

Annual Agency Plan 2023/2024

Attachment C: Rental Assistance Demonstration (RAD)

The City of Phoenix was a successful applicant in the Rental Assistance Demonstration (RAD) Program. As a result, the City of Phoenix will be converting to Project Based Vouchers (PBV) and/or Project Based Rental Assistance (PBRA) under the guidelines of PIH Notice 2012-32, REV-2, and any successor Notices. Upon conversion to Project Based Vouchers and/or Project Based Rental Assistance, the Authority will adopt the resident rights, participation, waiting list, and grievance procedures listed in the following: for conversions to PBV: Section 1.6.C & 1.6.D of PIH Notice 2012-32. REV-2; and for conversions to PBRA: Section 1.7.B & 1.7.C of PIH Notice 2012-32. REV-2. These resident rights, participation, waiting list, and grievance procedures are appended to this Attachment. Additionally, the City of Phoenix is currently compliant with all fair housing and civil rights requirements and is in compliance with a Voluntary Compliance Agreement.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing City of Phoenix with access to private sources of capital to repair and preserve its public 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 City of Phoenix may also borrow funds to address their capital needs. The City of Phoenix will also be contributing Operating Reserves in an amount to be determined and Capital Funds in an amount to be determined toward the conversion.

The Scattered Sites RAD Conversion has been removed from consideration and HUD has been notified that this conversion will not take place.

Choice Neighborhoods target properties, AMP 3 consisting of: Frank Luke Homes (230 units), A.L. Krohn Homes (202 units) and Sidney P Osborn Homes (145 units) have been removed from RAD conversion consideration; HUD has been notified conversion will not take place for these units.

The Housing Department intends to apply for the RAD program during calendar years –2023-2024 for the following properties: Henson Villages Phases I - IV (AMP 16 – 19, 549 units); Maryvale Parkway Terrace (AMP 5, 108 units); and Summit Apartments (AMP 24, 50 units), Aeroterra II (AMP 25, 36 units), and Aeroterra III (AMP 26, 34 units). These properties may apply through the Mixed Finance development process in conjunction with RAD conversion and LIHTC, Public Housing Capital Funds, and other financing. Properties may also include a 5% de minimus reduction in units through Section 18 disposition. Units may be backfilled with Project Based Vouchers. The department may also utilize RAD Section 18 (75%/25%) Blend provision.

Below, please find specific information related to the Public Housing Developments selected for RAD:

Foothills Village

Name of Public Housing Development: <u>Foothills Village Apartments</u>	PIC Development ID: <u>Formerly AMP 4 AZ001000004</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>RAD Conversion complete 11/30/2020</u>
Total Units: <u>Pre-conversion</u> <u>200</u> <u>Post-conversion</u> <u>150</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Family</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Family</u>	Capital Fund Allocation of Development: <u>\$ N/A</u> (Annual Capital Fund Grant, 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	0	0	
One Bedroom	28	21	<i>Disposal of 7 units through Section 18 and backfilled with City of Phoenix Section 8 PBV.</i>
Two Bedroom	76	55	<i>Disposal of 21 units through Section 18 and backfilled with City of Phoenix Section 8 PBV.</i>
Three Bedroom	76	54	<i>Disposal of 22 units through Section 18 and backfilled with City of Phoenix Section 8 PBV.</i>
Four Bedroom	20	20	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

A L Krohn East / future site of Monroe Gardens

Name of Public Housing Development: <u>A L Krohn East</u>	PIC Development ID: <u>Formerly Part of AMP 3; (AZ 1-8A2); AZ001000003</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>Demolition of AZ 1-8A2, 38 units in AMP 3 complete; RAD conversion complete 10/01/2019</u>
Total Units: <u>38*</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Family</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Family</u>	Capital Fund Allocation of Development: <u>\$ N/A</u> (Annual Capital Fund Grant, 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	0	0	
One Bedroom	0	0	
Two Bedroom	23	23	
Three Bedroom	7	7	
Four Bedroom	7	7	
Five Bedroom	1	1	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

