartments (p. 76), here too there was a Section 18 application approved in 2020 but BHA indicates that changes in HUD Section 8 requirements mean that it may need to pursue a RAD/Section 18 blend, with planned disposition dates in 2026 and completion in 2028. It would be helpful to explain to residents and the RAB what's happening. Here and elsewhere, is competition for scarce LIHTC funding across sites pushing the calendar back?

Response: Yes, the key constraint has been projects costs and the constraint on resources, including competitive resources such as Low Income Housing Tax Credits.

Comment: S. For Ausonia (pp. 76-77), as with St. Botolph and Doris Bunte Apartments, BHA had an approved Section 18 application (from 2022) but indicates that changed HUD Section 8 regulations may mean it is best to pursue a RAD/Section 18 blend instead, with projected start dates in 2026 and completion in 2028. As stated for those sites, information about explanation of changes and what's affecting the calendar should be brought to Ausonia residents and the RAB.

Response: Staff welcome the opportunity to update Ausonia residents and the RAB.

Comment: S. Torre Unidad (p. 77) is removed from the list. See also discussion at Section B.2.15, above.

Response: Yes, that's correct. BHA is not planning to pursue a disposition application for Torre Unidad for two reasons: (1) the energy performance contract at Torre Unidad would complicate a disposition and (2) we are confident that we can provide for ongoing capital needs at the site through traditional ongoing capital planning

Comment: S. For Mission Main (pp. 77-78), prior information is revised to make clear that this was a RAD/Section 18 blend and that the conversion closing happened at the end of 2022.

Response: Thank you.

Comment: S. For the Adams Orchard Parcel 2D item (p. 78), this is updated to reflect the 2024 closing of the sale of the vacant unusable land.

Response: Thank you.

Comment: S. For Orchard Gardens (pp. 78-79), the description is updated to reflect that a CHAP was issued in the summer of 2023. Similar to what happened with the HOPE VI site at Mission Main, this would be a RAD/Section 18 blend with an anticipated conversion by 2026. It would be good for the RAB to receive information on this, since it's been a while since the RAB has gotten information about Orchard Gardens.

Response: Staff welcome the opportunity to update the RAB.

Comment: S. For General Warren (p. 79), this was already on this list, but it is updated to reflect that it would be a RAD/Section 18 blend, and the anticipated completion date would be 2027 (see also Section B. 2.15, above).

Response: Thank you.

Comment: S. B.2.19, Conversion of Public Housing to Project-Based Assistance under RAD (p. 84) There are no changes proposed here (p.1), and the text cross-references the RAD Addendum regarding BHA RAD-related activity. (GBLS has provided a separate set of notes/comments/questions on the RAD Addendum.)

Response: Thank you.

Comment: S. B.2.22, Non-Smoking Policies (pp. 85-86)
BHA has not proposed any changes here (see p. 1) and GBLS does not think any changes are needed. It should be noted that BHA's Non-Smoking Policies predated HUD's adoption of national non-smoking policies in 2016 (announced with BHA and resident leadership at the BHA's Washington Beech site). Moreover, neither HUD's rule nor BHA policy dictate what occurs in Mixed Finance housing, but on the other hand HUD has permitted owners of HUD subsidized multifamily and Mixed Finance housing to establish non-smoking policies if they wish, and many Mixed Finance sites have such restrictions. It is important, in any conversions, that if there are changes made from BHA's policies, residents should have an opportunity to review and comment on such changes, consistent with the BHA's Resident Participation Policy (RPP), which extends to Mixed Finance sites.

Response: Thank you.

Real Estate Development RAD Attachment

Comment: p.1 - New language about requests for proposals for Faircloth units, both for publicly and privately owned property.

Response: Yes, that's right. Thank you.

Comment: p.2 - Some revised language, including that Replacement Housing Factor (RHF) funds (which now are called Demolition and Disposition and Transitional Funding (DDTF)) can be applied toward RAD conversions, but no change in meaning/content.

Response: Yes, the reference to RHF funds has always been in the RAD attachment. We merely moved the reference as a stylistic change because RHF funds are themselves a type of capital funding. (The previous sequencing made it seem that RHF funds are separate from HUD capital funds, which they are not.) BHA in fact utilized RHF funds to create RAD units as part of phase 3A at the Old Colony redevelopment.

Comment: p.3 - West Newton Street RAD conversion (110 RAD, 36 PBV in RAD blend) likely can be left as is.

