

**Attachment H**

**VAWA**

**VIOLENCE  
AGAINST WOMEN  
ACT**

# Housing Authority of the City of Camden

Attachment nj010h01

## 6.0(13) Violence Against Women Act (VAWA)

The Housing Authority of the City of Camden has Violence Against Woman Act (VAWA) Policy as outline the Public Housing Program – Admissions and Continued Occupancy Policy (ACOP) and the Housing Choice Voucher Program – Administrative Plan. Assistance will be provided as per both policies.

### PART IV: VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

#### 2-IV-A. Purpose and Applicability

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 and more generally to set forth the Housing Authority of the City of Camden's (HACC) policy and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by the HACC of all federally subsidized public housing and Housing Choice Voucher programs under the United States Housing Act of 1937. Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

#### 2-IV.B. Goals and Objectives

This Policy has the following principal goals and objectives:

Maintaining compliance with all applicable legal requirements imposed by VAWA; Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by the HACC; providing and maintaining housing opportunities for victims of domestic violence, dating violence, or stalking;

Creating and maintaining collaborative arrangements between the HACC, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by the HACC; and

Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by the HACC.

#### 2-IV.C. Other HACC Policies and Procedures

This Policy shall be referenced in and attached to the HACC's Five-Year Agency Plan and shall be incorporated in and made a part of the HACC's Admissions and Continued Occupancy Policy (ACOP) and Administrative Plan. The HACC's annual Agency Plan shall also contain information concerning the HACC's activities, services or programs relating to domestic violence, dating violence, and stalking.

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

## 2-IV.D. Definitions

As used in this Policy:

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

**Dating Violence** – means violence committed by a person – who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship the type of relationship
- The frequency of interaction between the persons involved in the relationship
- Stalking – means –to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and

(ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to – that person; a member of the immediate family of that person; or the spouse or intimate partner of that person.

**Immediate Family Member** – means, with respect to a person –

A spouse, parent, brother, sister, or child of that person, any other person living in the household of that person and related to that person by blood or marriage.

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

## 2-IV.E. Admissions and Screening

**Non-Denial of Assistance** – The HAAC will not deny admission to public housing to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission as long as all policy requirements are met by the family/household

## 2-IV.F. Termination of Tenancy or Assistance

VAWA Protections – Under VAWA, public housing residents have the following specific protections, which will be observed by the HACC:

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

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

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

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

**Removal of Perpetrator** – Further, notwithstanding anything in previous paragraphs or federal, State or local law to the contrary, the HACC or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence may be taken without evicting or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by the HACC. Leases used for all public housing operated by the HACC and administered by the HACC, shall contain provisions setting forth the substance of this paragraph.

## 2-IV.F. Verification of Domestic Violence, Dating Violence or Stalking

**Requirement for Verification** - The law allows, but does not require, the HACC, owner, or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupants is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII.C, the HACC shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the HACC.

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

HUD-approved form – by providing to the HACC on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, or stalking that the incident or incidents in question are bona fide incidents or 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 the completed certification must include the name of the perpetrator.

Other documentation – by providing to the HACC or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

Police or court record – by providing to the HACC or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

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Time allowed to provide verification/failure to provide – An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by the HACC, or manager to provide verification, must provide such verification within 14 days (i.e. 14 calendar day) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

Waiver of verification requirement – The Executive Director of the HACC, or a Housing Choice Voucher program owner or manager, may, with respect to any specific case, waive the above stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted at the sole discretion of the Executive Director, owner or manager. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

#### 2-IV.G. Confidentiality

Right of confidentiality – All information ( including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided to the HACC or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted, shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is (1) requested or consented to by the individual in writing, or (2) required for use in a public housing eviction proceeding or in connection with termination of assistance from the Housing Choice Voucher program, as permitted in VAWA, or (3) otherwise required by applicable law.

Notification of rights – All tenants of public housing administered by the HACC shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

#### 2-IV.H. Transfer to New Residence

Application for transfer – In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, or stalking, the HACC will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing to a different unit in order to reduce the level of risk to the individual. A tenant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the tenant or another member of the household who is or was the victim of domestic violence, dating violence or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

Action on applications – The HACC will act upon such an application promptly within 7 business days.

No right to transfer – The HACC will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action. in IX.E. below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of the HACC, and this policy does not create any right on the part of any applicant to be granted a transfer. Family rent obligations – If a family occupying HACC public housing moves before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease

term unless released by the HACC. In cases where the HACC determines that the family's decision to move was reasonable under the circumstances, the HACC may wholly or partially waive rent payments and rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

NOTE: Took out references to Housing Choice Voucher.

#### 2-IV.I. Court Orders/Family Break-up

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

Family break-up – Other HACC policies regarding family break-up are contained in this document (ACOP)

#### 2-IV.J. Relationship with Service Providers

It is the policy of the HACC to cooperate with organizations and entities, both private and governmental that provides shelter and/or services to victims of domestic violence. If the HACC staff becomes aware that an individual assisted by the HACC is a victim of domestic violence, dating violence or stalking, the HACC will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the HACC either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case. The HACC's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which the HACC has referral or other cooperative relationships.

#### 2-IV.K. Notifications

The HACC shall provide written notification to applicants, and tenants concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

#### 2-IV.L. Relationship with Other Applicable Laws

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

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER  
FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or

Has a record of such impairment, or

Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

Current illegal drug users

People whose alcohol use interferes with the rights of others

Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of



disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

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U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing

Special Attention of:  
Regional and Field Office Directors  
of Public Housing and Housing Choice  
Vouchers; Public Housing Agencies;  
Owners

Notice PIH-2017-08 (HA)

Issued: May 19, 2017

Expires: This notice will remain in effect until  
amended, superseded, or rescinded

Cross References:

81 FR 80724, as codified at 24 CFR parts 5, 905,  
960, 966, 982 and 983

Supersedes:

PIH Notice 2007-5; PIH Notice 2006-42;  
PIH Notice 2006-23

Subject: Violence Against Women Reauthorization Act of 2013 Guidance

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## 1. Purpose

This notice provides guidance to Public Housing Agencies (PHAs) and owners on the requirements of the Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Final Rule, published in the *Federal Register* on November 16, 2016, (81 Fed. Reg. 80724 (November 16, 2016)) (VAWA Final Rule) with respect to the Public Housing and Housing Choice Voucher (HCV) programs. This notice does not encompass every aspect of the VAWA Final Rule and should be used in conjunction with the VAWA Final Rule.

This notice supersedes HUD Notices PIH 2006-23, 2006-42, and 2007-5.

This notice also transmits an optional model *Notice to Owners of Rights and Obligations under the Violence Against Women Act*.

## 2. Applicability

Guidance contained in this Notice is for use by PHAs administering the Public Housing program, the HCV program (including the Project-Based Voucher program (PBV)), and Section 8 Moderate Rehabilitation (Mod Rehab), as well as owners participating in the aforementioned programs.

## 3. Background

On March 7, 2013, the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) (VAWA 2013) was signed into law. VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault, and stalking. HUD published a notice in the *Federal Register* on August 6, 2013 describing HUD’s programs. (See 78 FR 47717.) HUD also sought comments on certain provisions through the notice to aid in the development of regulations and program guidance. Following

the Federal Register Notice, PIH issued a letter to PHA Executive Directors on September 30, 2013, summarizing the August 6 Federal Register Notice.<sup>1</sup>

On April 1, 2015, HUD published its proposed rule that provided amendments to HUD's existing regulations that HUD determined necessary to fully implement VAWA 2013. On November 16, 2016, HUD published its VAWA Final Rule implementing the requirements of VAWA 2013 through HUD regulations (81 FR 80724). Implementing regulations for the Public Housing and HCV programs can be found at Code of Federal Regulations (CFR) Part 5, Subpart L, Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, as well as various subparts of 24 CFR Parts 905, 960, 966, 982, and 983.

Additional background information on VAWA may be found in *Section I* of the preamble to the VAWA Final Rule, which starts on page 80725 of the Federal Register publication.

## 4. Summary of Major Changes

Major changes for the Public Housing, HCV, and PBV programs include:

- Specifies "sexual assault" as a crime covered by VAWA in HUD-covered programs. (See 24 CFR 5.2003.)
- Clarifies that, consistent with HUD's nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD programs must also be operated consistent with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).)
- Establishes new definitions (e.g., affiliated individual and sexual assault, and others) and revises previously defined terminology (e.g., bifurcate and stalking). (See 24 CFR 5.2003.)
- Establishes new requirements for notification of occupancy rights under VAWA, and transmits a model *Notice of Occupancy Rights Under the Violence Against Women Act* (form HUD-5380). (See 24 CFR 5.2005(a).)
- Provides that applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(b)(1).)
- Establishes the requirement to establish an emergency transfer plan, establishes record keeping and reporting requirements, and provides a model *Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* (form HUD-5381), and *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* form (form HUD-5383). (See 24 CFR 5.2005(e).)
- Revises requirements for documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking, and provides a new *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* (form HUD-5382). (See 24 CFR 5.2007.)
- Where the covered housing provider exercises the option to bifurcate a lease and the evicted or terminated tenant was the recipient of assistance at the time of bifurcation, establishes a new requirement for reasonable time periods during which a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may remain in the unit while establishing eligibility under the

current housing program or under another covered housing program, or seeking alternate housing. (See 24 CFR 5.2009(b).)

- Revises various HCV, PBV, and public housing regulations from the 2005 reauthorization of VAWA (VAWA 2005) to broadly state that VAWA protections apply, so that all tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights.
- Clarifies that PHAs may establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence. (See 24 CFR 960.206(b)(4), and 982.207(b)(4).)
- Establishes new requirements under PBV for a family's right to move as a result of the family, or a member of the family, being or having been the victim of domestic violence, dating violence, dating violence, sexual assault, or stalking. (See 24 CFR 983.261.)

## 5. Definitions

This Section includes definitions of terms most frequently referred to in this Notice that were included in the VAWA Final Rule. For the full list of terms defined in the VAWA Final Rule see 24 CFR 5.2003.

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, 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.

**Affiliated individual**, with respect to an individual, means:

- a. A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- b. Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Covered housing provider** refers to the individual or entity under a covered housing program, and as defined by each program in its regulations, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgageors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

**Dating violence** means violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - 1) The length of the relationship;
  - 2) The type of relationship; and
  - 3) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by:

- a. a current or former spouse or intimate partner of the victim,
- b. by a person with whom the victim shares a child in common,
- c. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- d. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- e. by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

## **6. Who May Receive VAWA Protections?**

### **6.1 Who is Eligible?**

VAWA protections cover tenants and assisted families, as defined under applicable program regulations. VAWA protections also cover applicants when they are applying for admission to a covered housing program.

VAWA protections are not limited to women. Victims of domestic violence, dating violence, sexual assault, or stalking are eligible for protections without regard to sex, gender identity, or sexual orientation. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age, and HUD programs must also be operated consistently with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

A PHA or owner may find instances of domestic violence, dating violence, sexual assault, or stalking against youth (those under the age of 18 years old) living in an assisted household for which the family may need to exercise VAWA protections to protect the youth victim. PHAs and owners should exercise the same documentation and confidentiality procedures in assisting a family in this situation.

**Note:** Un-emancipated minors would not be eligible to sign leases under HUD programs. Housing providers may consider contacting child welfare or child protective services, or law enforcement, when a minor claims to be a victim of domestic violence, dating violence, sexual assault, or stalking.

## 6.2 Who is Ineligible?

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants and participants.

As a reasonable accommodation, a tenant/participant can request VAWA protections based on the grounds that the live-in aid is a victim of domestic violence, dating violence, sexual assault or stalking. In addition, other reasonable accommodations may be needed on a case-by-case basis.

In cases where a guest or unassisted member is a victim of domestic violence, dating violence, sexual assault or stalking, a tenant/participant cannot be evicted or have assistance terminated on the basis of the domestic violence, dating violence, sexual assault or stalking of the guest or unassisted member.

Unassisted members who are also on the lease may qualify by way of the lease for VAWA protections at 24 CFR 5.2005(c).

## 7. Determining Eligibility for VAWA Protections

### 7.1 Determining VAWA protections, including whether an adverse factor is a "Direct Result" of domestic violence, dating violence, sexual assault, or stalking

The VAWA Final Rule provides that an applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a *direct result* of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. (See 24 CFR 5.2005(b)(1).)

In addition to prohibiting a denial, termination, or eviction based on the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, the VAWA Final Rule prohibits covered housing providers from denying assistance or admission, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

For the programs covered by this Notice, an adverse factor refers to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant. However, if a denial or termination of assistance or eviction is required by a federal statute, based on a particular adverse factor, the PHA must comply with that statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault or stalking. For example, if the applicant is subject to a lifetime registration requirement under a State sex offender registration program, the PHA must comply with section 578 of the Quality Housing and Work Responsibility Act of 1998 and deny the applicant admission, even if the sex offense(s) were a direct result of the fact that the applicant was a victim of domestic violence, dating violence, sexual assault or stalking.

Section 7.2 provides examples to give PHAs and owners a sense of the various instances in which an adverse factor may be a direct result of domestic violence, dating violence, sexual assault, or stalking.

Section 7.3 provides a framework for determining whether an adverse factor is a direct result of the fact that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.

Section 7.4 discusses the need for notifying an individual and other considerations when the PHA or owner determines the prohibition does not apply to the individual's denial, termination, or eviction.

## **7.2 Examples of When Adverse Factors Might Be Direct Results of Domestic Violence, Dating Violence, Sexual Assault, Or Stalking**

On the surface, adverse factors may appear unrelated to domestic violence, dating violence, sexual assault, or stalking and may present legitimate reasons for denial, termination, or eviction. However, the presence of an adverse factor may be due to an underlying experience of domestic violence, dating violence, sexual assault, or stalking. An adverse factor may be present during much of an abusive relationship, or it may present itself only when a victim is attempting to leave, or has left, the abusive relationship. The following examples are provided to give PHAs and owners a sense of the many instances in which adverse factors might be the "direct result" of domestic violence, dating violence, sexual assault, or stalking. Please note that this list is neither exhaustive nor definitive.

**Poor credit history.** Depending on the circumstances, poor credit history may be a direct result of domestic violence, dating violence, sexual assault, or stalking when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Forcing a victim to obtain credit, including credit cards for the perpetrator's use.
- Using a victim's credit or debit card without permission, or forcing them to do so.
- Selling victims' personally identifying information to identity thieves.
- Running up debt on joint accounts.
- Obtaining loans/mortgages in a victim's name.
- Preventing a victim from obtaining and/or maintaining employment.
- Sabotaging work or employment opportunities by stalking or harassing a victim at the workplace, or causing a victim to lose their job by physically battering the victim prior to important meetings or interviews.
- Placing utilities or other bills in a victim's name and then refusing to pay.
- Forcing a victim to work without pay in a family business, or forcing them to turn their earnings over to the abuser.
- Job loss or employment discrimination due to status as a victim of domestic violence, dating violence, sexual assault, or stalking.
- Job loss or lost wages due to missed work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime.
- Hospitalization and medical bills the victim cannot pay or cannot pay along with other bills.

**Poor rental history.** Depending on the circumstances, poor rental history may be a direct result of domestic violence, dating violence, sexual assault, or stalking, when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Property damage;
- Noise complaints;
- Harassment;
- Trespassing;
- Threats;
- Criminal activity;



- Missed or late utility payments(s);
- Missed or late rental payment(s);
- Writing bad checks to the landlord; or
- Early lease termination and/or short lease terms.

**Criminal record.** Depending on the circumstances, a criminal record may be a direct result of domestic violence, dating violence, sexual assault, or stalking when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Forcing a victim to write bad checks, misuse credit, or file fraudulent tax returns;
- Property damage;
- Theft;
- Disorderly conduct;
- Threats;
- Trespassing;
- Noise complaints;
- Family disturbance/trouble;
- 911 abuse;
- Public drunkenness;
- Drug activity (drug use and the selling of drugs);
- Crimes related to sex work;
- "Failure to protect" a child from a batterer's violence and/or abuse;
- Crimes committed by a victim to defend themselves or in defense of third parties from domestic violence, dating violence, sexual assault, or stalking; or
- Human trafficking.

**Failure to pay rent.** Depending on the circumstances, temporary failure to pay rent may be a direct result of domestic violence, dating violence, sexual assault, or stalking, when domestic violence, dating violence, sexual assault, or stalking results in, for example:

- The victim's injury or temporary incapacitation;
- The arrest of the only wage-earning member of the household;
- Preventing the victim from obtaining and/or maintaining employment;
- Sabotaging work or employment opportunities by stalking or harassing the victim at the workplace;
- Causing the victim to lose the victim's job by physically battering prior to important meetings or interviews;
- Placing utilities or other bills in the victim's name and then refusing to pay;
- Forcing the victim to turn their earnings over to the abuser;
- Forcing the victim to work without pay in a family business;
- Job loss or employment discrimination due to status as a victim of domestic violence, dating violence, sexual assault, or stalking;
- Losing wages or a job due to missing work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime can result in loss wages and unemployment; or
- Inability to pay bills after significant medical expenses resulting from the victim's hospitalization.

### 7.3 How to Determine if an Adverse Factor is a Direct Result of Domestic Violence, Dating Violence, Sexual Assault or Stalking

To trigger the direct result analysis, it is the responsibility of the applicant or tenant to:

1. Inform the PHA or owner that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. Provide enough information for the PHA or owner to make a determination regarding the adverse factor they are claiming was a direct result of domestic violence, dating violence, sexual assault, or stalking.

After the PHA or owner receives this information, the PHA or owner should consider the individual's statement and any possible supporting documentation in determining if an adverse factor was a direct result of domestic violence, dating violence, sexual assault, or stalking. If further information is necessary for this determination, the PHA or owner may request additional supporting documentation from the applicant or tenant. However, any request for additional documentation must:

- a. Be in accordance with the PHA or owners' policies or practices,
- b. Not require evidence of the domestic violence, dating violence, sexual assault, or stalking other than as specified in 24 CFR 5.2007 (see Section 8 of this Notice), and
- c. Not violate the VAWA Final Rule's confidentiality requirements or any other laws.

**Note:** Where an applicant, tenant or participant fails to request VAWA protections, the PHA or owner is not independently required to identify whether adverse factors are the direct result of domestic violence, dating violence, sexual assault, or stalking. PHAs and owners may seek training, where available, from a trained third-party (such as an expert victim service provider) on reviewing VAWA documentation. Any communications with a third party must be done consistent with the VAWA rule's confidentiality requirements.

If the PHA or owner believes any information is not clear, it should speak to the victim and try to clarify the information. After the PHA or owner has received the information from the tenant or applicant, and if necessary, clarified this information with the tenant or applicant, the PHA or owner must make an objectively reasonable determination, based on all the circumstances, whether the adverse factor is a direct result of the fact that the applicant or tenant/participant is a victim of domestic violence, dating violence, sexual assault, or stalking.

### 7.4 Notification and Other Considerations

PHAs and owners must notify the applicant or tenant if the PHA or owner finds that the denial, termination, or eviction is not on the basis or as a "direct result" of being a victim of domestic violence, dating violence, sexual assault, or stalking, and the applicant or tenant is thus denied admission to, denied assistance under, terminate from participation in, or evicted from the housing. (See 24 CFR 5.2005(b)(1).) An applicant or tenant that disagrees with the finding should use the program's appeal procedures (if applicable).

In the case of a termination or eviction, PHAs and owners must comply with the prohibition in 5.2005(d)(2), which provides:

[T]he covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

Therefore, even if the direct result prohibition does not apply, the PHA or owner cannot use that violation to terminate or evict a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, if the covered housing provider does not ordinarily terminate or evict tenants for that violation.

See discussion of limitations in VAWA at Section 18 of this Notice.

## 8. Certification and Documentation of Domestic Violence, Sexual Assault, Dating Violence, or Stalking

### 8.1 Certification of domestic violence, dating violence, sexual assault, dating violence, or stalking

VAWA 2013 required that HUD create a certification form that serves as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(a).) The VAWA Final Rule transmitted this certification form, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation*, form HUD-5382. The PHA must include form HUD-5382 with the VAWA Notice of Occupancy Rights (form HUD-5380) described in Section 10. These forms are available at [hud.gov/hudclips](http://hud.gov/hudclips).

**Note:** Under the Mod Rehab program, the PHA may provide form HUD-5382 to owners, and charge owners with distributing it to tenants along with the VAWA Notice of Occupancy Rights as described above. (See 24 CFR 882.102.)

Form HUD-50066, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*, previously used for the Public Housing and HCV programs to serve as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking is obsolete.

Form HUD-5382 is for use by all HUD-covered programs, including Public Housing and HCV programs (e.g., a PHA or owner may receive this form) and it must be publicly available and provided upon request.

The form HUD-5382:

- Provides that VAWA 2013 protects applicants, tenants, and program participants from being evicted, denied assistance, or terminated from housing assistance based on act of domestic violence, dating violence, sexual assault, or stalking.
- Is an optional way for victims to comply with a written request for documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking for persons seeking VAWA protections.
- Provides that the victim or someone on the victim's behalf may complete the form.
- Provides a list of alternative third-party documentation to satisfy a request by a PHA or owner for documentation. (See below regarding requests for documentation.)
- Explains the time period for responding to a written request for documentation.
- Describes the confidentiality protections under VAWA.
- Requires that the victim or someone filling out the form on the victim's behalf must answer 10 numbered questions and provide a brief description of the incident(s).
- Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely.
- Clarifies that the date and time of incident should be completed only if known by the victim.

- Requires the victim or someone filling out the form on the victim's behalf to certify to the truth and accuracy of the information being provided, and explains that false information could be the basis for denial of admission, termination of assistance, or eviction.
- Includes required public reporting burden information.

When practicable, HUD encourages PHAs and owners to advise applicants, tenants, and program participants that when the PHA or owner receives a form submitted on their behalf, such submission will take the place of the applicants, tenants, or program participants submitting their own statement. Thus, applicants, tenants, or program participants should ensure, to the extent possible, that the information is accurate and comprehensive.