**Anticipate an additional 40 HCV PBV to be allocated after conversion, for a total of 78 units.*

Maryvale Parkway Terrace

Name of Public Housing Development:	PIC Development ID:	Conversion type (i.e., PBV or PBRA):	Transfer of Assistance: (if yes, please put the location if known and # of units transferring):
Maryvale Parkway Terrace	AMP 5; AZ001000005	PBV	N/A
Total Units:	Pre- RAD Unit Type (i.e., Family, Senior, etc.):	Post-RAD Unit type if different (i.e., Family, Senior, etc.):	Capital Fund Allocation of Development:
Pre-conversion 108 Post-conversion 81	Senior	Senior	\$251,100 (Annual Capital Fund Grant, 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	0	0	
One Bedroom	108	81	<i>Anticipate disposal of 27 units through Section 18 and backfill with City of Phoenix Section 8 PBV.</i>
Two Bedroom	0	0	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) N/A		

Washington Manor

Name of Public Housing Development: Washington Manor	PIC Development ID: Formerly AMP 6; AZ001000006	Conversion type (i.e., PBV or PBRA): PBV	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): Conversion complete 10/16/2019
Total Units: 112	Pre- RAD Unit Type (i.e., Family, Senior, etc.): Senior/Disabled	Post-RAD Unit type if different (i.e., Family, Senior, etc.): Senior/Disabled	Capital Fund Allocation of Development: \$ N/A (Annual Capital Fund Grant, 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	0	0	
One Bedroom	110	110	
Two Bedroom	2	2	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) N/A		

Pine Towers

Name of Public Housing Development: <u>Pine Towers</u>	PIC Development ID: <u>AMP 7;</u> <u>AZ001000007</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>Conversion complete 11/23/2022</u>
Total Units: <u>Pre-conversion 156</u> <u>Post-conversion 148</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Senior/Disabled</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Senior/Disabled</u>	Capital Fund Allocation of Development: <u>N/A</u> (Annual Capital Fund Grant, 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	92	88	<i>Anticipate disposal of 4 units through the allowed De Minimus and backfill with City of Phoenix Section 8 PBV.</i>
One Bedroom	64	60	<i>Anticipate disposal of 4 units through the allowed De Minimus and backfill with City of Phoenix Section 8 PBV.</i>
Two Bedroom	0	0	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

McCarty on Monroe

Name of Public Housing Development:	PIC Development ID:	Conversion type (i.e., PBV or PBRA):	Transfer of Assistance: (if yes, please put the location if known and # of units transferring):
McCarty on Monroe	Formerly AMP 20; <u>AZ001000020</u>	<u>PBV</u>	<u>RAD Conversion complete 11/25/2020</u>
Total Units:	Pre- RAD Unit Type (i.e., Family, Senior, etc.):	Post-RAD Unit type if different (i.e., Family, Senior, etc.):	Capital Fund Allocation of Development:
<u>34</u>	<u>Senior</u>	<u>Senior</u>	<u>N/A</u> (Annual Capital Fund Grant, 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	0	0	
One Bedroom	34	34	
Two Bedroom	0	0	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

Aeroterra Senior Village

Name of Public Housing Development: <u>Aeroterra Senior Village</u>	PIC Development ID: <u>AMP 23;</u> <u>AZ001000023</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>RAD Conversion complete</u> <u>07/26/2021</u>
Total Units: <u>60</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Senior/Disabled</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Senior/Disabled</u>	Capital Fund Allocation of Development: <u>N/A</u> (Annual Capital Fund Grant, 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	0	0	
One Bedroom	48	48	
Two Bedroom	12	12	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) N/A		

Summit Apartments

Name of Public Housing Development: Summit Apartments	PIC Development ID: AMP 24; AZ001000024	Conversion type (i.e., PBV or PBRA): PBV	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): N/A
Total Units: 50	Pre- RAD Unit Type (i.e., Family, Senior, etc.): Family	Post-RAD Unit type if different (i.e., Family, Senior, etc.): Family	Capital Fund Allocation of Development: N/A (Annual Capital Fund Grant, 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	16	16	
One Bedroom	32	32	
Two Bedroom	2	2	
Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) N/A		

Aeroterra II

Name of Public Housing Development: <u>Aeroterra II</u>	PIC Development ID: <u>AMP 25;</u> <u>AZ001000025</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>N/A</u>
Total Units: <u>36</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Family</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Family</u>	Capital Fund Allocation of Development: <u>N/A</u> (Annual Capital Fund Grant, 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	0	0	
One Bedroom	5	5	
Two Bedroom	9	9	
Three Bedroom	14	14	
Four Bedroom	4	4	
Five Bedroom	4	4	
Six Bedroom	0	0	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

