



SOUTH PORTLAND HOUSING AUTHORITY

100 Waterman Drive, Suite 101, South Portland, Maine 04106

(207) 773-4140 • FAX (207) 773-4006

ME Relay - call 711

July 14, 2021

Robert Cwieka, Director
Office of Public Housing, Boston HUB
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston, MA 02222-1092

RE: ME020 – 2022 Annual Plan (*FY Beginning 10/1/2021*)

Dear Mr. Cwieka:

Enclosed please find the South Portland Housing Authority 2022 Annual Plan (Form HUD 50075-ST and attachments) for FY beginning 10/1/2021, along with the following documents in support of the Plan:

Form HUD 50077-ST-HCV-HP: PHA Certifications of Compliance with the PHA Plan and Related Regulations including Required Civil Rights Certifications, and

Form HUD 50077-SL: Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan or State Consolidated Plan.

Please contact me if you have any questions.

Sincerely,

Leanna J. Bruce
Director of Housing Programs



Equal Housing Opportunity
www.spha.net



SOUTH PORTLAND HOUSING AUTHORITY

100 Waterman Drive, Suite 101, South Portland, ME

04106 (207) 773-4140 - FAX (207) 773-4006

ME Relay - Call 711

www.spha.net

**FY
2022**

**SPHA
Annual Plan**

(Beginning 10/1/2021)

The Annual PHA Plan provides 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. This document provides an overview of the changes to the Annual PHA Plan.

Public Comment Period: May 5, 2021 - June 21, 2021

Resident Advisory Board Meeting: June 17, 2021

Public Hearing: June 21, 2021

SPHA Board Approval: June 23, 2021

South Portland Housing Authority

2022 Annual Plan

Table of Contents

1. South Portland Housing Authority Information
 - A. Form HUD 50075-ST: 2022 SPHA Annual Plan
2. PHA Plan Elements
 - B.1 Revisions to PHA Plan Elements
 - Exhibits 1a and 1b – Operation and Management
 - Exhibit 1a – Admin Plan Changes
 - Exhibit 1b – COVID-19 Waivers
 - Exhibit 2 – Grievance Procedure
 - Exhibit 3 – Substantial Deviation/Significant Amendment/Modification
 - Exhibit 4 – Deconcentration Policy
 - B.2 New Activities
 - Exhibit 5 – Demolition and/or Disposition
 - Exhibit 6, 6a and 6b – Conversion of Public Housing to Project-Based Vouchers under RAD
 - Exhibit 6a – RAD Resident Rights, Participation, Waiting List and Grievance Procedures (Notice H 2019-09/PIH 2019-23, REV-4 Section 1.6.C & Section 1.6.D)
 - Exhibit 6b – 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)
 - Exhibit 7 – Project-Based Vouchers
 - B.3 Form HUD-50077 Civil Rights Certification
 - B.4 Most Recent Fiscal Year Audit – N/A
 - B.5 Exhibit 8 – Progress Report -Mission and Goals
 - B.6 Exhibit 9 – Resident Advisory Board Comments
 - B.7 Form HUD-50077SL Certification of Local Officials
 - B.8 Troubled PHA – N/A
 - C.1 Form HUD-50075.2, 5-Year Action Plan
3. Other Information
 - Exhibit 10, 10a and 10b – Violence Against Women Act (VAWA) Statement
 - Exhibit 10a – Violence Against Women Act (VAWA) Policies in ACOP and Admin Plan
 - Exhibit 10b – Violence Against Women Act (VAWA) Emergency Transfer Plan

| B. | Annual Plan Elements |
|------------|--|
| B.1 | <p>Revision of PHA Plan Elements.</p> <p>(a) Have the following PHA Plan elements been revised by the PHA?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Financial Resources.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Rent Determination.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Operation and Management.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Grievance Procedures.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Community Service and Self-Sufficiency Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Safety and Crime Prevention.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Pet Policy.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Asset Management.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Substantial Deviation.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Significant Amendment/Modification</p> <p>(b) If the PHA answered yes for any element, describe the revisions for each revised element(s):</p> <p>See Exhibit 1a - Operation and Management - Section 8/HCV Administrative Plan - Summary of Changes See Exhibit 1b - Operation and Management - COVID-19 Waivers See Exhibit 2 - Grievance Procedures See Exhibit 3 - Substantial Deviation/Significant Amendment/Modification</p> <p>(c) The PHA must submit its Deconcentration Policy for Field Office review. See Exhibit 4 - Deconcentration Policy</p> |
| B.2 | <p>New Activities</p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y N</p> <p><input type="checkbox"/> <input type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input type="checkbox"/> <input type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input type="checkbox"/> Designated Housing for Elderly and/or Disabled Families.</p> <p><input type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Tenant-Based Assistance.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Project-Based Assistance under RAD.</p> <p><input type="checkbox"/> <input type="checkbox"/> Occupancy by Over-Income Families.</p> <p><input type="checkbox"/> <input type="checkbox"/> Occupancy by Police Officers.</p> <p><input type="checkbox"/> <input type="checkbox"/> Non-Smoking Policies.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Project-Based Vouchers.</p> <p><input type="checkbox"/> <input type="checkbox"/> Units with Approved Vacancies for Modernization.</p> <p><input type="checkbox"/> <input type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>See Exhibit 5 - Demolition and/or Disposition See Exhibit 6, 6a, 6b - Conversion of Public Housing to Project-Based Assistance under RAD See Exhibit 7 - Project-Based Vouchers</p> <p>(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.</p> |
| B.3 | <p>Civil Rights Certification.</p> <p>Form HUD-50077, <i>PHA Certifications of Compliance with the PHA Plans and Related Regulations</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p> |
| B.4 | <p>Most Recent Fiscal Year Audit.</p> <p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p> |

| | |
|--|--|
| B.5 | <p>Progress Report.</p> <p>Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan. See Exhibit 8</p> |
| B.6 | <p>Resident Advisory Board (RAB) Comments.</p> <p>(a) Did the RAB(s) provide comments to the PHA Plan?</p> <p>Y N <input type="checkbox"/> <input type="checkbox"/></p> <p>(c) 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 Exhibit 9 (pending RAB meeting)</p> |
| B.7 | <p>Certification by State or Local Officials.</p> <p>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.</p> |
| B.8 | <p>Troubled PHA.</p> <p>(a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place?</p> <p>Y N N/A <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p> |
| <p>C. Statement of Capital Improvements. Required for all PHAs completing this form that administer public housing and receive funding from the Capital Fund Program (CFP).</p> | |
| C.1 | <p>Capital Improvements. Include a reference here to the most recent HUD-approved 5-Year Action Plan (HUD-50075.2) and the date that it was approved by HUD. See Form 50075.2 - SPHA 5-Year Action Plan, approved by HUD on 4/28/2021.</p> |

Instructions for Preparation of Form HUD-50075-ST Annual PHA Plan for Standard and Troubled PHAs

A. PHA Information. All PHAs must complete this section.

A.1 Include the full PHA Name, PHA Code, PHA Type, PHA Fiscal Year Beginning (MM/YYYY), PHA Inventory, Number of Public Housing Units and or Housing Choice Vouchers (HCVs), PHA Plan Submission Type, and the Availability of Information, specific location(s) of all information relevant to the public hearing and proposed PHA Plan. (24 CFR §903.23(4)(e))

PHA Consortia: Check box if submitting a Joint PHA Plan and complete the table. (24 CFR §943.128(a))

B. Annual Plan. All PHAs must complete this section.

B.1 Revision of PHA Plan Elements. PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the “yes” box. If an element has not been revised, mark “no.” (24 CFR §903.7)

Statement of Housing Needs and Strategy for Addressing Housing Needs. Provide a statement addressing the housing needs of low-income, very low-income and extremely low-income families and a brief description of the PHA’s strategy for addressing the housing needs of families who reside in the jurisdiction served by the PHA. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income), (ii) elderly families and families with disabilities, and (iii) households of various races and ethnic groups residing in the jurisdiction or on the waiting list based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. (24 CFR §903.7(a)(1)) Provide a 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. (24 CFR §903.7(a)(2)(ii))

Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions. PHAs must submit a Deconcentration Policy for Field Office review. For additional guidance on what a PHA must do to deconcentrate poverty in its development and comply with fair housing requirements, see 24 CFR 903.2. (24 CFR §903.23(b)) Describe the PHA’s admissions policy for deconcentration of poverty and income mixing of lower-income families in public housing. The Deconcentration Policy must describe the PHA’s policy for bringing higher income tenants into lower income developments and lower income tenants into higher income developments. The deconcentration requirements apply to general occupancy and family public housing developments. Refer to 24 CFR §903.2(b)(2) for developments not subject to deconcentration of poverty and income mixing requirements. (24 CFR §903.7(b)) Describe the PHA’s procedures for maintain waiting lists for admission to public housing and address any site-based waiting lists. (24 CFR §903.7(b)). A statement of the PHA’s policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV. (24 CFR §903.7(b)) Describe the unit assignment policies for public housing. (24 CFR §903.7(b))

Financial Resources. A statement of financial resources, including a listing by general categories, of the PHA’s anticipated resources, such as PHA operating, capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources. (24 CFR §903.7(c))

Rent Determination. A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units, including applicable public housing flat rents, minimum rents, voucher family rent contributions, and payment standard policies. (24 CFR §903.7(d))

Operation and Management. A statement of the rules, standards, and policies of the PHA governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA. (24 CFR §903.7(e))

Grievance Procedures. A description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants. (24 CFR §903.7(f))

Homeownership Programs. A description of any Section 5h, Section 32, Section 8y, or HOPE I public housing or Housing Choice Voucher (HCV) homeownership programs (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval. (24 CFR §903.7(k))

Community Service and Self Sufficiency Programs. Describe how the PHA will comply with the requirements of community service and treatment of income changes resulting from welfare program requirements. (24 CFR §903.7(l)) A description of: 1) Any programs relating to services and amenities provided or offered to assisted families; and 2) Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs under Section 3 and FSS. (24 CFR §903.7(l))

Safety and Crime Prevention. Describe the PHA’s plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must provide development-by-development or jurisdiction wide-basis: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities. (24 CFR §903.7(m)) A description of: 1) Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; 2) Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and 3) Any activities, services, or programs

provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families. (24 CFR §903.7(m)(5))

Pet Policy. Describe the PHA's policies and requirements pertaining to the ownership of pets in public housing. (24 CFR §903.7(n))

Asset Management. State how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory. (24 CFR §903.7(q))

Substantial Deviation. PHA must provide its criteria for determining a "substantial deviation" to its 5-Year Plan. (24 CFR §903.7(r)(2)(i))

Significant Amendment/Modification. PHA must provide its criteria for determining a "Significant Amendment or Modification" to its 5-Year and Annual Plan. Should the PHA fail to define "significant amendment/modification", HUD will consider the following to be "significant amendments or modifications": a) changes to rent or admissions policies or organization of the waiting list; b) additions of non-emergency CFP work items (items not included in the current CFP Annual Statement or CFP 5-Year Action Plan) or change in use of replacement reserve funds under the Capital Fund; or c) any change with regard to demolition or disposition, designation, homeownership programs or conversion activities. See guidance on HUD's website at: [Notice PIH 1999-51](#). (24 CFR §903.7(r)(2)(ii))

If any boxes are marked "yes", describe the revision(s) to those element(s) in the space provided.

B.2 New Activities. If the PHA intends to undertake any new activities related to these elements in the current Fiscal Year, mark "yes" for those elements, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake these activities, mark "no."

Hope VI or Choice Neighborhoods. 1) A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Choice Neighborhoods; and 2) A timetable for the submission of applications or proposals. The application and approval process for Hope VI or Choice Neighborhoods is a separate process. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

Mixed Finance Modernization or Development. 1) A description of any housing (including project number (if known) and unit count) for which the PHA will apply for Mixed Finance Modernization or Development; and 2) A timetable for the submission of applications or proposals. The application and approval process for Mixed Finance Modernization or Development is a separate process. See guidance on HUD's website at:

<http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

Demolition and/or Disposition. Describe any public housing projects owned by the PHA and subject to ACCs (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and (2) A timetable for the demolition or disposition. This statement must be submitted to the extent that approved and/or pending demolition and/or disposition has changed as described in the PHA's last Annual and/or 5-Year PHA Plan submission. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at: http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm. (24 CFR §903.7(h))

Designated Housing for Elderly and Disabled Families. Describe any public housing projects owned, assisted or operated by the PHA (or portions thereof), in the upcoming fiscal year, that the PHA has continually operated as, has designated, or will apply for designation for occupancy by elderly and/or disabled families only. Include the following information: 1) development name and number; 2) designation type; 3) application status; 4) date the designation was approved, submitted, or planned for submission, and; 5) the number of units affected. **Note:** The application and approval process for such designations is separate from the PHA Plan process, and PHA Plan approval does not constitute HUD approval of any designation. (24 CFR §903.7(i)(C))

Conversion of Public Housing. Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA is required to convert or plans to voluntarily convert to tenant-based assistance; 2) An analysis of the projects or buildings required to be converted; and 3) A statement of the amount of assistance received to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/centers/sac/conversion.cfm>. (24 CFR §903.7(j))

Conversion of Public Housing. Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA plans to voluntarily convert to project-based assistance under RAD. See additional guidance on HUD's website at: [Notice PIH 2012-32](#)

Occupancy by Over-Income Families. A PHA that owns or operates fewer than two hundred fifty (250) public housing units, may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy), if all the following conditions are satisfied: (1) There are no eligible low income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family; (2) The PHA has publicized availability of the unit for rental to eligible low income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family; (3) The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit; (4) The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and (5) The PHA gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family. The PHA may incorporate information on occupancy by over-income families into its PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. See additional guidance on HUD's website at: [Notice PIH 2011-7](#). (24 CFR 960.503) (24 CFR 903.7(b))

Occupancy by Police Officers. The PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents. A "police officer" means a person determined by the PHA to be, during the period of residence of that person in public housing, 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 may qualify. The PHA may incorporate information on occupancy by police officers into its PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. See additional guidance on HUD's website at: [Notice PIH 2011-7](#). (24 CFR 960.505) (24 CFR 903.7(b))

Non-Smoking Policies. The PHA may implement non-smoking policies in its public housing program and incorporate this into its PHA Plan statement of operation and management and the rules and standards that will apply to its projects. See additional guidance on HUD's website at: [Notice PIH 2009-21](#). (24 CFR §903.7(e))

Project-Based Vouchers. Describe any plans to use Housing Choice Vouchers (HCVs) for new project-based vouchers, which must comply with PBV goals, civil rights requirements, Housing Quality Standards (HQS) and deconcentration standards, as stated in 983.57(b)(1) and set forth in the PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. If using project-based vouchers, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan. (24 CFR §903.7(b))

Units with Approved Vacancies for Modernization. The PHA must include a statement related to units with approved vacancies that are undergoing modernization in accordance with [24 CFR §990.145\(a\)\(1\)](#).

Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).

For all activities that the PHA plans to undertake in the current Fiscal Year, provide a description of the activity in the space provided.

- B.3 Civil Rights Certification.** Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulation*, must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o))
- B.4 Most Recent Fiscal Year Audit.** If the results of the most recent fiscal year audit for the PHA included any findings, mark "yes" and describe those findings in the space provided. (24 CFR §903.7(p))
- B.5 Progress Report.** For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year PHA Plan. (24 CFR §903.7(r)(1))
- B.6 Resident Advisory Board (RAB) comments.** If the RAB provided comments to the annual plan, mark "yes," submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA's decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)
- B.7 Certification by State or Local Officials.** Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15). Note: A PHA may request to change its fiscal year to better coordinate its planning with planning done under the Consolidated Plan process by State or local officials as applicable.
- B.8 Troubled PHA.** If the PHA is designated troubled, and has a current MOA, improvement plan, or recovery plan in place, mark "yes," and describe that plan. If the PHA is troubled, but does not have any of these items, mark "no." If the PHA is not troubled, mark "N/A." (24 CFR §903.9)

C. Statement of Capital Improvements. PHAs that receive funding from the Capital Fund Program (CFP) must complete this section. (24 CFR 903.7 (g))

- C.1 Capital Improvements.** In order to comply with this requirement, the PHA must reference the most recent HUD approved Capital Fund 5 Year Action Plan. PHAs can reference the form by including the following language in Section C. 8.0 of the PHA Plan Template: "See HUD Form- 50075.2 approved by HUD on XX/XX/XXXX."