The form HUD-5382, as required by 24 CFR 5.2005(a)(1)(ii), must be made available by the PHA in multiple languages, consistent with HUD's LEP Guidance. (See 24 CFR 5.2005(a)(3).) In addition, consistent with civil rights requirements, when obtaining information through the form, PHAs must take appropriate steps to ensure effective communication with applicants, tenants, and participants with disabilities through the use of appropriate auxiliary aids and services, such as large print and braille documents, readers, interpreters, and accessible electronic documents. PHAs must also provide reasonable accommodations when necessary to allow applicants, tenants, and participants with disabilities to equally benefit from VAWA protections; such as providing individualized assistance in completing forms.

## 8.2 Certification or Documentation

The VAWA Final Rule clarified several aspects of VAWA's certification or documentation process. (See 24 CFR 5.2007.) The information below discusses some of the clarifying changes made in the VAWA Final Rule, and provides additional guidance on the processing of this documentation.

### a. Acceptance of Verbal Statement

The VAWA Final Rule clarifies that PHAs and owners are not required to ask for documentation when an individual presents a claim for VAWA protections; the PHA or owner may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. HUD recommends that PHAs and owners develop written policies for how and under what circumstances a verbal statement will be accepted (e.g., the PHA was aware of the abuse and encouraged the victim to request VAWA protections). It is recommended that in cases where a PHA or owner decides to rely on such information, the PHA or owner document, in a confidential manner, the individual's verbal statement or other corroborating evidence.

### b. Requesting Documentation

If the PHA or owner chooses to request an individual to document their claim of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner must make such request in writing. Simply providing the victim the form HUD-5382 does not constitute a written request for documentation, unless the form HUD-5382 is accompanied by a dated letter requesting documentation. (See 24 CFR 5.2007(a)(1).)

The individual may satisfy this request by providing **any** one of the following documents as described under 24 CFR 5.2007(b)(1):

- a. Form HUD-5382; or
- b. A document:

- 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
  - 2) Signed by the applicant or tenant; and
  - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or
  - d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The PHA or owner must accept any of the above items (a – c), as provided under 24 CFR 5.2007. For example, form HUD-5382 must be accepted in lieu of any of the third-party documents outlined above (b or c), if the individual chooses to self-certify to satisfy the PHA or owner's request for documentation; and the submitted documentation does not contain conflicting information.

The PHA or owner has discretion to accept a statement or other evidence (d). PHAs are encouraged to develop written policies as to whether they will exercise discretion as provided for under (d). PHAs are encouraged to note whether a statement or other evidence will be accepted. If other evidence will be accepted, HUD recommends that the PHA or owner define acceptable evidence.

The PHA or owner is prohibited from requiring third-party documentation of victim status, except as outlined in section 8.2(e) of this Notice.

Given the possible consequences to both the victim and the alleged perpetrator of domestic violence, dating violence, sexual assault, or stalking, it is important that any allegations made by one individual against another are made with the understanding that there are consequences if the allegations are false. In this regard, form HUD-5382 advises that the submission of false information may be a basis for denial of admission, termination of assistance, or eviction.

### **c. Time to Submit Documentation**

The PHA or owner may require submission of documentation within 14 business days after the date that the individual received the written request for documentation. (See 24 CFR 5.2007(a)(2).) However, the PHA, or owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection. For example, PHAs must not schedule an eviction, grievance hearing, informal review, or informal hearing to take place during this time frame.

In determining whether to extend the 14-business day period, PHAs and owners are encouraged to consider factors that may contribute to the victim's inability to provide the documentation in a timely manner. These factors may include, but are not limited to: cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court records, the danger of further violence, and the victim's need to address health or safety issues. PHAs and owners must also grant reasonable accommodations for persons with disabilities. Please also note that because of these factors, the PHA or owner might not be contacted by the victim with a request to extend the 14-business day period until after the 14-day period has passed.

#### **d. Acknowledging Receipt of Documentation; Failure to Provide Documentation in a Timely Manner**

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation, or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings. If the PHA denies VAWA protections, it must still follow its established procedures for grievance hearings, informal hearings, or informal reviews.

#### **e. Requests for Third-Party Documentation of Victim Status**

When an applicant or tenant requests protection under VAWA, the VAWA Final Rule allows but does not require the covered housing provider to require the applicant or tenant to submit documentation of victim status, i.e., documentation showing the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault or stalking. However, the VAWA Final Rule prohibits a covered housing provider from requiring the victim to provide third-party documentation of victim status, unless:

- More than one applicant or tenant provides documentation to show they are victims of domestic violence, dating violence, sexual assault or stalking, and the information in one person's documentation conflicts with the information in another person's documentation; or
- Submitted documentation contains information that conflicts with existing information already available to the PHA or owner.

In these circumstances, the regulations at 24 CFR 5.2007(b)(2), allow a PHA or owner to require the applicant(s) or tenant(s) to submit third-party documentation that meets the criteria in 24 CFR 5.2007(b)(1)(ii), (b)(1)(iii), or (b)(1)(iv). According to the criteria, the applicant or tenant may submit any of the following to meet the third-party documentation request:

- a. A document:
  - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
  - Signed by the applicant or tenant; and
  - That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for

protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

- b. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency (for example, a police report) that documents the incident of domestic violence, dating violence, sexual assault, or stalking.
- c. At the discretion of the covered housing provider, a statement or other evidence provided by the applicant or tenant.

The applicant(s) or tenant(s) must be given 30 calendar days from the date of the request to provide such documentation. If an applicant or tenant responds with third-party documentation that meets the criteria above and supports the applicant or tenant's VAWA request, the PHA or owner is prohibited from requiring further documentation of the applicant or tenant's status as a victim of domestic violence, dating violence, sexual assault, or stalking. However, if an applicant or tenant does not submit any third-party documentation within the required time period or submits documentation that does not meet the criteria above, the PHA or owner may, but is not required to, accept that applicant or tenant's assertion of victim status for the purpose of the VAWA protections.

For purposes of providing VAWA protections, satisfying the documentation requirements in section 24 CFR 5.2007(b) resolves the question of whether the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.

**Note:** In the case of conflicting documentation between two tenants, if one tenant submits a court order addressing rights of access or control of the property (such as a protection order granting the victim exclusive possession of the unit), the PHA or owner must honor this court order.

When requesting third-party documentation, the PHA is encouraged to provide contact information for local domestic violence agencies so that the applicant(s) or tenant(s) can seek services and plan for their safety. The PHA may also provide the applicant(s) or tenant(s) with contact information for local legal aid offices, which may be able to assist in providing appropriate referrals, obtaining restraining orders, and preparing for grievance hearings.

If the PHA or owner requests, but does not receive third-party documentation, the PHA or owner has the option to deny VAWA protections and must notify the applicant or tenant. If this results in a tenant(s) being terminated from assistance, the PHA must hold a separate informal hearing (HCV) or grievance hearing (public housing) for the tenant. When denying VAWA protections, the PHA or owner must ensure that it complies with PIH Notice 2015-19.

Alternatively, the PHA may have a family break-up policy allowing for assistance to be provided to both persons seeking VAWA protections.

**Example:** A two-person household was notified by an owner that they were being evicted from their unit due to a history of neighbors having to call the police for loud disturbances coming from the tenant-household's unit in violation of the noise provision in their lease. Each member of the tenant-household provides certification to the owner that they are a victim of domestic violence, and the disturbances arose from their partner's abuse. The owner has a policy of requesting third party documentation when there are conflicting certifications. Thus, the owner requests third party documentation individually from both members of the household. Within 30 calendar days the owner receives third-party certification from only one member of the household. The owner treats the household member that submits third party documentation as a victim of domestic violence for

purposes of VAWA and notifies the other household member, who did not submit third party documentation, that the owner has denied VAWA protections for the other household member. The owner must notify the household member being terminated from assistance and hold the appropriate hearing.

**Note:** Perpetrators sometimes obtain temporary restraining orders or file police reports against victims as a form of retaliation. Further, many victims are unable to timely access the courts or law enforcement due to the language barriers, disabilities, cultural norms, or fear for their safety. As a result, the fact that only one party submitted third-party documentation is not always a reliable indicator of domestic violence, dating violence, sexual assault, or stalking.

#### **f. Documentation Conflicts with PHA or Owner Information**

An individual may satisfy a request for victim status documentation by submitting any document that meets the criteria for a document type under 24 CFR 5.2007(b)(1). The PHA or owner must accept the submitted documentation and is prohibited from seeking additional documentation of victim status, unless the submitted documentation does not meet the criteria in the VAWA Final Rule or the submitted documentation contains conflicting information, including conflicting claims between two parties, as described above.

PHAs and owners are prohibited from conducting further fact finding for the purpose of trying to verify the “validity” of an applicant or tenant’s victim status. For example, PHAs and owners are prohibited from conducting interviews with neighbors or employers to determine if the applicant or tenant is “really” a victim of domestic violence, dating violence, sexual assault or stalking. Doing so would be in violation of the documentation requirements of the VAWA Final Rule and may result in a violation of the victim confidentiality requirements of the VAWA Final Rule.

However, if the PHA or owner already has or regularly receives reliable information that conflicts with the submitted documentation the PHA may require third-party documentation of victim status, based on information outside of the submitted documentation. Examples of reliable information include surveillance footage, police report(s), and other verifiable information. This information must not be collected for the purpose of discrediting claims for VAWA protections, but may be collected for other legitimate reasons; such as addressing safety in the community. If the applicant or tenant subsequently does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, the PHA or owner has the option to deny VAWA protections and must notify the applicant or tenant.

Given the possible consequences to both the victim and the alleged perpetrator of domestic violence, dating violence, sexual assault, or stalking, it is important that any allegations made by one individual against another are made with the understanding that there are consequences if the allegations are false. In this regard, form HUD-5382 advises that the submission of false information may be a basis for denial of admission, termination of assistance, or eviction.

## **9. PHA Documentation Requirements**

The VAWA regulations and requirements require that updates be made to applicable plans. There are also several discretionary areas where PHAs need to implement policies explained in their Administrative Plans and Admissions and Continued Occupancy Policy (ACOP), as applicable. Below is a summary of the requirements and a sample list of policy questions for the various PHA documents.



## 9.1 5-Year and Annual Plans

PHAs are required to include a brief description in their Annual Plan (as applicable) and 5-Year Plan of goals, activities, objectives, policies, programs, or services for child and adult victims of domestic violence, dating violence, sexual assault, or stalking, as required in 24 CFR 903.6(a)(3) and 24 CFR 903.7(m)(5) and described below. The VAWA Final Rule did not change this requirement. The availability of new PHA Annual and 5-Year PHA Plan templates that include the provisions of VAWA 2013 were first made available through Notice PIH 2015-18 (HA). HUD encourages reference to the PHA's Emergency Transfer Plan described in Section 12. All PHAs are required to submit a 5-Year Plan for HUD's approval (MTW PHAs excepted).

Annual PHA Plan Templates require PHAs to report any changes to Plan elements, which include VAWA provisions at 24 CFR 903.7(m)(5), under the safety and crime prevention element. The following information must be included:

- A statement of any domestic violence, dating violence, sexual assault, and stalking prevention programs;
- A description of 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;
- A description of any activities, services, or programs provided or offered by a PHA that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and
- A description of any activities, services, or programs provided or offered by a PHA to prevent domestic violence, dating violence, sexual assault, or stalking, or to enhance victim safety in assisted families.

When PHAs first adopt policy changes in accordance with the VAWA Final Rule, all covered PHAs must report those changes in their next Annual Plan submission cycle. However, if the policy changes trigger a significant amendment to the PHA Plan based on the PHA's significant amendment definition, then a Significant Amendment to the current annual plan must be submitted. In subsequent Annual Plan submission cycles, a PHA is only required to report changes, if any, to the VAWA policies they have adopted.

While PHAs are not required to provide services or activities beyond the victim protections and remedies included in the VAWA Final Rule, HUD encourages PHAs to develop strategies and relationships with community organizations, domestic violence victim advocates, and local law enforcement to provide services and resources to victims of domestic violence, dating violence, sexual assault, or stalking as described in detail at Section 14. For example, a PHA may partner with a local domestic violence service provider to offer a workshop to educate tenants/participants about their VAWA rights or other rights available to tenants/participants under state and local domestic violence laws or programs. If the PHA so chooses to partner with a local domestic violence service provider, HUD recommends that these services and activities should be included in the Annual Plan (as applicable) and 5-Year Plan.

Nothing in the Annual Plan submission requirement at 24 CFR 903.7 requires PHAs to undertake activities, services, or programs beyond the victim protections and remedies included in the VAWA Final Rule, although HUD encourages PHAs to do so.

**Qualified PHAs must comply with 5 Year Plan submission requirements:** Nothing in VAWA 2013 or the VAWA Final Rule supersedes Section 2702 of Title VII—Small Public Housing Authorities Paperwork Reduction Act of the Housing and Economic Recovery Act of 2008 exemption of qualified PHAs from preparing and submitting an Annual Plan. As such, Qualified PHAs are not required to comply with the Annual Plan submission requirements of VAWA. Qualified PHAs are required to comply with the 5-Year Plan

submission requirements of VAWA and to hold annual public hearings on their activities; including their implementation of VAWA protections.

**Small PHAs must comply with 5 Year Plan submission requirements:** PHAs that meet the definition of small PHA and are using the streamlined Annual PHA Plan Template, are not required to submit the VAWA information described above. (See form HUD-50075-SM.)

**HCV Only PHAs must comply with 5 Year Plan submission requirements:** HCV only PHAs using the streamlined Annual PHA Plan Template for PHAs that only administer an HCV program are not required to submit the VAWA information described above. (See form HUD-50075-HCV.)

**MTW PHAs:** PHAs that participate in the Moving to Work (MTW) demonstration are not required to complete the Annual and 5-Year PHA Plans described above. Instead, MTW PHAs complete Annual Plans and Reports as required in HUD Form 50900: *Elements for the Annual MTW Plan and Annual MTW Report*. MTW PHAs must comply with the requirements of VAWA.

## 9.2 HCV Program Documents

**Administrative Plan:** The administrative plan states PHA policy on matters for which the PHA has discretion to establish local policies (24 CFR 982.54). PHAs must include in the administrative plan any local PHA policies regarding domestic violence, dating violence, sexual assault or stalking that are not already explicitly required by the VAWA Final Rule and this implementing guidance.

**HCV Tenancy Addendum and Housing Assistance Payments Contract:** The VAWA Final Rule retains the provisions of HUD's regulations implementing VAWA 2005, which requires that a description of specific protections afforded to victims of domestic violence, dating violence, or stalking must be included in the HCV tenancy addendum and Housing Assistance Payments (HAP) contract. (See 24 CFR 5.2005(a)(4).)

The HCV tenancy addendum (form HUD-52641-A for tenant-based assistance; form HUD-52530-C for project-based assistance); the HAP Contract for tenant based assistance (form HUD-52641); and the PBV HAP Contract (form HUD-52530A and 52530B) will be revised to include the updated provisions of 24 CFR Part 5, Subpart L. The HAP Contract for manufactured home space rental (form HUD-52642) does not currently include VAWA provisions and will be revised at a later date to include the provisions of 24 CFR Part 5, Subpart L. PHAs continue to use the current version of these forms until the HUD update is complete. PHAs do not alter these forms or add their own addendum to the HAP contract or tenancy addendum in the interim.

## 9.3 Public Housing Program Documents

**Admissions and Continued Occupancy Plan (ACOP):** A PHA's ACOP states the PHA's policy on matters for which the PHA has discretion to establish local policies. PHAs must therefore include in the ACOP any PHA policies regarding domestic violence, dating violence, sexual assault or stalking, that are not already explicitly required by the VAWA Final Rule and further explained in this guidance.

**Public Housing Lease:** The VAWA Final Rule retains the provisions of HUD's regulations implementing VAWA 2005, which requires that a description of specific protections afforded to victims of domestic violence, dating violence, or stalking must be included in the public housing lease. (See 24 CFR 5.2005(a)(4).)

PHAs must ensure that their public housing leases contain the updated provisions of 24 CFR Part 5, Subpart L, including:

- Definitions (24 CFR 5.2003);
- VAWA protections (24 CFR 5.2005);
- Documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2007); and
- Remedies available to victims of domestic violence, dating violence, sexual assault, or stalking as applicable to the Public Housing program, including emergency transfers (24 CFR 5.2009 and 24 CFR 5.2005).

PHAs are encouraged to include in the lease any additional protections made available to victims of domestic violence, dating violence, sexual assault, or stalking.

## 10. Notice of Occupancy Rights

The VAWA Final Rule revises the requirements for notice of VAWA rights at 24 CFR 5.2005(a). VAWA 2013 requires that HUD create a notice of VAWA rights. The VAWA Final Rule includes a Notice of Occupancy Rights under the Violence Against Women Act; VAWA Notice of Occupancy Rights, form HUD-5380. HUD's VAWA Notice of Occupancy Rights is available at [hud.gov/hudclips](http://hud.gov/hudclips). The VAWA Notice of Occupancy Rights is for use by all HUD-covered programs, including Public Housing, HCV, and PBV. However, PHAs, not owners, are the covered housing provider responsible for this activity.

**Note:** Under the Mod Rehab program, the PHA may provide the VAWA Notice of Occupancy Rights to owners, and charge owners with distributing the notice and form to tenants. (See 24 CFR 882.102.)

PHAs must issue the VAWA Notice of Occupancy Rights without changes to the core protections and confidentiality rights in the Notice. PHAs must customize the Notice to reflect the specific assistance provided under the particular covered housing program, and to their program operations that may pertain to or affect the VAWA Notice of Occupancy Rights.

For example, PHAs must add to the VAWA Notice of Occupancy Rights information that identifies the covered program at issue (e.g., public housing), the name of the PHA (e.g., the Housing Authority of Any Town), and any additional information and terminology that is used in the program and makes the VAWA Notice of Occupancy Rights more meaningful to the applicants, and tenants/participants that receive the Notice (e.g., use of "apartment" or "housing" in lieu of "unit"). This may include additional language in places other than where the VAWA Notice of Occupancy Rights provides instructions to do so, so long as the language does not make changes to the core protections and confidentiality rights as noted above. For example, the additional language cannot add additional requirements to receive VAWA protections, but additional language may be provided to better explain VAWA.

The VAWA Notice of Occupancy Rights must be provided to:

- Adult applicants of public housing, HCV, and PBV; and
- Each adult tenant of public housing, HCV and PBV adult participant.

The VAWA Notice of Occupancy Rights must be provided no later than each of the following times:

For applicants:

- At the time the individual is provided assistance or admission<sup>2</sup>; and
- At the time the applicant is denied assistance or admission.

For tenants/participants:

- With any PHA notification of eviction or termination of assistance; and
- By December 16, 2017, either during the PHA annual recertification or lease renewal process (as applicable). If there will be no recertification or lease renewal during the first year, through other means within the first year as determined by the PHA.

The VAWA Notice of Occupancy Rights must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the Federal Register on August 16, 2000 (at 65 FR 50121) (HUD's LEP Guidance) (24 CFR 5.2005(a)(3)).

## 11. Victim Confidentiality

Given the significant safety issues faced by victims of domestic violence, dating violence, sexual assault, or stalking, it is critical that covered housing providers establish or update existing policies to maintain the confidentiality and privacy of victims who seek protections under the VAWA Final Rule.

The VAWA Final Rule clarified that any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

- a. Employees of the PHA or owner (or those who administer assistance on their behalf, (e.g., contractors) must not have access to the information unless explicitly authorized by the PHA or owner for reasons that specifically call for these individuals to have access to such information under applicable Federal, State, or local law (e.g., the information is needed by a PHA employee to provide the VAWA protections to the victim); and
- b. The PHA or owner must not enter this information into any shared database, or disclose this information to any other entity or individual (e.g. a prospective owner of participant's unit), except to the extent that disclosure is:
  - 1) Requested or consented to in writing by the individual (victim) in a time-limited release;
  - 2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - 3) Otherwise required by applicable law.

The prohibition against entering this information into any shared database does not preclude a PHA or owner from entering this information into a database system used by the PHA or owner that meets all requirements for

<sup>2</sup> For the HCV program, this term refers to the date the tenant actually begins receiving assistance (HAP contract execution), not the date at which the tenant is first selected for assistance (voucher issuance), though the PHA may provide the notice earlier.

securing sensitive personally identifiable information (PII), including the Privacy Act of 1974 (5 U.S.C. § 552a), as long as the requirements listed above and provided at 24 CFR 5.2007(c) are also met (e.g. the victim consents to in in writing in a time-limited release). For additional guidance on maintaining confidentiality, see Notice PIH-2015-06, HUD Privacy Protection Guidance for Third Parties.

### 11.1 Communicating with the Victim

When communicating with an applicant, participant, or tenant who has requested VAWA protections, the covered housing provider must take precautions to avoid inadvertent disclosure of confidential information to another individual or entity in violation of 24 CFR 5.2007(c). Unless given permission from the victim to do so, the PHA or owner must not leave messages that contain confidential information or refer to VAWA, the VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking (e.g., asking the victim to come to the PHA office to pick up the form HUD-5382) on the victim's voicemail system or with other individuals, including members of the victim's household. Leaving a voicemail requesting that the victim contact the PHA or owner without referencing VAWA, VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking, is not prohibited. Best practice is for PHAs or owners not to send mail regarding the domestic violence, dating violence, sexual assault, or stalking (e.g., a written request to complete form HUD-5382, or written extension of the 14-business day timeframe to respond to the PHA's request for documentation) to the victim's address if the perpetrator may have access to the victim's mail (e.g. the perpetrator is the co-head of household, or the perpetrator is employed at the residency of the victim).

The VAWA Final Rule is silent on how a PHA or owner is to balance the confidentiality requirement at 24 CFR 5.2007(c) with the requirement at 24 CFR 5.2007(a) when requesting documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking in writing. PHAs and owners may determine the procedures for requesting documentation in writing on a case-by-case basis, or adopt general policy guidelines for how to handle these requests. For example, requiring the individual requesting VAWA protections to come to an office or other space that may be safe for the individual to receive the written request, making reasonable accommodations as necessary.