**15 existing HCV PBV at this property not included in the Total Units above.*

Aeroterra III

Name of Public Housing Development: <u>Aeroterra III</u>	PIC Development ID: <u>AMP 26;</u> <u>AZ001000026</u>	Conversion type (i.e., PBV or PBRA): <u>PBV</u>	Transfer of Assistance: (if yes, please put the location if known and # of units transferring): <u>N/A</u>
Total Units: <u>34</u>	Pre- RAD Unit Type (i.e., Family, Senior, etc.): <u>Family</u>	Post-RAD Unit type if different (i.e., Family, Senior, etc.): <u>Family</u>	Capital Fund Allocation of Development: <u>N/A</u> (Annual Capital Fund Grant, 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	<u>0</u>	<u>0</u>	
One Bedroom	<u>19</u>	<u>19</u>	
Two Bedroom	<u>6</u>	<u>6</u>	
Three Bedroom	<u>7</u>	<u>7</u>	
Four Bedroom	<u>2</u>	<u>2</u>	
Five Bedroom	<u>0</u>	<u>0</u>	
Six Bedroom	<u>0</u>	<u>0</u>	
(If performing a Transfer of Assistance)	(Explain how transferring waiting list) <u>N/A</u>		

**33 existing HCV PBV at this property not included in the Total Units above.*

Resident Rights, Participation, Waiting List, and Grievance Procedures

The following applies to sites converting to PBV:

The following are the provisions of PIH-2012-32 (HA), REV-2 Section 1.6.C & Section 1.6.D., incorporated as a whole hereby. *City will verify any updates to resident rights, participation, waiting list and grievance procedures to any successor Notices.*

C. PBV Resident Rights and Participation.

1. **No Re-screening of Tenants upon Conversion.** Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. 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 eligibility and targeting, will not apply for current households.²⁴ Once that remaining household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement.
2. **Right to Return.** See section 1.4.A.4(b) regarding a resident's right to return.

Section 1.4.A.5.ii., **"Right to Return.** Any resident that may need to temporarily be 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 ..., residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. For more information on how to implement these provisions see the RAD Relocation Notice."

3. **Renewal of Lease.** Since publication of the PIH Notice 2012-32 Rev 1, the regulations under 24 CFR § 983.257(b)(3) have been amended requiring Project Owners to renew all leases upon lease expiration, unless cause exists. MTW agencies may not alter this requirement.
4. **Phase-in of Tenant Rent Increases.** If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 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. 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 "standard 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, 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 standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the standard TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and the standard TTP
- Year 5 AR and all subsequent recertifications – Full standard TTP

Please Note: In either the three-year phase-in or the five-year phase-in, once the standard 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 may not alter this requirement.

5. **Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any remaining PH FSS funds, to serve those FSS participants who live in units converted by RAD. 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 FY15 Appropriations Act), 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 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, 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 78100.25 Further, upon conversion to PBV, already escrowed funds 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.

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.

6. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with converted PBV assistance 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.
7. **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, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
 - i. Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. 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 not be less than:
 - a. A reasonable period of time, but not to exceed 30 days:
 - i. If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - ii. In the event of any drug-related or violent criminal activity or any felony conviction;
 - b. 14 days in the case of nonpayment of rent; and
 - c. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
 - ii. Grievance Process. Pursuant to requirements in the RAD Statute, HUD is establishing additional procedural rights to comply with section 6 of the Act.

For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi),²⁶ an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
 - ii. For any additional hearings required under RAD, the Project Owner will

perform the hearing.

- b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator.
- c. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- d. The Project Owner provides opportunity for an informal hearing before an eviction.

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

8. **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 section 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 who at one time received the EID but are not receiving the EID exclusion at the time of conversion e.g., due to loss of employment; tenants that move into the property following conversion, etc.) is covered by this waiver.

9. **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 at that site unless significant re-location 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.