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the 5-Year and Annual PHA Plan.

Public reporting burden for this information collection is estimated to average 9.2 hours 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.

Privacy Act Notice. 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.

B.1 Revision of PHA Plan Elements
Operation and Management
Summary of Administrative Plan Changes

Following is a summary of changes made to the South Portland Housing Authority Administrative Plan:

Section 10.2: Income

- Added clarification of when financial assistance in excess of tuition, must be counted as income, based on *24 CFR 5.609 (Annual Income)* for students participating in Section 8.

Section 15.1: Termination of Assistance by South Portland Housing Authority

- Added that SPHA may terminate assistance based on any grounds as identified in *24 CFR 983.210 (Owner Termination of Tenancy)*.

Section 23.5: Operation of Project-Based Properties

- Updated admissions preference for Project-Based vouchers to include Thornton Heights Commons and Jocelyn Place.

Section 24: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

- Inserted entire chapter into Admin Plan to address requirements specific to RAD PBV.

**South Portland Housing Authority
Excerpts from Section 8 Administrative Plan
(Changes highlighted in Yellow)**

10.0 DETERMINATION OF FAMILY INCOME

10.1 INCOME, EXCLUSIONS AND DEDUCTIONS FROM INCOME

To determine annual income, the SOUTH PORTLAND Housing Authority counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the SOUTH PORTLAND Housing Authority subtracts all allowable deductions (allowances) as the next step in determining the Total Tenant Payment.

10.2 INCOME

A. Annual income means all amounts, monetary or not, that:

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. Are not specifically excluded from annual 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 SOUTH PORTLAND Housing Authority believes that past income is the best available indicator of expected future income, the SOUTH PORTLAND Housing Authority may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

B. Annual income includes, but is not limited to the amounts specified in the federal regulations currently found in 24 CFR 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 are not 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 is 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 are not 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 an investment is 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 includes 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. Income that could have been derived from assets worth more than \$1000 that were disposed of for less than fair market value within the past two years will be counted as income.
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. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
6. Welfare assistance.
 - a. 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:
 - (1). Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

- (2). Are not otherwise excluded under paragraph Section 9.3 of this Plan.
- 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 consists of:
 - (1). The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (2). 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 requirement is the amount resulting from one application of the percentage.
- b. Imputed welfare income.
 - i. A family's annual income includes the amount of imputed welfare income (because of welfare benefits reductions resulting from either welfare fraud or the failure to comply with economic self-sufficiency requirements, as specified in notice to the SOUTH PORTLAND Housing Authority by the welfare agency), plus the total amount of other annual income.
 - ii. At the request of the SOUTH PORTLAND Housing Authority, the welfare agency will inform the SOUTH PORTLAND Housing Authority in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the SOUTH PORTLAND Housing Authority of any subsequent changes in the term or amount of such specified welfare benefit reduction. The SOUTH PORTLAND Housing Authority will use this information to determine the amount of imputed welfare income for a family.
 - iii. A family's annual income includes imputed welfare income in

family annual income, as determined at an interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the SOUTH PORTLAND Housing Authority by the welfare agency).

- iv. The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
- v. The SOUTH PORTLAND Housing Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.
- vi. If a participant is not satisfied that the SOUTH PORTLAND Housing Authority has calculated the amount of imputed welfare income in accordance with HUD requirements, and if the SOUTH PORTLAND Housing Authority denies the family's request to modify such amount, then the SOUTH PORTLAND Housing Authority shall give the resident written notice of such denial, with a brief explanation of the basis for the SOUTH PORTLAND Housing Authority's determination of the amount of imputed welfare income. The SOUTH PORTLAND Housing Authority's notice shall also state that if the resident does not agree with the determination, the resident may contest the decision in accordance with our informal review policy.
- vii. Relations with welfare agencies
 - a). The SOUTH PORTLAND Housing Authority will ask welfare agencies to inform it of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the SOUTH PORTLAND Housing Authority written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of

the specified welfare benefits reduction.

- b). The SOUTH PORTLAND Housing Authority is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the agency. However, the SOUTH PORTLAND Housing Authority is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.
 - c). Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The SOUTH PORTLAND Housing Authority shall rely on the welfare agency notice to the SOUTH PORTLAND Housing Authority of the welfare agency's determination of a specified welfare benefits reduction.
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. (Special pay to a member exposed to hostile fire is excluded.)
 9. For section 8 programs only and as provided in [24 CFR 5.612](#), any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the [Higher Education Act of 1965 \(20 U.S.C. 1001 et seq.\)](#), from private sources, or from an institution of higher education (as defined under the [Higher Education Act of 1965 \(20 U.S.C. 1002\)](#)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered [annual income](#) for persons over the age of 23 with [dependent](#) children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

15.1 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE SOUTH PORTLAND HOUSING AUTHORITY

The SOUTH PORTLAND Housing Authority may at any time terminate program assistance for a participant because of any of the following actions or inactions by the household:

- A. If the family violates any family obligations under the program;
- B. If the family was evicted from housing assisted under the Section 8 program for serious violations of the lease;
- C. If a family member fails to sign and submit consent forms;
- D. If a family fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If the SOUTH PORTLAND Housing Authority determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination;
- E. Have a household member whose pattern of illegal drug use interferes with the health, safety or right to peaceful enjoyment of the premises by other residents. The members of the household may not engage in drug-related criminal activity, other violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. The use of medical marijuana is included in this ban.
- F. Have a household member interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- G. Have a household member who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
- H. Have a household member who is subject to a lifetime registration requirement under a State sex offender registration program;
- I. If any member of the family commits drug-related or criminal activity in violation of Section 3.3 of this Administrative Plan and 24 CFR 982.551;
- J. Have a household member whose abuse or pattern of abuse of alcohol may

threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

- K. Have a household member who is a fugitive felon, parole violator or person fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;
- L. Have a family member who violates any family obligations under the program;
- M. Have a family member who has been evicted from federally assisted housing in the last three (3) years;
- N. Have a family member that SOUTH PORTLAND Housing Authority has ever terminated assistance for under the program;
- O. Have a family member that has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- P. Currently owes rent or other amounts to the SOUTH PORTLAND Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- Q. Have not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- R. Have breached an agreement with SOUTH PORTLAND Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority;
- S. Currently owes a Section 8 landlord for rent, damages to the unit, or other amounts owed by the family under the lease;
- T. If a family participating in the Family Self-Sufficiency Program fails to comply, without good cause, with the family's FSS Contract of Participation;
- U. Have engaged in or threatened abusive or violent behavior towards any SOUTH PORTLAND Housing Authority staff member or resident;
- V. If the housing assistance payment provided by the SOUTH PORTLAND Housing Authority drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically; or
- W. Any other grounds identified in 24 CFR 982.310.

For terminating assistance based on any criminal activity, an arrest record, alone, will not serve as sufficient evidence of criminal activity that can support a decision to terminate. Before the SOUTH PORTLAND Housing Authority terminates assistance to an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. The SOUTH PORTLAND Housing Authority can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

If the SOUTH PORTLAND Housing Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the SOUTH PORTLAND Housing Authority will notify the household of the proposed action to be based on the information and must provide the person with the criminal record (i.e., the family member) and the head of household with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record, in accordance with the procedures established for the Informal Hearing for Participants. The household will have fourteen (14) calendar days to dispute the accuracy and relevance of the record in writing.

The fact that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission. The Authority will require verification in all cases where an applicant claims protection against an action proposed to be taken by the Authority involving such individual. Types of acceptable verifications are outlined in Section 22.1 of this Section 8 Administrative Plan, and must be submitted within 14 business days after receipt of the Housing Authority's written request for verification.

The SOUTH PORTLAND Housing Authority will include with every notice of termination to a participant, a notification of their rights under VAWA, including their right to confidentiality and the limits thereof, along with a copy of a HUD-approved certification form.

In circumstances of a family break-up, the SOUTH PORTLAND Housing Authority will make a determination of which family member will retain the housing choice voucher, taking into consideration the following factors:

- A. To whom the housing choice voucher was issued.
- B. The interest of minor children or of ill, elderly, or disabled family members.

- C. Whether the assistance should remain with the family members remaining in the unit.
- D. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement of judicial decree, the SOUTH PORTLAND Housing Authority will be bound by the court's determination of which family members continue to receive assistance in the program.

23.1 OPERATION OF PROJECT-BASED PROPERTIES

A. Project-Based Waiting List

The SOUTH PORTLAND Housing Authority shall use a separate waiting list for admission to the Project-Based Section 8 Assistance Program. The SOUTH PORTLAND Housing Authority will use separate waiting lists for Project-Based Voucher units in individual projects. All applicants will be maintained by bedroom size, then preference and date and time of application. If an applicant rejects an offer of assistance of the Project-Based Assistance Program, the rejection will not alter the applicant's position on the Section 8 Voucher Tenant Based Assistance Program.

The waiting list for the Project-Based Section 8 Assistance Program will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.
2. All applications will be maintained by bedroom size, preference and then in order of date and time of application.
3. Substantive contacts between the SOUTH PORTLAND Housing Authority and the applicant will be documented in the applicant file.

B. Admission Preferences

Preferences shall be used for the purpose of structuring the order in which applications are considered, not whether applicants meet basic eligibility requirements for admission to the program. A preference does not guarantee admission to the program. SOUTH PORTLAND Housing Authority may establish separate Admission Preferences for separate projects.

The SOUTH PORTLAND Housing Authority uses the following preferences which require verification at the time of offer:

Betsy Ross House, Thornton Heights Commons and Jocelyn Place Project-Based Vouchers:

- A. Elderly Families** – Head of Household, Co-Head, or Spouse is 62 years of age or older
- B. Residency Preference** – Families who reside in South Portland or include a family member who works or has been hired to work in South Portland. The residency preference will not have the purpose of effect of delaying or otherwise denying admission to the program based on the race, color,

ethnic origin, gender, religion, disability, sexual orientation, or age of any member of the applicant family.

~~C.~~ **Persons living at the Betsy Ross House In-Place Residents** – Persons who are currently residing at ~~the Betsy Ross House (99 Preble Street Ext., South Portland, Maine).~~ the project for which they are applying for a project-based voucher.

~~C.~~**D. Veterans Preference** – Persons who served in the active military, naval, or air service and who were discharged or released from such service under conditions other than dishonorable.

~~D.~~**E. Victims of a Federally declared natural disaster** – Persons displaced by natural or national disaster.

Points will be assigned for each preference the family qualifies for. Families will be selected based on the number of preference points. Among applicants with equal preference points, the waiting list will be organized by date and time of application.

10 pts – Elderly Preference

3 pts – Residency Preference

3 pts – ~~Living at Betsy Ross House~~ In-Place Residents

-1 pts – Veterans Preference

1 pts – Victims of Federally declared disaster

24.0 PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the SOUTH PORTLAND Housing Authority policies for the tenant-based voucher program and the Standard PBV program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

24.1 GENERAL REQUIREMENTS

A. Overview and History of the RAD Program

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's primary objectives are to:

1. Preserve and improve public and other assisted housing.
2. Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years.
3. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
 - i. Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
4. Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

1. Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs or
2. Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH)

This chapter will focus on public housing conversions to the PBV program under

RAD. To distinguish between requirements for public housing conversion under RAD and PBV units under the Standard PBV program, we will refer to the Standard PBV program and the RAD PBV program.

B. Applicable Regulations

The regulations for both the Standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the Standard PBV program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable and/or unique to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the Standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-4. Otherwise, all regulatory and statutory requirements for the Standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), collectively, the "RAD Statute." Requirements specific to the RAD program may be found in:

1. RAD Notice Revision 4 (H 2019-09 PIH 2019-23) ("RAD Notice");
2. RAD Fair Housing, Civil Rights, and Relocation Notice (H 2016-17 PIH 2016-17) ("RAD Relocation Notice");
3. PBV governing statute (42 U.S.C. 1437f(o)(13));
4. PBV regulations (24 C.F.R. Part 983);
5. January 18, 2017, HOTMA Implementation Notice (82 Fed. Reg. 5458) and July 14, 2017, technical correction and clarification notice (82 Fed. Reg. 32461) and Notice PIH 2017-21 ("Implementation Guidance: Housing Opportunity Through Modernization Act of 2016 (HOTMA) — Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) Provisions").

C. RAD Fair Housing, Civil Rights, and Relocation Requirements

Relocation requirements related to public housing conversions under RAD are

described in the RAD Fair Housing, Civil Rights, and Relocation Notice H2016-17. 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.

D. 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, 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 Fair Housing, Civil Rights, and Relocation Notice.

23.2 PBV PROJECT SELECTION

A. Owner Selection Procedures

In addition to situations already covered under the HOTMA Implementation Notice (e.g., attaching PBV assistance to PHA-owned units that were formerly assisted under the public housing program), HUD is waiving 24 CFR § 983.51 so that a RAD PBV HAP contract is never subject to competitive selection requirements.

B. Ownership and Control

During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

1. A public or nonprofit entity that has legal title to the property. The entity must

have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or

2. A private entity if the property has low-income tax credits. The PHA must maintain control via a ground lease.

C. Subsidy Layering Review Requirements

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a 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 Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (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.

D. PBV Percentage Limitation (Program Cap)

Covered Projects do not count against the percentage limitation applicable to the PBV program. The HOTMA Implementation Notice excludes formerly assisted properties from the percentage limitation. For any Covered Projects not otherwise covered under the HOTMA Implementation Notice, including transfers of assistance to a new location, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6 with respect to Covered Projects. 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 vouchers that may be project-based for non-RAD PBV.

E. Site Selection Standards

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, except for 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites. If units are transferred to a different housing site, then the deconcentration rule applies.

HUD will conduct a front-end civil rights review of RAD PBV conversions that

involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) to determine whether they meet one of the conditions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

F. Environmental Review

HUD can neither accept nor 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. Environmental documents must be submitted as part of the Financing Plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2012-32, REV-4.

23.3 DWELLING UNITS

A. Housing Quality Standards (HQS)

Under current regulations at 24 CFR § 983.103(b) a unit covered under a HAP Contract must be inspected and must meet 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 meet HQS no later than the date of completion of the Work as indicated in the RCC. Consequently, HUD is waiving and establishing an alternative requirement to 24 CFR § 983.103(b) and section 8(o)(8)(A) of the Act in such cases.

23.4 HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

A. Form of HAP Contract

The RAD PBV program employs contracts and closing documents that differ from those used in the traditional PBV program. The RAD contracts and closing documents are available on the RAD Resource Desk. The RAD PBV HAP contract is based on the traditional PBV HAP Contract for New Construction or Rehabilitation, with modifications to reflect RAD-specific requirements.

Unlike in the traditional PBV program, HUD reviews and approves the RAD PBV HAP contract prior to its execution.

B. Definition of “Project”

Units may be placed under one PBV HAP contract only if the units are in a single building or multiple buildings that meet the PBV definition of a “project.” Buildings that do not meet the PBV definition of a project may not be placed under a single PBV HAP contract. Single-family, scattered-site projects are an exception; they may be placed under a single PBV HAP contract.

The RAD Notice employs a broader definition of a project for purposes of RAD transactions. Under RAD, a project is defined as “a structure or group of structures that in HUD’s determination are appropriately managed as a single financial asset.”

C. Execution and Effective date of the HAP Contract

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

D. Term of HAP Contract

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of 15 years, as well as 24 CFR 983.205(a), which governs the contract term.

