

A could agree to have PHA B serve as the PBV administering voucher agency for the Covered Project, even though PHA A might have a voucher program.

M. Section 33 Required Conversion Review.²⁹ While Section 33 of the Act would require that a PHA annually review its inventory to identify projects that should undergo the Required Conversion process, PHAs will not be required to assess projects that have been issued a CHAP or are covered by a Portfolio Award because HUD considers the RAD conversion process to fulfill the requirements of Section 33 of the Act. Accordingly, HUD is waiving 24 CFR part 972, subpart A for projects covered by a CHAP or a Portfolio Award.

N. Congregate Housing Services Program (CHSP). A Converting Project that is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 (42 USC 8001-8010) or section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 USC 8011), will be able to finish out their current grant once the project is converted under RAD. To facilitate the uniform treatment of residents and units at a Covered Project, any Legacy Non-RAD PBV or Legacy Non-RAD PBRA units in a Covered Project that replace former public housing at the time of conversion shall be subject to the terms of this provision.

1.6 Special Provisions Affecting Conversions to PBVs

Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBV program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration. Conversions of public housing properties through RAD, including conversions through a RAD/Section 18 Blend, will be subject to the requirements below and in this Notice, and as reflected in the RAD PBV HAP Contract. Consequently, there are fundamental differences in the process, structure and function in RAD PBV conversions of public housing properties as compared to the traditional PBV program.

Listed below are the “special” requirements applicable to public housing projects converting assistance to long-term PBV assistance under the First Component of the Demonstration, with reference to the affected statute and/or regulation, where applicable. Special requirements are grouped into four categories: Project Selection, Contract Terms, Resident Rights and Participation, and Other Miscellaneous Provisions. All other regulatory and statutory requirements of the PBV program in 24 CFR part 983 and section 8(o)(13) of the Act apply,

²⁹ Section 33 of the Act requires PHAs to identify projects that must be removed from the stock of public housing.

including environmental review, lead-based paint requirements, Davis-Bacon, and fair housing requirements.

MTW agencies will be able to apply activities impacting the PBV program that are approved in their MTW Plans or included in the MTW Supplement to an approved PHA plan to these properties as long as they do not conflict with RAD requirements. RAD requirements include RAD statutory requirements, provisions of the PBV program specifically addressed in this Notice (including provisions explicitly listed in Section 1.6 of this Notice as provisions of the PBV program that MTW agencies may not alter for properties converting under RAD), other conditions and requirements of this Notice, or RAD contract forms or riders. With respect to any existing PBV regulations that are waived or modified in this Section 1.6 pursuant to RAD authority, except where explicitly noted below, MTW agencies may modify these or other requirements of the PBV program if the activity is approved in its MTW Plan or included in the MTW Supplement to an approved PHA plan. All other RAD Requirements listed below or elsewhere in this Notice shall apply to MTW agencies.

So as to facilitate the uniform treatment of residents and units at a Covered Project, any Legacy Non-RAD PBV units located in the Covered Project shall be subject to the same waivers and alternative requirements where noted below.

A. PBV Project Selection.

- 1. Maximum Number of PBV Units (Percentage Limitation).** RAD PBV units in Covered Projects do not count against the percentage limitation (program cap) applicable to the PBV program. Per 24 CFR § 983.6(e), units that meet the requirements of 24 CFR § 983.59 that were previously subject to federally required rent restrictions or received one of the listed forms of HUD assistance do not count toward the program cap. Furthermore, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6(a)-(b) with respect to RAD PBV units and Legacy Non-RAD PBV units within a Covered Project when such units replace public housing units at the time of the conversion at a new location. Any additional PBV units subsequently placed at the former public housing site would not be excluded from the percentage limitation applicable to the PBV program. In other words, the number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a Covered Project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percentage of vouchers that may be project-based by a PHA.

³⁰ [Reserved]

2. Cap on Number of PBV Units in Each Project (Income-Mixing requirement).

There is no cap on the number of units that may receive RAD PBV assistance in each project. Under 24 CFR § 983.54(c)(3), units excluded under 24 CFR § 983.59 that were previously subject to federally required rent restrictions or received one of the listed forms of HUD assistance do not count toward the project cap. For any RAD PBV and Legacy Non-RAD PBV units in Covered Projects not already excluded under 24 CFR § 983.59, including transfers of assistance to a new location, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR § 983.54. Accordingly, units under the contract may not be “excepted” for a specified purpose.