10. **When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may only select an occupied unit to be included under the PBV HAP contract if the unit's occupants are eligible for housing assistance payments (24 CFR §983.53(d)). Also, a PHA must remove a unit from the 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 contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)) (24 CFR §983.258). Since the rent limitation under this Section of the Notice may often result in a family's TTP equaling or exceeding the gross rent for the unit, for current residents (i.e. residents living in the public housing property prior to conversion), HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds than the Gross Rent. Further, HUD is establishing the alternative requirement that the rent to owner for the unit equal the family's TTP until such time that the family is eligible for a housing assistance payment. HUD is waiving as necessary to implement this alternative provision, 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.²⁷ In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance. The PHA is required to process these individuals through the Form- 50058 submodule in PIC.

Following conversion, 24 CFR §983.53(d) applies, and any new families referred to the RAD PBV 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. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has vacated the property; and, 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 this Notice.

11. **Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR 983.259 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 983.259 is waived. MTW agencies may not modify this requirement.

D. PBV: Other Miscellaneous Provisions

1. **Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs must agree to 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. **Additional Monitoring Requirement.** The PHA's Board must approve the operating budget for the Covered Project annually in accordance with HUD requirements.²⁸
3. **Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** This section has been moved to 1.4.A.13 and 1.4.A.14.

"13. Davis-Bacon prevailing wages. The Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and other related regulations, rules, and requirements) apply to all initial repairs and new construction that are identified in the Financing Plan to the extent that such repairs or construction qualify 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 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.

14. Section 3 of the Housing and Urban Development Act of 1968 (Section 3). Section 3 (24 CFR Part 135) applies to all initial repairs and new constructions that are identified in the Financing Plan to the extent that such repairs qualify as construction or rehabilitation. In addition, Section 3 may apply to the project after conversion based on the receipt of the use of federal financial assistance for rehabilitation activities.”

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 will 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:
- i. Transferring an existing site-based waiting list to a new site-based waiting list. If the PHA is transferring the assistance to another neighborhood, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at the new project site or other sites. Applicants on a project-specific waiting list for a project where the assistance is being transferred shall have priority on the newly formed waiting list for the new project site in accordance with the date and time of their application to the original project's waiting list.
 - ii. Informing applicants on the site-based waiting list on how to apply for a PBV program-wide or HCV program-wide waiting list.
 - iii. Informing applicants on a public housing community-wide waiting list on how to apply for a voucher-wide, PBV program-wide, or site-based waiting list. 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 converted 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. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be done so in accordance with the date and time of their original application to the centralized public housing waiting list. 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).²⁹

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement

that specifies the type of waiting list and other waiting list policies.

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 converted project in accordance with 24 CFR § 983.251(c).

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. **Agreement Waiver.** This section has been moved to 1.6.(B)(7).

“8. 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 § 983 subpart D are waived. Instead, the PHA and Project Owner will enter into a HAP contract before construction begins.

Funding during construction will be provided on the following terms: that are not occupied at any point during the initial repairs as a result of rehabilitation or construction as identified in the approved Financing Plan and RAD Conversion Commitment 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 HAP Contract, 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 subsidy prior to conversion (which is typically associated with the occupied units). As a result, some units in the Converted Property may not be eligible for Rehab Assistance Payments.

Following the earlier of the end of the construction period identified in the HUD- approved Financing Plan or actual construction, the PHA will no longer be eligible to receive RAD Rehab Assistance Payments, and all units under contract will be eligible for payment only for occupied units or for vacancy payments, as applicable. MTW agencies may not alter this requirement.”

7. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of permanent debt during the HAP contract term, to ensure the financing is consistent with long-term preservation. (Current lenders and investors are also likely to require review and approval of refinancing of the primary permanent debt.)
8. **Administrative Fees for Public Housing Conversions during Transition Period.** For the remainder of the Calendar Year in which the HAP Contract is effective (i.e. “transition period”), 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 Annual Contributions Contract (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 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.

For fiscal years 2014 and 2015, PHAs operating HCV program received 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 Responsibility Act of 1998" and 24 CFR § 982.152(b). During the transition period mentioned in the preceding paragraph, these provisions are waived, and PHAs will not receive section 8 ongoing administrative fees for PBV RAD units.

After this transition period, 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.

9. **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 an 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) and 24 CFR part 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.

10. **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 covered under a General Depository Agreement (HUD- 51999) 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 and as directed by HUD.

The following applies to sites converting to PBRA:

The following are the provisions of PIH-2012-32 (HA), REV-2 Section 1.7.B & Section I.7.C., incorporated as a whole hereby.