E. Mandatory Contract Renewal

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will 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. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract for term of up to 15 years, will not apply.

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 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD

use agreement.

F. Agreement to Enter into a Housing Assistance Payments (AHAP) Contract Waiver

There will be no agreement to enter into a Housing Assistance Payments (AHAP) contract on RAD Conversions, unless the transaction includes a RAD/Section 18 Disposition Blend that involves new construction or substantial rehabilitation. For the purposes of the South Terrace Development the conversion will include an AHAP for a portion of the units that were approved under the Section 18 Disposition program. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are applicable. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are subject to the applicable CFR and RAD Notice PIH 2012-32, REV-4.

G. Rehab Assistance Payments

During the period of Work identified in the RCC, standard RAD PBV HAP contract funding procedures will be used for occupied units. Units covered under the RAD PBV 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 rent. 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.

H. Income-Mixing Requirement (Project Cap)

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. The limitation on the number of units receiving assistance has been omitted for the RAD PBV projects. Therefore,

a project converting under RAD may have 100% of units subsidized by PBV.

I. Floating Units

HUD will permit RAD 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.

SOUTH PORTLAND Housing Authority Policy

SOUTH PORTLAND Housing Authority will float assistance among unoccupied units within the project.

J. RAD PBV and Traditional PBV HAP Contracts at a Single Project

An owner and Contract Administrator may execute both a RAD PBV HAP contract and a traditional PBV HAP contract (for “non–RAD PBV” units) at a single project. In this scenario, 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 RAD waivers and alternative requirements listed below:

1. Site selection — compliance with PBV goals;
2. Site-specific utility allowances;
3. No rescreening of tenants upon conversion for a current public housing resident of a Converting Project who will reside in a RAD PBV or a non–RAD PBV unit;

4. Right to return;
5. Phase-in of tenant rent increases
6. Family Self-Sufficiency and Resident Opportunities and Self Sufficiency Service Coordinator programs;
7. Resident participation and funding;
8. Resident procedural rights, termination notification and grievance process;
9. Earned income disregard;
10. Jobs Plus;
11. When total tenant payment exceeds gross rent for residents living in a Converting Project prior to conversion who will reside in the Covered Project after conversion;
12. Under-occupied unit;
13. Establishment of waiting list;
14. Initial certifications and tenant rent calculations.

In addition, initial contract rents at such a project may be established using “rent bundling,” under which the contract rents for the RAD PBV units may receive a net upward adjustment equal to a net downward adjustment of the contract rents at the non-RAD PBV units.

Note that the RAD PBV flexibility with respect to floating units does not apply to non-RAD PBV units in this scenario. In other words, the location and area of the non-RAD PBV units must be identified in the traditional PBV HAP contract that covers such units.

K. Contract Amendments

1. Adding Units

- i. In the traditional PBV program, the Contract Administrator may add units to a PBV HAP contract, as long as program requirements are met (i.e., the units comply with program requirements and the family is eligible, if there is a family residing in the unit at the time of the unit’s addition to the contract). Under RAD, the Contract Administrator may not add units above the number that were placed under contract at the time of conversion.

2. Removing Units

- i. **In-Place Families:** 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 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 on RAD projects may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after 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 the Gross Rent.
- ii. **New Admissions:** Unless a waiver is requested and approved, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and 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. 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 alternative requirement that the PHA must reinstate the unit after the family has left the property. 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.

23.5 SELECTION OF PROGRAM PARTICIPANTS

A. Overview

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the RAD PBV program. This part describes the requirements and policies related to residents living at the property at the time of the RAD conversion and ongoing eligibility and admission to the RAD PBV program.

B. Prohibition of Rescreening Tenants upon 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. 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. Once that remaining household moves out, the unit must be leased to an eligible family.

Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

C. Establishing the Waiting List – from Public Housing to RAD PBV

The Standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents 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:

1. Transferring an existing site-based waiting list to a new site-based waiting list.
2. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
3. 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.
4. 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 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.

SOUTH PORTLAND Housing Authority Policy

Applicants on a Public Housing waiting list for a project or development that is converting to RAD PBV, will be transferred to the applicable RAD PBV waiting list. Existing applicants will retain the original date/time stamp of their application.

D. Income Targeting

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow Standard PBV requirements.

E. Preferences

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

1. With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing
2. Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing
3. For whom such services cannot be provided in a non-segregated setting

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

SOUTH PORTLAND Housing Authority Policy

Points will be given for each preference the family qualifies for. Families will be selected based on their number of preference points. Among applicants with equal preference points, the waiting list will be organized by date and time.

Preferences for units at 235 Broadway:
Preferences points are given as follows:

- 10 pts. - Elderly families; Disabled families
- 3 pts. - Residency Preference
- 1 pt. - Veteran Preference
- 1 pt. - Victims of a federally declared natural disaster.

Preference for units at 225 Broadway, 231 Broadway, 73 Hill Street, and 53-60 Landry Circle:

Preferences points are given as follows:

- 10 pts. – Families with minors or dependents
- 3 pts. - Residency Preference
- 1 pt. - Veteran Preference
- 1 pt. - Victims of a federally declared natural disaster.

23.6 OCCUPANCY

A. Initial Term and Lease Renewal

As in the traditional PBV program, the lease used for participants in the RAD PBV program must meet the requirements spelled out in 24 C.F.R. §983.256 and in the HUD-required Tenancy Addendum.¹⁵² In addition:

1. The lease between an owner and a tenant residing in a RAD PBV–assisted unit must include RAD’s resident procedural rights.¹⁵³
2. Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that is the same date as the effective date of the RAD PBV HAP contract (the lease may be executed before the effective date of the RAD PBV HAP contract, but it must have the same effective date as that contract.)
3. For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP.¹⁵⁴ Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease.
 - Tenant rent. Per the RAD Use Agreement, the owner may charge a rent that does not exceed 30 percent of 80 percent of the area median income.
 - Transition to a new lease. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent.

A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. For example, that the family no longer has a right to move with a tenant-based voucher. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

B. Security Deposits

In both the traditional PBV and the RAD PBV program, an owner is permitted to collect a security deposit. The owner may recognize any security deposit amount previously provided by a tenant who is in place at the time of conversion. If a tenant residing in a Converting Project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. The security deposit must be determined in accordance with the provisions of 24 C.F.R. §983.259.

SOUTH PORTLAND Housing Authority Policy

SOUTH PORTLAND Housing Authority will allow the owner to collect a security deposit the owner determines is appropriate.

C. Resident Participation and Funding

Residents of covered projects converting assistance to PBVs 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.

D. Moves

1. Overcrowded, Under-Occupied and Accessible Units

In-Place Families: 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.

New Admissions: Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract. If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

SOUTH PORTLAND Housing Authority Policy

SOUTH PORTLAND Housing Authority will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit as soon as possible after the PHA's determination is made. SOUTH PORTLAND Housing Authority may offer the family the following types of continued assistance, based on the availability of assistance:

- PBV assistance in the same building or project
- PBV assistance in another project
- Tenant-based voucher assistance

When SOUTH PORTLAND Housing Authority offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day timeframe, the PHA will terminate the housing assistance payments at the expiration of this 30-day period. The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

2. Choice Mobility

If the family wishes to move with continued tenant-based assistance, the

family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

SOUTH PORTLAND Housing Authority Policy

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to SOUTH PORTLAND Housing Authority for a choice mobility voucher at any time after completing the 12-month occupancy requirement. The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset. SOUTH PORTLAND Housing Authority will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

3. Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

SOUTH PORTLAND Housing Authority Policy

SOUTH PORTLAND Housing Authority will not establish a turnover cap.

E. Reexaminations

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

F. Earned Income Disregard

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 will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only 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 only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as 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.

L. When 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 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 on RAD projects may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after 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 the Gross Rent.

Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301.

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. The PHA is required to process these individuals through the Form 50058 submodule in PIC. 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.

Unless a waiver is requested and approved, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and 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. 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 alternative requirement that the PHA must reinstate the unit after the family has left the property. 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,

SOUTH PORTLAND Housing Authority Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

G. Resident Procedural Rights

1. Termination of Tenancy

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Chapter 15 of this Plan and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the Standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. 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 may not be less than:

- i. A reasonable period of time, but not to exceed 30 days;
- ii. If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- iii. In the event of any drug-related or violent criminal activity or any felony conviction
- iv. 14 days in the case of nonpayment of rent
- v. 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

Unlike in the Standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner. See Chapter 16 of this Plan for more information.

2. Grievance Process

Unlike in the Standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi) (See Chapter 16 of this Plan), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an 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.
- ii. For any additional hearings required under RAD, the PHA (as owner)

will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The PHA (as owner) must give 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). (See Chapter 16)

The PHA (as owner) must provide an opportunity for an informal hearing before an eviction.

23.7 DETERMINING CONTRACT RENT

A. Initial Contract Rent Setting

No additional or incremental funding is associated with the RAD Demonstration Program. 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 of Notice PIH 2012-32, REV-4. PHAs have additional discretion in establishing initial contract rents using the following flexibilities:

1. MTW Fungibility
2. Rent Bundling
3. Future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF)
4. Tenant-Paid Utility Savings.

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 RAD Contract Rent

Regardless of the initial contract rents for the RAD HAP Contract, 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.

B. Utility Allowances

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.

After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with Standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively.

These utility allowances are effective for in-place families at recertification.

SOUTH PORTLAND Housing Authority Policy

SOUTH PORTLAND Housing Authority does not have a utility allowance for any proposed RAD developments.

C. RAD 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.

Policy

D. 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. 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 § 983.303.33 However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract. MTW agencies may not alter this requirement.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

E. Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

F. Project Funding During the Initial Year

The PBV program is a component of a voucher agency's HCV program. For units under a HAP contract (HCV or PBV), HUD's Financial Management Center (FMC)128 disburses HAP funding to the agency. On a monthly basis, the PHA reports unit months leased (UML) and associated expenses in HUD's Voucher Management System (VMS), indicating the number of PBV units and the HAP expenses associated with such units.

From the effective date of a RAD PBV HAP contract through the balance of the calendar year of conversion (i.e., the "Initial Year"), units under a RAD PBV HAP contract are funded differently. Specifically, at the point of conversion,129 the units are added to the Contract Administrator's Consolidated ACC, and the FMC obligates \$1 to the Contract Administrator.130 From that point through the end of the Initial Year, the units continue to receive public housing Operating Fund and Capital Fund subsidy at the levels available to the project in the fiscal year of conversion, via the public housing module of HUD's Line of Credit Control System (LOCCS). The FMC does not disburse HAP for RAD PBV units to the Contract Administrator, and the Contract Administrator does not report UMLs or associated expenses for such units in VMS.

23.8 PAYMENTS TO OWNER

A. 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.

SOUTH PORTLAND Housing Authority Policy

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 TTP

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. 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.1 Revision of PHA Plan Elements

Operation and Management

SPHA Board Resolution for HUD COVID-19 Waivers

Department of Housing and Urban Development has authorized all public housing authorities to implement certain waivers from its normal requirements without prior HUD approval (PIH Notice 2020-05, **SUBJECT: COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program**).

Be it resolved by the SOUTH PORTLAND Housing Authority that due to the COVID-19 emergency, it has chosen to implement the following waivers all of which were implemented by September 30, 2020. They are being ratified by the Board of Commissioners on December 2, 2020.

The waivers selected are based on the SOUTH PORTLAND Housing Authority's local situation. The descriptions of the specific waivers below are summaries. The PHA shall fully understand and comply with the waivers as described in the HUD Notice in all their particularities.

The Housing Authority will automatically take advantage of any additional appropriate waivers and expiration deadline extensions offered by HUD without further board action.

The Executive Director is hereby delegated the express authority to nullify any waiver and end this modification of the procedures and/or policies at such time as the Executive Director determines appropriate. Also, the Executive Director may choose to not take advantage of any of these waivers at the Executive Director's sole discretion.

NOTE: The use of these waivers is at the discretion of the individual PHA. As stated in the Notice, a PHA may choose to apply all, some, or none of the waivers to their Public Housing and HCV programs.

PUBLIC HOUSING AND HOUSING CHOICE VOUCHERS

PH and HCV-1: PHA 5-Year and Annual Plan Submission Dates, Significant Amendment Requirements

Agency Plans – The PHA hereby adopts the authority granted by HUD to delay submission of its agency plan according to the dates provided in the HUD notice.

Significant Amendments – The PHA adopts the waiver of the significant amendment process.

PH and HCV-2: Family Income and Composition: Delayed Annual Examinations

The PHA is hereby taking advantage of the waiver that delays annual reexaminations of HCV and public housing families. However the PHA will follow the requirement regarding an increase in the payment standard contained in HCV-7.

PH and HCV-3: Family Income and Composition: Annual Examination - Income Verification requirements

The PHA will take advantage of the HUD waiver that allows the PHA to not follow the income hierarchy of PIH Notice 2018-18. The PHA will consider resident and participant self-certification as the highest form of income verification. The self-certification may occur over the telephone extemporaneously documented by the PHA's staff, or via email or regular mail.

If the PHA later determines that there are material discrepancies in a self-certification, the PHA will take the appropriate enforcement actions according to the PHA's policy.

PH and HCV-4: Family Income and Composition: Interim Examinations

The requirements for annual examinations stated above in PH and HCV-3 also apply to interim examinations.

PH and HCV-5: Enterprise Income Verification (EIV) Monitoring

The Housing Authority is taking advantage of HUD's waiver of requirements to not monitor the PHA's EIV reports.

HOUSING QUALITY STANDARDS

HQS-1: Initial Inspection Requirements

The Housing Authority is accepting HUD's waiver of initial inspections not being required prior to the beginning of the initial lease term. Instead, the PHA will accept an owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units. The PHA reserves the right to add other requirements or conditions to this owner certification. In any event, the PHA will conduct an HQS inspection of all units in accordance with the HUD notice.

HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections, PHA Acceptance of Completed Units

The Housing Authority is accepting HUD's waiver of an inspection of a rehabilitated and/or newly constructed unit before entering into a HAP contract. The same conditions and timeframes as expressed in HQS-1 above apply here.

HQS-3: Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option

The PHA is utilizing the option provided by HUD to approve HAP contracts and begin making housing assistance payments on a unit that fails initial HQS inspection providing the failure is solely for non-life threatening deficiencies. This option is available for both tenant-based and project-based units. The owner shall be given 60 days instead of the normal 30 days to repair any non-life threatening deficiencies.

HQS-4: HQS Initial Inspection Requirement – Alternative Inspection Option

HOTMA authorized housing authorities to allow a unit to be occupied prior to the initial inspection if the unit has passed an alternative inspection as allowed in the Administrative Plan within the previous 24 months. The housing authority had to inspect the unit within 15 days of the RFTA. HUD is waiving the 15-day inspection requirement and allowing just the alternative inspection to suffice so long as the owner certifies that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit. The PHA may add additional requirements or conditions. In any event, the initial HQS inspection must be conducted in accordance with the deadline provided in the HUD notice. This option is available for both tenant-based and project-based units.

HQS-5: HOS Inspection Requirement – Biennial Inspections

Inspections must be made every other year or every third year depending upon the housing authority and the PHA's Administrative Plan. HUD is waiving these inspection periods so long as the inspections are completed in accordance with the deadline provided in the HUD notice.

HQS-6: HOS Interim Inspections

Interim inspections do not have to follow the normal regulatory timeframes. Instead they must be made as soon as feasible. As a condition of this change the PHA is required to notify the owner of a reported life threatening deficiency. The owner must either correct the life threatening deficiency within 24 hours or provide adequate documentation that the reported deficiency does not exist. In the case of non-life threatening deficiencies the owner must make the repair or document that the deficiency does not exist within 30 days or any approved extension that the PHA makes. The PHA is not required to conduct an on-site inspection to verify the repairs have been made, but may rely on an alternative verification method such as photographs or tenant certifications.