If the victim gives the PHA or owner permission to contact them about the domestic violence, dating violence, sexual assault, or stalking via mail, voicemail system, electronic mail, or other method approved by the victim, best practice would be to ensure this permission is in writing. If it is not feasible for the victim to provide the permission in writing, the PHA or owner may make a note in the victim's file about which forms of communication with the victim have been approved by the victim. The written permission or other notation must be kept confidential.

When discussing these matters directly with the victim, PHAs and owners must take reasonable precautions to ensure that no one can overhear the conversation. For example, PHA employees are encouraged to make the documentation request in a private room; not in an open space at the PHA. PHAs and owners may require that the victim come into the office to pick up the certification form and are encouraged to work with tenants to make delivery arrangements that do not place the victim at risk.

The covered housing provider must comply with all nondiscrimination and civil rights statutes and requirements in implementing their policies. This includes, for example, providing reasonable accommodations to permit individuals to follow or access any rules, policies, practices, or services, such as modifying a policy requiring that the victim come into the office to pick up the certification form to instead deliver the form to the victim. This also includes ensuring effective communication with persons with disabilities, e.g., providing sign language interpreters for persons who are deaf, accessible documents and assistance filling out forms for

persons who are blind or have low vision, and providing language assistance for persons with limited English proficiency.

PHAs and owners may suggest, but cannot require, that the victim designate an attorney, advocate, or other secure contact for communications regarding the request of VAWA protections. This may reduce the PHA's or owner's burden in ensuring confidentiality in communications with the victim.

### **11.2 Best Practices to Collect Information and Avoid Unintentional Disclosure**

The following best practices are designed to address the challenges of collecting information from and communicating with a victim of domestic violence, dating violence, sexual assault, or stalking while meeting the confidentiality requirements in the rule.

- Conduct the intake session in a private room, where the individual and staff person can talk without the risk of other staff or clients overhearing.
- Explain the PHA's information sharing policies.
- Communicate to the individual who in the PHA is responsible for handling questions or complaints about confidentiality.
- Provide adequate time for the individual to review and sign forms.
- Post confidentiality notices in the intake room and around the PHA.
- Ensure relevant staff understand confidentiality policies and procedures through regular staff training.
- Post notices about the importance of maintaining confidentiality throughout the office.
- Direct staff to respond to third-party inquiries only after verifying that written client consent has been obtained.
- Clarify information sharing policies with referring/referral agencies and other service and business partners.
- Maintain distinct phone lines for certain purposes.
- Avoid using language referencing domestic violence or sexual assault in agency names, program names, organization names, and staff titles.
- Use a PHA post office box to receive written correspondence.
- Serve individuals off-site as needed or when appropriate.
- Provide interpretation and/or documents translated into the appropriate language when necessary.
- Provide accessible documents or assistance filling out forms for individuals with disabilities.

## **12. Emergency Transfers**

The VAWA Final Rule requires PHAs to adopt an Emergency Transfer Plan, based on HUD's model Emergency Transfer Plan (form HUD-5381). HUD's model Emergency Transfer Plan is available at [hud.gov/hudclips](http://hud.gov/hudclips). (See 24 CFR 5.2005(e).) Owners of assisted housing or HCV (including project-based voucher) properties that are not PHAs or considered "PHA-Owned" are not the covered housing provider under this provision, and therefore, are not required to adopt an Emergency Transfer Plan. If an owner receives a request for an emergency transfer, the owner is encouraged to explain to the victim that the PHA is the covered housing provider for this activity, and that the PHA should be contacted directly.

PHAs must adopt an Emergency Transfer Plan no later than June 14, 2017.

PHAs administering Public Housing, HCV (including PBV), and Section 8 Mod Rehab must ensure that their Emergency Transfer Plan covers these programs.

The Emergency Transfer Plan must:

- Define tenants/participants eligible for an emergency transfer;
- List documentation needed to request an emergency transfer;
- Outline confidentiality protections; and
- Describe how an emergency transfer may occur.

The Emergency Transfer Plan may require documentation from a tenant seeking emergency transfer, pursuant to 24 CFR 5.2005(e)(10) and 24 CFR 5.2007 and further explained in Section 8 of this Notice. However, a tenant is not required to provide documentation other than that which is specified in 5.2005(e)(10). (See 24 CFR 5.2005(e)(10)(iii).)

The PHA's Emergency Transfer Plan must allow tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to make an internal emergency transfer under VAWA when a safe unit is immediately available. A victim determines whether the unit is safe. (See 24 CFR 5.2005(e)(1)(iii)). The VAWA Final Rule does not define immediately available. A best practice would be to define immediately available as a vacant unit, ready for move-in within a reasonable period of time as defined in the PHA's Emergency Transfer Plan, where the PHA also defines reasonable period of time based on local factors. HUD encourages PHAs to engage the victim in a conversation as to what they may consider safe or what factors the victim considers unsafe. This may allow the PHA to better tailor its emergency transfer response.

The Emergency Transfer Plan must describe policies for assisting a tenant in making an internal emergency transfer when a safe unit is not immediately available, and describe reasonable efforts the PHA will take to assist a tenant who wishes to make an external emergency transfer when a unit that meets the victim's safety standard is not available. The Emergency Transfer Plan must also incorporate strict confidentiality measures. (See 24 CFR 5.2005(e)(4).)

In developing their Emergency Transfer Plans, PHAs are encouraged to review their admissions and transfer policies to determine if revisions are necessary to facilitate emergency transfers. In determining whether changes to the existing policies are necessary, PHAs may want to consider the following:

- Availability and location of units administered by the PHA;
- Demand by applicants for assistance under the program;
- Frequency of mandatory or emergency transfers; and
- Availability of alternative housing opportunities.

### 12.1 Eligibility for Emergency Transfers

The Emergency Transfer Plan must provide that tenant/participant receiving rental assistance through, or residing in a unit subsidized under, a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

- a. The tenant/participant expressly requests the transfer; and
- b. Either:
  1. The tenant/participant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit; or

2. In the case of sexual assault, the tenant reasonably believes 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 the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer. (See 24 CFR § 5.2005(e)(2).)

A tenant's reasonable belief that there is a threat of imminent harm from further violence may stem from an incident of domestic violence, dating violence, sexual assault, or stalking of a household member.

The Emergency Transfer Plan should also make clear that qualifying for an emergency transfer does not guarantee continued assistance under the program or a transfer to another covered housing program. The emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. (See 24 CFR 5.2005(e)(13).) For example, if a tenant qualifies for an emergency transfer to escape an abusive partner, but the tenant would not meet the program eligibility requirements, the tenant cannot be rehoused under that program.

## 12.2 Emergency Transfer Request

The PHA's Emergency Transfer Plan must indicate how a tenant/participant requests an emergency transfer. A PHA may either allow for a verbal self-certification, or require a written request before any transfer occurs. A PHA should include in its Emergency Transfer Plan and related VAWA policies whether verbal self-certification is sufficient to initiate an emergency transfer.

The verbal self-certification, if permitted, or the written request must include:

- a. A statement that the tenant requests an emergency transfer because the tenant/participant 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 the PHA; or
- b. A statement that the tenant requests an emergency transfer because the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the tenant's request for an emergency transfer.

HUD has created a model Emergency Transfer Request document that PHAs requiring written request for emergency transfer may use (form HUD-5383). PHAs using the emergency transfer request document must make it available to the tenant/participant. HUD's model Emergency Transfer Request document is available at [hud.gov/hudclips](http://hud.gov/hudclips).

The model Emergency Transfer Request document:

- Provides that victims of domestic violence, dating violence, sexual assault, or stalking may use this form to request an emergency transfer;
- May be used to certify that the victim meets the requirements of eligibility for an emergency transfer under VAWA;
- Defines the qualifications for an emergency transfer;
- Advises that victims that have third-party documentation that demonstrates why they are eligible for an emergency transfer should submit this information to the housing provider (PHA) if it is safe to do so;
- Describes the confidentiality protections under VAWA;



- Provides examples of third-party documentation;
- Requires that the victim answer 11 numbered questions, and provides the option to list any third-party documentation that may be voluntarily submitted;
- Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely, as determined by the victim; and
- Requires the victim to certify to the truth and accuracy of the information being provided, and explains that false information could be the basis for denial of admission, termination of assistance, or eviction.

PHAs are encouraged to customize the model Emergency Transfer Request document to reflect the specific assistance provided under the particular covered housing program, and to their program operations that may pertain to or affect the emergency transfer provisions. For example, the model Emergency Transfer Request document does not include details about a PHA's emergency transfer policy because it is incumbent on the housing provider to provide such information in its Emergency Transfer Plan.

A PHA may also request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking in accordance with the regulation at 24 CFR 5.2007. However, no other documentation may be required to qualify the tenant for an emergency transfer.

### 12.3 Emergency Transfers Policies for the Public Housing Program

The VAWA Final Rule requires PHAs to establish policies for internal and external emergency transfers, which must be included in the Emergency Transfer Plan. (See 24 CFR 5.2005(e)(1).) Under the Public Housing program, PHAs administering public housing generally have discretion to establish policies for how they will treat transfer requests by a tenant, and transfers that may be determined to be mandatory by the PHA. A PHA may categorize these transfer types in a way that allows them to prioritize or otherwise make determinations about the urgency of a transfer. Common PHA terminology for transfers includes, but is not limited to: mandatory transfers, tenant requested transfers, and emergency transfers. The VAWA Final Rule did not change PHA authority to establish and define other transfer policies; it only requires that new policies be established for transfers under VAWA.

An internal emergency transfer is a move of a tenant to another unit assisted under the same program where the tenant would not be categorized as a new applicant. For example, a move from one public housing unit to another public housing unit owned by the same PHA.

**Note:** The Emergency Transfer Plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The plan must also describe policies for assisting tenants when a safe unit is not immediately available. Those policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.

An external emergency transfer refers to an emergency transfer of a tenant to another unit or form of assistance where the tenant would be categorized as a new applicant. For example, a move from a public housing unit owned by one PHA to a public housing unit owned by another PHA.

The Emergency Transfer Plan must describe reasonable efforts the PHA will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The Emergency Transfer Plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA

out of the public housing program or unit and a tenant who is seeking an external emergency transfer under VAWA into the public housing program or unit.

A tenant must be allowed to seek an internal and external emergency transfer concurrently if an internal safe unit is not immediately available. For example, if a PHA owns one public housing building and there are no vacancies in the foreseeable future, a victim may seek an internal and external emergency transfer concurrently, as there is no unit immediately available. In this instance, a PHA may decide to provide the victim a voucher (if available) or make other referrals as is described in their Emergency Transfer Plan.

HUD strongly encourages PHAs to consider the following when creating their external emergency transfer policies:

- Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves.
- Expedited application review processes for new housing units in situations where a new application would be required. If the PHA adopts an expedited application process, it must explain such measures in the Emergency Transfer Plan. Such processes may include, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, procedures which would allow the receiving PHA to accept and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information, including form HUD 50058 (Family Report). (See 24 CFR 960.203.)
- Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking. See Section 15 for additional guidance on developing partnerships with domestic violence service providers.
- Creation of an admissions preference for victims seeking an external emergency transfer from another VAWA covered housing provider. This would allow a victim to more quickly access an available unit under a program administered by the PHA without being placed on the bottom of an applicant waiting list. See Section 19 for additional guidance on adopting an admissions preference.
- A form to be completed by the PHA that the victim may share with prospective housing providers indicating that the victim is eligible for an emergency transfer, and is seeking an external emergency transfer because a safe unit is not immediately available.

#### **12.4 Emergency Transfer Policies and the Housing Choice Voucher and PBV Program**

##### **HCV**

The VAWA Final Rule included a requirement that the Emergency Transfer Plan must describe policies for a tenant who has tenant-based assistance and who meets the requirements for an emergency transfer. (See 24 CFR 5.2005(e)(9).) As vouchers are inherently mobile, a victim who wants to move may request an emergency transfer under Section 12.2. If the victim requests to move outside of the PHA's jurisdiction, the portability regulations apply. (See Notice PIH 2016-09.)

PHAs are strongly encouraged to consider the following policies for inclusion in their Emergency Transfer Plan for participants with tenant-based assistance:

- Expediting administrative processes for participants who wish to move with their tenant-based assistance, including when the victim and perpetrator are members of the same household.
- References to the following:

- PHA's family break-up policy. (See 24 CFR 982.315.)
- Where a family can move with tenant-based assistance. (See 24 CFR 982.353.)
- Moves with continued tenant-based assistance. (See 24 CFR 982.354.)
- Preferences in other housing programs administered by the PHA.

HUD encourages PHAs to detail in their Emergency Transfer plan not only how vouchers will be provided to HCV participants seeking emergency transfers under VAWA, but also what transfer or referral options may be available if the family needs a temporary place to stay while conducting their housing search for a new unit to lease under the HCV program.

HUD notes that many of the policies noted above are features of the HCV program already in place that may be used by participants to move from their current unit to another unit that may provide for victim safety (e.g., moving with continued assistance, and portability.)

### **Project-Based Voucher**

Because owners receiving HAP on behalf of an HCV participant in PBV are not required to establish an Emergency Transfer Plan, it is the PHA that must have emergency transfer policies for PBV participants.

Unlike families receiving tenant-based assistance under the HCV program, PBV families cannot move with their project-based assistance, as the assistance is tied to the unit. Nonetheless, if a victim makes an emergency transfer request and has been living in the PBV unit for one year or more, the PHA must give the victim priority to receive the next available opportunity for continued tenant-based rental assistance. (See 24 CFR 983.261.) A family or member of the family is not required to give advanced written notice, with a copy to the PHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

PHAs must include in their Emergency Transfer Plan policies that address when:

- The victim has been living in a unit for less than one year; or
- The victim seeks to move sooner than a tenant-based voucher will be available.<sup>3</sup>

The PHA should refer the victim to other housing opportunities in the community as described in the PHA's Emergency Transfer Plan if:

- The PHA does not offer other assistance to the victim (because the victim has not lived in the PBV unit for one year);
- Tenant-based assistance is not immediately available; or
- Another safe PBV unit is not immediately available.

PHAs are strongly encouraged to consider the following policies for inclusion in their Emergency Transfer Plan for participants with project-based assistance:

- Expediting administrative processes for participants who wish to move to another available PBV unit administered by the PHA.
- Expediting administrative processes for participants wishing to move with tenant-based assistance.
- Establishing preferences in other housing programs administered by the PHA.

<sup>3</sup> If tenant-based assistance is not available at this time, the PHA must give the family priority to receive the next available opportunity for tenant-based assistance, even if they have left the unit to protect the family's safety.

As noted above, PHAs must include in their Emergency Transfer Plan policies for when the victim has been living in a PBV unit for less than one year. This is because the requirement that the PHA offer the family the opportunity for continued tenant-based rental assistance applies only when the family terminates the assisted lease after the first year of occupancy. (See 24 CFR 983.261.) This requirement does not apply to families within the first year of the lease. PHAs may have a policy to provide continued tenant-based rental assistance to victims making an emergency transfer request that have lived in a PBV unit for less than one year. Such families must be selected off the waiting list for the applicable program.

**Note:** The examples below include scenarios that are fact-intensive and are intended to be illustrative. Real-world cases of victims seeking VAWA protections must be approached in a way that takes in consideration the specifics of each case, and addressed pursuant to program requirements and PHA policy.

### **12.5 Handling Moves with Continued Tenant-Based Assistance**

Victims of domestic violence, dating violence, sexual assault, or stalking, may need to move to protect their health or safety. The VAWA Final Rule provides several exceptions for such victims to enable them to move with continued assistance in the tenant-based voucher program.

In accordance with 24 CFR 982.354(c)(2)(iii), the PHA's policies on restricting timing and number of moves do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member.

The VAWA Final Rule at 24 CFR 982.354 (HCV) and 24 CFR 983.261(c)(1) (PBV) provides that a PHA may not terminate assistance if the family, with or without prior notification to the PHA, has already moved out of a unit in violation of a lease, if such a move occurred to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, or if any family member has been the victim of sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

### **12.6 Emergency Transfer Example - Public Housing**

**Scenario:** Tenant approaches PHA informing them that they are a victim of dating violence and fearful of further violence. The household consists of the victim (head of household) and two children under the age of 18.

**Step 1:** The PHA provides the victim with the PHA's VAWA Notice of Occupancy Rights, when requested, so to ensure that they understand the rights and protections afforded them. If the PHA previously has not provided notification to the family members of their VAWA rights, then, in accordance with 24 CFR 5.2005(a)(2), the PHA must provide notice to the victim of their rights.

**Step 2:** The PHA can decide to accept the victim's verbal statement, or request documentation per 24 CFR 5.2007.

**Step 3:** The PHA accepts the documentation (if requested and provided as specified under 24 CFR 5.2007), or verbal statement for VAWA protections.

**Step 4:** The victim informs the PHA that they are seeking an emergency transfer and certifies that the victim meets the requirements for an emergency transfer. See the requirements for an emergency transfer at Section 12.2.

**Step 5:** The PHA can decide to accept the victim's statement, or request a written request for an emergency transfer.

**Step 6:** The PHA accepts the written request (if requested and provided as specified in 24 CFR 5.2005(e)(10)) or verbal statement.

**Step 7:** The PHA refers to their Emergency Transfer Plan to work with the victim and inform them of their options.

a. **Internal Emergency Transfer:** The PHA offers to put the victim on an internal emergency transfer waiting list. A safe unit is not immediately available within a reasonable time period. Because a safe unit is not immediately available, the PHA also explains external emergency transfer opportunities.

b. **External Emergency Transfer:**

1) The PHA offers to place the victim on the applicant list for their HCV program. A voucher is not immediately available.

2) The PHA provides the victim with a list of housing providers in the community for which the PHA has partnered to serve victims of domestic violence, dating violence, sexual assault, and stalking.

**Step 8:** The PHA informs the victim that local victim service providers may be able to assist them with identifying temporary shelter. The providers may have resources such as: safety planning, counseling, and emergency funding. The PHA provides the victim with contact information.

**Step 9:** The victim decides to stay in their current public housing unit until they are able to secure a voucher or another public housing unit. Although not required under the VAWA Final Rule, the PHA takes steps to reduce the threat of further violence against the victim: changing the victim's locks; installing better lighting around the perimeter of the building; and reminding the victim that they are allowed temporary absence from the unit in accordance with PHA policy. (See absence from unit at 24 CFR 982.312.)

**Step 10:** A public housing unit becomes available. The PHA notifies the victim of the availability of a unit and provides a tour of the unit.

**Step 11:** The victim determines the unit to be safe. The PHA expeditiously follows its policies for the move. A service provider funds the move of the victim's belongings.

## 12.7 Emergency Transfer Example – HCV

**Scenario:** Participant approaches PHA informing them that they are a victim of domestic violence and fearful for their safety if they remain in their current home. The victim and perpetrator are co-head members of the household.

**Step 1:** The PHA provides the victim with the PHA's VAWA Notice of Occupancy Rights, when requested, so to ensure that they understand the rights and protections afforded them. If the PHA previously has not provided notification to the family members of their VAWA rights, then, in accordance with 24 CFR 5.2005(a)(2), the PHA must provide notice to the victim of their rights PHA provides victim with VAWA Notice of Occupancy Rights.

**Step 2:** The PHA can decide to accept the victim's verbal statement, or request documentation per 24 CFR 5.2007.

**Step 3:** The PHA accepts the documentation (if requested and provided as specified under 24 CFR 5.2007) or verbal statement for VAWA protections.

**Step 4:** The victim informs the PHA that they are seeking an emergency transfer. See the requirements for an emergency transfer at Section 12.2.

**Step 5:** The PHA can decide to accept the victim's statement, if it meets the requirements discussed in Section 12.2, or request a written request for an emergency transfer.

**Step 6:** The PHA accepts the written request (if requested and provided as specified in 24 CFR 5.2005(e)(10)) or verbal statement.

**Step 7:** The PHA refers to their Emergency Transfer plan to work with the victim and inform them of their options. Because the victim and perpetrator are co-head members of the household, the PHA refers to its family break-up policy. When a family break-up results from the occurrence of domestic violence, the PHA must ensure that the victim retains assistance. (See 24 CFR 982.315(a).)

As part of a PHA's Emergency Transfer Plan, the PHA may choose to provide a voucher to facilitate the emergency transfer without having first terminated assistance to the perpetrator.

**Step 8:** The PHA informs the victim that local victim service providers may be able to assist them with identifying temporary shelter. The providers may have resources such as: safety planning, counseling, and emergency funding. The PHA provides the victim with contact information.

**Step 9:** The PHA issues a voucher to the victim.

**Step 10:** The PHA expedites the administrative process, consistent with due process protections, for carrying out the family break-up policies, and terminates the assistance of the perpetrator. The HAP contract is terminated automatically when program assistance for the family has been terminated. The lease terminates as a result of the HAP contract being terminated.

**Step 11:** The victim identifies a safe home and the PHA expeditiously inspects the unit, conducts a rent reasonableness determination, approves subsidy, prepares HAP contract, and the PHA and owner execute HAP contract. The victim moves into the new home.

## **12.8 Emergency Transfer Example – PBV**

**Scenario:** Participant approaches PHA informing them that they are a victim of stalking and fearful for their safety if they remain in their current home. The victim is the head of household, and has lived in the PBV unit for more than one year.

**Step 1:** The PHA provides the victim with the PHA's VAWA Notice of Occupancy Rights, when requested, so to ensure that they understand the rights and protections afforded them. If the PHA previously has not provided notification to the family members of their VAWA rights, then, in accordance with 24 CFR 5.2005(a)(2), the PHA must provide notice to the victim of their rights.

**Step 2:** The PHA can decide to accept the victim's statement, or request documentation per 24 CFR 5.2007.

**Step 3:** The PHA accepts the documentation (if requested and provided as specified under 24 CFR 5.2007) or verbal statement for VAWA protections.