Response: Thank you.

Comment: p. 4 – Ausonia description should be changed in light of Supplement (Section B.2.16) material indicating that although BHA obtained a Section 18 approval in 2022, it may need to pursue a RAD/Section 18 blend and closing date would change. Notes here from old draft which discussed possibility of pursuing various options, as well as 2025 closing date, should be revised. Capital Fund Allocation in conjunction with use of RAD instead of Public Housing Capital Fund updated to reflect current Capital Fund budget.

Response: Thank you. We have updated the notes to confirm that BHA has received Section 18 approval, but to also clarify that we are keeping Ausonia in the RAD Attachment in case we need to pursue a RAD/Section 18 blend. We have also updated the target closing date to 2026, because—as the comment suggests—we are unlikely to reach a closing in 2025.

Comment: p.5 - Description of the 28 RAD PBV units as part of Old Colony Phase 3A (completed by 2022) likely requires no change.

Response: Thank you.

Comment: p. 6 – Description of Orchard Offsite Phase II (Long-Glen Apts.) for the 34 Public Housing Units converted to RAD PBRA only requires revision to say that the conversion has taken place (as opposed to the notes, which indicate that it will take place in 2021).

Response: Yes, thank you. We have made that update now.

Comment: p. 7 – Heritage description likely can be left as is. This was a Mixed Finance conversion from elderly/disabled public housing a number of years ago, in which most units were converted to PBV, but some had to be retained as public housing. The 28 public housing units that remained (and were not the 3 for employee or agency use) were converted to PBV RAD.

Response: Thank you.

Comment: p. 8 – Lower Mills description likely can be left as is. As with Heritage, there was a Mixed Finance conversion from elderly/disabled public housing a number of years ago, in which most units were converted to PBV, but a few had to be retained as public housing. The 17 public housing units that remained (and were not the 2 for employee or agency use) were converted to PBV RAD.

Response: Thank you.

Comment: p. 9 – Mission Main (Phases I, II, and III) was originally redeveloped through the HOPE VI process in the 1990's, and BHA and the Developer realized it would be advantageous to refinance, do appropriate upgrades, and switch to the RAD/Section 18 blend as LIHTC HOPE VI units came to the end of their compliance period. The initial Capital Fund Program allocation in prior drafts has been significantly reduced, since the BHA could use Demolition and Disposition Transitional Funding (DDTF)--what used to be the Replacement Housing Factor (RHF) funds—and apply this toward costs.

Response: BHA did not in fact apply DDTF funding toward Mission Main costs. The reference here to DDTF acknowledges that BHA continues to receive some capital funding from HUD in the form of DDTF funding. DDTF funding lasts for five years after a public housing unit is removed from the public housing portfolio through a Section 18 disposition approval. (Housing authorities do not receive any capital funding for units that convert to RAD.)

Comment: p. 10 – Eva White has previously been listed, but the notes should be updated, to reflect that this is being done solely as a RAD/Section 18 blend, and not on the dual track of possible RAD blend and pure Section 18 disposition. In addition, as reflected in Section B.2.16 of the Supplement, the date for the closing should be revised (it was not closed by early 2024, and the Supplement indicates a likely conversion in January 2025). See also separate note below as to how the closing date for Eva White might affect the overall count of excluded RAD units for Project-Based Voucher determinations under Section B.2.23 of the Supplement.

Response: We have made those updates. The closing happened at the very end of December 2024 with the RAD subsidy effective as of 01/01/2025.

Comment: p. 11 – Orchard Gardens (Phases I, 2, and 3) is a proposal similar to Mission Main (it was also redeveloped through the HOPE VI process at roughly the same time). There would be a RAD/Section 18 blend. The notes should be updated, since elsewhere in Section B.2.16 of the Supplement it is clear that there will not be a closing in 2024. In addition, it would help to clarify whether there is also outstanding any separate Orchard Commons units that would ultimately need to go through a similar process.

Response: Thank you. We have now updated the closing target to 2026. Orchard Commons will likely undertake a RAD conversion at some point in the future, but to date there have been no concrete discussions among residents, BHA, and the developer at Orchard Commons.