HQS-7: PBV Turnover Unit Inspections

Normally when a project-based voucher turns over, an inspection is made. This waiver allows the PHA to accept an owner certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist and allow the new tenant to move in. The PHA reserves the right to add additional requirements or conditions. In any event, an inspection must be completed in accordance with the deadline in the HUD notice.

HQS-8: PBV HAP Contract – HOS Inspections to Add or Substitute Units

At the discretion of the housing authority and subject to all PBV requirements a PHA can allow a substitution of one unit for a previously covered unit. Normally the new unit must be inspected prior to the initial occupancy.

HUD has waived the pre-occupancy inspection requirement. A substitution can be made upon the owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit. The PHA can add additional conditions or requirements.

HQS-9: HOS Quality Control Inspections

The requirement for PHAs to conduct supervisory quality control inspections of a sample of units under contract is waived.

HQS-10: Housing quality standards; Space and Security

The regulation establishes a minimum standard for adequate space for assisted families. It requires at least one bedroom or living/sleeping room for each 2 persons. For people continuing to live in the same unit who need to add a person or persons to their lease because of the COVID-19 emergency, the minimum space requirement is waived. This does not apply to an initial or new lease. This waiver is in effect for the duration of the current lease term or in accordance with the deadline in the HUD notice, whichever is longer.

HOUSING CHOICE VOUCHER PROGRAM

HCV-1: Administrative Plan

HUD is waiving the requirement that all changes to the Administrative Plan be approved by the Board of Commissioners prior to adoption. The PHA may informally adopt waiver revisions by on a temporary basis without board approval. Any informally adopted revisions under this waiver authority will be adopted by the Board as required by HUD notice.

HCV-2: Information When Family is Selected - PHA Oral Briefing

HUD requires that all families participating in the HCV or PBV program should be given an oral briefing prior to admission. This requirement is being waived and, as a substitute, HUD will allow things like webcasts, video calls, or expanded information packets as substitutes. Section 504 and the ADA requirements remain.

HCV-3: Term of Voucher – Extensions of Term

HUD is waiving the requirement for voucher extensions to be according to the Administrative Plan. Instead, HUD is allowing the PHA to extend the term of vouchers according the needs of the PHA's community.

HCV-4: PHA Approval of Assisted Tenancy – When HAP Contract is Executed

HUD is waiving the requirement that a HAP contract be executed within 60 days of the beginning of the lease and extending that term to 120 days from the beginning of the lease.

HCV-5: Absence from Unit

The regulation requires that a family not be absent from a unit for more than 180 consecutive calendar days for any reason. Due to the COVID-19 emergency, this is being waived in the case of extenuating circumstances (e.g. hospitalizations, extended stays at nursing homes, caring for family members).

HCV-6: Automatic Termination of HAP contract

A HAP contract is typically terminated 180 days after the last HAP payment to the owner. This waiver removes the 180-day limit and substitutes a time set by the PHA.

HCV-7: Increase in payment standard under HAP contract term

The regulation requires that if the payment standard amount increases during a HAP contract, the new payment standard shall be effective on a family's first reexamination on or after the increase in the payment standard. HUD is waiving this requirement and allowing the PHA to apply the increased payment standard at any time after the effective date of the new payment standard, provided that the increased payment standard is used no later than the effective date of the family's first regular reexamination following the change.

If the PHA adopted the waiver in PH and HCV-2 the PHA must use the increased payment standard beginning on the date of the family's first regular examination that would have been effective in the absence of the waiver. Alternatively, the PHA can conduct an interim reexamination where the only change is the increased payment standard amount.

HCV-8: Utility allowance schedule – required review and revision

This waives the requirement to revise the PHA's utility allowance if there's been a change of 10% or more in a utility rate. This waiver expires December 31, 2020.

PUBLIC HOUSING PROGRAM

PH-1: Fiscal Closeout of Capital Grant Funds

This waiver extends the deadline for the submission of any Actual Development Cost Certificates (ADCC) and an Actual Modernization Cost Certificates (AMCC) (two financial reporting documents required to close out Capital Fund grants). This waiver extends the required filing dates between March 1, 2020 and September 30, 2020 by 6 months.

PH-2: Total Development Costs

HUD is waiving the TDC and HCC limits on public housing funds used in public housing development, mixed finance development, and Choice Neighborhoods development. The PHA can exceed the limits by 25% without HUD approval and the HUD Field Office can approve up to 50% in excess of the limits. This applies to development proposals submitted to HUD no later than December 31, 2021.

PH-3: Cost and Other Limitations; Types of Labor

Under this waiver the PHA can use force account labor for modernization activities even if the PHA is not a high performer and it is not part of the PHA's 5-Year Action Plan.

PH-4: ACOP: Adoption of Tenant Selection Policies

This waiver allows the PHA to adopt and implement changes in their ACOP without formal Board approval. The PHA may informally adopt waiver revisions by on a temporary basis without board approval. Any informally adopted revisions under this waiver authority will be adopted by the Board as required by HUD notice.

PH-5: Community Service and Self-Sufficiency Requirement (CSSR)

This waiver suspends the community service self-sufficiency requirement until March 31, 2021.

PH-6: Energy Audits

This waiver suspends the requirement of an energy audit being completed every 5 years if the audit was due before December 31, 2020. The audit requirement is extended for one year.

PH-7: Over-Income Families

This waiver suspends the over income requirement between now and December 31, 2020 and over-income families can retain their unit under the status quo.

PH-8: Resident Council elections

This waiver allows for an extension beyond the 3 year limit of resident council elections so long as the rescheduled election is held as soon as reasonably possible and in no event later than the deadline in the HUD notice.

PH-9: Review and Revision of Utility Allowances

This waiver suspends the annual requirement of reviewing utility allowances that are due in 2020. However, the review must be completed in accordance with the deadline provided in the HUD notice.

PH-10: Tenant Notifications for Changes to Project Rules and Regulations

The PHA is required to provide 30-day notice to impacted families to changes in policies, rules and special charges before the changes are made. HUD is waiving the requirement for advance notice except for any changes made to tenant charges. However, the PHA is required to notify impacted families within 30 days of making such changes.

PH-12: Public Housing Agency Annual Self-Inspections

HUD is waiving the requirement that the PHA must inspect each project during CY 2020. This waiver does not alleviate the PHA of its responsibility to provide safe housing. PHAs are reminded to expeditiously identify, respond to, and address serious conditions that could jeopardize life or property. An inspection of every public housing property will be completed during CY 2021.

11. PHAS, SEMAP, and Uniform Financial Reporting Standards

a. PHAS

HUD is suspending physical inspections for housing authorities unless the PHA requests a new PHAS score. New PHAS scores will not be issued for PHAs with a fiscal year ending on or before December 31, 2020.

b. SEMAP

SEMAP scores are being suspended for in accordance with the HUD notice unless the PHA requests a new SEMAP score. SEMAP scores will resume for PHAs with fiscal years ending March 31, 2021.

c. Uniform financial reporting standards; Filing of financial reports; Reporting Compliance Dates

HUD is extending the required date for filing various financial reports according to a schedule set forth in the notice.

12. Other Waivers and Administrative Relief.

a. PHA Reporting Requirements on HUD Form 50058.

Form 50058 is normally required to be submitted within 60 calendar days from the effective date of any action recorded on line 2b of the form. This waiver extends the 60-day requirement to 90 days. If the PHA receives a fatal error report, the PHA will not be required to resubmit the form under this waiver.

b. [For HUD, not the PHA]

c. Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds

This waiver extends both the obligation end date and the expenditure end date of Capital Funds by 1 year.

RESOLUTION #2696
AMENDED FEBRUARY 17, 1987

RESOLUTION #2795
AMENDED SEPTEMBER 29, 1987

RESOLUTION #4098
AMENDED AUGUST 24, 1992

HUD APPROVAL
DECEMBER 28, 1992

RESOLUTION #5028
AMENDED NOVEMBER 22, 1999

RESOLUTION #6323
AMENDED AUGUST 03, 2016

RESOLUTION #6578
AMENDED JUNE 23, 2021

SOUTH PORTLAND HOUSING AUTHORITY

PUBLIC HOUSING AND RAD PBV
GRIEVANCE PROCEDURE

SOUTH PORTLAND HOUSING AUTHORITY

PUBLIC HOUSING AND RAD PBV
GRIEVANCE PROCEDURE

INDEX

1.0 DEFINITIONS APPLICABLE TO THE GRIEVANCE PROCEDURE 1

2.0 APPLICABILITY OF THIS GRIEVANCE PROCEDURE..... 2

3.0 INFORMAL SETTLEMENT CONFERENCE..... 2

4.0 PROCEDURES TO OBTAIN A HEARING 3

4.1 *REQUEST FOR A HEARING.....3*

4.2 *SELECTING THE HEARING OFFICER... 3*

4.3 *FAILURE TO REQUEST A HEARING.....3*

4.4 *ESCROW DEPOSIT.....3*

4.5 *SCHEDULING OF HEARINGS..... 4*

4.6 *FAILURE TO APPEAR AT A HEARING..... 4*

5.0 INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS.....4

6.0 PROCEDURES GOVERNING THE HEARING 5

7.0 DECISION OF THE HEARING PANEL OR OFFICER 5

**GRIEVANCE PROCEDURE OF THE
SOUTH PORTLAND HOUSING AUTHORITY**

1.0 DEFINITIONS

- A. Grievance: Any dispute which a Resident may have with respect to the SOUTH PORTLAND Housing Authority action or failure to act in accordance with the individual Resident's lease or SOUTH PORTLAND Housing Authority regulations which adversely affects the individual Resident's rights, duties, welfare or status.
- B. Complainant: Any Resident (as defined below) whose grievance is presented to the SOUTH PORTLAND Housing Authority (at the central office or the development office) in accordance with the requirements presented in this procedure.
- C. Elements of Due Process: An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
- (1) Adequate notice to the Resident of the grounds for terminating the tenancy and for eviction;
 - (2) Right of the Resident to be represented by counsel;
 - (3) Opportunity for the Resident to refute the evidence presented by SOUTH PORTLAND Housing Authority, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Resident may have; and
 - (4) A decision on the merits.
- D. Hearing Officer: An impartial person or persons selected by the SOUTH PORTLAND Housing Authority, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training.
- E. Resident: The adult person (or persons) other than a Live-in Aide:
- (1) Who resides in the unit and who executed the lease with the SOUTH PORTLAND Housing Authority as lessee of the dwelling unit; or, if no such person now resides in the unit,
 - (2) Who resides in the unit, and who is the remaining head of the household of the Resident Family residing in the dwelling unit.
- F. Resident Organization: An organization of Residents which also includes a resident management corporation.
- G. Promptly: Within the time period indicated in a notice from the SOUTH PORTLAND Housing Authority of a proposed action which would provide the basis for a grievance if the Resident has received a notice of a proposed action from the agency.

2.0 APPLICABILITY OF THIS GRIEVANCE PROCEDURE

In accordance with the applicable federal regulations (24 CFR Sec. 966.50) this grievance procedure shall be applicable to all individual grievances (as defined in Section I above) between Resident and SOUTH PORTLAND Housing Authority with the following exceptions:

- A. If HUD has issued a due process determination that the law of the State of Maine requires that Resident be given the opportunity for a hearing in court which provides the basic elements of due process (as defined above) before eviction from the dwelling unit, the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other Residents or employees of SOUTH PORTLAND Housing Authority; or
 - (2) Any **violent or** drug-related criminal activity on or off such premises; or
 - (3) **Any criminal activity that resulted in a felony conviction of a household member.**
- B. The SOUTH PORTLAND Housing Authority grievance procedure shall not be applicable to disputes between Residents not involving SOUTH PORTLAND Housing Authority or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of Residents and SOUTH PORTLAND Housing Authority's Board of Commissioners.

This grievance procedure is incorporated by reference in all Resident dwelling leases and will be furnished to each Resident and all Resident Organizations.

Any changes proposed in this grievance procedure must provide for at least thirty (30) day notice to Resident and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by SOUTH PORTLAND Housing Authority before any revisions are made to the grievance procedure.

3.0 INFORMAL SETTLEMENT **CONFERENCE**

Any grievance must be personally presented, either orally or in writing, to SOUTH PORTLAND Housing Authority's central office or the management office of the development in which the Complainant resides within fourteen (14) days after the grievable event. Grievances received by SOUTH PORTLAND Housing Authority's central office will be referred to the person responsible for the management of the development in which the Complainant resides.

As soon as the grievance is received, it will be reviewed by the management office of the development to be certain that neither of the exclusions in paragraphs II.A. or II.B. above applies to the grievance. Should one of the exclusions apply, the Complainant will be notified in writing that the matter raised is not subject to SOUTH PORTLAND Housing Authority's grievance procedure with the reason therefor.

If neither of the exclusions cited above apply, the Complainant will be contacted to arrange a mutually convenient time within ten (10) working days to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement conference the Complainant will present the

grievance and the person in charge of the management office will attempt to settle the grievance to the satisfaction of both parties.

Within **ten (10)** working days following the informal discussion, SOUTH PORTLAND Housing Authority shall prepare and either give or mail to Resident a summary of the discussion that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a formal hearing under this procedure may be obtained if the Complainant is not satisfied. A copy of this summary shall also be placed in Resident's file.

4.0 PROCEDURES TO OBTAIN A HEARING

4.1 REQUEST FOR HEARING

If the Complainant is dissatisfied with the disposition arrived at in the informal settlement conference, the Complainant must submit a written request for a hearing to the management office of the development where Resident resides no later than **ten (10)** working days after the summary of the informal settlement conference is **mailed**.

The written request shall specify:

The reasons for the grievance; and

The action or relief sought from SOUTH PORTLAND Housing Authority; and

Several dates and times in the following ten (10) business days when the Complainant can attend a formal Grievance Hearing.

4.2 SELECTING A HEARING OFFICER

A grievance hearing shall be conducted by an impartial person appointed by the SOUTH PORTLAND Housing Authority's Executive Director **from within or outside the agency**. The Hearing Officer will be other than a person who made **the act or failure to act being appealed** or a subordinate of such person.

4.3 FAILURE TO REQUEST A HEARING

If the Complainant fails to request a hearing within **ten (10)** working days after receiving the summary of the informal discussion, SOUTH PORTLAND Housing Authority's decision rendered at the informal settlement becomes final and SOUTH PORTLAND Housing Authority is not obligated to offer the Complainant a formal hearing unless the Complainant can show good cause why he failed to proceed in accordance with this procedure.

Failure to request a grievance hearing does not affect the Complainant's right to contest the PHA's decision in a court hearing.

4.4 ESCROW DEPOSIT

Before a hearing is scheduled in any grievance, including, but not limited to, any grievance involving the amount of rent which SOUTH PORTLAND Housing Authority claims is due under this lease, the Complainant shall pay to SOUTH PORTLAND Housing Authority an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The

Complainant shall, thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer. Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, the SOUTH PORTLAND Housing Authority may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the Resident may have to contest the SOUTH PORTLAND Housing Authority's disposition of the grievance in any appropriate judicial proceeding.

If a grievance concerns the denial of a financial hardship exemption from the minimum rent requirement or the effect of welfare benefit reductions in the calculation of family income, the requirement for an escrow deposit is waived.

4.5 SCHEDULING OF HEARINGS

When a Complainant submits a timely request for a **formal** grievance hearing, SOUTH PORTLAND Housing Authority will schedule the hearing within the following ten (10) working days on one of the dates and times indicated by the Complainant. The Complainant will be notified of the selected date, time and place.

Once the hearing officer has agreed upon the hearing date and time, the Complainant, the manager of the development in which the Complainant resides, and hearing officer shall be notified in writing. Notice to the Complainant shall be in writing, either personally delivered to the Complainant, or sent by mail.

The written notice will specify the time, place and procedures governing the hearing.

4.6 FAILURE TO APPEAR AT THE HEARING

If the Complainant or SOUTH PORTLAND Housing Authority fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing for not to exceed five (5) business days, or make a determination that the party has waived his right to a hearing.