**Step 4:** The victim informs the PHA that they are seeking an emergency transfer. See the requirements for an emergency transfer at Section 12.2.

**Step 5:** The PHA can decide to accept the victim's statement, if it meets the requirements discussed in Section 12.2, or request a written request for an emergency transfer.

**Step 6:** The PHA accepts the written request (if requested and provided as specified in 24 CFR 5.2005(e)(10),) or verbal statement.

**Step 7:** The PHA refers to their Emergency Transfer plan to work with the victim and inform them of their options. Because the victim has lived in the PBV unit for more than one year, the victim may exercise their right to move per 24 CFR 983.261.

A voucher is not currently available.

The PHA follows its Emergency Transfer Plan for what actions it will take when a voucher is not immediately available. Based on its Emergency Transfer Plan, the PHA may:

- Offer to allow the tenant to move to another PBV unit at the same site if the individual deems the unit safe, or to a unit in another PBV project under the PHA.<sup>4</sup>
- Offer to place the victim on their Public Housing waiting list.
- Provide the victim with a list of housing providers in the community for which the PHA has partnered to serve victims of domestic violence, dating violence, sexual assault, and stalking.

**Step 8:** Using the list of housing providers provided by the PHA, the victim reaches out to other housing providers in the community. Two housing providers that the PHA has partnered with have a waiting list preference for victims seeking emergency transfers from the PHA, and the PHAs place the victim on the respective waiting lists.

**Step 9:** The PHA informs the victim that local victim service providers may be able to assist them with identifying temporary shelter while they await a housing offer if they choose not to remain in their PBV unit. The providers may have resources such as: safety planning, counseling, and emergency funding. The PHA provides the victim with contact information.

**Step 10:** The victim moves out of their current home to stay at a domestic violence shelter.

**Step 11:** After moving, the victim notifies the owner of their previous home that they moved out of the unit as a result of domestic violence by the other member of the household.

**Step 12:** The initial PHA does not yet have a voucher available. One of the two partnering housing providers notifies the victim that they have a unit available.

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<sup>4</sup> HUD understands that a transfer to a unit within the same development in which the perpetrator resides might not be safe for victims. However, if the unit in the same development is the only one available this option should be available to the victim. The victim is in the best position to make this decision. (See 24 CFR 5.2005(e)(1)(iii).)

**Step 13:** The victim visits the unit and determines that it is safe. The victim chooses to move into their new project-based assisted unit instead of waiting for the next available voucher. As a result, the PHA does not provide tenant-based rental assistance to the family under 24 CFR 983.261.

## 13. Family Break-up

The occurrence of domestic violence, dating violence, sexual assault, or stalking may lead to the break-up of the assisted family in many instances. Family break-up involves terminating the assistance of the perpetrator while continuing the assistance to the victim, ensuring that the victim understands his or her rights, documenting the abuse, maintaining the confidentiality of the victim, and ensuring the safety of the victim. PHAs, not owners, are the covered housing provider for this activity. To help PHAs understand each of the steps involved with this process, this Notice presents the following scenarios.

**Note:** The examples below include scenarios that are fact-intensive. Real-world cases of victims seeking VAWA protections must be approached in a way that takes into consideration the specifics of each case, and addressed pursuant to program requirements and PHA policy.

### 13.1 Public Housing Scenario

**Scenario:** The victim informs the PHA that their family member is committing domestic violence against them, and they wish to retain assistance. The victim may choose to inform the PHA of the abuse after the PHA has notified the household that they are being evicted (due to criminal activity, for example), or at any other point.

**Step 1:** If the PHA previously has not provided notification to the family members of their VAWA rights, then in accordance with 24 CFR 5.2005(a)(2), the PHA must provide notice to the victim of their VAWA rights. If they have been previously notified of their VAWA rights, the PHA is encouraged to again provide the victim with the PHA's VAWA notice to ensure that they fully understand the rights and the protections afforded them.

**Step 2:** The PHA can decide to accept the victim's statement, or request documentation per 24 CFR 5.2007.

**Step 3:** Upon provision of documentation (if requested and provided as specified in 24 CFR 5.2007), the PHA is encouraged to ensure the victim knows of the upcoming notification of eviction of the perpetrator, including the exact date the notification will take place. As part of this notification to the victim, the PHA is encouraged to provide the victim with contact information of local victim service providers, providing the victim an opportunity to create a safety plan (e.g., the victim may need to leave the unit temporarily and stay in a domestic violence shelter until the eviction takes place). The PHA is encouraged to utilize any partnerships it may have established with local law enforcement and victim service providers to ensure the safety of the victim.

**Step 4:** The PHA begins the process to evict the perpetrator under 24 CFR 966.4(l)(5)(ii)(A), *Threat to other residents*. If the victim wants to move out of the unit for their safety, the PHA must first determine the tenant qualifies for an emergency transfer, and then follow its Emergency Transfer Plan. If the victim wants to stay in the unit, the PHA bifurcates the lease by evicting the perpetrator and allowing the victim to remain on the lease (Step 6). The PHA must expeditiously conduct an interim reexamination to determine the new rent computations.

**Step 5:** The PHA should provide the perpetrator with no more than 30 days (in most cases) notice of termination (24 CFR 966.4(l)(3)(i)(B).) If the perpetrator requests a grievance hearing, the PHA is encouraged to conduct an expedited grievance procedure (24 CFR 966.55(g)) after a determination of threat to health and safety. The perpetrator has a right to examine the PHA's documentation relevant to the eviction (24 CFR



966.4(m)). This means the perpetrator has a right to examine the relevant documentation the victim provided regarding VAWA protections which is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program (this is an exception to the victim's confidentiality per 24 CFR 5.2007(c)(2)). To protect the victim's safety, any information that would reveal the location of the victim, or the location of any services that the victim is receiving must be maintained confidentially (e.g. redacted from the shared documentation), unless it meets the exception in 24 CFR 5.2007(c)(2)(ii).

PHAs are encouraged to consult a local domestic violence expert or victim service provider that has not worked with either the victim or perpetrator, to be on the grievance hearing panel.

The hearing officer or hearing panel provides the perpetrator with a written decision.

**Step 6:** If it is determined that the perpetrator did indeed commit the acts, the case will then be moved to eviction court.

### 13.2 HCV Scenario

**Scenario:** The victim informs the PHA that their family member is committing domestic violence, dating violence, sexual assault, or stalking against them, and the victim wishes to retain assistance. The victim may choose to inform the PHA of the abuse after the owner has notified the household that they are being evicted (due to criminal activity), or at any other point.

**Step 1:** The PHA provides the victim with the PHA's VAWA Notice of Occupancy Rights, after requested, so to ensure that the victim fully understands the rights and the protections afforded to them. If the PHA previously has not provided notification to the family members of their VAWA rights, e.g., an annual recertification or lease renewal has not occurred since the effective date of the VAWA Final Rule, then the PHA must provide the VAWA Notice of Occupancy Rights. In accordance with 24 CFR 982.315(a)(2), the PHA must ensure that the victim retains the assistance if a family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking.

**Step 2:** The PHA can decide to accept the victim's statement, or request documentation per 24 CFR 5.2007.

**Step 3:** Upon provision of documentation (if requested and provided as specified in 24 CFR 5.2007), the PHA is encouraged to ensure the victim knows of the upcoming notification of termination of the perpetrator, including the exact date the notification will take place. As part of this notification to the victim, the PHA is encouraged to provide the victim with contact information of local victim service providers – providing the victim an opportunity to create a safety plan (e.g., even if the victim does not wish to move out of the unit, the victim may need to leave the unit temporarily and stay in a domestic violence shelter until the termination takes place, and/or obtain a protection order giving the victim possession of the apartment, and change the locks; and/or ask the owner to bifurcate the lease to remove the perpetrator from the lease).

**Step 4:** The PHA begins the process to terminate the perpetrator for violation of family obligations, 24 CFR 982.551(l), *Crime by household members*.

**Step 5:** The PHA must provide the perpetrator prompt written notice of termination (24 CFR 982.555(c)(2)). If the perpetrator requests an informal hearing, the PHA must proceed with the hearing in a reasonably expeditious manner upon request of the perpetrator (24 CFR 982.555(d)). The perpetrator has a right to examine the PHA's documentation directly relevant to the hearing (24 CFR 982.555(e)(2)(i)). Per 24 CFR 5.2007(c)(2)(ii) the PHA may disclose documentation required for use in an eviction or hearing regarding termination of assistance. The PHA must remove or otherwise withhold information that may place the victim

at risk of further violence. For example, if the victim has secured a temporary living situation and the location is included in the documentation, the PHA must remove or otherwise hide this information (i.e. blackout or redact).

PHAs are encouraged to consult a local domestic violence expert or victim service provider that has not worked with either the victim or perpetrator, to be on the informal hearing panel. The hearing officer or hearing panel provides the victim and the perpetrator with a written decision.

**Step 6:** If the victim wishes to move, the PHA is encouraged to assist the victim in negotiating a mutual rescission of the lease, if needed. If the victim moves out of the unit in violation of the lease (in order to protect the health or safety of the victim), the PHA must allow the victim in the tenant-based voucher program to move with continued tenant-based assistance (24 CFR 982.314(b)(4), 982.353(b)). Termination of the HAP for the family results in the termination of the lease.

### 13.3 HUD-VASH

In HUD-Veterans Affairs Supportive Housing (HUD-VASH), when a veteran's family member is receiving protection as a victim of domestic violence, dating violence, sexual assault, or stalking, and the veteran is the perpetrator of such violence, the victim must continue to be assisted.

Upon termination of the perpetrator's HUD-VASH voucher due to the perpetrator's acts of domestic violence, dating violence, sexual assault, or stalking, the victim receiving protections under 24 CFR part 5, subpart L should be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher should be used to serve another eligible veteran family. If a regular HCV is not available for the victim, the perpetrator must be terminated from assistance, and the victim will continue to utilize the HUD-VASH voucher. In the case of the victim utilizing the HUD-VASH voucher upon termination of the perpetrator, this HUD-VASH voucher must be issued to another eligible veteran family upon the voucher's turnover.

## 14. Record Keeping and Reporting Requirements

The VAWA Final Rule requires PHAs to keep confidential records of all emergency transfers requested under its Emergency Transfer Plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations. (See 24 CFR 5.2005(e)(12).)

The VAWA Final Rule further requires that these requests and outcomes of such requests be reported to HUD annually. The requirement to report this information to HUD is not in effect until:

- a. PHAs begins to provide emergency transfers, and
- b. HUD completes the Paperwork Reduction Act requirements.

HUD will communicate additional details about the record keeping requirement at a later date. Until such time, PHAs are not required to report this information to HUD. HUD notes that it would be beneficial for PHAs to maintain this information to facilitate future reporting to HUD.

## 15. Developing Partnerships with Victim Service Providers

HUD encourages ongoing PHA efforts to strengthen access to supportive services for victims of domestic violence, dating violence, sexual assault, or stalking. Successful PHAs have developed valuable relationships with domestic violence victim advocates, legal aid services, and law enforcement agencies to ensure that victims are getting the necessary supportive services they need. These relationships have bolstered PHA awareness of domestic violence, dating violence, sexual assault, and stalking. Most importantly, these efforts have saved lives and resulted in victims accessing critical supportive services to rebuild their lives.

HUD also encourages PHAs to share their best practices in developing a strong domestic violence, dating violence, sexual assault, or stalking education and service program. Such practices have included:

- Participating in regular domestic violence working groups with domestic violence victim advocates, legal aid services, and law enforcement agencies;
- Inviting domestic violence victim advocates to speak to resident groups, PHA governing board, and employees;
- Providing easy-to-access and easy-to-understand information pamphlets;
- Facilitating counseling and support groups through available community space;
- Working with domestic violence victim advocates to make policy changes to better protect victims; and
- Establishing tenant admission preferences to prioritize victims for housing assistance, including victims referred through the local Continuum of Care (CoC).

These efforts can also help a PHA identify local domestic violence experts for participation in grievance hearings, informal hearings, or informal reviews.

The U.S. Department of Justice Office on Violence Against Women maintains resources that may be of assistance to communities seeking to learn more about domestic violence, dating violence, sexual assault, and stalking, or those seeking contact information for national advocacy groups. This information is available at <https://www.justice.gov/ovw>.

## 16. Lease Bifurcation

In accordance with 24 CFR 5.2009(a), PHAs or owners may choose to bifurcate a lease, or remove a household member or lawful occupant from a lease to evict, remove, terminate occupancy rights, or terminate assistance to such member who engage in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. Bifurcation must be consistent with Section 17 of the Notice.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases. For example, some jurisdictions may prohibit partial or single tenant evictions.

Court-ordered eviction of the perpetrator pursuant to applicable laws results in the underlying lease becoming null and void once the PHA regains possession of the unit. The PHA or owner would then execute a new lease with the victim. HUD also encourages PHAs and owners to simultaneously attempt to reach agreement to the mutual termination of the lease, if it is safe to do so.

## 16.1 Owner Lease Bifurcation

In instances where the owner allows for lease bifurcation as remedy to an incident of domestic violence, dating violence, sexual assault, or stalking, the owner may (but is not required to) bifurcate the lease, which evicts or removes the perpetrator from the unit without evicting or removing the victim from the unit. (See 24 CFR 5.2009(a).) If the owner does bifurcate the lease, the owner must immediately notify the PHA of the change in the lease and provide a copy of all such changes to the PHA. (See 24 CFR 982.308(g) for tenant-based HCV and 24 CFR 983.256(e) for PBV.) Except for PHA-owned units, the PHA is not a party to the lease and therefore cannot bifurcate a lease agreement between an owner and a tenant. It is up to the owner to bifurcate the family's lease to evict or remove the perpetrator from the unit.

Bifurcating the lease and evicting certain family members may have consequences for both the owner and the family. For example, a change in family size and composition may impact the determination of the appropriate number of bedrooms and the amount of subsidy paid by the PHA to the owner. To the extent that the change would adversely impact the subsidy standard for the family, PHAs may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members, or other personal circumstances. (See 24 CFR 982.402(b)(8).) A PHA may adopt a policy to include an instance of domestic violence, dating violence, sexual assault, or stalking under other personal circumstances.

A best practice in the event an owner will bifurcate the lease as a result of domestic violence, dating violence, sexual assault, or stalking, is for the owner to refer the family to the PHA in advance of the bifurcation. This may allow the PHA to offer assistance or otherwise provide service referrals to the victim in advance of the bifurcation.

## 17. Reasonable Time to Establish Eligibility Following Bifurcation of a Lease.

The VAWA Final Rule at 24 CFR 5.2009(b) establishes a reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation in situations where the individual who was evicted or whom assistance was terminated was the eligible tenant. This would only be an issue for mixed families, where assistance is being provided to the perpetrator and the victim is a member of the household who hasn't contended eligible immigration status.

If a PHA or owner exercises the option to bifurcate a lease, and the individual who was evicted or for whom assistance was terminated was the eligible tenant, the covered housing provider must provide to any remaining tenant or tenants that were not already eligible a period of 30 calendar days from the date of bifurcation of the lease to:

- a) Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease;
- b) Establish eligibility under another covered housing program; or
- c) Find alternative housing.

The VAWA Final Rule allows for 90 days except where prohibited by statute. HUD clarified in the VAWA Final Rule that the 90-day time period does not apply to the HCV and Public Housing programs. Assistance is limited to 30 days if the remaining family member has not submitted documentation evidencing a

satisfactory immigration status or a pending appeal of a verification determination of the family member's immigration status. This is because Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)(4)(A)) requires that assistance under these programs be terminated after 30 days if the remaining family members cannot indicate they have a satisfactory immigration status.

**Public Housing** – The PHA must not initiate eviction procedures until 30 days after the lease bifurcation.

**HCV** – The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month. If the victim requests to move, the PHA should not issue a new voucher until eligibility has been determined.

For the HCV program, the victim and PHA do not have to wait for an owner to bifurcate the lease for the PHA to offer continued assistance for the unit (where victim is planning to stay in the unit). While the family would not have to wait for bifurcation to occur, it would have to wait for eligibility to be determined if the victim was planning on moving with the assistance.

## **18. Termination of the Victim Due to “Actual and Imminent Threat” and Any Violation Not Premised on an Act of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The VAWA Final Rule at 24 CFR 5.2005 prohibits denial of admission or assistance, termination from participation, or eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

However, the VAWA Final Rule does not prohibit a PHA or owner from evicting or terminating assistance for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. (See 24 CFR 5.2005(d)(2).)

The rule does not prohibit the PHA or owner from terminating assistance or evicting a tenant if the PHA or owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the property would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 24 CFR 5.2005(d)(3).) In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the PHA must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, 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.

Eviction or termination of assistance should only be used by a PHA or owner when there are no other actions or remedies to reduce or eliminate the threat, including when actions or remedies are unavailable. This is the case

even when time periods could reasonably be called "immediate." Some possible actions for a PHA or owner to take to reduce or eliminate the threat are listed at 24 CFR 5.2005(d)(4) and in this Section. HUD encourages PHAs and owners to work with local law enforcement to prevent or remedy instances where a threat may occur to better protect the victim and other tenants in the community.

A PHA may consider the following actions to reduce or eliminate an "actual and imminent" threat:

- a) Barring the perpetrator from the property;
- b) Changing the victim's locks;
- c) Installing basic security features (e.g., better lighting or an alarm);
- d) Encouraging the victim to seek an emergency transfer;
- e) Allowing an early lease termination;
- f) Allowing the victim temporary absence from the assisted unit;
- g) Helping the victim access available services and support (e.g., providing information for a local victim service provider and civil legal assistance providers, to help the victim get any necessary court orders); and/or
- h) Working with police and victim service providers to develop a safety plan for the property and victim.

## 19. Establishing Waiting List Preferences

The VAWA Final Rule clarifies that PHAs may establish preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence. (See 24 CFR 960.206(b)(4), 982.207(b)(4).) PHAs should consider whether to adopt a local preference for admission of families that include victims of domestic violence, dating violence, sexual assault, or stalking.

A PHA's system of local preferences must be based on local housing needs and priorities by using generally accepted data sources and information obtained through the PHA Plan public comment process. HUD encourages PHAs to work collaboratively with health care providers, social service providers, homeless services providers, Continuums of Care (CoCs), and local offices of government and community organizations to establish a system of preferences based on local housing needs collectively identified by the community.

HUD recommends that a PHA's local housing needs assessment specifically include people experiencing domestic violence, dating violence, sexual assault, and stalking.

PHAs may create a preference or limited preference specifically for people who are referred by a partnering service organization or consortia of organizations. The PHA may not limit the source of referrals to an agency, organization, or consortia that denies its services to members of any Federally protected class under fair housing laws, e.g., race, color, religion, national origin, sex, disability, or familial status. For example, a PHA may not limit the source of referrals to only service providers of female victims of domestic violence, dating violence, sexual assault, or stalking.

## 20. Homeownership: Move with Continued Tenant-Based Assistance

The VAWA Final Rule introduced two new protections under the Homeownership Voucher Program at 24 CFR 982.637.

1. An exception was created to the prohibition of PHAs offering continued tenant-based assistance for occupancy of a new unit so long as any family member owns any title or other interest in the prior home. (See 24 CFR 982.637(a)(2).) When a family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if such family or family member owns any title or other interest in the prior home.
2. An exception was created to the flexibility PHAs have to establish policies that prohibit more than one move by the family during any one-year period. A PHA must make an exception to its policy on number of moves for when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. (See 24 CFR 982.637(a)(3).)

A PHA must not continue homeownership assistance to a participant after commencing tenant-based rental assistance. Per 24 CFR 982.352(c)(2), a family may not receive the benefit of tenant-based assistance while receiving the benefit of other Section 8 assistance (including other tenant-based assistance). Additionally, per 24 CFR 982.633(a), if the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out.

Once a PHA has commenced tenant-based rental assistance and the participant is no longer a participant in the homeownership program, the participant's sale of the home or the participant's potential loss of the home due to foreclosure must not affect the participant's continued participation in the HCV program. Specifically, a PHA's obligation under 24 CFR 982.638(d) to terminate voucher homeownership assistance upon mortgage foreclosure only applies while the participant is still in the homeownership program, and does not apply to the termination of tenant-based rental assistance for a participant who is no longer in the homeownership program. Additionally, 24 CFR 982.625(h) requires that the PHA must not recapture voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option.

## 21. Owners in the HCV Program

### 21.1 Notification to Owners

Educating owners on their rights and responsibilities under VAWA may lead to greater compliance, resulting in increased victim safety. HUD encourages PHAs to identify opportunities to provide notice and/or training to owners participating in the HCV program of their rights and obligations under VAWA.

PHAs are encouraged to attach the PHA's Emergency Transfer Plan, and form HUD-5382 to the notice they provide to owners.

To assist the efforts of PHAs in providing notice to owners, a template that can be amended to reflect local needs and protections has been attached to this notice. The use of this template is entirely optional and HUD encourages PHAs that choose to issue notice to owners to determine what is most appropriate for their community. PHAs may also choose not to provide notice, instead relying on the VAWA information contained in the HAP contract.

### 21.2 Mandatory Owner Obligations Under VAWA

The following chart lists mandatory obligations of owners under VAWA. The chart references the section of this Notice that describes in more detail the specific obligation.