Comment: p. 12 – Mildred C. Hailey Apartments is a bit confusing and requires some more discussion. There have been two Section 18 demo/dispo proposals for different portions of the Hailey site--(a) the Centre Street (CSP) redevelopment, which comprises roughly 1/3 of the site and involves demolition and new construction, as well as providing both full replacement units and additional affordable units targeted to a different range of incomes, and (b) the BHA renovation/ modernization, which comprises 2/3 of the site in which there will be temporary relocation and significant rehabilitation, but no demolition or new construction. Neither of these proposals involved use of RAD. The description here appears to be just for the 516 federal public housing units in the BHA renovation. The draft indicates that BHA is rethinking how the BHA renovation portion would be done (as it is also doing for Ausonia, Bunte, and St. Botolph) through a RAD/Section 18 blend. This possible change and its ramifications has not been discussed with the resident organization that represents tenants in existing and replacement units in both the CSP and BHA portions of the site. The City has also invested significant resources (\$50 million) to bring all units at Hailey up to current standards. GBLS is very involved with assistance to the resident organization here on complex redevelopment and relocation issues.

Response: Yes, thank you. The reference in the RAD Attachment is indeed to the 516 units that BHA is planning to renovate. BHA did in fact receive Section 18 disposition approval for these 516 units in October 2023. But BHA want to keep the 516 units listed here in the RAD Attachment solely to preserve flexibility if for any reason a partial RAD conversion becomes helpful.

Comment: p. 13 – General Warren would be a RAD/Section 18 blend, as discussed further in Section B.2.16 of the Supplement. The note should be updated to reflect what has occurred since 2023 (i.e., if a developer was selected), and this should be reviewed to be consistent with the material in the Supplement (re anticipated closing date).

Response: BHA has made a decision to pursue a RAD conversion and renovation on its own—without a private developer partner, in other words. We've updated the details in the RAD Attachment accordingly, and we've updated the target closing date to 2026.

Comment: p. 14 – West End Library is not BHA public housing property but is a good example of leveraging publicly owned property to increase affordable housing opportunities.

Response: Thank you.

Comment: p. 15 – Faneuil Gardens is new, and it is not an existing BHA federal public housing property. Rather, it is state public housing, and through the redevelopment process, BHA anticipates using the Faircloth-to-RAD process to federalize many but not all replacement units. BPDA recently approved the proposed Master Plan and Phase I for this site, and BHA will now proceed to secure necessary state and federal financial commitments necessary for feasibility. Information should be shared with the RAB about what's going on at the site, and eventually BHA will need to also go through the BHA Monitoring Committee process for disposition.

Response: Yes, thank you. BHA welcomes an opportunity to update the RAB.

Comment: p. 16 – Parcel P-12-C (Chinatown) is also not BHA public housing property but is a new proposal of a joint venture of two non-profits to generate new deeply affordable housing through the Faircloth-to-RAD process. The RAB has not yet heard any details on this.

Response: Yes, thank you. BHA welcomes an opportunity to update the RAB.

Comment: Resident Rights p. 17 – This includes the Resident Rights regarding relocation, tenant participation, waiting list, and screening that are contained in HUD RAD notices, and are referenced earlier (on p. 1 of the RAD Addendum, 4th paragraph). These should be made available to the RAB and residents who may wish them (they are not included in the PDF on the BHA's PHA Plan website).

Response: Yes, thank you, BHA will make these available on its website and through other means.

Comment: Bunte Apartments and St. Botolph should likely appear on the RAD chart, even if BHA had earlier only proposed Section 18 demo/dispos (which were approved by HUD), since BHA indicates it may revise its strategies here to pursue RAD/Section 18 blends.

Response: Yes, thank you. We have now updated the RAD Attachment to include those two sites.

Comment: As noted in separate notes on Section B.2.23 of the Supplement, about Project-Based Vouchers, the number of RAD units listed in the RAD Addendum (or which can be arrived at between the RAD Addendum and various pages in Section B.2.16 of the Supplement) and those listed in Section B.2.23 don't match—the RAD Addendum (and other materials) yield a figure of 484 currently, while Section B.2.23 of the Supplement says that it is 469. Moreover, it is not clear, from current plans, how an additional 100 RAD units would be added by the end of 2024, since even an Eva White closing by the end of 2024 (as opposed to early 2025) would only add 21 more RAD units. BHA should review and respond on this.

Response: Thank you, our figures seem to have been out-of-date. We have updated Section B.2.23 of the Supplement to reflect that, as of 01/01/2025, there are 471 RAD PBV units under contract. The breakdown is as follow: 267 at Mission Main, 28 at Old Colony, 28 at Heritage, 17 at Lower Mills, 110 at West Newton-Rutland, and 21 at Eva White.