Both the Complainant and SOUTH PORTLAND Housing Authority shall be notified of the determination by the hearing officer provided that a determination that the Complainant has waived his right to a hearing shall not constitute a waiver of any right the Complainant may have to contest SOUTH PORTLAND Housing Authority's disposition of the grievance in a judicial proceeding.

5.0 PROCEDURES GOVERNING THE HEARING

The formal grievance hearing shall be held before a hearing officer as described above in Section 4.2. The Complainant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the hearing any SOUTH PORTLAND Housing Authority documents, including records and regulations, that are directly relevant to the hearing.

The Resident shall be provided a copy any such document at the Resident's request and expense. If SOUTH PORTLAND Housing Authority does not make the document available for examination upon request by the Complainant, SOUTH PORTLAND Housing Authority may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or other person chosen as the Resident's representative and to have such person make statements on the Resident's behalf.
- C. The right to a private hearing less the Complainant requests a public hearing.
- D. The right to present evidence and arguments in support of the Resident's complaint to controvert evidence relied on by SOUTH PORTLAND Housing Authority or project management, and to confront and cross-examine all witnesses upon whose testimony or information SOUTH PORTLAND Housing Authority or project management relies; and
- D. A decision based solely and exclusively upon the fact(s) presented at the hearing.

The hearing officer may render a decision without proceeding with the hearing if he/she determines that the issue has been previously decided in another proceeding.

At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and, thereafter, SOUTH PORTLAND Housing Authority must sustain the burden of justifying SOUTH PORTLAND Housing Authority's action or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the hearing officer. Oral or documentary evidence pertinent to the facts and issues raised by the complaint shall be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer shall require SOUTH PORTLAND Housing Authority, the Complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The Complainant or SOUTH PORTLAND Housing Authority may arrange in advance and at the expense of the party making the arrangement for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

SOUTH PORTLAND Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Resident is visually impaired, any notice to the Resident which is required under this procedure must be in an accessible format.

If the Resident is a person with limited English proficiency, the SOUTH PORTLAND Housing Authority will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons."

6.0 FORMAL GRIEVANCE HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS

The participant family may request that the SOUTH PORTLAND Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the Notice of Denial or Termination of Assistance, or within 30 days of receipt of the INS appeal decision.

7.0 DECISION OF THE HEARING OFFICER

The hearing officer shall prepare a written decision together with the reasons for the decision within **ten (10) working** days after the hearing. A copy of the decision shall be sent to the Complainant and SOUTH PORTLAND Housing Authority. SOUTH PORTLAND Housing Authority shall retain a copy of the decision in the Resident's folder.

The SOUTH PORTLAND Housing Authority will maintain a log of all hearing officer decisions. The log shall contain the date of the hearing, the general reason for the grievance hearing (i.e. failure to pay rent, community service noncompliance, etc.), and who the decision favored. The log shall be available to the hearing officer or a prospective complainant or the complainant's representative.

The decision of the hearing officer shall be binding on SOUTH PORTLAND Housing Authority which shall take all actions or refrain from any actions necessary to carry out the decision unless SOUTH PORTLAND Housing Authority's Board of Commissioners determines at its next meeting and promptly notifies the Complainant of its determination that:

- A. The grievance does not concern SOUTH PORTLAND Housing Authority's action or failure to act in accordance with or involving the Complainant's lease or SOUTH PORTLAND Housing Authority's regulations which adversely affect the Complainant's rights, duties, welfare or status.
- B. The decision of the hearing officer is contrary to applicable federal, State or local law, HUD regulations or requirements of the annual contributions contract between HUD and SOUTH PORTLAND Housing Authority.

A decision by the hearing officer or Board of Commissioners in favor of SOUTH PORTLAND Housing Authority or which denies the relief requested by the Complainant in whole or in part shall not constitute a waiver of, nor affect in any way, the rights of the Complainant to a trial or judicial review in any court proceedings which may be brought in the matter later.

B.1 Revision of PHA Plan Elements

Substantial Deviation/Significant Amendment/Modification

Significant Amendment or Modification or Substantial Deviation shall be defined as any substantial change (excluding those specifically identified below) in SPHA's plan or policies that fundamentally changes the mission, goals, or objectives of the PHA Plan, are inconsistent with its approved Annual Plan or 5-Year Plan and which require formal approval by the Board of Commissioners.

As part of the Rental Assistance Demonstration (RAD), South Portland Housing Authority is redefining the definition of a significant amendment or modification or 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.

B.1 Revision of PHA Plan Elements

Deconcentration Policy

It is South Portland Housing Authority's policy to provide for deconcentration of poverty and encourage income mixing by bringing higher income families into lower income developments and lower income families into higher income developments, subject to the understanding that all Authority properties by definition are "lower income." Toward this end, we will skip families on the waiting list to reach other families with a lower or higher income. We will accomplish this in a uniform and non-discriminating manner.

South Portland Housing Authority will affirmatively market our housing to all eligible income groups. Lower income residents will not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

Prior to the beginning of each fiscal year, we will analyze the income levels of families residing in each of our developments and the income levels of the families on the waiting list. Based on this analysis, we will determine the level of marketing strategies and deconcentration incentives to implement.

South Portland Housing Authority **may** offer one or more incentives to encourage applicant families whose income classification would help to meet the deconcentration goals of a particular development.

Various incentives may be used at different times, or under different conditions, but will always be provided in a consistent and nondiscriminatory manner.

B.2 New Activities

Demolition and/or Disposition

Disposition of Vacant Land

South Portland Housing Authority will complete the disposition of vacant land in Landry Village, Project #ME 20-2, under ACC contract B3011, in order to build an estimated forty units of affordable housing. The disposition application has been approved by the SAC and SPHA is working with the Boston Field Office to complete the necessary transactions. The disposition is expected to be completed in 2021 and construction is anticipated to start in 2021 or 2022.

Public Housing Repositioning

South Portland Housing Authority intends to convert its entire portfolio of Public Housing units (346) to project-based vouchers and/or tenant-based rental assistance as follows:

Section 18 Scattered Site Disposition – 42 Units

SPHA intends to submit an application for the disposition of the following Public Housing scattered site units (buildings are non-contiguous with 4 or fewer units):

ME020000002, ACC # B 3011

| | | | |
|-------------------------------------|---------|-------------------------------|---|
| 375 Preble Street, South Portland | ME 20-3 | 2 – 2BR | 2 |
| 268 Preble Street, South Portland | ME 20-3 | 2 – 3BR | 2 |
| 832 Broadway, South Portland | ME 20-3 | 1 – 3BR | 1 |
| 834 Broadway, South Portland | ME 20-3 | 1 – 3BR | 1 |
| 74 Westbrook Street, South Portland | ME 20-3 | 1 – 4BR | 1 |
| 214 Sawyer Street, South Portland | ME 20-3 | 1 – 4BR | 1 |
| 25 Kincaid Street, South Portland | ME 20-3 | 1 – 2BR | 1 |
| 27 Kincaid Street, South Portland | ME 20-3 | 1 – 2BR | 1 |
| 29 Kincaid Street | ME 20-3 | 1 – 2BR | 1 |
| 1012 Broadway, South Portland | ME 20-3 | 1 – 3BR | 1 |
| 1014 Broadway, South Portland | ME 20-3 | 1 – 3BR | 1 |
| 58 Cole Street, South Portland | ME 20-3 | 1 – 2BR 2 – 3BR 1 – 4BR | 4 |
| 836 Sawyer Street, South Portland | ME 20-3 | 2 – 2BR 1 – 4BR | 3 |
| 576 Main Street, South Portland | ME 20-3 | 1 – 4BR | 1 |

| | | | |
|-------------------------------------|---------|--------------------|-----------|
| 578 Main Street, South Portland | ME 20-3 | 1 – 4BR | 1 |
| 8 Rainbow Avenue, South Portland | ME 20-3 | 2 – 2BR 2 – 4BR | 4 |
| 63 Elmwood Avenue, South Portland | ME 20-4 | 4 – 2BR | 4 |
| 55 Hill Street, South Portland | ME 20-5 | 3 – 2BR 1 – 3BR | 4 |
| 8 Free Street, South Portland | ME 20-5 | 3 – 2BR 1 – 3BR | 4 |
| 70 Grandview Avenue, South Portland | ME 20-5 | 3 – 2BR 1 – 3BR | 4 |
| TOTAL UNITS: | | | 42 |

These units will be converted to project-based vouchers. There will be no change in the number of assisted units.

RAD Conversion – 54 Units

SPHA intends to convert the following Public Housing units to project-based voucher or project-based rental assistance under the Rental Assistance Demonstration program (RAD):

ME020000002, ACC # B3011

| | | | |
|--------------------------------|---------|---------------------|-----------|
| 225 Broadway, South Portland | ME 20-4 | 1 – 1BR 11 – 2BR | 12 |
| 231 Broadway, South Portland | ME 20-4 | 12 – 2BR | 12 |
| 235 Broadway, South Portland | ME 20-4 | 1 – 1BR 11 – 2BR | 12 |
| 73 Hill Street, South Portland | ME 20-4 | 8 – 2BR 2 – 3BR | 10 |
| 53-60 Landry Circle | ME 20-5 | 6 – 2BR 2 – 3BR | 8 |
| TOTAL UNITS: | | | 54 |

There will be no change in the number of assisted units.

Streamlined Voluntary Conversion

SPHA intends to convert the following Public Housing units to project-based vouchers under the Streamlined Voluntary Conversion process through a) residents voluntarily relinquishing their Tenant Protection Voucher so that SPHA can project-base the voucher and b) backfilling units with SPHA PBVs once a TPV resident moves out:

ME020000001, ACC # B3011

| | | | |
|------------------------------|---------|---------------------------------|-----|
| 425 Broadway, South Portland | ME 20-1 | 65 – 0BR 29 – 1BR 6 – 2BR | 100 |
|------------------------------|---------|---------------------------------|-----|

| | | | |
|------------------------------------|---------|---------------------|------------|
| 1-50 Landry Circle, South Portland | ME 20-2 | 48 – 1BR 2 – 2BR | 50 |
| 1700 Broadway, South Portland | ME 20-6 | 100 – 1BR | 100 |
| TOTAL UNITS: | | | 250 |

There will be no change in the number of assisted units.

This final step in the conversion will remove SPHA’s total 250 remaining Public Housing units and SPHA will close out of the Public Housing Program

Anticipated Timeline for Portfolio Conversion: South Portland Housing Authority intends to begin this process immediately and hopes to convert all Public Housing units to Section 8 project based or tenant-based rental assistance by December 31, 2022.

B.2 New Activities

Conversion of Public Housing to Project-Based Assistance Under RAD

The South Portland Housing Authority (“SPHA”) will be submitting a Rental Assistance Demonstration (RAD) application to HUD in May 2021. As a result of a successful application, the SPHA will be converting to Project Based Vouchers under the guidelines of H 2019-09/PIH 2019-23, REV-4 and any successor Notices. Upon conversion to Project Based Voucher Rental Assistance the SPHA 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. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, the SPHA 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 SPHA with access to private sources of capital to repair and preserve 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 SPHA may also borrow funds to address their capital needs. SPHA will also be contributing Operating Reserves in the amount not to exceed \$500,000, and Capital Funds in the amount not to exceed \$1,000,000 towards the conversion.

Below, please find specific information related to the Public Housing Development(s) selected for RAD:

Development #1: Scattered Sites

| Name of Public Housing Project: | PIC Development ID: | Conversion type: | Transfer of assistance |
|--|---|-------------------------|-------------------------------|
| <ul style="list-style-type: none"> - 225 Broadway Street (Broad Pines) - 231 Broadway Street (Broad Pines) - 235 Broadway Street (Broad Pines) - 73 Hill Street - 53-60 Landry Circle | <ul style="list-style-type: none"> - B_0002-225 - B_0005-231 - B_0008-235 - B_0010-73 - B_0006-53 - B_0006-54 - B_0006-55 - B_0006-56 - B_0006-57 - B_0006-58 - B_0006-59 - B_0006-60 | <p>PBV</p> | <p>No</p> |

| | | | |
|--|--|---|--|
| <p>Total Units:</p> <ul style="list-style-type: none"> - 225 Broadway Street <ul style="list-style-type: none"> o 12 units - 231 Broadway Street <ul style="list-style-type: none"> o 12 units - 235 Broadway Street <ul style="list-style-type: none"> o 12 units - 73 Hill Street <ul style="list-style-type: none"> o 10 units - 53-60 Landry Circle <ul style="list-style-type: none"> o 8 units - Total 54 units | <p>Pre-RAD Unit Type</p> <p>Family</p> | <p>Post-RAD Unit Type</p> <p>Family</p> | <p>Capital Fund allocation of Development: (Total Annual Capital Fund allocation divided by total number of public housing units in PHA, multiplied by total number of units in project) $\\$754,344 / 346 \times 54 = \\$117,730$</p> |
| <p>Bedroom Type</p> | <p>Number of Units Pre-Conversion</p> <p>54 Units</p> | <p>Number of Units Post-Conversion</p> <p>54 Units</p> | <p>Change in Number of Units per Bedroom Type and Why</p> <p>N/A</p> |
| <p>One Bedroom</p> | <p>2</p> | <p>2</p> | |
| <p>Two Bedroom</p> | <p>48</p> | <p>48</p> | |
| <p>Three Bedroom</p> | <p>4</p> | <p>4</p> | |

B.2 New Activities

Conversion of Public Housing to Project-Based Assistance Under RAD

RAD Resident Rights, Participation, Waiting List and Grievance Procedures

Notice H 2019-09/PIH 2019-23, REV-4 Section 1.6.C & Section 1.6.D

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.³⁶ 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 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 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 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.

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 78100.38 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.

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),⁴⁰ 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.

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. **When 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 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 result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after 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 the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving 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.⁴¹ 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. The PHA is required to process these individuals through the Form 50058 submodule in PIC. 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.

Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and 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. 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 alternative requirement that the PHA must reinstate the unit after the

family has left the property. 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.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

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

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.⁴²
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 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).

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 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).