Activity	Description	Applicable Section(s) of Notice
Tenancy Screening and Eviction	An Owner must not deny the tenancy of an applicant, or evict a tenant on the basis or as a <i>direct result</i> of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation or occupancy.	7
Certification or Documentation	Owners are not required to ask for documentation when an individual presents a claim for VAWA protections. If the owner chooses to request an individual to document their claim of domestic violence, dating violence, sexual assault, or stalking, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1). Exceptions to this provision in cases of conflicting documentation.	8
Victim Confidentiality	Information submitted to an owner, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in confidence.	11

### 21.3 Lease Revision Resulting from Domestic Violence, Dating Violence, Sexual Assault, or Stalking

PHAs may encourage owners to allow tenants out of their lease if a family member is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and the family needs to move out to protect the health or safety of the victim. The PHA may not terminate assistance if the family moves out of the unit with or without prior notification as required by 24 CFR 982.354, in violation of the lease in order to protect the health or safety of the victim, as the victim reasonably believed they were imminently threatened by harm from further



violence if they remained in the dwelling unit. Similarly, if the family moves out of the assisted unit in violation of the lease in order to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, and has otherwise complied with all other obligation under the HCV program, the family may receive a voucher from the PHA and move to another jurisdiction. (See 24 CFR 982.353(b).) However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that they were threatened with imminent harm from further violence if they remained in the dwelling unit.

State or local law may have protections for victims beyond those in VAWA or HUD regulations. Nothing in VAWA should be construed to supersede any provision of any Federal, State, or local law that provides greater protection than VAWA for victims of domestic violence, dating violence, sexual assault, or stalking; as such, owners in jurisdictions that provide greater protections for victims must grant those protections for victims.

When the entire family moves from the contract unit for any reason, including to protect the health or safety of the family member that is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the HAP contract terminates automatically. The PHA must not pay HAP to the owner of the previously occupied unit once the family moves out.

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the HCV program.

If the HAP contract terminates for any reason, the lease terminates automatically. (See forms HUD-52641, 52642, and 52530(c).) If a family moves out of the property at any time during the month, the owner may keep the housing assistance payment (HAP) for the month when the family moves out of the unit (24 CFR 982.311(d)(1)).

In the event the PHA executes a new HAP contract with a new owner after the victim moves out of the original unit to protect his or her health or safety, the PHA must not disclose the victim's new address (or any other information collected on the new HAP contract) to the original owner, as the information collected in the HAP contract is protected by the Privacy Act.

## **22. Assistance Under More Than One Covered Housing Program**

When assistance is provided under more than one covered housing program and there is a conflict between VAWA protections or remedies under those programs, the individual seeking the VAWA protections or remedies may choose to use the protections or remedies under any or all of those programs, as long as the protections or remedies would be feasible and permissible under each of the program statutes.

Where housing is covered under multiple HUD programs, the responsible housing provider under each program will provide the required VAWA Notice of Occupancy Rights and certification form, and tenants may request emergency transfers or lease bifurcation under any applicable program, unless prohibited from doing so because of statutory constraints.

**Example:** HOME Investment Partnership Program (HOME) funds were used for the rehabilitation of a development that also has 20% of units under PBV. In this scenario, both the PHA and owner are covered housing providers under the respective programs. The PHA must follow the requirements of VAWA under

PBV, and the owner must follow the VAWA requirements under PBV and HOME. A victim seeking VAWA protections, e.g., an emergency transfer, may seek an emergency transfer from under either or both covered housing programs.

## 23. Fair Housing and Nondiscrimination

Housing providers must comply with all applicable fair housing and civil rights laws and requirements in the implementation of VAWA requirements. This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. (See 24 CFR 5.105(a).) For example, housing providers must provide reasonable accommodations for individuals with disabilities, such as a reasonable accommodation to any requirement that the emergency transfer request be in writing, and must help certain individuals put their request in writing, if requested or where the need for such assistance is obvious. Individuals with disabilities may request a reasonable accommodation at any time to any program rules, policies, or practices that may be necessary. Housing providers must meet physical accessibility requirements when making emergency and other transfers, which may include making physical modifications to dwelling units and common use areas.

Housing providers must also ensure that communications and materials are 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, the Americans with Disabilities Act, and their implementing regulations. Housing providers must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. Housing providers must also take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals. Please see the Department's Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance), [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).

## 24. Paperwork Reduction Act

The information collection requirements contained in this notice has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (22 U.S.C. 2501-3520) and assigned OMB control number 2577-0286. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

## 25. Contact Information

Questions concerning this Notice should be directed to your local HUD Field Office of Public Housing. Persons with hearing or speech impairments may access their field office via TTY by calling the Federal Information Relay Service at (800) 877-8339.

\_\_\_\_\_/S/  
Jemine A. Bryon  
General Deputy Assistant Secretary for  
Public and Indian Housing

## Appendix I: Discretionary Policies and Procedures

Subject	Regulatory Citation	Notice PIH 2017-08 Section	Discretionary Policies and Procedures
Form HUD-5382	24 CFR 5.2005(a)	8	<ul style="list-style-type: none"> <li>• How and where will the form be made available?</li> </ul>
Certification or Documentation	24 CFR 5.2007	8	<ul style="list-style-type: none"> <li>• Will the PHA ask for documentation when an individual presents a claim for VAWA protections, and if so, under what circumstances?</li> <li>• When will the PHA exercise discretion?</li> <li>• How will the PHA define the term "other evidence"?</li> <li>• Will the PHA require submission of documentation within 14 business days?</li> <li>• Will the PHA provide for greater time?</li> <li>• Under what circumstances will greater time be allowed?</li> <li>• How long will the PHA take to acknowledge receipt of documentation?</li> </ul>
5-Year Plan	24 CFR 903.6	9	<ul style="list-style-type: none"> <li>• What are the PHA's goals and objectives to serve the needs of victims?</li> <li>• What activities, policies, or programs will the PHA undertake beyond those required to enable it to serve the needs of victims?</li> </ul>
Annual Plan	24 CFR 903.7	9	<ul style="list-style-type: none"> <li>• Will the PHA offer any domestic violence, dating violence, sexual assault, or stalking prevention programs?</li> <li>• Will the PHA offer any activities, services, or programs either directly or in partnership with other service providers beyond those required?</li> <li>• Will the PHA offer any activities, services, or programs provided or offered by a PHA that help child and adult victims obtain or maintain housing beyond those required?</li> <li>• Will the PHA offer any activities, services, or programs either directly or in partnership with other service providers to enhance victim safety in assisted families?</li> </ul>

Subject	Regulatory Citation	Notice PIH 2017-08 Section	Discretionary Policies and Procedures
HCV Administrative Plan	24 CFR 982.54	9	<ul style="list-style-type: none"> <li>• Does the PHA have any policies regarding domestic violence, dating violence, sexual assault, or stalking, beyond those required?</li> <li>• Under what conditions will an extension of the 14 business day period for submitting documentation be allowed?</li> <li>• Under what conditions will a perpetrator of domestic violence, dating violence, sexual assault or stalking be allowed to rejoin the household upon request of the family?</li> <li>• Will the PHA have a waiting list preference for victims of domestic violence, dating violence, sexual assault, or stalking?</li> </ul>
Public Housing ACOP		9	<ul style="list-style-type: none"> <li>• Does the PHA have policies regarding domestic violence, dating violence, sexual assault, or stalking, beyond those required?</li> <li>• Under what conditions will extensions of the 14-business day period for submitting documentation be allowed?</li> <li>• Under what conditions will a perpetrator of domestic violence, dating violence, sexual assault or stalking be allowed to rejoin the household upon request of the family?</li> <li>• Will the PHA have a waiting list preference for victims of domestic violence, dating violence, sexual assault, or stalking?</li> </ul>
Public Housing Lease	24 CFR 5.2005(a)(4) and 966.4	9	<ul style="list-style-type: none"> <li>• What remedies will be made available to victims of domestic violence, dating violence, sexual assault, or stalking beyond those required?</li> </ul>
VAWA Notice of Occupancy Rights	24 CFR 5.2005(a)	10	<ul style="list-style-type: none"> <li>• If there will be no recertification or lease renewal during the first year, how will the PHA provide the VAWA Notice of Occupancy Rights to each applicant, tenant, or participant?</li> </ul>

Subject	Regulatory Citation	Notice PIH 2017-08 Section	Discretionary Policies and Procedures
Victim Confidentiality	24 CFR 5.2007	11	<ul style="list-style-type: none"> <li>• Who will have access to VAWA information?</li> <li>• How will information be stored and secured?</li> <li>• How will information be accessed?</li> <li>• Who are the PHA's VAWA points of contacts for tenants/participants?</li> <li>• How will the PHA determine appropriate communications with victim?</li> <li>• What procedures will the PHA undertake to ensure others will not overhear conversations with victims?</li> <li>• Will victims be required to come into a PHA office?</li> <li>• Will the PHA suggest that a victim designate a point of contact for communications?</li> </ul>
Emergency Transfer Plan	24 CFR 5.2005(e)	12	<ul style="list-style-type: none"> <li>• Will the PHA accept verbal-certification or require a written request?</li> <li>• Will the PHA require the use of the emergency transfer request document?</li> <li>• How will the PHA define immediately available and reasonable time?</li> <li>• What efforts will the PHA make to assist a tenant who wishes to make an external emergency transfer?</li> <li>• What arrangements, including memoranda of understanding, with other covered housing providers will the PHA undertake to facilitate moves (internal and external)?</li> <li>• What outreach activities will the PHA conduct to organizations that assist or provide resources to victims?</li> <li>• Will the PHA adopt admissions preference for victims seeking an external emergency transfer from another VAWA covered housing provider?</li> <li>• Will the PHA expedite administrative processes for participants who wish to move with their tenant-based assistance, including expedited unit inspections?</li> </ul>

Subject	Regulatory Citation	Notice PIH 2017-08 Section	Discretionary Policies and Procedures
Partnerships		15	<ul style="list-style-type: none"> <li>• What partnerships with domestic violence victim advocates, legal aid services, and law enforcement agencies will the PHA develop to further VAWA protections?</li> <li>• Will the PHA participate in domestic violence working groups?</li> <li>• Will the PHA invite domestic violence victim advocates to speak to resident groups, PHA governing board, and employees?</li> <li>• Will the PHA create pamphlets, posters, and other media to help inform applicants, tenants, and participants about the VAWA protections available to them?</li> <li>• Will the PHA facilitate counseling and support groups through available PHA or community space?</li> </ul>
Lease Bifurcation	24 CFR 5.2009(a)	16	<ul style="list-style-type: none"> <li>• Will the PHA offer lease bifurcation?</li> </ul>
Conflicting Claims of Abuse	24 CFR 5.2007(b)(2)	8	<ul style="list-style-type: none"> <li>• What will the PHA do in cases of conflicting third-party documentation?</li> <li>• Will hearings include a trained third party with experience in adjudicating domestic violence cases?</li> </ul>
Waiting List Preferences	24 CFR 960(b)(4), 982.207(b)(4)	19	<ul style="list-style-type: none"> <li>• Will the PHA adopt waiting list preferences for victims?</li> <li>• What priority will be given to victims?</li> <li>• Will the PHA treat external emergency transfer victims the same or different than other victims not previously assisted under a covered housing program?</li> <li>• Will the PHA limit the preference to persons referred by a partnering service organization or consortia of organizations?</li> </ul>

Subject	Regulatory Citation	Notice PIH 2017-08 Section	Discretionary Policies and Procedures
Notification to Owners		21, Appendix II	<ul style="list-style-type: none"> <li>• Will the PHA provide notice to owners participating in the HCV program of their rights and obligations under VAWA?</li> <li>• Are there State or local laws that provide greater protections than those provided under VAWA that an owner should be made aware of?</li> <li>• Will the PHA provide contact information for local service providers?</li> <li>• How should the owner contact the PHA regarding instances of domestic violence, dating violence, sexual assault, or stalking by or against tenants?</li> </ul>

## Appendix II: Model Owner Notification of Rights and Obligations

[Insert Name of Housing Provider]  
**NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS  
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

### Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through [insert name of housing provider] HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

### Denial of Tenancy

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

### Eviction

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

### *Limitations of VAWA protections:*

- a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):
  - 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
  - 2) The distribution or possession of property among members of a household in a case.
- b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)
- c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent



threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

- i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, 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. (See 24 CFR 5.2003.)
- ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

#### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

- a. Form HUD-55383 (Self-Certification Form); or
- b. A document:
  - 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
  - 2) Signed by the applicant or tenant; and
  - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003;or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

## Moves

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

## Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

## Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, 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.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

### Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

<p>In your own words, briefly describe the incident(s):</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
---

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## **Attachment I**

# **MODERNIZATION**

## PHA 5 Year and Annual Plan Form HUD – 50075

### Statements for Number 7.0

#### I. Mixed Finance, Modernization and Development Activities

##### Significant Amendment Definition

As part of the Rental Assistance Demonstration (RAD), the HACC is redefining the definition of a Substantial Deviation from the PHA Plan to exclude the following RAD-specific items:

1. 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;
2. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
3. Changes to the financing structure for each approved RAD conversion.

An exception to this definition will be made for any of the above that are adopted to reflect changes in HUD regulatory requirements.

##### Branch Village – NJ010-000002 (previously 210 – Family Units)

We received the Choice Neighborhoods Implementation Grant for Branch Village in December 2016. The Plan will benefit the Branch Village residents, and Mt. Ephraim South neighborhood as well as the entire City of Camden.

The HACC applied for a multi-phase Rental Assistance Demonstration (RAD) conversion for this site. We have received the HUD approval in March 2015.

HUD approved demolition and was completed by the fourth quarter of 2018.

Please see summary below.

Phase	Units	Construction Start	Construction End/Projected	Leased Up
Branch Phase 1 Lowrise	50	November 2016	November 2017	January 2018
Branch Phase 2 Townhomes	72	October 2018	December 2019	January 2020

Branch Phase 3 Townhomes II	75	August 2019	October 2020	December 2020
Branch Phase 4 Lowrise II	58	November 2019	December 2020	May 2021
TOTAL	255			

**Ablett Village – NJ010-000001 (306 Family Units)**

We applied and was awarded the Choice Planning Grant for the site in 2018. We submitted the 2-year Transformation Plan for Ablett and the surrounding Cramer Hill neighborhood in September 2020.

We applied for and received the Choice Neighborhoods Implementation Grant for Ablett Village in May 2021. The Plan will benefit the Ablett residents, and Cramer Hill neighborhood as well as the entire City of Camden.

The planned four phase development will develop 425 units with 306 RAD replacement units, 89 Affordable non-replacement units and 30 unrestricted units.

We are currently working on the first phase of the development. Michaels Development Company, our Developer Partner received the 9% tax credit award in 2020 to develop 75 family units, where 68 units are replacement units.

HACC also applied for RAD for this site in 2020 and received a CHAP for this site. We may also opt to redevelop the site using HUD available funding with other third party funding source should the opportunity arise.

For this Ablett redevelopment, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We will identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers.

Will continue to: rehabilitate units; do site improvements; and, building repairs on an as-needed basis until the site is fully redeveloped.



**RAD**

The HACC has amended the 2015 Annual and 5 Year PHA Plan because it was a successful Authority wide Portfolio applicant in the Rental Assistance Demonstration (RAD). As a result, the HACC will be converting to RAD project Based Voucher under the guidelines of PIH Notice 2012-32 (HA) H-2017-03, REV-3, H-2019-09, REV-4, and any successor Notices. Upon conversion of each site to RAD Project Based Vouchers, the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in Sections 1.6 C & 1.6 D of PIH Notice 2012-32 (HA) H-2017-03, REV-3, H-2019-09, REV-4 . These resident rights, participation, waiting list and grievance procedures are attached and appended to this Attachment. Additionally, the HACC is currently compliant with all fair housing and civil requirements and is not under a Voluntary Compliance Agreement.

HACC will comply with all HUD site selection and neighborhood standards review regulations for all RAD conversions.

The protections of Resident Participation and Funding under RAD conversion using PBVs is found in pages 60-73 of the PIH 2019-23 (HA), Rev 4 appended and attached to this attachment.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing HACC with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, the Authority’s Capital Fund Budget and ACC subsidy will be reduced by the pro rata share of Public Housing Developments converted as part of the RAD Conversion and that HACC may also borrow funds to address their capital needs.

**Resident Rights, Participation, Waiting List and Grievance Procedures**

See Section 1.6C and Section 1.6D and attachment 1 D Table 1 attached (pages 60 through 73 of PIH 2019 23 (HA) H-2019-09, Rev-4) and Joint Housing/PIH Notice H-2016-17/PIH-2016-17.

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

First Ablett Village Phase Off-site Development:

Name of Public Housing Development: Ablett Village	PIC Development ID: NJ010000001	Conversion Type: PBV	Transfer of Assistance: N/A
Total Units: 68	Pre-RAD Unit Type: Family	Post-Rad Unit Type: Family	Capital Fund allocation of Development: N/A
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why
Studio/Efficiency			

One Bedroom	14	14	HACC needs to have 1 bedroom units completed for this phase to accommodate the present residents of Ablett.
Two Bedroom	38	38	
Three Bedroom	16	16	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
Performing a Transfer of Assistance	N/A		

## Second Ablett Village Phase Off-site Development:

Name of Public Housing Development: Ablett Village	PIC Development ID: NJ01000001	Conversion Type: PBV	Transfer of Assistance: N/A
Total Units: 47	Pre-RAD Unit Type: Family	Post-Rad Unit Type: Family	Capital Fund allocation of Development: N/A
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why
Studio/Efficiency			
One Bedroom	39	39	HACC needs to have 1 bedroom units completed for this phase to accommodate the present residents of Ablett.
Two Bedroom	8	8	

Three Bedroom	0	0	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
Performing a Transfer of Assistance	N/A		

## Third Ablett Village Phase On-site Development:

Name of Public Housing Development: Ablett Village	PIC Development ID: NJ010000001	Conversion Type: PBV	Transfer of Assistance: N/A
Total Units: 140	Pre-RAD Unit Type: Family	Post-Rad Unit Type: Family	Capital Fund allocation of Development: N/A
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why
Studio/Efficiency			
One Bedroom	9	9	HACC needs to have 1 bedroom units completed for this phase to accommodate the present residents of Ablett.
Two Bedroom	111	111	
Three Bedroom	15	15	
Four Bedroom	5	5	
Five Bedroom	0	0	
Six Bedroom	0	0	

Performing a Transfer of Assistance	N/A
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Fourth Ablett Village Phase Off-site Development:

Name of Public Housing Development: Ablett Village	PIC Development ID: NJ010000001	Conversion Type: PBV	Transfer of Assistance: N/A
Total Units: 51	Pre-RAD Unit Type: Family	Post-Rad Unit Type: Family	Capital Fund allocation of Development: N/A
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why
Studio/Efficiency			
One Bedroom	5	5	HACC needs to have 1 bedroom units completed for this phase to accommodate the present residents of Ablett.
Two Bedroom	32	32	
Three Bedroom	14	14	
Four Bedroom	0	0	
Five Bedroom	0	0	
Six Bedroom	0	0	
Performing a Transfer of Assistance	N/A		

**McGuire Gardens -- NJ010-000006 (253 Family Units)**

The HACC applied for a Rental Assistance Demonstration (RAD) conversion for this site for long overdue and expensive rehab that HACC did not have the funds for. We have received the HUD approval in March 2015. Michaels (developer) submitted a tax-exempt bond application which was awarded along

with the 4% tax credits in 2017. The financing closing occurred in November 2019. Rehabilitation of the units is on-going and expected to be completed by the third quarter of 2021. On site relocation of residents occurred during unit rehabilitation. The relocation of residents to on-site hospitality units should was not be for more than approximately 2 weeks.

**RAD**

The HACC has amended the 2015 Annual and 5 Year PHA Plan because it was a successful applicant in the Rental Assistance Demonstration (RAD). As a result, the HACC will be converting to RAD project Based Voucher under the guidelines of PIH Notice 2012-32 (HA) H-2017-03, REV-3, H-2019-09, REV-4, and any successor Notices. Upon conversion of each site to RAD Project Based Vouchers, the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in Sections 1.6 C & 1.6 D of PIH Notice 2012-32 (HA) H-2017-03, REV-3, H-2019-09, REV-4 . These resident rights, participation, waiting list and grievance procedures are attached and appended to this Attachment. Additionally, the HACC is currently compliant with all fair housing and civil requirements and is not under a Voluntary Compliance Agreement.

HACC will comply with all HUD site selection and neighborhood standards review regulations for all RAD conversions.

The protections of Resident Participation and Funding under RAD conversion using PBVs is found in pages 60-73 of the PIH 2019-23 (HA), Rev 4 appended and attached to this attachment.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing HACC with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, the Authority’s Capital Fund Budget will be reduced by the pro rata share of Public Housing Developments converted as part of the Demonstration and that HACC may also borrow funds to address their capital needs.

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

Name of Public Housing Development: McGuire Gardens	PIC Development ID: NJ010000006	Conversion Type: PBV	Transfer of Assistance: N/A
Total Units: 253	Pre-RAD Unit Type: Family	Post-Rad Unit Type: Family	Capital Fund allocation of Development: \$634,089
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why:

			N/A. Renovation of exiting units
Studio/Efficiency			
One Bedroom	29	29	
Two Bedroom	121	121	
Three Bedroom	92	91	
Four Bedroom	11	11	
Five Bedroom			
Six Bedroom			

#### Resident Rights, Participation, Waiting List and Grievance Procedures

See Section 1.6C and Section 1.6D and attachment 1 D Table 1 attached (pages 60 through 73 of PIH 2019 23 (HA) H-2019-09, Rev-4) and Joint Housing/PIH Notice H-2016-17/PIH-2016-17.

#### Capital Fund Financing Program (CFFP)

The units at McGuire were used in the proration of paying off the CFFP obligations. The conversion of these units will affect the obligation to the lender since the balance of annual capital funds is not sufficient to meet our obligations under HUD's rules.

We worked with Michaels (developer) and NJHMFA to include the pro rata cost of the bond liabilities as part of the development deal for each Branch Village phase.

#### Chelton Terrace – NJ010-000003 (66 units)

Continue to do rehab of units, site improvements and building repairs when necessary. The HVAC system and hot water heater replacement was completed in April 2021 on the entire site.

HACC applied for RAD and was awarded CHAP for this site. We may also opt to redevelop the site using HUD, State funding with other third party funding source should the opportunity arise.

We may do the RAD conversion for this site in 2021 or 2022.

For this Chelton Terrace Phase I development, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA), as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF).