Certification of Compliance with PHA Plan and Related Regulations <i>(Standard, Troubled, HCV-Only, and High Performer PHAs)</i>	U.S. Department of Housing and Urban Development Office of Public and Indian Housing OMB No. 2577-0226 Expires 09/30/2027

PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations including PHA Plan Elements that Have Changed

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairperson or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the X 5-Year and/or X Annual PHA Plan, hereinafter referred to as "the Plan", of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) for the PHA fiscal year beginning 04/2025, in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located (24 CFR § 91.2).
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments (AI) to Fair Housing Choice, or Assessment of Fair Housing (AFH) when applicable, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan (24 CFR §§ 91.2, 91.225, 91.325, and 91.425).
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA provides assurance as part of this certification that:
 - (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
 - (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
 - (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d—4), the Fair Housing Act (42 U.S.C. 3601-19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title II of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and other applicable civil rights requirements and that it will affirmatively further fair housing in the administration of the program. In addition, if it administers a Housing Choice Voucher Program, the PHA certifies that it will administer the program in conformity with the Fair Housing Act, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act, and other applicable civil rights requirements, and that it will affirmatively further fair housing in the administration of the program.
7. The PHA will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR § 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair

housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR § 903.7(o)(3). The PHA will fulfill the requirements at 24 CFR § 903.7(o) and 24 CFR § 903.15(d). Until such time as the PHA is required to submit an AFH, the PHA will fulfill the requirements at 24 CFR § 903.7(o) promulgated prior to August 17, 2015, which means that it examines its programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintains records reflecting these analyses and actions.

8. For PHA Plans that include a policy for site-based waiting lists:

- The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2011-65);
- The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
- Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
- The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing; and
- The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR 903.7(o)(1).

9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.

10. In accordance with 24 CFR § 5.105(a)(2), HUD's Equal Access Rule, the PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
11. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
12. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
13. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
14. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
15. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
16. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
17. The PHA will keep records in accordance with 2 CFR 200.333 and facilitate an effective audit to determine compliance with program requirements.
18. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
19. The PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Financial Assistance, including but not limited to submitting the assurances required under 24 CFR §§ 1.5, 3.115, 8.50, and 107.25 by submitting an SF-424, including the required assurances in SF-424B or D, as applicable.

20. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
21. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

Boston Housing Authority**MA002**

PHA Name

PHA Number/HA Code

X Annual PHA Plan for Fiscal Year **2025****X** 5-Year PHA Plan for Fiscal Years **2025 - 2029**

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Name of Executive Director DR Priscilla Bok		Name Board Chairman Not Applicable	
Signature 	Date 01/10/2025	Signature	Date

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to ensure compliance with PHA Plan, Civil Rights, and related laws and regulations including PHA plan elements that have changed.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

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Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan or State Consolidated Plan (All PHAs)	U.S. Department of Housing and Urban Development Office of Public and Indian Housing OMB No. 2577-0226 Expires 09/30/2027

**Certification by State or Local Official of PHA Plans
Consistency with the Consolidated Plan or State Consolidated Plan**

I, Michelle Wu, the Mayor of City of Boston certify that the 5-Year PHA Plan for fiscal years 2025-2029 and/or Annual PHA Plan for fiscal year 2025 of the MA002 - Boston Housing Authority is consistent with the Consolidated Plan or State Consolidated Plan including the Analysis of Impediments (AI) to Fair Housing Choice or Assessment of Fair Housing (AFH) as applicable to the Boston pursuant to 24 CFR Part 91 and 24 CFR § 903.15.

Provide a description of how the PHA Plan's contents are consistent with the Consolidated Plan or State Consolidated Plan.

The BHA 5-Year Plan for fiscal years 2025-2029 and Annual Plan for fiscal year 2025 is consistent with the City of Boston Consolidated Plan and AI in that both aim to preserve affordable housing for all residents but especially low income residents while addressing impediments to fair housing choice. The City of Boston and BHA continue collaborating under the most recent vision to address housing needs of Boston known as Housing a Changing City of Boston 2030.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Name of Authorized Official:	Michelle Wu	Title:	Mayor of City of Boston
Signature:		Date:	01/10/2025

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to ensure consistency with the consolidated plan or state consolidated plan.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

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