B.2 New Activities
Conversion of Public Housing to Project-Based Assistance Under RAD

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 (Attached)



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

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

SECTION 2. Table of Contents

The contents of this Notice are divided into the following parts:

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

- 1.1. Purpose..... 1
- 1.2. PHA and Project Owner Responsibilities 3
- 1.3. Applicability 4
- 1.4. Explanation of Major Provisions 5
- 1.5. Request for Public Comment 6
- 1.6. Paperwork Reduction Act 7

SECTION 2. Table of Contents 8

SECTION 3. Background 10

- 3.1. RAD Authority..... 10
- 3.2. Definitions..... 10
- 3.3. Applicable Legal Authorities 10
- 3.4. Further Information..... 11

SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process..... 11

SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions 17

- 5.1. RAD Eligibility Review..... 17
- 5.2. PHA’s Proposed Site Selection and Certification..... 18
- 5.3. RAD Front-End Civil Rights Transaction Review 20
 - A) Activities Subject to Front-End Civil Rights Review 20
 - B) Fair Housing, Civil Rights, and Relocation Checklist 22
 - C) Timing of Front-End Review Submissions 23
 - D) Completion of HUD’s Front-End Review..... 23
- 5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction .. 24
 - A) Conditions Triggering Review 24
 - B) Analysis of Areas of Minority Concentration 25
 - C) The Sufficient Comparable Opportunities Exception 26
 - D) The Overriding Housing Needs Exception 30
- 5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance 32
 - A) Applicable Standards..... 32
 - B) Analysis of Transfers of Assistance 33
- 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 34
 - A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution 34
 - B) Review of Changes in Occupancy Type 36
- 5.7. Other Front-End Civil Rights Review for RAD Transactions 36
 - A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months. 36

| | | |
|--|---|-----------|
| B) | Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504. | 36 |
| C) | Remedial Agreements and Orders..... | 37 |
| 5.8. | Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance..... | 37 |
| SECTION 6. RELOCATION REQUIREMENTS | | 38 |
| 6.1. | Planning | 39 |
| 6.2. | Resident Right to Return..... | 41 |
| 6.3. | Admissions and Continued Occupancy Requirements | 43 |
| 6.4. | Types of Moves and Relocation | 43 |
| A) | Moves within the same building or complex of buildings | 43 |
| B) | Temporary relocation lasting one year or less..... | 44 |
| C) | Temporary relocation initially expected to last one year or less, but which extends beyond one year | 44 |
| D) | Temporary relocation anticipated to last more than one year | 44 |
| E) | Permanent moves in connection with a transfer of assistance | 45 |
| F) | Voluntary permanent relocation..... | 46 |
| 6.5. | Initiation of Negotiations (ION) Date..... | 46 |
| 6.6. | Resident Relocation Notification (Notices)..... | 46 |
| A) | RAD Information Notice..... | 47 |
| B) | General Information Notice (49 C.F.R. § 24.203(a))..... | 48 |
| C) | Notice of Intent to Acquire (49 C.F.R. § 24.203(d))..... | 49 |
| D) | RAD Notice of Relocation | 49 |
| E) | URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))..... | 52 |
| F) | Notification of Return to the Covered Project..... | 53 |
| 6.7. | Relocation Advisory Services..... | 53 |
| 6.8. | Initiation of Relocation | 54 |
| 6.9. | Records and Documentation; Resident Log | 54 |
| 6.10. | Alternative Housing Options | 56 |
| A) | Requirements for Any Offer of Alternative Housing Options | 56 |
| B) | Assisted Housing Options as Alternatives | 57 |
| C) | Monetary Elements Associated With Alternative Housing Options..... | 58 |
| D) | Disclosure and Agreement to Alternative Housing Options | 58 |
| 6.11. | Lump Sum Payments | 60 |
| SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS | | 60 |
| 7.1. | HCV Waiting List Administration Unrelated to the RAD Transaction..... | 60 |
| 7.2. | HCV Waiting List Administration Related to the RAD Transaction | 61 |
| 7.3. | Public Housing Transfers Unrelated to the RAD Transaction..... | 61 |
| 7.4. | Resident Initiated Public Housing Transfers Related to the RAD Transaction..... | 62 |
| 7.5. | Public Housing as a Temporary Relocation Resource..... | 62 |
| 7.6. | Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction | 63 |
| 7.7. | Right-Sizing..... | 63 |

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/huddojstatement.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 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 | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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.

B.2 New Activities

Project-Based Vouchers

A Housing Authority may provide project-based assistance for up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units, and may project base an additional 10% of their authorized units for projects that serve households who are homeless; include a veteran; provide supportive housing for persons who have a disability or who are elderly; or are in a census tract with a poverty rate of 20% or less. The Authority intends to project base up to the maximum 30% (116 vouchers) over the next ten (10) years. The general location of these PBV's is expected to be within the City of South Portland and the Town of Scarborough. The SPHA Board of Commissioners may approve PBV's for other locations in the surrounding area. This is consistent with our annual plan to expand the supply of assisted housing and improve voucher utilization.

- The number of units authorized under the ACC for the SPHA: 389
- The number of PBV units entirely excluded from the percentage limitation: 0
- The number of units qualifying under the 10 percent program cap exception category: 0
- The number of units currently committed to PBV* (excluding those PBV units meeting an exception): 38
- Percentage of units authorized under the ACC that are currently committed to PBV (excluding those PBV units meeting an exception): 10%

* SPHA calculation used to arrive at the "number of units committed to PBV":

Currently under PBV HAP contract = 20 (Betsy Ross House)

Under an Agreement to Enter into HAP contract (AHAP) = 9 (Thornton Heights Commons)

Covered by a notice of proposal selection (24 CFR §983.51(d)) = 9 (Jocelyn Place)

**Certifications of Compliance with
PHA Plans and Related Regulations
(Standard, Troubled, HCV-Only, and
High Performer PHAs)**

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 02/29/2016

**PHA Certifications of Compliance with the PHA Plan and Related Regulations including
Required Civil Rights Certifications**

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the ___ 5-Year and/or X Annual PHA Plan for the PHA fiscal year beginning 10/2021, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) 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.
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 to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
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 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.
5. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
6. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those programs, addressing those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.
7. For PHA Plans that includes 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 2010-25);
 - 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;
 - 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 part 903.7(c)(1).
8. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
9. 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.
10. 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.
11. 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.
12. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).

13. 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.
14. 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.
15. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
16. 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.
17. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
18. 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.
19. 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).

South Portland Housing Authority
PHA Name

ME020
PHA Number/HA Code

Annual PHA Plan for Fiscal Year Beginning 10/1/2021

5-Year PHA Plan for Fiscal Years 20__ - 20__

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 | Title |
| Judy Carpenter | Vice Chairman, Board of Commissioners |
| Signature | Date |
|  | 7/14/21 |

Progress Report on 2020-2025 5-Year Annual Plan Goals and Objectives

1. **PHA Goal:** Expand the supply of assisted housing by leveraging private or other public funds to create additional housing opportunities.
 - **Thornton Heights Commons:** The project is a 42 unit multifamily building with ground-floor commercial space located in South Portland, Maine. The residential apartments are comprised of 33 subsidized and 9 market-rate units. Of the subsidized apartments, nine (9) are Project Based Voucher (PBV) units. The project was funded through Low Income Housing Tax Credits (LIHTC), federal HOME funds, non-Federal funds, and leveraged funds. This project is currently under construction.
 - **Sunset Place:** The Authority is partnering with Habitat for Humanity for the construction of 9 single-family homes on individual house lots. The homes will be sold to qualified households making no more than 80% of the area median income. The project is currently under construction.
 - **Jocelyn Place:** The project is a 60 unit senior (55+) multifamily building located in Scarborough, Maine. All of the residential apartments are subsidized and restricted to those making 60% of the Area Median Income or less. Of these, nine (9) of the units are set aside for PBVs. The project is being funded through LIHTC, federal HOME funds, non-federal funds, and leveraged funds. The project has received all of its funding commitments and is currently in construction plan design. Construction is expected to start in late 2021 or early 2022.
 - **Landry Woods:** The project is a 43 unit senior (55+) multifamily building located in South Portland, Maine. The project is located on vacant land within the Authority's existing Landry Village Public Housing community. The project will be applying for LIHTC, MaineHousing, non-federal, leveraged funds, and possibly Project Based Vouchers. To date, the project has received HUD SAC approval to dispose of the land necessary for the project. The project is currently going through municipal approvals and expects to apply for tax credits in 2021 or 2022.
 - **Betsy Ross House Expansion:** The project is a 53 unit senior (60+) multifamily building located in South Portland, Maine. The project will be an expansion of the existing 123 unit Betsy Ross House. The project will be applying for LIHTC, MaineHousing, leveraged funds, and possibly Project Based Vouchers. The project is currently going through municipal approvals and expects to apply for tax credits in 2021 or 2022.

2. **PHA Goal:** Improve the quality of assisted housing by maintaining our high-performer status under PHAS & SEMAP.

Progress: The Authority continues to train staff and perform internal reviews to insure efficient and accurate program administration. We remain a high performer under PHAS and received a standard performer designation for SEMAP year-end 9/30/2019. The Authority failed to achieve high performer status on SEMAP due to lower than expected lease-up rates. The low rates are due to many factors including low FMR's, applicants with inadequate character references, applicants deciding to port out of the area, lack of available apartments, etc. The Authority (along with neighboring PHAs) appealed the initial FMR's for our jurisdiction and received a favorable decision from HUD, increasing the FMR's on April 10, 2020. The Authority immediately increased our

payment standards in an effort to improve lease-up rates. In addition, we have increased the rate at which we are issuing vouchers. Unfortunately, due to COVID-19 we continue to see applicant families struggle with locating units, though we continue to look for other ways to increase lease-ups. The Authority has also awarded nine (9) PBV's to Thornton Heights Commons, LP in the City of South Portland and issued another (9) PBV's to Oak Hill Senior Housing, LP in the Town of Scarborough. These project-based vouchers are expected to improve the long-term utilization of voucher funding and also increase the number of available affordable housing units in the area. In the shorter-term, through the issuance of tenant-based vouchers, the Authority has increased voucher utilization and we anticipate returning to our high-performer status with our next SEMAP submission. We have not received updated SEMAP or PHAS score due to the following COVID-19 waivers implemented by HUD: **PHAS** - HUD is suspending physical inspections for housing authorities unless the PHA requests a new PHAS score. New PHAS scores will not be issued for PHAs with a fiscal year ending on or before December 31, 2020. **SEMAP** - SEMAP scores are being suspended for in accordance with the HUD notice unless the PHA requests a new SEMAP score. SEMAP scores will resume for PHAs with fiscal years ending March 31, 2021.

3. **PHA Goal:** Increase assisted housing choices by conducting outreach efforts to potential voucher landlords.

Progress: The Authority continues to communicate with landlords that own multiple apartments/buildings in the surrounding communities and reach out to establish new relationships with independent landlords. The Authority has information packets available to provide to landlords interested in renting to voucher holders, which provide basic program information. The Authority has also hired a Housing Navigator to serve the needs of the community. This position is already working on creating relationships with local agencies and landlords and will be instrumental in maintaining an up-to-date list of available apartments for voucher holders and other individuals within the community. In addition, the Authority will implement a new program, anticipated to begin in June 2021, in which we will be able to provide incentives to landlords that rent to Section 8 participants. This program will also assist with the payment of a security deposit, repairs if necessary so that a unit can pass HQS guidelines, and damage costs if they exceed the security deposit at the time of participant move out. This program is expected to help with our recruitment of landlords willing to participate in the Section 8 program and increase housing options for participants.

4. **PHA Goal:** Promote self-sufficiency and asset development of assisted households by providing or attracting supportive services to increase independence for elderly or families with disabilities.

Progress: This is an ongoing effort by our Resident Service Coordinator. We provide assessment, referral and support services for elderly and disabled residents in order that they are able to age-in-place as long as possible. As a result, residents are much happier living in their own apartments, are able to exercise their independence and cognitive abilities longer in later life and ultimately save tax payers, Medicare and Maine Care the substantial costs of otherwise funding nursing home care. We work closely with area providers to provide services within our Public Housing developments when possible and to focus on the needs of the residents within our Public Housing communities. In addition, we post employment opportunities and seek to hire qualified persons in accordance with Section 3.

5. **PHA Goal:** Ensure equal opportunity and affirmatively further fair housing by maintaining staff skills working with diverse populations.

Progress: This goal is reached through Fair Housing, disability rights, and reasonable

accommodation trainings and seminars provided by professional organizations. In addition, all staff attend an in-house training on affirmatively furthering fair housing. The Authority also insures staff attend cultural sensitivity training when available, the next of which is tentatively scheduled for June 2021. SPHA also insures that staff are educated about our Limited English Proficiency Plan and working with interpreters.

6. **PHA Goal:** Manage the South Portland Housing Authority's Public Housing programs in an efficient and effective manner by promoting a motivating work environment with a capable and efficient team of employees to operate as a customer-friendly and fiscally prudent leader in the affordable housing industry.

Progress: The Authority insures that all staff are given the tools, training and motivation to operate in the most efficient and effective manner. We have worked to promote and recruit the best-qualified people, and to recognize and encourage the value of diversity in the workplace. The Authority recently had a salary survey conducted to insure that we are providing a fair and competitive salary for all staff. Salary ranges for each position have been updated and pay rates are reviewed on an annual basis. The Authority also provides a competitive benefits package and provides training and development opportunities for career enhancement. The Authority provides a work atmosphere that is safe, healthy and secure, as well as conscious of long-term family and community goals. We have established, administered and effectively communicated policies, rules and practices that treat employees with dignity and equality while maintaining company compliance with employment and labor laws, corporate directives, and labor agreements. During COVID-19, the Authority has placed a strong focus on insuring a safe and healthy environment by following all CDC guidelines and implementing safety protocols. The office has been closed to the public and meetings are by appointment only. Plexi-glass are used for any in-person meetings, masks are required in the office and at all SPHA developments (staff, residents and visitors), we have hired an additional cleaner with a focus on sanitizing high-touch areas, hand-sanitizer has been placed at the entrances to the office and all SPHA developments. Additionally we held multiple COVID-19 vaccination clinics in collaboration with Northern Light Health and offered not only all of our staff, but all of our residents the opportunity to get vaccinated in February 2021. Almost 100% of staff took advantage of this opportunity.

7. **PHA Goal:** Enhance the marketability of the South Portland Housing Authority's public housing units by:

Maintaining a level of customer satisfaction that gives the agency the highest score possible in this element of the Public Housing Assessment System.

Maintaining and improving the public housing developments' security and curb appeal through upgraded landscaping, keeping properties in a high quality state of repair, reducing litter and adding amenities to improve residents' living experience.

Progress:

New architectural roofing has been installed at all of our Public Housing scattered site units: 832 Broadway, 836 Sawyer Street, 268 Preble Street, 73 Hill Street, 58 Cole Street, 1012/1024 Broadway, 8 Free Street, 55 Hill Street, 70 Grandview Avenue, 53-60 Landry Circle, 375 Preble Street, 74 Westbrook Street, 25-29 Kincaid Street, 214 Sawyer Street, 63 Elmwood Avenue and 8 Rainbow Avenue. All interior common area and hallway lighting at 425 Broadway (Hazard Towers) was upgraded to LED's. The hallways at 425 Broadway were also freshly painted and new carpet tiles were installed in the lobby areas. We are currently in the process of upgrading all interior

tiles were installed in the lobby areas. We are currently in the process of upgrading all interior common area and hallway carpeting at 1700 Broadway (St. Cyr Court). Once the carpeting is completed, this will be followed up by a fresh coat of paint in the hallways and common areas. In addition, staff remain diligent in maintaining the grounds of all properties.

8. **PHA Goal:** Maintain a healthy environment by keeping all public housing properties smoke-free.

Progress: This is an ongoing successful effort that includes maintaining communications with tenants about the risks of smoking, rewards of a smoke-free environment, and referrals to smoking cessation programs. South Portland Housing Authority remains committed to maintaining this healthy environment and pursues lease enforcement action against residents that violate the smoke-free policy when necessary.

9. **PHA Goal:** Create additional revenue sources to reduce reliance on Federal funding.

Progress: South Portland Housing Authority receives payments from the Maine Association of Public Housing Directors (MAPHD) and Housing Datalink of Maine for services performed by existing Housing Authority staff. The Biddeford Housing Authority also contracts the Authority to manage two of its buildings. In addition, strategic refinancing of properties provides income. Lastly, the Housing Authority receives surplus cash distributions from other non-HUD properties that we have an ownership interest in.

10. **PHA Goal:** Explore the options and feasibility for converting some public housing to Rental Assistance Demonstration.

Progress: This is an ongoing effort. Management collected information to make an informed decision on the feasibility of this option and had multiple repositioning calls with the Department of Housing and Urban Development. The Authority was then assigned a Technical Assistance provider by HUD to further discuss repositioning options. South Portland Housing Authority has decided to work towards the repositioning of all Public Housing units with the intent to close-out our Public Housing program by December 31, 2022. The Authority will be converting 54 scattered site Public Housing units via the Rental Assistance Demonstration program. We intend to submit a RAD application in May 2021. The remaining Public Housing units will be converted by a combination of Scattered Site Disposition (42 units) and the Streamlined Voluntary Conversion (250 units). The Authority has contracted with RECAP Real Estate Advisors (the same TA provider as assigned by HUD) to assist with the repositioning process. Management will continue to work with RECAP to complete the conversion. South Portland Housing Authority has updated the Annual Plan, Administrative Plan and Grievance Process to include required RAD provisions.