We will identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

**Chelton Terrace Phase II – NJ010-000004 (101 units)**

This is a mixed finance transaction under our Roosevelt Manor HOPE VI. The development has reached the end of its tax credit compliance period. As a result, HACC will exercise its option in 2021/or 2022 to take the development back.

We may do the RAD conversion for this site in 2022 or 2023.

For this Chelton Terrace Phase II development, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We will identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

**Kennedy Towers – NJ010-000016 (99 – Elderly with 11 non-dwelling units)**

Continue to do rehab of units, site improvements and building repairs (including but not limited to repointing, waterproofing, façade restoration, interior and exterior building upgrade) when necessary. The bid netting was completed in April 2021.

We may renovate and upgrade the lobby and boiler room upgrade for this site.

RAD Physical Condition Needs Assessment (RPCNA) was done for this site.

HACC will renew the HUD Elderly Only Designation for Kennedy Tower.

HACC applied for RAD and was awarded CHAP for this site. We may also opt to redevelop the site using HUD and State funding with other third party funding source should the opportunity arise.

We may do the RAD conversion for this site in 2022 or 2023.

For this site, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

**Westfield Towers – NJ010-000017 (103 Elderly)**

Continue to do rehab of units, site improvements and building repairs (including but not limited to repointing, waterproofing, façade restoration, interior and exterior building upgrade) when necessary. The bid netting was completed in May 2021.

We may renovate and upgrade the lobby and boiler room upgrade for this site.

May do site improvements and energy audit for retrofitting building with a HVAC system.

RAD Physical Condition Needs Assessment (RPCNA) was done for this site.

HACC may be applying for an Elderly Only Designation for the Westfield Towers.

HACC applied for RAD and was awarded CHAP for this site. We may also opt to redevelop the site using HUD available funding with other third party funding source should the opportunity arise.

A RAD conversion may occur in 2022 or 2023.

For this site, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

**Mickle Towers – NJ010-000018 (104 Elderly)**

May do site improvements and energy audit for retrofitting building with a HVAC system.

May do façade restoration, converting the community bathroom to be ADA compliant, and renovation and extension of the management office.

Continue to do rehab of units, site improvements and building repairs (including but not limited to repointing, waterproofing, façade restoration, interior and exterior building upgrade) when necessary. The bid netting was completed in June 2021.

We may renovate and upgrade the lobby for this site.

RAD Physical Condition Needs Assessment (RPCNA) was done for this site.

HACC may be applying for an Elderly Only Designation for Mickle Tower.

HACC may develop the surplus land surrounding Mickle as an extension of outdoor amenities at Mickle or other development activities.



HACC applied for RAD and was awarded CHAP for this site. We may also opt to redevelop the site using HUD available funding with other third party funding source should the opportunity arise.

A RAD conversion may occur in 2022 or 2023.

For this site, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

**Transfer of the 3 Baldwins Run Phases**

Pennrose has offered to transfer the three properties back to HACC. The three phases – Phase 1 (78 units), Phase 8 (73 units) and Phase 9 Senior (74 units) will be transferred from Pennrose to an instrumentality of HACC which will occur in 2021 or 2022. HACC will likely apply for RAD for these three phases in the future.

HACC hired a consultant to assist in the financial and ownership structure analysis for this proposal for future acquisition of these sites.

Watson Street Management and Development Corporation (HACC's instrumentality) will form 6 separate LLCs, two for each respective Baldwin's Run phase to enter into the ownership structure.

**Baldwin's Run – NJ010-000013 (78 Units)**

**Baldwin's Run II – NJ010-000015 (73 Units)**

**Baldwin's Run Senior Building – NJ010-000019 (74 Units)**

A Green and Physical Needs Assessment will be completed for these sites in 2021/2022 as required by HUD.

RAD Physical Condition Needs Assessment (RPCNA) will done for this site.

HACC will renew the HUD Elderly Only Designation for Baldwin's Run Senior building.

Upon receipt of this site, HACC will allocate a pro rata share of the annual Capital Funds to these developments.

We have completed the patio/maintenance office renovation of the community center in May 2021.

Will rehabilitate units; do site improvements; and, building repairs on an as-needed basis.

We may also opt to redevelop these sites using HUD and State funding with other third party funding source should the opportunity arise.

HACC will exercise its option in 2021/2022 to take the Baldwin's Run development phases back.

For these Baldwin's Run development sites, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion

**All AMPs (01 -19 except 2,5,6 and 7)**

A HUD Green and Physical Needs and Energy Needs Assessment will be done for all AMPs (from 1 to 19 except 2 ,5, 6 and 7) in 2019/2020 as required by HUD. The assessments are not needed anymore for AMP # 2 (Branch) and # 6 (McGuire Gardens). AMP # 5 is the former demolished Chelton Terrace site and AMP # 7 is the demolished Roosevelt Manor site.

RPCNA's will be done for AMPs being converted to RAD project based subsidy.

Verizon may seek easement on all properties to provide FIOS services at the sites.

May continue to do site improvements and building repairs for HACC's central office, and all of HACC's community centers, including the HACC social service building.

For these developments, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA). We will identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers.

**Chelton Terrace Phase 2 - NJ010-000004**

The tax credit compliance period will expire in 2019 for the 101 units in this phase. There is an option to take back the property as a result. HACC will exercise that option and take the property back through HACC or an HACC affiliate or instrumentality in 2021 or 2022.

Upon acquisition of this site, HACC will allocate a pro-rata share of the annual Capital Funds to these developments.

Will rehabilitate units; do site improvements; and, building repairs on an as-needed basis.

HACC will likely apply for RAD for these sites. We may also opt to redevelop these sites using HUD and State funding with other third party funding source should the opportunity arise.

For this site, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

## **II. Demolition and/or Disposition**

### **Ablett Village – NJ010-000001 (306 Family Units)**

Will demolish portions or all of the site in the future to redevelop the entire development if funding since we received a Choice Implementation grant in 2021 for this site. We will dispose portion of the respective site to the newly created ownership entities upon redevelopment.

### **Baldwin’s Run – NJ10-15**

HACC will take back the 3 phases at Baldwin’s Run from Pennrose’s affiliates now owner of the 3 phases.

### **Chelton Terrace Phase 2 - NJ010-000004**

HACC will exercise the option to take back the property through an HACC affiliate or instrumentality.

## **III. Conversion of Public Housing**

HACC is not proposing to do any voluntary conversion of any units throughout the inventory.

The HACC will continue to do the RAD portfolio conversion at HACC’s AMPs.

## **IV. Homeownership**

### **Branch Village – NJ010-000002 (210 – Family Units)**

Will construct or rehabilitate up to 10 units of homeownership units. HUD approved the use of the HUD Choice Implementation Grant funding for this project.

### **Project Based Vouchers**

May provide project based vouchers to Ablett Village as a way to generate cash flow to secure debt to assist in doing the mixed-finance phases on the Ablett sites.

May provide project based vouchers, directly through the Section 8 program or the RAD programs to affordable housing developers who will house low income individuals and families including the homeless.

**V. Rental Assistance Demonstration (RAD)**

HACC applied for RAD conversion for the entire HACC portfolio to access funding for redevelopment or rehabilitation. We have completed RAD conversions at two of our sites as of August 2021.

HACC submitted a RAD portfolio application and to date obtained CHAP awards for the following sites: Ablett, Chelton Terrace Phase I, Kennedy Towers, Mickle Towers, Westfield Towers, Morgan Village, Roosevelt Manor Phases 5, 9 and 10.

For these developments, HACC may opt to utilize a blend of RAD program authority, and Section 18 disposition authority provided through Section 3.A.3.c of PIH Notice 2018-04 (HA) as well as Demolition Disposition Transition Funding (DDTF) and Asset Reposition Fee (ARF). We may identify portion of the project that may be partially disposed of through Section 18 and replaced with Project-Based Vouchers. HACC may opt to create a LLC that HACC will dispose the property to in the RAD conversion.

HACC may also use our HUD Faircloth limit to do additional RAD units.

**Table 1: List of RAD Program Elements Affecting Resident Rights and Participation, Waiting List and Grievance Procedures for PBV and PBRA**

Below, please find a table listing out each of the provisions affecting residents' rights and participation, waiting list and grievance procedures that must be included in a PHA's Significant Amendment. The table lists out the provisions applicable to the type of conversion (PBV or PBRA) that the PHA is proposing. This list is not a substitute for providing a copy of the relevant tenant protections listed below. PHAs should either provide reference to these tenant protections or place the tenant protections cited in this table directly into their Plan submission.

Project Based Voucher Requirements (Section 1.6 of Notice H 2019-xx, PIH 2019-xx; and Notice H 2016-17, PIH 2016-17)	Project Based Rental Assistance Requirements (Section 1.7 of Notice H 2019-xx, PIH 2019-xx; and Notice H 2016-17, PIH 2016-17)
<b>Tenant Protections Under Notice H 2016-17; PIH 2016-17</b>	
1. Right to Return and Relocation Assistance	1. Right to return and Relocation Assistance
<b>Tenant Protections Under Section 1.6.C (PBV) or Section 1.7.B (PBRA)</b>	
1. No rescreening of tenants upon conversion	1. No rescreening of tenants upon conversion
2. Under-Occupied Unit	2. Under-Occupied Unit
3. Phase-in of tenant rent increase	3. Phase-in of tenant rent increase
4. FSS and ROSS-SC programs	4. FSS and ROSS-SC programs
5. Resident Participation and Funding	5. Resident Participation and Funding
6. Termination notification	6. Termination notification
7. Grievance process	7. Grievance process
8. Earned Income Disregard.	8. Earned Income Disregard
9. Jobs Plus	9. Jobs Plus

Attachment ID - Requirements for RAD-Specific Significant Amendment Submissions

10. When Total Tenant Payment Exceeds Gross Rent.	10. When Total Tenant Payment Exceeds Gross Rent.
<b>Tenant Protections Under Section 1.6.D (PBV) or Section 1.7.C (PBRA)</b>	
1. Establishment of Waiting List	1. Establishment of Waiting List
2. Choice-Mobility	2. Choice-Mobility

By way of summary and not as a modification of the program requirements set forth in the Notice provisions referenced, please note that the foregoing tenant protections for RAD PBV residents apply to non-RAD PBV residents of the same Covered Project with the exception of Choice Mobility. Standard PBV Choice Mobility requirements apply to non-RAD PBV residents.

same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained. Units that float are not specifically designated under the HAP Contract. Therefore, the requirements in 24 CFR § 983.203(c) that the HAP Contract provide “the location of each contract unit” and “the area of each contract unit” are waived. Instead, the HAP Contract must specify the number and type of units in the property that are designated as RAD units, including any excepted units. From the time of the initial execution of the PBV RAD HAP Contract, the property must maintain the same number and type of UFAS accessible units. Floating units are subject to all of the requirements in this Notice and the PBV regulations, including physical inspections, rent adjustments, and income-mixing requirements. The alternative requirements with respect to floating units do not apply to non-RAD PBV units.

### **C. PBV Resident Rights and Participation.**

1. **No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>36</sup> 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

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<sup>36</sup> These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

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<sup>37</sup>

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.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

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.<sup>38</sup> 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.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

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 IB, 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),<sup>40</sup> 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.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

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.<sup>41</sup> 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 an 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.

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

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.<sup>42</sup>
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

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.



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).<sup>43</sup>

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

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

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).

same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained. Units that float are not specifically designated under the HAP Contract. Therefore, the requirements in 24 CFR § 983.203(c) that the HAP Contract provide “the location of each contract unit” and “the area of each contract unit” are waived. Instead, the HAP Contract must specify the number and type of units in the property that are designated as RAD units, including any excepted units. From the time of the initial execution of the PBV RAD HAP Contract, the property must maintain the same number and type of UFAS accessible units. Floating units are subject to all of the requirements in this Notice and the PBV regulations, including physical inspections, rent adjustments, and income-mixing requirements. The alternative requirements with respect to floating units do not apply to non-RAD PBV units.

### **C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>36</sup> 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

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<sup>36</sup> These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

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<sup>37</sup>

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.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TPP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

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.<sup>38</sup> 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.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.



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 IB, 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),<sup>40</sup> 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.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

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.<sup>41</sup> 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 an 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.

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

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.<sup>42</sup>
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

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

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).<sup>43</sup>

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

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.



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).

**Appendix 2: SAMPLE RAD GENERAL INFORMATION NOTICE (GIN)**

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PHA LETTERHEAD

RENTAL ASSISTANCE DEMONSTRATION (RAD)  
GENERAL INFORMATION NOTICE (GIN)

[Date]

Dear [Resident Name],

The property you currently occupy is being proposed for participation in the Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program. At this time, we expect that [the proposed acquisition, rehabilitation or demolition, may require you to be relocated (temporarily or permanently) from your unit]. We will provide further details to you as plans develop. **This notice does not mean that you need to leave the property at this time. This is not a notice of eligibility for relocation assistance.** The remainder of this letter only applies to situations where you will need to be relocated from your unit.

This notice serves to inform you of your potential rights under the RAD program and a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). If the proposed RAD project receives HUD approval and if you are displaced permanently as a result, you may become eligible for relocation assistance and payments under the URA, including:

- 1) Relocation advisory services that include referrals to replacement properties, help in filing payment claims and other necessary assistance to help you successfully relocate;
- 2) At least 90 days' advance written notice of the date you will be required to move;
- 3) Payment for moving expenses; and
- 4) Payments to enable you to rent a similar replacement home.

NOTE: Aliens not lawfully present in the United States are not eligible for URA relocation assistance, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined at 49 CFR 24.208(h). All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an immigrant lawfully present in the United States.

As a resident of a property participating in RAD, you have the right to return to the project after the project is complete. You will be able to lease and occupy a unit in the converted project when rehabilitation is complete.

If you are permanently displaced from your home, you will not be required to move until you are given at least 90-day advance written notice of any required move and at least one comparable replacement dwelling has been made available to you. If you are temporarily relocated and your temporary relocation lasts more than one year, you will be contacted and offered permanent relocation assistance as a displaced person under the URA. This assistance would be in addition

to any assistance you may receive in connection with temporary relocation and will not be reduced by the amount of any temporary relocation assistance you have already received.

If you are required to relocate from the property in the future, you will be informed in writing. [PHA] will inform you of what assistance and payments you are eligible for if you will be relocated because of RAD and how you will receive these payments. If you become a displaced person, you will be provided reasonable assistance necessary to complete and file any required claim to receive a relocation payment. If you feel that your eligibility for assistance is not properly considered, you will also have the right to appeal a determination on your eligibility for relocation assistance.

You should continue to pay your rent and meet any other requirements specified in your lease. If you fail to do so, [PHA] may have cause for your eviction. If you choose to move, or if you are evicted, prior to receiving a formal notice of relocation eligibility, you may become ineligible to receive relocation assistance. It is very important for you to contact us before making any moving plans.

You will be contacted soon so that we can provide you with more information about the proposed project. If the project is approved, we will make every effort to accommodate your needs. In the meantime, if you have any questions about our plans, please contact: [Name, Title, Address, Phone, Email Address]. This letter is important to you and should be retained.

Sincerely,

[Name]

[Title]

NOTES:

1. Files must indicate how this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (49 CFR 24.5 and Paragraph 2-3(J) of Handbook 1378)
2. This is a sample GIN. PHAs should revise it to reflect project-specific circumstances.
3. PHAs may provide residents with HUD brochure "Relocation Assistance To Residents Displaced From Their Homes" available at:  
<http://www.hud.gov/offices/cpd/library/relocation/publications/1042.pdf>.

Appendix 3: SAMPLE RAD NOTICE OF RELOCATION (For relocation anticipated for a year or less)

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**THIS IS A GUIDE FORM.  
REVISE TO REFLECT THE PROJECT-SPECIFIC CIRCUMSTANCES.**

PHA Letterhead

(date)

Dear [*Resident Name*],

The property you currently occupy is participating in the Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program. On [*date*], the [*Public Housing Authority*] (PHA) notified you of proposed plans to [*acquire/ rehabilitate/demolish*] the property you currently occupy at [*address*]. On [*date*], HUD issued the RAD Conversion Commitment (RCC) and committed federal financial assistance to the project. [*In instances where a Notice of Intent to Acquire is applicable and this notice is being sent before the RCC is issued, in lieu of the previous sentence noting the RCC issuance date, insert: [Name of entity acquiring the property]*] (Displacing Agency) intends to acquire the property you currently occupy. **This is a Notice of Intent to Acquire.**

In order for PHA to complete the project, you will need to be relocated for [*anticipated duration of relocation*]. Upon completion of the project, you will be able to lease and occupy your present unit or another decent, safe and sanitary unit in the completed project under reasonable terms and conditions. You are eligible for relocation payments and assistance.

However, **you do not need to move now.** This notice informs you that a decent, safe, and sanitary dwelling unit, listed below, has been made available to you and you will be required to move by [*insert date at least 30 days after the date of this notice*].

If your temporary relocation exceeds one year and you qualify as a "displaced person" under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), you may be eligible for further relocation assistance and payments under URA.

NOTE: Aliens not lawfully present in the United States are not eligible for URA relocation assistance, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined at 49 CFR 24.208(h). All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

The relocation assistance to which you are entitled includes:

- Payment for Moving Expenses. You are entitled to be reimbursed for all reasonable out-of-pocket expenses incurred in connection with any temporary

move. [PHA should list the form of payment for moving expenses selected in accordance with Appendix 1, Section 4 of this Notice.]

- The location of your temporary replacement unit is [address]. This temporary housing has been determined to be decent, safe and sanitary.
- [List appropriate relocation advisory services and any other services and assistance provided.]

If you disagree with this determination, you may file a written appeal to the PHA in accordance with 49 CFR 24.10.

If you have any questions about this notice and your eligibility for relocation assistance and payments, please contact [Name, Title, Address, Phone, Email Address] before you make any moving plans. He/she will assist you with your move to a temporary unit and help ensure that you preserve your eligibility for any relocation payments to which you may be entitled.

**Remember, do not move or commit to the purchase or lease of a replacement home** before we have a chance to further discuss your eligibility for relocation assistance. This letter is important to you and should be retained.

Sincerely,

\_\_\_\_\_  
Print name:

Title:

*NOTE: The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3(J) of Handbook 1378.)*

**Appendix 4: SAMPLE RAD NOTICE OF RELOCATION (For relocation anticipated for more than a year)**

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***THIS IS A GUIDE FORM.  
REVISE TO REFLECT THE PROJECT-SPECIFIC CIRCUMSTANCES.***

PHA Letterhead

(date)

Dear [*Resident Name*],

The property you currently occupy is participating in the Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program. On [*date*], the [*Public Housing Authority*] (PHA), notified you of proposed plans to [*acquire/ rehabilitate/demolish*] the property you currently occupy at [*address*]. On [*date*], HUD issued the RAD Conversion Commitment (RCC) and committed federal financial assistance to the project. [*In instances where a Notice of Intent to Acquire is applicable and this notice is being sent before the RCC is issued, in lieu of the previous sentence noting the RCC issuance date, insert: [Name of entity acquiring the property] (Displacing Agency) intends to acquire the property you currently occupy. This is a Notice of Intent to Acquire.*]

In order for PHA to complete the project, you will need to be relocated for [*anticipated duration of relocation*]. Upon completion of the project, you will be able to lease and occupy your present unit or another decent, safe and sanitary unit in the completed project under reasonable terms and conditions. You are eligible for relocation assistance and payments. Because we expect your relocation to exceed one year, you have the choice to either:

- Receive temporary relocation assistance and return to a unit in the RAD project once it is complete; or
- Receive permanent relocation assistance and payments consistent with the URA instead of returning to the completed RAD project.

You must inform us of your choice within 30 days.

However, **you do not need to move now**. If you choose temporary relocation assistance, you will not be required to move sooner than 30 days after you receive notice that a temporary unit is available for you. If you choose permanent relocation assistance, you will not be required to move sooner than 90 days after you receive written notice that at least one comparable replacement unit is available to you in accordance with 49 CFR 24.204(a). [*Note to PHA: These time periods may start running as of the date of this Notice if the notice of relocation includes such information on the temporary and/or comparable replacement dwelling options, as applicable. In such circumstance, add applicable sentences to adequately notify the resident. For example: This notice informs you that a temporary unit, listed below, has been made available to you and, if you choose this option, you will be required to move by [date no sooner than 30 days after notice]. This notice informs you*

that a comparable unit, listed below, has been made available to you and, if you choose this option, you will be required to move by [*date no sooner than 90 days after notice*].]

If you choose temporary relocation, your relocation exceeds one year and you qualify as a "displaced person" under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), you may become eligible for further relocation assistance and payments under URA.

NOTE: Aliens not lawfully present in the United States are not eligible for URA relocation assistance, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined at 49 CFR 24.208(h). All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

If you choose to receive temporary relocation assistance, this assistance will include:

- Payment for Moving Expenses. You are entitled to be reimbursed for all reasonable out-of-pocket expenses incurred in connection with any temporary move. [*PHA should list the form of payment for moving expenses selected in accordance with Appendix 1, Section 4 of this Notice.*]
- The location of your temporary replacement unit is [*address*]. This temporary housing has been determined to be decent, safe and sanitary.
- [*List appropriate relocation advisory services and any other services and assistance provided.*]

If you elect to receive permanent relocation assistance, this assistance will include:

- Relocation Advisory Services. You are entitled to receive current and continuing information on available comparable replacement units and other assistance to help you find another home and prepare to move.
- Payment for Moving Expenses. [*PHA should list the form of payment for moving expenses selected in accordance with Appendix 1, Section 5 of this Notice.*]
- Replacement Housing Payment. You may be eligible for a replacement housing payment to rent or buy a replacement home. The payment is based on several factors including: (1) the monthly rent and cost of utility services for a comparable replacement unit, (2) the monthly rent and cost of utility services for your present unit, and (3) 30% of your average monthly gross household income. This payment is calculated on the difference between the old and new housing costs for a one-month period and multiplied by 42.
- [*PHA: list here any permanent relocation assistance offered, such as a Housing Choice Voucher.*]



- Listed below are three comparable replacement units that you may wish to consider for your replacement home. If you would like, we can arrange transportation for you to inspect these and other replacement units.