B. PBRA Resident Rights and Participation.

1. **No Rescreening of Tenants upon Conversion.** Pursuant to RAD Statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.³⁵ 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, will not apply for current households. Once the remaining household moves out, the unit must be leased to an eligible family

2. **Right to Return.** See section 1.4(4)(B) regarding a resident's right to return.

Section 1.4.A.5.ii., "**Right to Return.** Any resident that may need to temporarily be 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 ..., residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. For more information on how to implement these provisions see the RAD Relocation Notice."

3. **Phase-in of Tenant Rent Increases.** If a resident's monthly rent increases by the greater of 10 percent or \$25.00 purely as a result of conversion, the rent increase will be phased in over 3 years, which a PHA may extend to 5 years. To implement this provision, 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"), to allow for the phase-in of tenant rent increases. A PHA must set the length of the phase-in period to be three years, five years or a combination depending on circumstances. 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 below method 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 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, 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 Total Tenant Payments (TTP) or flat rent and the calculated Multifamily housing TTP

- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in prior to Year 3 AR – 66% of difference between most recently paid TTP and calculated Multifamily housing TTP
- Year 3: Year 3 AR and all subsequent recertifications – Year 3 AR and any IR in Year 3: Full Multifamily housing TTP

Five Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the calculated Multifamily housing TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and calculated Multifamily housing TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and calculated Multifamily housing TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and calculated Multifamily housing TTP
- Year 5 AR and all subsequent recertifications – Full Multifamily housing TTP

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

4. **Family Self-Sufficiency (FSS) and Resident Opportunities and Self Sufficiency (ROSS-SC).** Family Self-Sufficiency (FSS) and Resident Opportunities and Self Sufficiency (ROSS-SC). Public Housing residents that are currently FSS participants will continue to be eligible for FSS once their housing is converted under RAD. All Project Owners will be required to administer the FSS program in accordance with the requirements of 24 CFR 984, the participants' contracts of participation, and future guidance published by HUD. Project Owners will be allowed to use any funds already granted for FSS coordinator salaries until such funds are expended. All Project Owners will be required to provide both service coordinators and payments to escrow until the end of the Contract of Participation for each resident. Upon conversion, already escrowed funds 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. Through waiver in this Notice, FSS funds awarded in FY14 and prior FSS funds may be used to continue to serve FSS participants living in units converted under RAD to PBRA. Pursuant to FY 2015 Appropriations Act any FSS funds awarded in FY 2015 (and forward if the provision is extended), may be used to also serve any other PBRA resident, affected by RAD or not.

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.

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 furnished to HUD as part of the Financing Plan submission. See Attachment 1E for a sample Addendum to the House Rules.
- i. Termination Notification. Pursuant to the RAD Statute, 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.
 - a. 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:
 - i. 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; or
 - ii. 14 days in the case of nonpayment of rent.
 - b. 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.
 - ii. Grievance Process. Due to requirements in the RAD statute, HUD is incorporating resident procedural rights to comply with the requirements of 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:
 - a. 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;
 - b. Residents have an opportunity for an informal hearing with an impartial member of the Project Owner's staff within a reasonable period of time;
 - c. 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
 - d. 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:

- a. Hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing.
- b. 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.

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 at that site 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.
9. **When Total Tenant Payment Exceeds Gross Rent.** Under the PBRA program, assisted families are responsible for paying 30% of adjusted gross income towards rent and utilities, referred to as Total Tenant Payment (TTP). Under normal PBRA rules, a Project Owner must process a termination of assistance pursuant to section 8- 5 C. of Housing Handbook 4350.3, REV-1 when the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)). In addition, section 8-6 A.1 provides that, when terminating a tenant's assistance, the owner is to increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy).

For residents in place at the time of conversion to PBRA, as well as for new admissions, however, when TTP exceeds the contract rent plus any utility allowance, the Project Owner must refrain from processing a termination of assistance and must charge a tenant rent that is 30% of the household adjusted income, less the utility allowance in the contract.³⁶ To this end, HUD is waiving sections 8-5 C. and 8- 6 A. 1. of Housing Handbook 4350.3, REV-1. In such cases, the tenant will still be considered a Section 8 tenant and will still have the rights and be subject to the requirements of Section 8 tenants: 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, and 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 §§ 5.657 and 880.603(c). Owners are not required to use the Enterprise Income Verification (EIV) system for such families. Assistance may subsequently be reinstated if the Tenant becomes eligible for assistance. In the event that the tenant moves out, the Project Owner must select an

applicant from the waiting list who meets the applicable income limits for the project.