B.6 Resident Advisory Board Comments
PUBLIC HEARING AND RAB MEETING

The public comment period on the proposed 2022 South Portland Housing Authority Annual Plan began on May 5, 2021 and ended June 21, 2021 with a public hearing. No public comments were received.

The Resident Advisory Board met on June 17, 2021 to discuss the South Portland Housing Authority 2022 Annual Plan. Several other housing authority issues were discussed but the group expressed no concerns regarding the Annual Plan.

**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 2/29/2016

**Certification by State or Local Official of PHA Plans
Consistency with the Consolidated Plan or State Consolidated Plan**

I, Scott Morelli, the City Manager & Certifying Officer
Official's Name *Official's Title*

certify that the 5-Year PHA Plan and/or Annual PHA Plan of the

South Portland Housing Authority (ME020)
PHA Name

is consistent with the Consolidated Plan or State Consolidated Plan and the Analysis of

Impediments (AI) to Fair Housing Choice of the

City of South Portland, Maine
Local Jurisdiction Name

pursuant to 24 CFR Part 91.

Provide a description of how the PHA Plan is consistent with the Consolidated Plan or State Consolidated Plan and the AI.

The South Portland Housing Authority 2022 Annual Plan is consistent with the City of South Portland Comprehensive Plan as both plans seek to create affordable, safe housing for the residents of South Portland.

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

Scott Morelli

Signature

Title

City Manager & Certifying Official

Date

7/8/21

Capital Fund Program - Five-Year Action Plan

Status: Approved Approval Date: 04/28/2021 Approved By: NORMAN, KARA

| Part I: Summary | | | | | | |
|--|------------------------------|--------------------------------|---|--------------------------------|--------------------------------|--------------------------------|
| PHA Name : South Portland Housing Authority | | | Locality (City/County & State) | | | |
| PHA Number: ME020 | | | <input checked="" type="checkbox"/> Original 5-Year Plan <input type="checkbox"/> Revised 5-Year Plan (Revision No:) | | | |
| A. | Development Number and Name | Work Statement for Year 1 2021 | Work Statement for Year 2 2022 | Work Statement for Year 3 2023 | Work Statement for Year 4 2024 | Work Statement for Year 5 2025 |
| | AUTHORITY-WIDE | \$284,020.00 | \$264,020.00 | \$284,020.00 | \$284,020.00 | \$284,020.00 |
| | ST. CYR COURTS (ME020000001) | \$430,324.00 | \$490,324.00 | \$470,324.00 | \$310,324.00 | \$410,324.00 |
| | BROAD PINES (ME020000002) | \$40,000.00 | | | \$160,000.00 | \$60,000.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|--|------|----------|----------------|
| Work Statement for Year | | 1 | 2021 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | AUTHORITY-WIDE (NAWASD) | | | | \$284,020.00 |
| ID0049 | Operations(Operations (1406)) | Operations | | | \$188,586.00 |
| ID0050 | Administration(Administration (1410)-Salaries-Administration (1410)-Sundry) | Administration - Prorated salaries/benefits for Modernization Coordinator and advertising of public notices. | | | \$75,434.00 |
| ID0051 | Fees and Costs(Contract Administration (1480)-Other Fees and Costs) | A/E Fees; Reimbursable costs for roofing, siding, window projects. | | | \$20,000.00 |
| | ST. CYR COURTS (ME020000001) | | | | \$430,324.00 |
| ID0052 | Replacement of Electric Ranges(Dwelling Unit-Interior (1480)-Appliances) | Replacement of electric ranges in 100 units at 425 Broadway. | | | \$55,000.00 |
| ID0053 | Replacement of Electric Ranges(Dwelling Unit-Interior (1480)-Appliances) | Replacement of electric ranges in 50 units at Landry Village. | | | \$30,000.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|--|------|----------|----------------|
| Work Statement for Year | | 1 | 2021 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| ID0055 | Replace Electric Ranges(Dwelling Unit-Interior (1480)-Appliances) | Replacement of 100 electric ranges at 1700 Broadway. | | | \$50,000.00 |
| ID0063 | Replace Refrigerators(Dwelling Unit-Interior (1480)-Appliances) | Replace (100) E/S Refrigerators at 425 Broadway. | | | \$60,000.00 |
| ID0064 | Replace Refrigerators(Dwelling Unit-Interior (1480)-Appliances) | Replace E/S Refrigerators in (50) units at Landry Village. | | | \$30,000.00 |
| ID0065 | Replace Refrigerators(Dwelling Unit-Interior (1480)-Appliances) | Replace E/S Refrigerators in (100) units at 1700 Broadway. | | | \$60,000.00 |
| ID0096 | Replace Bathroom Vanities, Sink and Faucets(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Plumbing) | Replacement of bathroom vanities, sinks and faucets in 50 units at Landry Village. | | | \$50,000.00 |
| ID0097 | Repare Walks and Driveways(Dwelling Unit-Site Work (1480)-Asphalt - Concrete - Paving,Dwelling Unit-Site Work (1480)-Seal Coat,Dwelling Unit-Site Work (1480)-Striping) | Re-Paving, sealcoat and striping of approx. 25,000 sq/ft of sidewalks and driveways at Landry Village. | | | \$95,324.00 |
| | BROAD PINES (ME0200000002) | | | | \$40,000.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|---|------|----------|----------------|
| Work Statement for Year | | 1 | 2021 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| ID0098 | Apartment Entrance Doors & Deadbolts(Dwelling Unit-Interior (1480)-Other) | Replace 26 apartment entrance doors, locksets and install deadbolt locks at our scattered site units. | | | \$40,000.00 |
| | Subtotal of Estimated Cost | | | | \$754,344.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|---|------|----------|----------------|
| Work Statement for Year | | 2 | 2022 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | AUTHORITY-WIDE (NAWASD) | | | | \$264,020.00 |
| ID0066 | Operations(Operations (1406)) | Operations | | | \$188,586.00 |
| ID0067 | Administration(Administration (1410)-Salaries-Administration (1410)-Sundry) | Prorated salaries/benefits for Modernization Coordinator and advertising of public notices. | | | \$75,434.00 |
| | ST. CYR COURTS (ME020000001) | | | | \$490,324.00 |
| ID0068 | Fees and Costs(Contract Administration (1480)-Other Fees and Costs) | A/E Fees; Reimbursable costs for Elevator project. | | | \$20,000.00 |
| ID0099 | Window Replacement(Dwelling Unit-Exterior (1480)-Windows) | Replace windows in 100 units at 425 Broadway. | | | \$350,000.00 |
| ID0100 | Repaint & Seal Exterior Stucco(Dwelling Unit-Exterior (1480)-Exterior Paint and Caulking) | Repaint and Seal the exterior stucco at 425 Broadway. | | | \$120,324.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|----------------------------|--|------|----------|----------------|
| Work Statement for Year | | 2 | 2022 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | Subtotal of Estimated Cost | | | | \$754,344.00 |

Capital Fund Program - Five- Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | |
|--|---|---|----------|----------------|
| Work Statement for Year | | 3 | 2023 | |
| Identifier | Development Number/Name | General Description of Major Work Categories | Quantity | Estimated Cost |
| | ST. CYR COURTS (ME020000001) | | | \$470,324.00 |
| ID0030 | Replace Trash Compactor(Non-Dwelling Equipment-Expendable/Non-Expendable (1480)-Other) | Replacement of (1) trash compactor at 425 Broadway. | | \$15,000.00 |
| ID0040 | Unit Development(Dwelling Unit-Development (1480)-New Construction) | Construction costs associated with the possible development of 15 new units of housing located at Landry Village. | | \$100,324.00 |
| ID0070 | Replace Trash Compactor(Non-Dwelling Equipment-Expendable/Non-Expendable (1480)-Other) | Replace (1) trash compactor at 1700 Broadway. | | \$15,000.00 |
| ID0081 | Replace Coin Op. Washers & Dryers(Non-Dwelling Equipment-Expendable/Non-Expendable (1480)-Other) | Replace (2) Coin Op. Washers & (2) Coin op. Dryers at Landry Village. | | \$15,000.00 |
| ID0084 | Replace Kitchen Countertop, Sink & Faucet,(Dwelling Unit-Interior (1480)-Other,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets) | Replace kitchen countertop, sink and faucets in (100) units at 425 Broadway | | \$150,000.00 |
| ID0106 | Exterior Brick Repair and Sealing(Dwelling Unit-Exterior (1480)-Exterior Paint and Caulking,Dwelling Unit-Exterior (1480)-Other) | Brick repair and sealing to the front exterior of 425 Broadway. | | \$175,000.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|---|------|----------|----------------|
| Work Statement for Year | | 3 | 2023 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | AUTHORITY-WIDE (NAWASD) | | | | \$284,020.00 |
| ID00078 | Operations(Operations (1406)) | Operations | | | \$188,586.00 |
| ID00079 | Fees and Costs(Contract Administration (1480)-Other Fees and Costs) | A/e Services for Unit Development, Brick Repair project. | | | \$20,000.00 |
| ID00080 | Administration(Administration (1410)-Salaries,Administration (1410)-Sundry) | Prorated salaries/benefits for Modernization Coordinator and advertising of public notices. | | | \$75,434.00 |
| | Subtotal of Estimated Cost | | | | \$754,344.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|--|---|------|----------|----------------|
| Work Statement for Year | | 4 | 2024 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | ST. CYR COURTS (ME020000001) | | | | \$310,324.00 |
| ID0085 | Elevator Replacement(Non-Dwelling Construction - Mechanical (1480)-Elevator) | Replace (1) elevators at 425 Broadway. | | | \$185,324.00 |
| ID0101 | Common Area Carpet & Flooring Replacement(Non-Dwelling Interior (1480)-Common Area Flooring) | Replacement of approx. _____ sq/ft of common hall carpeting and replace flooring in the 8th floor community room. | | | \$100,000.00 |
| ID0102 | Exterior Site Lighting(Non-Dwelling Site Work (1480)-Lighting) | Replace exterior pole lighting | | | \$10,000.00 |
| ID0103 | Exterior Patio & Walkway Repair(Non-Dwelling Site Work (1480)-Asphalt - Concrete - Paving) | Rear exterior cement patio and walkway repairs. | | | \$15,000.00 |
| | AUTHORITY-WIDE (NAWASD) | | | | \$284,020.00 |
| ID0086 | Operations(Operations (1406)) | Operations | | | \$188,586.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | |
|--|---|---|----------|----------------|
| Work Statement for Year | | 4 | 2024 | |
| Identifier | Development Number/Name | General Description of Major Work Categories | Quantity | Estimated Cost |
| ID0087 | Administration(Administration (1410)-Other,Administration (1410)-Salaries,Administration (1410)-Sundry) | Prorated salaries/benefits for Modernization Coordinator and advertising of public notices. | | \$75,434.00 |
| ID0088 | Fees & Costs(Contract Administration (1480)-Other Fees and Costs) | A/E Fees; Reimbursable costs for roofing, siding, window projects. | | \$20,000.00 |
| | BROAD PINES (ME020000002) | | | \$160,000.00 |
| ID0090 | Window Replacement(Dwelling Unit-Exterior (1480)-Windows) | Window replacement at 375 Preble St. | | \$20,000.00 |
| ID0093 | Gas Boiler Replacement (Dwelling Unit-Interior (1480)-Mechanical) | Replacement of existing gas boilers at (3) properties | | \$40,000.00 |
| ID0104 | Rear Roof Additions(Dwelling Unit-Exterior (1480)-Roofs) | Roof additions to the rear of 53-60 Landry, 55 Hill St. & 8 Free St. | | \$100,000.00 |
| | Subtotal of Estimated Cost | | | \$754,344.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|--|--|------|----------|----------------|
| Work Statement for Year | | 5 | 2025 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| | ST. CYR COURTS (ME020000001) | | | | \$410,324.00 |
| ID0069 | Elevator Replacement(Non-Dwelling Construction - Mechanical (1480)-Elevator) | Replace (1) elevator at 425 Broadway | | | \$395,324.00 |
| ID0077 | Site Lighting Fixture Replacement(Dwelling Unit-Exterior (1480)-Exterior Lighting) | Replace Exterior Pole Light Fixtures at Landry Village. | | | \$15,000.00 |
| | BROAD PINES (ME020000002) | | | | \$60,000.00 |
| ID0071 | Resurface Pavement and Sealcoat(Dwelling Unit-Site Work (1480)-Asphalt - Concrete - Paving,Dwelling Unit-Site Work (1480)-Seal Coat) | Resurface approx. 10,000 sq/ft asphalt pavement in 3 parking lots at Free St., 55 Hill & Grandview Ave. Sealcoat existing asphalt not being resurfaced. | | | \$30,000.00 |
| ID0072 | Resurface Asphalt and Sealcoat(Dwelling Unit-Site Work (1480)-Seal Coat,Dwelling Unit-Site Work (1480)-Asphalt - Concrete - Paving) | Resurface approx. 8,000 sq/ft of asphalt pavement in parking lot at 73 Hill St. and sealcoat approx. 20,000 sq/ft existing asphalt not being resurfaced. | | | \$30,000.00 |
| | AUTHORITY-WIDE (NAWASD) | | | | \$284,020.00 |

Capital Fund Program - Five-Year Action Plan

| Part II: Supporting Pages - Physical Needs Work Statements (s) | | | | | |
|--|---|---|------|----------|----------------|
| Work Statement for Year | | 5 | 2025 | | |
| Identifier | Development Number/Name | General Description of Major Work Categories | | Quantity | Estimated Cost |
| ID0094 | Operations(Operations (1406)) | Operations | | | \$188,586.00 |
| ID0095 | Administrative(Administration (1410)-Salaries,Administration (1410)-Sundry) | Prorated salaries/benefits for Modernization Coordinator and advertising of public notices. | | | \$75,434.00 |
| ID0105 | Fees & Costs(Contract Administration (1480)-Other Fees and Costs) | A/E Fees; Reimbursable costs for Elevator project. | | | \$20,000.00 |
| | Subtotal of Estimated Cost | | | | \$754,344.00 |

Capital Fund Program - Five-Year Action Plan

| Part III: Supporting Pages - Management Needs Work Statements (s) | | |
|--|---|-----------------------|
| Work Statement for Year | Development Number/Name | Estimated Cost |
| 1 | General Description of Major Work Categories | |
| | Housing Authority Wide | |
| | Operations(Operations (1406)) | \$188,586.00 |
| | Administration(A dministration (1410)-Salaries,A dministration (1410)-Sundry) | \$75,434.00 |
| | Fees and Costs(Contract Administration (1480)-Other Fees and Costs) | \$20,000.00 |
| | Subtotal of Estimated Cost | \$284,020.00 |

Capital Fund Program - Five-Year Action Plan

| Part III: Supporting Pages - Management Needs Work Statements (s) | | |
|---|--------------------------------|-----------------------|
| Work Statement for Year | Development Number/Name | Estimated Cost |
| 2 | 2022 | |
| General Description of Major Work Categories | | |
| Housing Authority Wide | | |
| Operations(Operations (1406)) | | \$188,586.00 |
| Administration(A dministration (1410)-Salaries,A dministration (1410)-Sundry) | | \$75,434.00 |
| Subtotal of Estimated Cost | | \$264,020.00 |

Capital Fund Program - Five-Year Action Plan

| Part III: Supporting Pages - Management Needs Work Statements (s) | | |
|---|--------------------------------|-----------------------|
| Work Statement for Year | Development Number/Name | Estimated Cost |
| 3 | 2023 | |
| General Description of Major Work Categories | | |
| Housing Authority Wide | | |
| Operations(Operations (1406)) | | \$188,586.00 |
| Fees and Costs(Contract Administration (1480)-Other Fees and Costs) | | \$20,000.00 |
| Administration(Administration (1410)-Salaries,Administration (1410)-Sundry) | | \$75,434.00 |
| Subtotal of Estimated Cost | | \$284,020.00 |

Capital Fund Program - Five-Year Action Plan

| Part III: Supporting Pages - Management Needs Work Statements (s) | | |
|---|--|----------------|
| Work Statement for Year | Development Number/Name General Description of Major Work Categories | Estimated Cost |
| 4 | 2024 Housing Authority Wide | |
| | Operations(Operations (1406)) | \$188,586.00 |
| | Administration(A dministration (1410)-Other,Administration (1410)-Salaries,Administration (1410)-Sundry) | \$75,434.00 |
| | Fees & Costs(Contract Administration (1480)-Other Fees and Costs) | \$20,000.00 |
| | Subtotal of Estimated Cost | \$284,020.00 |

Capital Fund Program - Five-Year Action Plan

| Part III: Supporting Pages - Management Needs Work Statements (s) | | |
|---|--------------------------------|-----------------------|
| Work Statement for Year | Development Number/Name | Estimated Cost |
| 5 | 2025 | |
| General Description of Major Work Categories | | |
| Housing Authority Wide | | |
| Operations(Operations (1406)) | | \$188,586.00 |
| Administrative(Administration (1410)-Salaries,Administration (1410)-Sundry) | | \$75,434.00 |
| Fees & Costs(Contract Administration (1480)-Other Fees and Costs) | | \$20,000.00 |
| Subtotal of Estimated Cost | | \$284,020.00 |

**South Portland Housing Authority
VAWA Statement**

VIOLENCE AGAINST WOMEN ACT (VAWA)

South Portland Housing Authority's goals, objectives, policies, and programs that will enable the Authority to serve the needs of adult and child victims of domestic violence, dating violence, sexual assault, and stalking include:

In accordance with HUD regulations South Portland Housing Authority (SPHA) has implemented VAWA to insure that victims of domestic violence could either maintain their current housing with SPHA or be provided with alternative affordable housing opportunities that best fit the needs of the victim(s). SPHA employs various solutions within the guidelines set forth in the Admission and Continued Occupancy Policies (ACOP) for Public Housing and the Administrative Plan for the Section 8 Housing Choice Voucher. Some of these solutions are:

- Eviction from Public Housing or termination of Section 8 assistance for perpetrators of such acts so the victim(s) may remain in their home.
- Transfer the victim(s) from one Public Housing development to another a reasonable distance away from their present home.
- Allow for portability of Voucher assistance provide mobility of the victim(s) to an undisclosed location in other cities, counties and states throughout the country.