	Address	Rent & Utility Costs	Contact Info
1.			
2.			
3.			

We believe that the unit located at [address] is most representative of your original unit in the converting RAD project. The monthly rent and the estimated average monthly cost of utilities for this unit is [\$ amount] and it will be used to calculate your maximum replacement housing payment. Please contact us immediately if you believe this unit is not comparable to your original unit. We can explain our basis for selecting this unit as most representative of your original unit and discuss your concerns.

Based on the information you have provided about your income and the rent and utilities you now pay, you may be eligible for a maximum replacement housing payment of approximately [\$ (42 x monthly amount)], if you rent the unit identified above as the most comparable to your current home or rent another unit of equal cost.

Replacement housing payments are not adjusted to reflect future rent increases or changes in income. This is the maximum amount that you would be eligible to receive. If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than the comparable unit, your replacement housing payment will be based on the actual cost of that unit. All replacement housing payments must be paid in installments. Your payment will be paid in [#] installments.

You may choose to purchase (rather than rent) a decent, safe and sanitary replacement home. If you do, you would be eligible for a down-payment assistance payment which is equal to your maximum replacement housing payment, [\$amount.] [PHAs should note that, at the agency's discretion, a down-payment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. (See 49 CFR 24.402(c)(1)).] Let us know if you are interested in purchasing a replacement home and we will help you locate such housing.

Please note that all replacement housing must be inspected in order to ensure it is decent, safe and sanitary before any replacement housing payments are made.

If you have any questions about this notice and your eligibility for relocation assistance and payments, please contact [Name, Title, Address, Phone, Email Address] before you make any moving plans. He/she will assist you with your move to a new home and help ensure that you preserve your eligibility for all relocation payments to which you may be entitled.

**Remember, do not move or commit to the purchase or lease of a replacement home** before we have a chance to further discuss your eligibility for relocation assistance. This letter is important to you and should be retained.

Sincerely,

\_\_\_\_\_

Print name:

Title:

Enclosure/s

*NOTE: The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3(J) of Handbook 1378.)*

**Appendix 5: SAMPLE NOTICE OF ELIGIBILITY FOR URA RELOCATION ASSISTANCE (For residents who have been temporarily relocated for more than a year)**

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***THIS IS A GUIDE FORM.  
IT SHOULD BE REVISED TO REFLECT THE CIRCUMSTANCES.***

PHA Letterhead

(date)

Dear [*Resident*]:

The property you formerly occupied at [*address*] is participating in the Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program. You have been temporarily relocated from that property since [*date*.] Your temporary relocation has exceeded one year.

It has been determined that you qualify as a "displaced person" according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). You are eligible for relocation assistance and payments under the URA.

**You may choose to remain temporarily relocated and return to a unit in the RAD project once it is completed.** It is currently estimated that you may return to the RAD project by [*date*]. If you choose to remain temporarily relocated, you will stay at your current location until the RAD project is completed.

Alternatively, you may choose permanent relocation assistance and payments for which you are eligible, as listed below. If you choose permanent relocation assistance, you give up your right to return to the completed RAD project. However, **you do not need to move now.** If you choose permanent relocation assistance instead of exercising your right to return to the completed RAD project, you will not be required to move sooner than 90 days from the date that at least one comparable replacement unit has been made available to you. [*Alternatively:* You will not be required to move sooner than 90 days from the date of this notice, which informs you of a comparable replacement unit that has been made available for you].

**This is your Notice of Eligibility for relocation assistance.**

**The effective date of your eligibility is [*insert date that relocation exceeds one year.*]**

**NOTE: Aliens not lawfully present in the United States are not eligible for URA relocation assistance, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined at 49 CFR 24.208(h). All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.**

Enclosed is a brochure entitled, "Relocation Assistance to Tenants Displaced From Their Homes." Please read the brochure carefully. It explains your rights and provides additional information on eligibility for relocation payments and what you must do in order to receive these payments.

The relocation assistance to which you are entitled includes:

- Relocation Advisory Services. You are entitled to receive current and continuing information on available comparable replacement units and other assistance to help you find another home and prepare to move.
- Payment for Moving Expenses. *[PHA should list the form of payment for moving expenses selected in accordance with Appendix 1, Section 5 of this Notice.]* This is in addition to any amounts received to reimburse for any reasonable out-of-pocket expenses incurred in connection with the temporary move.
- Replacement Housing Payment. You may be eligible for a replacement housing payment to rent or buy a replacement home. The payment is based on several factors including: (1) the monthly rent and cost of utility services for a comparable replacement unit, (2) the monthly rent and cost of utility services for your present home, and (3) for low-income persons, 30 percent of your average monthly gross household income. This payment is calculated on the difference between the old and new housing costs for a one-month period and multiplied by 42.
- *[PHA list here any other relocation assistance offered the resident, such as Housing Choice Voucher .]*

Listed below are three comparable replacement units that you may wish to consider for your replacement home. If you would like, we can arrange transportation for you to inspect these and other replacement units.

	Address	Rent & Utility Costs	Contact Info
1.			
2.			
3.			

We believe that the unit located at *[address]* is most representative of the original unit you occupied in the converting RAD project. The monthly rent and the estimated average monthly cost of utilities for this unit is \$*[amount]* and it will be used to calculate your maximum replacement housing payment. Please contact us immediately if you believe this unit is not comparable to your original unit. We can explain our basis for selecting this unit as most representative of your original unit and discuss your concerns.

Based on the information you have provided about your income and the rent and utilities you now pay, you may be eligible for a maximum replacement housing payment of approximately \$ [42 x \$Amount], if you rent the unit identified above as the most comparable to your current home or rent another unit of equal cost.

Replacement housing payments are not adjusted to reflect future rent increases or changes in income. This is the maximum amount that you would be eligible to receive. If you rent a decent, safe and sanitary home where the monthly rent and average estimated utility costs are less than the comparable unit, your replacement housing payment will be based on the actual cost of that unit. All replacement housing payments must be paid in installments. Your payment will be paid in [#] installments.

Should you choose to purchase (rather than rent) a decent, safe and sanitary replacement home, you would be eligible for a downpayment assistance payment which is equal to your maximum replacement housing payment, [\$ amount] [PHAs should note that, at the agency's discretion, a downpayment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. (See 49 CFR 24.402(c)(1)).] Let us know if you are interested in purchasing a replacement home and we will help you locate such housing.

Please note that all replacement housing must be inspected in order to ensure it is decent, safe, and sanitary before any replacement housing payments are made.

If you have any questions about this notice and your eligibility for relocation assistance and payments, please contact [Name, Title, Address, Phone, Email Address] before you make any moving plans. He/she will assist you with your move to a new home and help ensure that you preserve your eligibility for any applicable relocation payments.

**Remember, do not move or commit to the purchase or lease of a replacement home** before we have a chance to further discuss your eligibility for relocation assistance. This letter is important to you and should be retained.

Sincerely,

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Print Name:

Title:

Enclosure/s

*NOTE: The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3(J) of Handbook 1378.)*



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

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<b>Special Attention of:</b>	<b>Notice H 2014-09</b>
Public Housing Agencies	PIH 2014-17
Public Housing Hub Office Directors	
Public Housing Program Center Directors	Issued: July 14, 2014
Regional Directors	
Field Office Directors	This notice remains in effect until amended, superseded, or rescinded.
RAD Transaction Managers	
	Cross Reference: PIH Notice 2012-32 (HA) REV 1

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**Subject: Relocation Requirements under the Rental Assistance Demonstration (RAD) Program, Public Housing in the First Component**

**1. Purpose**

This Notice provides public housing agencies (PHAs)<sup>1</sup> and their partners with information and resources on applicable program and relocation assistance requirements when planning for or implementing resident moves as a result of a **Rental Assistance Demonstration (RAD) conversion**<sup>2</sup> under the first component of the demonstration.<sup>3</sup> This Notice provides guidance on RAD relocation requirements and requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), as they relate to the public housing conversion process under the first component.<sup>4</sup>

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<sup>1</sup> This Notice always uses the term "PHA" to refer to the owner of the project prior to and after the RAD conversion, even though, in some cases, the owner of the converted RAD project may be another public entity, a non-profit organization, or other owner (e.g., low-income housing tax credit owner). In addition, this Notice uses "PHA" to refer to the "displacing agency," a URA term that means 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, may require substituting in a reference to a party that is more appropriate for a specific project.

<sup>2</sup> 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.

<sup>3</sup> The "first component" of RAD allows public housing and Moderate Rehabilitation properties to convert assistance; the "second component" refers to conversion of Rent Supplement, Rental Assistance Payment, and Moderate Rehabilitation properties upon contract expiration or termination.

<sup>4</sup> Relocation concerns and URA requirements apply to both components of RAD. This notice provides guidance only as to the first component.

Relocation assistance provided pursuant to public housing and RAD requirements is broader than URA relocation assistance requirements. Not all specific situations requiring relocation under RAD may trigger URA assistance requirements. In addition, whereas all qualifying residents<sup>5</sup> of a converting public housing project are eligible for relocation assistance under RAD, some residents or household members may not meet the statutory and regulatory requirements for eligibility under URA. This Notice supersedes PIH Notice 2012-32 (HA), REV-1, with respect to relocation matters. This Notice also specifically addresses when relocation may begin (see Section 9 below). As necessary, the Department will issue additional guidance on relocation issues and requirements as they relate to RAD.

## **2. Background**

RAD allows public housing properties to convert assistance to long-term project-based Section 8 contracts. In many cases, a RAD project may require relocation of residents when properties undergo repairs, are demolished and rebuilt, or when the assistance is transferred to another site. PIH Notice 2012-32 REV-1 (see also FR Notice 5630-N-05, 78 FR 39759-39763 (July 2, 2013)) details RAD program requirements.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA) is a federal law that establishes minimum standards for federally-funded programs and projects 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 of real property.<sup>6</sup> The URA will apply to acquisitions of real property and relocation of persons from real property that occurs as a direct result of acquisition, rehabilitation, or demolition for a project that involves conversion of assistance to Project-Based Voucher (PBV) or Project-Based Rental Assistance (PBRA) programs under RAD.

Additionally, all relocation conducted as part of a RAD conversion and all relocation assistance provided under URA must be consistent with applicable fair housing and civil rights laws, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973.

Because each RAD proposal varies in its scope, this Notice may not address each PHA's specific circumstances. RAD PHAs and participants should carefully review the regulations, notices, and guidance material referenced in this Notice. Any questions related to the applicability of these requirements should be referred to the RAD Transaction Managers (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **3. Applicable Legal Authorities**

<sup>5</sup> The term "resident" as used in this Notice refers to eligible resident families of public housing residing in a property applying for participation in RAD or a property that undergoes a conversion of assistance through RAD.

<sup>6</sup> 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](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

- RAD: Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), with the implementing PIH Notice 2012-32, REV-1
- URA statute and implementing regulations: 49 CFR part 24
- FHEO: Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Fair Housing Act
- Section 104(d) of the Housing and Community Development Act of 1974, statute and implementing regulations (if CDBG and/or HOME funds are used): 24 CFR part 42, subpart C

#### **4. Relocation Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a project converting under RAD, PHAs must undertake a planning process in conformance with URA in order to minimize the adverse impact of relocation (49 CFR 24.205(a)).

While a written Relocation Plan is not a requirement under RAD or URA, the Department strongly encourages PHAs to prepare a written Relocation Plan, both to establish their relocation process and to communicate this process consistently and effectively to all relevant stakeholders. Appendix 1 contains recommended elements of a Relocation Plan.

The following presents a general sequencing of relocation planning activities within the RAD milestones:

<b>Stage</b>	<b>Activities</b>
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation</li> <li>• Meet with residents to discuss plans, communicate right to return, and solicit feedback</li> <li>• Provide <i>General Information Notice (GIN)</i> to residents</li> <li>• Survey residents to prepare Relocation Plan and relocation process cost estimate</li> </ul>
2. After receipt of the Commitment to Enter into a HAP Contract (CHAP) Award	<ul style="list-style-type: none"> <li>• Prepare Significant Amendment to PHA Plan</li> <li>• Assess and refine need for relocation</li> <li>• Develop a Relocation Plan (See Appendix 1 for recommended content)</li> <li>• Identify relocation housing options</li> </ul>
3. Preparing Financing Plan (due to RAD Transaction Manager no later than 180 days following	<ul style="list-style-type: none"> <li>• Budget for relocation expenses</li> <li>• Submit FHEO Accessibility &amp; Relocation checklist (PHAs may submit Relocation Plan along with checklist)</li> </ul>



Stage	Activities
CHAP award)	
4. Receipt of RAD Conversion Commitment (RCC)	<ul style="list-style-type: none"> <li>• The date of issuance of the HUD RCC marks the date of "Initiation of Negotiations" (ION), as defined in the URA (49 CFR 24.2(a)(15))</li> <li>• Provide residents with appropriate notice informing them if they will be relocated and any associated relocation assistance</li> <li>• Meet with residents to describe approved conversion plans and discuss required relocation</li> </ul>
5. Closing/RAD conversion	<ul style="list-style-type: none"> <li>• Generally, resident relocation should not begin until after the date of closing/conversion of assistance under RAD</li> <li>• PHAs must adhere to notification requirements (described in Paragraph 8 of this Notice): generally, a minimum of 30 days for residents to be temporarily relocated for up to a year, and 90 days for permanent relocation</li> <li>• PHAs seeking to move residents prior to closing must receive prior approval from HUD as described in Paragraph 9 of this Notice</li> </ul>

### **5. Resident Right to Return**

RAD program rules prohibit the permanent involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed and is in decent, safe, and sanitary conditions.<sup>7</sup> The period during which residents may need to be temporarily relocated is determined by the period of rehabilitation or construction, which will be specific to each project.

If proposed plans for a project would preclude a resident from returning to the RAD project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, the PHA must alter the project plans to accommodate the resident in the converted project. If a resident agrees to such plans, the PHA must secure informed, written consent from the resident to receive permanent relocation assistance and payments consistent with URA and acknowledge that acceptance of such assistance terminates the resident's right to return to the project. In obtaining this consent, PHAs must inform residents of their right to return, potential relocation, and temporary and permanent housing options at least 30 days before residents must make a decision. The PHA cannot employ any tactics to pressure residents into

<sup>7</sup> Where the transfer of assistance to a new site is approved, residents of the converting project will have the right to reside in an assisted unit at the new site once rehabilitation or new construction is complete.

relinquishing their right to return or accepting permanent relocation assistance and payments.<sup>8</sup> A PHA may not terminate a resident's lease if it fails to obtain this consent.

PHAs must keep documentation of such information provided to residents and such consent by residents. While HUD does not require PHAs to submit documentation of obtaining this consent, PHAs and participants must properly brief residents on their housing and relocation options and must keep auditable written records of such consultation and decisions. HUD may request this documentation during a review of the FHEO Relocation and Accessibility Checklist or if relocation concerns arise.

Examples of project plans that may preclude a resident from returning to the converted RAD project include, but are not limited to:

- Changes in bedroom distribution (i.e. when larger units will be replaced with smaller units such that current residents would become under-housed or when smaller units will be replaced with larger units such that current residents would become over-housed);
- Where a PHA is reducing the number of assisted units at a property by a de minimis amount<sup>9</sup>, but those units are occupied by assisted residents; or
- The reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery.

In all scenarios where residents voluntarily accept permanent relocation to accommodate project plans, these residents are eligible for permanent relocation assistance and payments under URA. If a resident accepts permanent relocation assistance, the resident surrenders his or her right to return to the completed project.

## **6. Relocation Assistance**

Under RAD, relocation assistance may vary depending on the length of time relocation is required.<sup>10</sup>

- a. In instances when the PHA anticipates that a resident will be relocated for more than a year, the PHA must offer the resident the choice of:
  - Permanent relocation assistance and payments at URA levels; or
  - Temporary relocation assistance, including temporary housing, while the resident retains his or her right to return and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation.

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<sup>8</sup> Persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their accessibility needs must be accommodated.

<sup>9</sup> A reduction in total number of assisted units at RAD project of 5% or less. (Section 1.5.B of PIH 2012-32 REV-1)

<sup>10</sup> Some residents may not qualify for relocation assistance under URA. A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 CFR 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378.

The PHA must give the resident no less than 30 days to decide between permanent and temporary relocation assistance. If the resident elects to permanently relocate with assistance at URA levels, the PHA must inform the resident that his or her acceptance of permanent relocation assistance terminates the resident's right to return to the completed RAD project.

- b. In instances when a resident elects temporary relocation assistance and reoccupies a unit in the completed project within one year, the resident need not be offered permanent relocation assistance pursuant to URA.

Great care must be exercised to ensure that residents are treated fairly and equitably. If a resident is required to relocate temporarily in connection with the project, his or her 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 and increased housing costs during the temporary relocation.

- c. In the event that a resident elects to receive temporary relocation assistance and the temporary relocation exceeds one year, the resident becomes eligible for all permanent relocation assistance and payments under URA. (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 shall give the resident the opportunity to choose to remain temporarily relocated for an agreed-to period (based on new information about when they can return to the completed RAD unit), or choose to permanently relocate with URA assistance.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA. If the resident elects to permanently relocate with URA assistance, the PHA must inform the person that the person's acceptance of URA relocation assistance to permanently relocate will terminate the person's right to return to the completed RAD project. Conversely, unless and until the resident elects to be permanently relocated, the resident may remain temporarily relocated with a right to return to the completed project.

## **7. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is generally effective on the date of initiation of negotiations (ION) (49 CFR 24.2(a)(15)). For RAD projects, the ION date is the date of the issuance of the RAD Conversion Commitment (RCC).

## **8. Resident Notification**

When a project converting under RAD will include relocation of residents, notice must be provided to those resident households. For each notice listed below, one notice shall be given to each resident household. The purpose of these notifications is to ensure that residents are

informed of their potential rights and the relocation assistance available to them. During initial meetings with residents about RAD and in subsequent communications with residents related to relocation, the PHA should inform residents that if they choose to move after receiving a written GIN, but prior to receiving a RAD Notice of Relocation, they may jeopardize their eligibility for relocation assistance. However, PHAs should note that a resident move undertaken as a direct result of the project may still require relocation assistance and the resident may be eligible to receive permanent relocation assistance under the URA even though the PHA has not yet issued notices.

a. *General Information Notice (49 CFR 24.203(a) & Handbook 1378, Paragraph 2-3(B))*

As soon as feasible in the planning process, the PHA must provide each resident with a written GIN (see sample in Appendix 2) to provide a general description of the project, the activities planned, and the relocation assistance that may become available. URA regulations state that the GIN should be provided *as soon as feasible*. Under RAD, PHAs must provide GINs during the initial RAD resident meetings, before submitting a RAD application. GINs 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 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 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 at least 90 days advance written notice, and inform any person to be displaced from a dwelling that 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 CFR 24.208(h) for additional information); and
- Describe the resident's right to appeal the PHA's determination as to a person's eligibility for URA assistance.

b. *RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide notice of such relocation (RAD Notice of Relocation). The PHA shall issue this notice upon the PHA's receipt of the RCC from HUD, which is the ION date.

If residents will not be relocated, notice of relocation is not required, but the PHA should

notify them that they are not being relocated.<sup>11</sup>

The RAD Notice of Relocation must conform to the following requirements:

- The notice must state the anticipated duration of the resident's relocation.
- PHAs must provide this notice a minimum of 30 days prior to relocation to residents who will be temporarily relocated.<sup>12</sup> Longer notice may be appropriate for persons who will be relocated for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.
- Residents whose temporary relocation is anticipated to exceed one year must be informed that they will have no less than 30 days to elect temporary or permanent relocation as described in Section 6 of this Notice. When timing is critical for project completion, the 30-day decision period can run concurrently with the 30-day notice period for temporary relocation and with the 90-day period for permanent relocation if the PHA makes available comparable replacement dwellings consistent with 24.204(a).
- Residents who will be permanently relocated must receive written notice a minimum of 90 days prior to relocation. This 90-day time period may only begin once the PHA has made available at least one comparable replacement dwelling consistent with 49 CFR 24.204(a).<sup>13</sup>
- 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 explain the reasonable terms and conditions under which the resident may continue to lease and occupy a unit in the completed project.
- The notice must state that the PHA will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move. These expenses include, but are not limited to, moving expenses and increased housing costs (rent, utilities, etc.).

*c. Notice of Intent to Acquire (49 CFR 24.203(d))*

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<sup>11</sup> HUD policy generally requires a "notice of non-displacement" in certain instances; the RAD program does not require this notice. Although the scope of this notice is limited to guidance for projects requiring relocation, PHAs should note, however, that there may be notification requirements for projects that do not involve relocation. The RAD conversion will terminate the resident's public housing lease and commence a PBV or PBRA lease, even when there is no relocation required. In such instances, state law may impose certain notification requirements. In addition, public housing regulations generally require 30 days' notice prior to lease termination. PHAs are encouraged to review public housing requirements set forth in 24 CFR parts 5 and 966.

<sup>12</sup> HUD may approve shorter notice periods based on an urgent need due to danger, health, or safety issues or if the person will be temporarily relocated for only a short period.

<sup>13</sup> 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.

For RAD projects involving acquisition, residents may be provided with a notice of intent to acquire ("*Notice of Intent to Acquire*") prior to the ION date with HUD's prior approval. Once the Notice of Intent to Acquire is provided, a resident's eligibility for relocation assistance and payments is established. Therefore, the RAD Notice of Relocation must be provided in conjunction with or after the Notice of Intent to Acquire. A RAD Notice of Relocation would not otherwise be sent prior to the ION date.