The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS). All normal actions for the contract rent 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 assistance.

10. **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 will be permitted to continue to occupy the unit until such time as 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 must agree to 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).** This section has been moved to 1.4.A.13 and 1.4.A.14.

“13. Davis-Bacon prevailing wages. The Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and other related regulations, rules, and requirements) apply to all initial repairs and new construction that are identified in the Financing Plan to the extent that such repairs or construction qualify 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 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.

14. Section 3 of the Housing and Urban Development Act of 1968 (Section 3). Section 3 (24 CFR Part 135) applies to all initial repairs and new constructions that are identified in the Financing Plan to the extent that such repairs qualify as construction or rehabilitation. In addition, Section 3 may apply to the project after conversion based on the receipt of the use of federal financial assistance for rehabilitation activities.”

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:
 - i. Transferring an existing site-based waiting list to a new site-based waiting list. If the PHA is transferring the assistance to another neighborhood, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at

the new project site or other sites. Applicants on a project-specific waiting list for a project where the assistance is being transferred shall have priority on the newly formed waiting list for the new project site in accordance with the date and time of their application to the original project's waiting list.

- ii. Informing applicants on the site-based waiting list on how to apply for a community-wide waiting list.
- iii. Informing applicants on a public housing community-wide waiting list on how to apply for a new community-wide or site-based waiting list. If using a site-based waiting list, PHAs shall establish a waiting list in accordance 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 converted project's initial waiting list. In both 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. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be placed in accordance with the date and time of their original application to the centralized public housing waiting list. 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 the obligation to provide meaningful access for persons with limited English proficiency (LEP).³⁷

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

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 PHA shall administer its waiting list for the converted project in accordance with 24 CFR § 880.603.

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. 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:
 - i. **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 or (b) 24 months after the move-in date.

- ii. **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.
- iii. **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 PHA may 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 PHA could limit the number of families exercising Choice-Mobility to 15 in any year, but not to less than 15.) While a voucher agency is 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.

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 PHAs 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.³⁹ 40
- 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; 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 § 91.5.41 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 permanent debt during the HAP contract term to ensure the financing is consistent with long-term preservation. (Current lenders and investors are also likely to require review and approval of refinancing of the primary permanent debt.)
- 7. **Submission of Year-End Financial Statements.** Covered Projects converting assistance to PBRA must comply with 24 CFR Part 5 Subpart H, as amended, revised, or modified by HUD.⁴²
- 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 such projects converting to PBRA shall be treated as Pre-1981 Act Projects under Section 16(c) of the US Housing Act of 1937. 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 US Housing Act of 1937 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 US Housing Act of 1937 and 24 CFR §5.653(d)(1).

9. **Owner-Adopted Preferences.** Project Owners may adopt a preference for elderly single persons pursuant to 24 CFR § 5.655(c)(5) and Housing Handbook 4350.3, Chapter 4. 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), may do so pursuant to Housing Notice 2013-21 (July 25, 2013). An owner may not adopt a preference that would have the purpose or effect of substantially delaying or denying the participation of other eligible families in the program on the basis of race, color, national origin, religion, sex, disability, or familial status, or would create or perpetuate segregation

Site Selection and Neighborhood Standards Review

The RAD conversion complies with all applicable site selection and neighborhood review standards and all appropriate procedures have been followed.

It is possible that the redevelopment of Frank Luke Homes may result in Transferring Assistance. If so, applicable site selection and neighborhood review standards (as explained in PIH-2012-32 (HA), REV-2 Attachment 1D, Table 2) will be appended no later than when submitting the Financing Plan.

Relocation Plans

It is possible that the RAD conversion may relocate residents temporarily or permanently. If so, relocation plans consistent with the *Accessibility and Relocation Checklist* will be submitted with the Financing Plan.

Significant Amendment Definition

As part of the Rental Assistance Demonstration (RAD), City of Phoenix is redefining the definition of a significant amendment from the PHA Plan to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance (PBRA) or Project Based Voucher (PBV) 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.