3. Proposal and Project Selection Procedures. A PHA is not required to follow competitive selection procedures for units that will be subject to a RAD PBV HAP Contract. Accordingly, HUD is waiving 24 CFR § 983.51(b) (which also renders the selection procedures at 24 CFR § 983.51(c), (d), (h), and (i) inapplicable) with regard to units that will be subject to a RAD PBV HAP Contract. 24 CFR § 983.51(e)(2) does not apply, since HUD has waived the definition of existing housing for RAD PBV projects under the First Component of the Demonstration. HUD is also waiving 24 CFR § 983.51(f), such that no written notice of proposal or project selection is required for units that will be subject to a RAD PBV HAP Contract. HUD is establishing an alternative requirement at 24 CFR § 983.51(g) to specify that the proposal or project selection date (as the term is used throughout 24 CFR part 983, where applicable) is the date of execution of the RAD PBV HAP Contract. 24 CFR § 983.51(a) (General Procedures), (e)(1) (inspection required prior to selection to determine site selection standards compliance), (j) (inapplicability of previous participation clearance) and (k) (exclusions from Federal procurement) continue to apply, except that the PHA is not required to describe in the PHA Administrative Plan the procedures for owner submission of RAD PBV proposals and PHA selection of PBV proposals for RAD PBV projects. To facilitate the uniform treatment of residents and units at a Covered Project, any Legacy Non-RAD PBV units in the same Covered Project, shall be subject to the terms of this provision. Any additional PBV units placed at the Covered Project would be subject to all of the requirements of 24 CFR § 983.51.

4. Site selection – Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.55(b)(1) and (c)(2). HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site. To facilitate the uniform treatment of residents and units at a

Covered Project, any Legacy Non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

B. PBV Contract Terms.

1. **Length of Contract.** Covered Projects shall have an initial HAP Contract term of at least 15 years (up to 20 years upon request of the Project Owner and with approval by the administering Voucher Agency). To implement this provision, HUD is specifying alternative requirements for section 8(o)(13)(F) of the Act (which permits a minimum term of one year) as well as 24 CFR § 983.205(a) (which governs contract term). Project Owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the contract and may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request post-conversion to reduce the number of assisted units under the contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

2. **Mandatory Contract Renewal.** In accordance with the RAD Statute, at or prior to the expiration of the initial contract and each renewal contract, the administering Voucher Agency must offer, and the Project Owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. The renewal contract(s) shall be for the prescribed number and mix of units but may, upon request of the Project Owner and subject to HUD and Contract Administrator approval, be on one or more transfer of assistance sites in lieu of the project site subject to the expiring contract. Consequently, section 8(o)(13)(G) of the Act, as well as 24 CFR § 983.205(b), governing the PHA discretion to renew the contract, will not apply to the extent that these provisions make renewal or extension decisions purely discretionary. However, Contract Administrators and Project Owners may choose to extend the initial HAP Contract term consistent with these provisions and are encouraged to do so a minimum of one year prior to the expiration of the contract so as to avoid unnecessary notice to residents per 24 CFR 983.206. The ability to extend the HAP Contract term consistent with these provisions does not negate, in any way, the mandatory renewal provision detailed in the first sentence of this paragraph. MTW agencies may not alter this requirement. After the expiration of a 20-year initial term of the HAP Contract, the HAP Contract shall be renewed on a form approved by HUD, which shall include language that requires rents to be re-determined in accordance with 24 CFR §§ 983.301 and 983.302. If the RAD PBV HAP Contract was renewed or extended prior to the 20th year after conversion, then starting with the 20th year after execution of the original RAD PBV HAP Contract, contract rents shall be re-determined in accordance with 24 CFR § 983.302 or successor regulation.

3. **Ownership or Control.** This section has been moved to Section [1.4.A.11](#)
4. **RAD Use Agreement.** This section has been moved to Section [1.4.A.13](#)
5. **Initial Contract Rent Setting.** No additional or incremental funding is associated with this Demonstration. HUD has calculated initial contract rents for every public housing project based on each project's subsidy under the public housing program. All RAD applications, including applications for Portfolio Awards, will have initial contract rents based on their "RAD rent base year" described in [Attachment 1C](#). PHAs have additional discretion in establishing initial contract rents using the following flexibilities:
 - a. **MTW Fungibility.** MTW agencies may use their MTW funds to set the initial contract rents higher than the normally applicable contract rent cap as described in this section. However, the initial contract rent set by the PHA is still subject to all other applicable program caps. The agency must use existing MTW funds to supplement the initial contract rent; HUD will only provide new incremental funding based on the normally applicable contract rent as described in this section. Any use of MTW funds in setting higher initial contract rents shall be subject to subsidy layering review and MTW continued service requirements, as calculated using the MTW Baseline Methodology described in Notice PIH 2013-02, or successor notice.
 - b. **Rent Bundling.** Subject to HUD approval, PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. For example, assume that a PHA is considering bundling two identical projects, both consisting of 100 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The PHA could bundle the two projects such that the initial contract rents for both projects will be \$550. This use, which HUD refers to as "bundled" rents, can occur under the following scenarios:
 - i. When a PHA is converting two or more properties within its public housing portfolio. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract;