Since residents who accept permanent relocation must receive 90 days advanced written notice prior to being required to move, providing residents the Notice of Intent to Acquire and RAD Notice of Relocation prior to the ION date may be necessary to provide sufficient notice of relocation to a resident in instances where there may not be 90 days between the issuance of the RCC (ION date) and the anticipated closing date. This allows the PHA to issue the notice earlier so that relocation may begin upon closing. This allows program participants to conduct orderly relocation upon closing, minimize adverse impacts on displaced persons, and to expedite project advancement and completion.<sup>14</sup>

- d. *URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 CFR 24.203(b) & Handbook 1378, Paragraph 2-3(C))*

After a resident has been temporarily relocated for one year, the PHA must provide a notice of relocation eligibility in accordance with URA requirements ("*Notice of Relocation Eligibility*"). This notice is not required if the resident has already accepted permanent relocation assistance.

The Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 CFR Part 24, to HUD Handbook 1378 and to the following requirements:

- The PHA must provide updated information as to when it is anticipated that the resident will be able to return to the completed project.
- The resident may choose to remain temporarily relocated based upon such updated information or may choose to accept permanent URA relocation assistance in lieu of exercising the right to return.
- If the resident chooses to accept permanent URA relocation assistance and such assistance requires that the resident move, the URA requires such resident to receive 90 days advance written notice of the earliest date they will be required to move (i.e., 90-Day Notice, 49 CFR 24.203(c)). The PHA should be mindful that the 90-day time period may only begin once the PHA has made available at least one "comparable replacement dwellings" as set forth in 49 CFR 24.204(a).

## **9. Initiation of Relocation**

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<sup>14</sup> PHAs and program participants should note that, in most instances, it will be most appropriate for the acquiring entity to send this notice.

Unless otherwise approved by HUD, relocation may not begin until the date of closing of the RAD transaction and recordation of the RAD Use Agreement. PHAs must provide residents being temporarily relocated at least 30 days advance written notice of the required move. PHAs must give residents being permanently relocated at least 90 days advance written notice of the required move. This means PHAs are advised to plan carefully to account for this 30-day or 90-day notice period to ensure the closing is not delayed.

However, HUD is aware that, in rare cases, some project plans necessitate relocation prior to closing. With prior HUD approval, for projects involving acquisition, PHAs may relocate residents prior to the closing date subject to public housing requirements (see 24 CFR part 5 and 24 CFR 966). PHAs must contact their assigned RAD transaction manager (TM) to discuss plans as early as possible in the process to ensure compliance with all RAD and URA requirements.

If relocation prior to closing is desired, PHAs should submit to the TM the following information, as early as possible in the process:

- A written request for relocation prior to closing. The request must include justification of why the early relocation is necessary for the viability of the RAD transaction. Justification may include the presence of outside financing, such as Low Income Housing Tax Credit (LIHTC) awards, if the PHA can show that early relocation is necessary to meet critical LIHTC deadlines.
- FHEO Accessibility and Relocation Checklist.
- Evidence of intent to comply with public housing requirements, as applicable. Generally, public housing regulations require public housing residents to receive 30 days' notice prior to relocation and that such notice either be published in the PHA's admissions and continued occupancy policies (ACOP) or published elsewhere at least 30 days prior to receipt of such notice (24 CFR parts 5 and 966).

When seeking to relocate residents prior to closing, submission of this request as early as possible is preferred, prior to the 180-day Financing Plan milestone if possible (with Financing Plan submission following the request).

HUD reserves the right to request additional follow-up information, including a Relocation Plan and related budget, prior to approving such requests. PHAs must receive written HUD approval before beginning relocation of residents prior to closing.

Early planning and submission of the Financing Plan and FHEO checklist to HUD will ensure the PHA has built in the 30- or 90-day notice period prior to initiating relocation.

## **10. Fair Housing and Civil Rights Requirements**

PHAs must comply with all applicable fair housing and civil rights laws, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. Further, communication must be provided in a manner that is effective for persons

with disabilities (24 CFR 8.6) and for person who are Limited English Proficient (see 72 FR 2732). This section discusses some of the PHA's obligations under these laws and regulations. However, the applicability of civil rights laws is not limited to the activities discussed in this section. PHAs conducting relocation activities should familiarize themselves with applicable civil rights statutes, regulations, and guidance, including but not limited to, those listed at the end of this section.

- **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 CFR 8.6), and as applicable, the Americans with Disabilities Act; and for persons who are limited English proficient (see 72 Fed Reg 2732). This includes ensuring that training materials are in appropriate alternative formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters.
- **Accessible Meeting Facilities for Persons with Disabilities:** When holding public meetings, PHAs must give priority to methods that provide physical access to individuals with disabilities, i.e., holding the meetings, workshops, and briefings or any other type of meeting in an accessible location, in accordance with the regulations implementing Section 504 of the Rehabilitation Act of 1973 and Titles II and III of 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, in which case the PHA must take any action that would not result in such an alteration or such 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, in-home briefing. 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 nondisabled person to the fullest extent possible (28 CFR part 35, appendix B).
- **Meaningful Access for Persons with Limited English Proficiency (LEP):** PHAs must provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English. Any person with LEP who will be temporarily relocated or permanently displaced must have meaningful access to any public meetings regarding the project. In addition, any information provided to residents including, but not limited to, any notices required under the URA, should be provided in the appropriate language to persons with LEP. Generally, PHAs will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.
- URA requires that PHAs provide persons who are unable to read or understand the notices, such as persons with disabilities or persons with LEP, with appropriate translation and counseling to ensure that they understand their rights and responsibilities and the assistance available to them (49 CFR 24.5). URA also requires that each notice indicate the name and telephone number of a person to contact with questions or for other



needed help (49 CFR 24.5). This notice should include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable (24 CFR 8.6(a)(2)).

- **Comparable Housing for Persons with Disabilities:** PHAs should identify the accessibility needs of residents to be relocated by consulting existing information (e.g., tenant 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). For guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.
- **Advisory Services:** PHAs should determine the advisory services that will be necessary to ensure a successful relocation program consistent with 49 CFR 24.205(c). Such advisory services may include housing counseling that should be facilitated to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 CFR 24.205(c)). Advisory counseling must also inform residents of their fair housing rights and be carried out in 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 CFR 24.205(c)(1)). In addition, PHAs should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

#### Fair Housing References:

- Section 504 of the Rehabilitation Act of 1973
  - Regulations: 24 CFR part 8
  - Fair Housing Act Regulations: 24 CFR part 100
  - Title VI of the Civil Rights Act of 1964
  - Regulations: 24 CFR part 1
  - Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) (72 FR 2732)
  - Exhibit 3-1 Compliance with Section 504 of the Rehabilitation Act in HUD Handbook 1378 (Tenant Assistance Relocation and Real Property Acquisition)
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## **11. Other Requirements**

### **a. Public Housing Program Compliance**

PHAs should note that public housing resident provisions related to occupancy and termination, including grievances and related hearings, will remain in effect until the execution of the new PBV or PBRA Housing Assistance Payment (HAP) contract.

### **b. Evictions for Cause**

If the PHA determines that a resident was evicted in accordance with applicable state and local law for serious or repeated violation of material terms of the lease, and the eviction was not undertaken for the purpose of evading the obligation to make available URA payments and other assistance, the resident is not entitled to relocation payments and assistance under the URA (49 CFR 24.206).

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Jemine A. Bryon  
General Deputy Assistant Secretary  
for Public and Indian Housing

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Carol J. Galante, Assistant Secretary for  
Housing-Federal Housing Commissioner

## **APPENDICES**

**Appendix 1**  
**Recommended Relocation Plan Contents**

**Appendix 2**  
**Sample RAD General Information Notice (GIN)**

**Appendix 3**  
**Sample RAD Notice of Relocation (for relocation anticipated for a year or less)**

**Appendix 4**  
**Sample RAD Notice of Relocation (for relocation anticipated for more than a year)**

**Appendix 5**  
**Sample Notice of Eligibility for URA Relocation Assistance (for residents who have been temporarily relocated for more than a year)**

## **Appendix 1: RECOMMENDED RELOCATION PLAN CONTENTS**

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While written Relocation Plans are not required under RAD or URA, the Department strongly encourages PHAs to document their relocation planning process and procedures in a written Relocation Plan. The following provides suggested content for Relocation Plans.

### **I. Project Summary**

The Relocation Plan should provide a general description of and purpose for the project (e.g., year built, location, number of units, configuration, occupancy information, and funding sources).

The basic components of a plan include:

- A general description of the project and the site, including acquisition, demolition, rehabilitation, and construction activities and funding sources;
- A detailed discussion of the specific steps to be taken to minimize the adverse impacts of relocation, including when transferring the assistance to a new site;
- Information on occupancy (including the number of residents, residential owner-occupants and non-residential occupants, if any, to be permanently or temporarily relocated);
- Information on relocation needs and costs (including the number of residents who plan to relocate with Section 8 assistance);
- General moving assistance information;
- Temporary move assistance (including information on the duration of temporary moves);
- Permanent move assistance; and
- Appeals process.

### **II. Resident Return and Re-occupancy Policies**

For residents that will be temporarily relocated, the plan should include the criteria that will be used to determine the priority for residents to re-occupy units at the project after rehabilitation, demolition, and/or construction is completed. For example, if units will come online in stages, the plan should outline how the PHA will determine when each resident will return to the project. PHAs should ensure that any written return or re-occupancy policy is compliant with related RAD requirements, such as the right-to-return policy and the "no re-screening upon conversion" policy, as described in the RAD Notice.

### **III. Summary of Moving Costs**

The plan should include a summary of moving costs, identified by move types, including the following:

### Temporary Moves

- Number of and cost amount for two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number of and cost amount for two-way moves to a unit not in the same building/complex, carried out by the PHA.
- Number of and cost amount for two-way moves to a unit not in the same building/complex not carried out by the PHA.

### Permanent Moves

- Number of and cost amount for one-time moves into another unit in the same building/complex.<sup>15</sup>
- Number of and cost amount for one permanent move to a unit not within the same building/complex, carried out by the PHA.  
PHAs should note that if a residential move is carried out by the PHA at no cost to the resident, this per-household estimate must include the required dislocation allowance (currently \$100). The URA Fixed Residential Moving Cost Schedule lists the most current dislocation allowance:  
[http://www.fhwa.dot.gov/real\\_estate/practitioners/uniform\\_act/relocation/moving\\_costschedule.cfm](http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/relocation/moving_costschedule.cfm)
- Number of and cost amount for one permanent move to a unit not within the same building/complex that is not carried out by the PHA.

## IV. Temporary Relocation Assistance

The PHA will assist residents who are required to move temporarily. At the Initiation of Negotiations (ION), the PHA will send a RAD Notice of Relocation to residents who will be relocated. Appendices 3 and 4 of this Notice contain sample RAD Notices of Relocation to be provided to residents that will be temporarily relocated.

The plan should detail the temporary relocation assistance the PHA will provide for residents (Paragraph 2-7 of HUD Handbook 1378). This assistance includes:

- Temporary Housing - The PHA will provide temporary housing that is decent, safe, and sanitary on a nondiscriminatory basis for residents who are relocated temporarily. The PHA will also pay for reasonable increased housing costs that the resident incurs in connection with the temporary relocation.

NOTE: If a resident's relocation exceeds one year, the PHA must then issue a *Notice of Relocation Eligibility* (49 CFR 24.203(b)) to the resident and offer the resident permanent

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<sup>15</sup> A resident who moved to another unit in the same building/complex may be considered a displaced person under URA if the resident moves from the building/complex permanently and was not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move within the same building/complex and/or if other conditions of the move within the building/complex were not reasonable.

relocation assistance and payments at URA levels. The PHA must provide this notice to affected residents as soon as the temporary relocation exceeds one year.

- **Packing and Moving Assistance** - Since most residents prefer to pack their own personal possessions and items of value, they should be provided packing instructions, boxes, markers, and tape for the move. If assistance in packing is needed, the PHA should provide the resident with information on how to request this assistance. The PHA is responsible for covering all reasonable moving expenses incurred in connection with temporarily relocating a resident. The PHA may reimburse the resident's out-of-pocket moving expenses and/or directly carry out the move.
- **Payment for Temporary Relocation Moving Expenses** - The plan should also indicate how the PHA intends to provide or reimburse for moving services and expenses. The PHA can choose to do one or more of the following:
  - Undertake the moves itself, using force account labor or a moving company;
  - Use PHA's contractor or moving company;
  - Carry out moves with employees of the PHA;
  - Reimburse residents for all actual and reasonable moving costs.

**NOTE:** The PHA will not make fixed payments since such payments may not be representative of actual reasonable costs incurred. However, in order for a resident to be sure of full reimbursement, the resident should submit a moving cost estimate to the PHA for approval prior to the move unless the PHA is directly carrying out the move and the resident will not incur any reasonable out-of-pocket moving expenses. Failure to do so may result in the resident not being fully reimbursed.

- **Utility Costs** - The PHA is responsible for covering the expenses relating to disconnection and reconnection of necessary utilities. If the resident has telephone, cable service or Internet access, the PHA is responsible for covering the expenses involved in transferring existing service. The PHA may also pay utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)). If a resident is temporarily relocating from a public housing unit to a non-public housing unit, the resident must be reimbursed for reasonable increases in utility costs even if the PHA utility allowance is lower than the actual costs to the resident.

## V. Permanent Relocation Assistance

Based on the local housing resources available, the PHA should identify the replacement housing options that will be available to meet the housing needs of residents to be permanently relocated. Replacement housing options for residents that meet the definition of a "displaced person" (49 CFR 24.2(a)(9)) under the URA include, but are not limited to:

- Other Public Housing;
- Section 8 Project-Based Voucher unit;
- Section 8 Housing Choice Voucher unit;
- Homeownership housing;

- Private-market rental housing (affordable, non-subsidized).<sup>16</sup>

The plan should describe each type of replacement housing projected to be available, including:

1. Number of units, by bedroom size, expected to be available, and discussion of whether available units will meet dwelling requirements of relocated residents;
2. General area or location of unit(s);
3. Criteria for receiving relocation assistance; and
4. Any other information that might benefit residents in their consideration of housing choices.

The plan should include a description of the permanent relocation assistance the PHA will provide to residents. This assistance includes:

- Availability of Comparable Replacement Housing – Under URA, no displaced resident will be required to move unless at least one comparable replacement dwelling (49 CFR 24.2(a)(6)) is made available at least 90 days before the required move (49 CFR 24.203(c)). Comparable replacement dwellings must contain the accessibility features needed by displaced persons with disabilities (49 CFR 24.2(a)(8)(vii); 49 CFR part 24, Appendix A, §24.2(a)(8)(vii)). If the comparable replacement dwelling is not subsidized housing, the PHA should contact the RAD staff for advice on replacement housing payment requirements.
- Referral to Housing Not Located in an Area of Minority Concentration - Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings that are within their financial means and not located in areas of minority concentration (49 CFR 24.205(c)(2)(ii)(D)). However, this policy does not require a PHA to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling unit.
- Permanent Relocation Moving Expenses from Public Housing to Public Housing - The PHA may choose one of the following options for covering the expenses involved in moving public housing residents that are relocated into other public housing:
  - Undertake the move itself, using force account labor or a moving company. Residents should incur no moving costs under this option, but if such expenses are incurred, the PHA is responsible for reimbursing the resident for any such actual and reasonable expenses. In such case, the resident is also entitled to a dislocation allowance (currently \$100). The URA Fixed Residential Moving Cost Schedule lists the current dislocation allowance and is available at: [http://www.fhwa.dot.gov/real\\_estate/practitioners/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/relocation/moving_cost_schedule.cfm)

<sup>16</sup> Every effort should be made to find another subsidized unit as replacement housing for a resident relocating from subsidized housing so that the resident will continue receiving the housing subsidy as long as it is needed.

NOTE: Residents who prefer to pack their own personal possessions and items of value may be provided packing instructions, boxes, markers, and tape for their move. If a resident needs assistance in packing, they should contact the PHA. It is the responsibility of the PHA to pack and move all of their belongings and household goods, if so desired.

- Allow the resident to elect one of the following choices:
- 1) The PHA will reimburse the resident for the cost of all actual reasonable and necessary moving and related expenses (49 CFR 24.301), such as:
    - Transportation of the resident and personal property. This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved. Transportation costs for a distance beyond 50 miles are not eligible, unless the PHA determines that relocation beyond 50 miles is justified.
    - Packing, crating, uncrating, and unpacking of personal property.
    - Storage of personal property for a period not to exceed 12 months, unless the PHA determines that a longer period is necessary.
    - Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
    - Insurance for the replacement value of the property in connection with the move and necessary storage.
    - 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.
  - 2) The PHA will pay directly to the resident the applicable and current fixed moving cost payment according to the URA Fixed Residential Moving Cost Schedule (49 CFR 24.302), available at:  
[http://www.fhwa.dot.gov/real\\_estate/practitioners/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/relocation/moving_cost_schedule.cfm)
- Permanent Relocation Moving Expenses for All Other Moves – Under URA, residents who are permanently displaced, except for those residents displaced from public housing and moving to other public housing, are entitled to the assistance described in the brochure *Relocation Assistance To Residents Displaced From Their Homes*, available in English at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_16280.doc](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_16280.doc) and in Spanish at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_16281.doc](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_16281.doc). Residents may choose moving assistance from one of the following two options.
- 1) The PHA will reimburse the resident for the cost of all actual reasonable moving and related expenses (49 CFR 24.301).
  - 2) The PHA will pay directly to the resident the applicable and current fixed moving cost payment according to the URA Fixed Residential Moving Cost Schedule (49

CFR 24.302), available at:

[http://www.fhwa.dot.gov/real estate/practitioners/uniform act/relocation/moving cost schedule.cfm](http://www.fhwa.dot.gov/real%20estate/practitioners/uniform%20act/relocation/moving%20cost%20schedule.cfm).

- Replacement Housing Payment - In addition to covering moving expenses, displaced residents may be entitled to a replacement housing payment (RHP). This payment is intended to cover the increase, if any, in monthly housing costs for a 42-month period.

When calculating the RHP, the PHA must consider the comparable replacement housing unit offered to the resident. Since the PHA is not required to pay an RHP amount that exceeds the amount of RHP calculated for the offered comparable replacement dwelling, residents are cautioned to work closely with the PHA prior to their move.

- Accessible Housing for Persons with Disabilities - Under the URA, persons with disabilities who will be permanently displaced must be relocated to a replacement dwelling that contains the accessibility features they need (49 CFR 24.2(a)(8)(vii); 49 CFR Appendix A, 24.2(a)(8)(vii)). A person with disabilities who has been relocated must be offered a comparable replacement dwelling unit that contains accessible features comparable to the housing from which the tenant has been displaced or relocated. This is so even if the tenant has paid for the acquisition and/or installation of accessible features in the housing from which he or she has been relocated; in such instances, the recipient must ensure that the replacement housing contains comparable accessible features or provide relocation assistance to the tenant in an amount that covers the cost of acquiring and/or installing comparable accessible features. Under the URA, an agency may use project funds to remove architectural barriers for displaced owners and tenants with disabilities or take other last resort housing measures if comparable replacement dwelling units are not available within the monetary limits prescribed under the URA regulations (49 CFR 24.404(c)(vii); HUD Handbook 1378, Paragraph 3-8).

## VI. Relocation Budget

Based on the results of the planning process, the PHA 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.)  
NOTE: This physical move cost total should be based on the move scenarios anticipated



or projected by the resident survey.

- 4) The cost estimated to pay for projected increases in monthly housing costs for temporary relocation.
- 5) The cost estimated to pay for the replacement housing payment (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. (The PHA should state where these costs are indicated in the application, or attach any other information required by HUD, to support these costs.)

### **VII. Appeal Process**

If a resident disagrees with the PHA'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, the resident may file a written appeal to the PHA. The Relocation Plan should describe the specific appeal procedures to be followed consistent with 49 CFR 24.10 (and 24 CFR 42.390 if section 104(d) is involved). At a minimum, the resident will have 60 days to file an appeal with the PHA after receiving written notification of a claim or ineligibility determination.

### **VIII. Certification**

The plan should contain a certification of compliance with the URA and, if applicable, section 104(d).

### **Technical Assistance**

The PHA should direct questions on this Notice's relocation assistance requirements to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).

**Attachment J**

**HOME / OWNERSHIP  
PROJECT-BASED  
VOUCHERS**

# Housing Authority of the City of Camden

Attachment nj010j01

## 7.0 (d) (e) Homeownership/Project-based Vouchers

### (d) Homeownership

The HACC has admitted and provided voucher subsidy for 10 homeownership units as referred through the Public Housing Homeownership (ROSS Grant). Nine (9) of these homeowners remain on the program.

The HACC has provided voucher subsidy for two (2) program participants through our Family Self-Sufficiency (FSS)/ Homeownership program. Both program participants remain on the program.

The Section 8 Homeownership program allows for voucher holders to utilize their vouchers to assist in homeownership through our FSS program. The HACC will continue to operate the homeownership program in accordance with the HACC's Housing Choice Voucher Administrative Plan and FSS program.

### (e) Project-Based Vouchers

The Housing Authority of the City of Camden (HACC) has a project-based HAP contract with Liberty Park Apartments for 183 units. Liberty Park Apartments are located in South Camden, an area with both public and private housing.

The HACC also has a project-based HAP contract with Parker Hall Senior Apartments for 8 special purpose vouchers for seniors. Parker Hall Senior Apartments are located in the Centerville area of the city in the southern area that is under current redevelopment.

The HACC also has a project-based HAP contract with Michael's Development for 10 special needs project-based vouchers for homeless families within Roosevelt Manor Phase 9 & 10 located in the Centerville area of the city.

The HACC has a project-based contract with Branch Village I Urban Renewal LLC for 38 units within a 50 unit family mid-rise building built as part of PHASE I of Branch Village redevelopment. The Housing Choice Voucher program also provides RAD project-based vouchers for 12 units within this mid-rise building.

The HACC's Housing Choice Voucher program has been awarded 164 special purpose tenant based vouchers (VASH) in partnership with the Veterans Affairs Administration for housing for our homeless or near homeless Veterans. We will apply for any additional vouchers that become available.

The HACC will be providing RAD project based vouchers for all the remaining units being built at Branch Village and 252 units at McGuire Gardens.