These solutions are often supported through and with cooperation of various agencies particularly the South Portland Police Department and other area agencies on an as needed basis such as:

- Family Crisis Services through the Maine Coalition to End Domestic Violence
- Community Counseling Inc.
- Preble Street Resource Center
- Pine Tree Legal Assistance, Inc.
- Other Housing Authorities

These agencies play an important role to insure the victim(s) remain safe by helping them implement their legal and security options and receive medical, counseling, and/or emergency housing services as needed.

South Portland Housing Authority has made training sessions available to all SPHA staff, so that they can recognize incidents that may indicate the potential for an escalation in violence in the future. In these cases services can be introduced and resident education can take place. Section 8 staff members work closely with other housing authorities to accept the portability of HCV assistance for victims who need to relocate to other jurisdictions.

SPHA works diligently to reduce and prevent acts of domestic violence. When such acts occur, SPHA reacts quickly and proactively to insure the safety and well-being of their housing residents and clients.

SPHA regularly updates its VAWA related policies to reflect changes in Federal, State, and/or local law that provide greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

SPHA made regulatory changes to the ACOP, Administrative Plan and this statement based on the Violence Against Women Act of 2013. Certification under VAWA of 2013 was updated to reflect HUD's updated Violence Against Women Act policy and added new protections.

SPHA modified the ACOP and the Administrative Plan in response to HUD's December 2016 Final Rule on the Violence Against Women Act. SPHA enacted an emergency transfer plan based on HUD's model form for tenants requesting an emergency transfer under the VAWA regulations. SPHA also modified its policies which utilize HUD required documents to ensure that tenants and applicants are aware of their rights under VAWA and to utilize HUD's new certification form for documenting incidents of domestic violence, dating violence, sexual assault, and stalking.

As required by the VAWA Final Rule, SPHA provides Form HUD-5380 "Notice of Occupancy Rights under the Violence Against Women Act" accompanied by Form HUD-5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, and Alternate Documentation" at every new admission, annual recertification and with every notice of denial or termination of assistance or tenancy.

**South Portland Housing Authority
VAWA Procedures**

**VIOLENCE AGAINST WOMEN ACT (VAWA) PROVISIONS RE: DENIAL OR
TERMINATION OF ASSISTANCE**

The SOUTH PORTLAND Housing Authority is committed to assisting individuals and families who have been victims of domestic violence by ensuring compliance with all aspects of the Violence Against Women Act. VAWA protections are not limited to women but cover victims regardless of sex, gender identity, or sexual orientation.

An applicant or resident will not be denied admission or terminated on the basis or as a direct result of the fact that the applicant or Resident is or has been a victim of domestic violence, dating violence, stalking or sexual assault, if the victim of such violence otherwise qualifies for admission or occupancy.

Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking, that is engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be construed as serious or repeated lease violations by the victim and will not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

SOUTH PORTLAND Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of domestic violence, dating violence, sexual assault or stalking to family members or affiliated individuals without terminating the assistance or evicting the victimized lawful occupants. Also, the owner or property manager may evict a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, dating violence, sexual assault or stalking to family members or others without evicting other victimized lawful occupants. This is also true even if the household member is not a signatory of the lease. Under VAWA, both the SOUTH PORTLAND Housing Authority and the owner or property manager are granted the authority to bifurcate the lease. The VAWA victim must be the one who retains the assistance.

There is no limitation on the ability of the Housing Authority to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.

There is no prohibition on the owner evicting if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing goods or services to the property if that tenant's (victim's) tenancy is not terminated." An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the

likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Nothing in this Section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, stalking or sexual assault.

All information provided under VAWA, including the fact that an individual is a victim of domestic violence, dating violence, stalking or sexual assault, shall be retained in confidence by SOUTH PORTLAND Housing Authority and shall not be entered into any shared database or provided to any related entity except to the extent that disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for use in an eviction proceeding; or
- C. Otherwise required by applicable law.

SOUTH PORTLAND Housing Authority will provide all applicants and participants with a HUD prescribed Notice of Occupancy Rights and HUD-approved certification form, at the time of full application, admission, annual recertification, notice of denial of assistance and notice of termination of assistance. In addition, the Authority shall make an adopted Emergency Transfer Plan and Emergency Transfer Request available upon request.

The SOUTH PORTLAND Housing Authority shall keep a record of all emergency transfer requests requested under the Emergency Transfer Plan and the outcome of these requests for three years.

INCIDENTS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT

In responding to an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault, South Portland Housing Authority will require that an individual making the claim document the abuse. The Authority will make the request for documentation in writing, and allow the individual 14 business days after receipt of the request to submit the documentation. The Authority may extend this time period at its discretion. The individual may satisfy the Authority's request by providing any one of the following three forms of documentation:

1. A written certification, on the HUD-approved certification form, that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of actual or 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 must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

2. A federal, state, tribal, territorial, or local law enforcement report or court record describing the incident or incidents in question
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim must also sign the documentation under penalty of perjury.

The Authority may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below in cases of conflicting documentation, nor may it require certification in addition to third-party documentation.

In cases where the Authority receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3) and in accordance with any HUD guidance as to how such determinations shall be made. The Authority must honor any court orders issued to protect the victim or to address the distribution of property.

If the individual does not provide the certification within the 14 business days after receipt of the request to submit the documentation, nothing in this Section may be construed to limit the authority of a landlord to evict, or South Portland Housing Authority to terminate the tenancy or occupancy rights for, any tenant or lawful occupant that commits violations of a lease. South Portland Housing Authority may extend the 14 day deadline at its discretion.

Nothing in this subsection shall be construed to require South Portland Housing Authority to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At its discretion, South Portland Housing Authority may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

If the family break-up results from an occurrence of domestic violence, dating violence, stalking or sexual assault, the Housing Authority will ensure that the victim retains assistance. The factors to be considered in making this decision include:

1. Whether the assistance should remain with family members remaining in the original assisted unit.
2. The interest of minor children or of ill, elderly or disabled family members.

3. Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, stalking or sexual assault.
4. Whether any of the family members are receiving protection as victims of domestic violence, dating violence, stalking or sexual assault, and whether the abuser is still in the household.

**South Portland Housing Authority
Emergency Transfer Plan
For Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

Emergency Transfers

South Portland Housing Authority (SPHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),¹ SPHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.² The ability of SPHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether SPHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that South Portland Housing Authority programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if:

1. The tenant expressly requests the transfer; and
2. The tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
3. In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains in the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises within the 90-calendar-day period preceding the date of the request for transfer.

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify SPHA's management office and submit a written request for a transfer. SPHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under SPHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Acceptable documentation of the occurrence of domestic violence, dating violence, sexual assault or stalking must be provided if resident has not previously provided such documentation.

Acceptable documentation includes any one of the following forms of verification:

1. A written certification, on the HUD-approved certification form, that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of actual or 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 must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.
2. A federal, state, tribal, territorial, or local police report or court record describing the incident or incidents in question.
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim must also sign the documentation under penalty of perjury.

The Authority may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below in cases of conflicting documentation, nor may it require certification in addition to third-party documentation.

In cases where the Authority receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, SPHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described

above (forms 2 and 3) and in accordance with any HUD guidance as to how such determinations shall be made. If you fail or refuse to provide third-party documentation where there is conflicting evidence, Landlord does not have to provide you with the protections contained in this notice.

Nothing in this subsection shall be construed to require South Portland Housing Authority to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At its discretion, South Portland Housing Authority may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

Confidentiality

SPHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives SPHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act for All Tenants for more information about SPHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

SPHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. An emergency transfer request does not guarantee continued assistance or an external transfer to other HUD housing. SPHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. SPHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If SPHA has no safe and available units for which a tenant who needs an emergency is eligible, SPHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, SPHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency transfers may be defined as an internal transfer or as an external transfer depending on the circumstances surrounding the request. Tenants or Participants can seek both internal and external emergency transfers simultaneously if a safe unit is not immediately available. A unit is considered safe if the victim of domestic violence, dating violence, sexual assault, or stalking believes it is safe.

Internal emergency transfers refer to an emergency relocation of a resident to another unit where the resident would not be categorized as a new applicant. The resident may reside in the new unit

without having to undergo an application process. Internal emergency transfers generally are only available within the community in which the Resident is residing.

Immediately available unit is defined as a vacant, move-in ready unit.

Residents of SPHA owned and/or managed properties:

- Internal Emergency Transfers
If another unit is available for which the participant qualifies, the participant will be presented with an offer to transfer. If a resident reasonably believes a proposed transfer would not be safe, the resident may request a transfer to a different unit. Transfers for these reasons will take priority over all other transfer requests including those made to accommodate a disability and to address over- or under-utilization of a unit.
- External Emergency Transfers
While SPHA owns and manages other properties within the area, they are comprised of multiple types of housing programs and each (1) has its own wait lists and (2) is subject to its own rules, regulations and eligibility requirements. As such, SPHA must process VAWA emergency transfer requests, from one type of housing program to another, as external transfers. The transferring resident will be required to apply and meet eligibility criteria. The participant will be placed on the waitlist with the date and time they were approved for an emergency transfer. Emergency transfers will not take priority over waiting list admissions for these programs.

Tenant-Based Housing Choice Voucher Participants:

- Internal Emergency Transfers
A voucher will be issued to the tenant-based Housing Choice Voucher participant, if they qualify for an emergency transfer, to search for another unit. The participant must notify their current Landlord of their need to move and provide them with written documentation certifying that they meet the criteria for an emergency transfer under VAWA, before they can be approved to be transferred/moved. At the request of the participant, SPHA will assist them in their communication with their current Landlord on their need to move from their unit as quickly as possible. SPHA will provide the participant with any known information on available units in the area and/or assist the participant with information about the portability process if they choose to move to another jurisdiction.
- External Emergency Transfers
Tenant-Based Housing Choice Voucher participants may also request an emergency transfer under another SPHA housing program, for which they will be required to apply and meet eligibility criteria. The participant will be placed on the waitlist with the date and time they were approved for an emergency transfer. Emergency transfers will not take priority over waiting list admissions for these programs.

Project-Based Voucher Participants:

- Internal Emergency Transfers
If another Project-Based voucher unit is available for which the participant qualifies, the participant will be presented with an offer to transfer. If a participant reasonably believes a proposed transfer on the same site would not be safe, or if there are not any Project-Based units available, and the participant has been on the PBV program for at least one year, the participant will be issued a Tenant-Based Housing Choice Voucher as long as funding is available. Transfers for these reasons will take priority over all other transfer requests including those made to accommodate a disability and to address over- or under-utilization of a unit.
- External Emergency Transfers
If there are not any Project-Based voucher units available, or the participant has been on the PBV program for less than one year, the participant may request an emergency transfer to another

SPHA housing program (including the Tenant-Based Housing Choice Voucher program) for which they will be required to apply and meet eligibility criteria. The participant will be placed on the waitlist with the date and time they were approved for an emergency transfer. Emergency transfers will not take priority over waiting list admissions for these programs.

Additional Assistance

If SPHA has no safe and available units for which a resident who needs an emergency transfer is eligible, SPHA will assist the resident in identifying other housing providers who may have safe and available units to which the resident could possibly move.

At residents' request, SPHA will also assist residents in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

Local Domestic Violence Resource Centers:

| | |
|---|---|
| <p>Caring Unlimited (York County) P.O. Box 590, Sanford, ME 04073 Admin.: 207-490-3227 Hotline: <u>1-800-239-7298</u> mail@caring-unlimited.org www.caring-unlimited.org</p> | <p>New Hope for Women (Knox, Lincoln, Sagadahoc & Waldo Counties) P.O. Box A, Rockland, ME 04841-0733 Admin. & Hotline: <u>207-594-2128</u> or <u>1-800-522-3304</u> Belfast Office <u>207-338-6569</u> Wiscasset Office <u>(207) 882-6222</u> Bath Office <u>(207) 443-8898</u> newhope@newhopeforwomen.org www.newhopeforwomen.org New Hope for Women's Facebook</p> |
| <p>Through These Doors (Cumberland County) P.O. Box 704, Portland, ME 04104 Hotline: <u>1-800-537-6066</u> TTY accessible www.throughthesedoors.org</p> | <p>Safe Voices (Androscoggin, Franklin & Oxford Counties) P.O. Box 713, Auburn, ME 04212-0713 Admin.: <u>207-795-6744</u> Hotline: <u>1-800-559-2927</u> or <u>207- 795-4020</u> info@safevoices.org www.safevoices.org</p> |
| <p>Family Violence Project (Kennebec & Somerset Counties) P.O. Box 304, Augusta, ME 04332 Admin.: <u>207-623-8637</u> Hotline: <u>1-877-890-7788</u>; <u>207-623-3569</u> fvp@familyviolenceproject.org www.familyviolenceproject.org</p> | <p>Next Step (Hancock & Washington Counties) P.O.Box 1466, Ellsworth, ME 04605 Admin: <u>207-667-0176</u> Hotline: <u>1-800-315-5579</u> info@nextstepdvproject.org www.nextstepdvproject.org</p> |
| <p>Hope and Justice Project (Aroostook County) 754 Main Street, Presque Isle, ME 04769 Admin.: <u>207-764-2977</u> Hotline: <u>1-800-439-2323</u> info@hopeandjusticeproject www.hopeandjusticeproject.org</p> | <p>Spruce Run-Womancare Alliance (Penobscot & Piscataquis County) Bangor office: P.O. Box 653, Bangor, ME 04402 Admin.: 207-945-5102 Dover office: P.O. Box 192, Dover-Foxcroft, ME 04426 Hotline: 1-800-863-9909 or 207-947-0496 or TTY: 207-955-3777 sprucerun@sprucerun.net www.sprucerun.net</p> |