- ii. When PHAs have formed a Partnership in accordance with Section 1.5.M and are bundling rents between two or more converting projects. The execution and effective date of the HAP Contract for the donor HAP Contract must occur prior to or simultaneous with the effective date of the recipient HAP Contract; and
- iii. When a PHA bundles rents between a converting project and non-RAD Project-Based Vouchers. In such a case, the PHA must use its own voucher funding to supplement the higher RAD rent that is being offset by the lower PBV rent for the non-RAD PBV project or projects; no additional voucher funding will be provided through RAD. HUD will review the rents proposed for the non-RAD PBV HAP Contract to ensure that the PHA does not exceed the aggregate subsidy otherwise available for all of the rent-bundled projects. Except as provided in section 1.6.B.d below, the execution and effective date of the HAP Contract for the donor project must occur prior to or simultaneous with the effective date of the recipient HAP Contract. The owner of the property with the non-RAD PBV HAP Contract must request an initial rent (or redetermined rent if the contract has already been executed) in accordance with 24 CFR §§ 983.301(b)(3) and 983.302 that reflects the amount approved by HUD. To ensure that aggregate HAP costs do not exceed the costs incurred absent this provision, the owner of the property with the non-RAD PBV HAP Contract must agree not to request, in accordance with 24 CFR § 983.301(b)(3), a redetermined rent that exceeds the OCAF-adjusted rent. This OCAF limitation is in addition to the existing PBV rent limitations in 24 CFR § 983.301(b) more generally. The donor HAP Contract must have a remaining contract term at least as long as the recipient HAP Contract.
- iv. Where an Agreement to enter into a HAP Contract (AHAP) is used on the non-RAD PBV HAP Contract and the RAD and non-RAD PBV projects are subject to a single financing, the execution and effective date of the AHAP for the donor HAP Contract must occur prior to or simultaneous with the conversion of the recipient HAP Contract. The recipient RAD PBV HAP Contract will include rent schedules for both unadjusted rents and the anticipated rent bundled rents. The unadjusted rents are the initial effective rents for the RAD PBV recipient project. At the completion of rehab/construction of the donor project, where

the terms of the AHAP have been satisfied and the PHA and owner of the donor property are ready to execute a HAP contract, the cost-neutral application of the bundled rents will occur. 1) the HAP for the non-RAD PBV HAP Contract will be determined based on the initial rent, which is the PBV rent the project would have been eligible for under the PBV initial rent requirements at 24 CFR § 983.301 reduced by the amount that has been bundled to the RAD HAP Contract. 2) Upon the effective date of the non-RAD PBV donor HAP Contract, the HUD-approved rent bundled rents at the RAD HAP Contract will become effective. For example, assume two 100 unit properties that will be redeveloped under a single financing transaction, one developed under standard PBV through an AHAP and another through RAD. The estimated rents for the standard PBV are \$1,000 while the standard RAD rents are \$500. The PHA plans to rent bundle to increase the RAD rents to \$750. Construction will occur on the same timeline and the RAD PBV HAP Contract will close at the same time as the AHAP is executed. The RAD PBV HAP Contract will include unadjusted, pre-construction rents (\$500) as well as adjusted, post-construction rents (\$750). The AHAP will include estimated PBV rents, adjusted downward by \$250. When construction is completed, the post-construction rents on the RAD HAP Contract will take effect when the donor non-RAD PBV HAP Contract becomes effective. The PHA will determine the initial contract rents for the non-RAD PBV donor project in accordance with PBV requirements and deduct \$250 from that amount.

Please note that per Section 1.13.B.5, regardless of the initial contract rents for the RAD HAP Contract, including as modified by this provision, in the year of conversion the Covered Project will only be assisted by the Operating and Capital Funds obligated to the PHA for that project.

- c. **Demolition Disposition Transition Funding (DDTF).** PHAs that are scheduled to receive ongoing DDTF subsidy for an approved Section 18 action that was not part of the Converting Project may choose to forego any ongoing DDTF for the purpose of offsetting an increase to the initial RAD rent. In the case of RAD/Section 18 Blends, DDTF for which the PHA would become eligible for the units approved under Section 18 will immediately be cancelled and used to offset an increase to the initial RAD

rents for the Covered Project that results from the RAD/Section 18 Blend, unless the resulting RAD rent would exceed the initial PBV contract rent cap (see Section 1.6.B.7.h) or HUD determines the Section 18 units would not have been eligible for DDTF. See [Attachment 1C](#) for the calculation of how HUD will determine the increase to the RAD rent.

- d. **PBV Site-Specific Utility Allowances.** PHAs may elect to establish a site-specific Utility Allowance for any Covered Project. HUD is waiving 24 CFR § 983.2(c)(7)(iii) and 24 CFR § 983.301(f)(4), which requires the PHA to apply the HCV Utility Allowance schedule for PBV properties, and HUD is establishing an alternative requirement. The Utility Allowance shall be calculated consistent with Notice H 2015-04 unless PIH promulgates guidance specific to the PBV program. The Project Owner may carry out all of the responsibilities associated with Notice H 2015-04, but the PHA must ensure that the Utility Allowance is calculated correctly. This waiver and alternative requirement shall also apply to non-RAD PBV units located at the Covered Project.
- e. **Tenant-Paid Utility Savings.** Where a Covered Project will use a site-specific utility allowance as described in sub-paragraph iv. and the conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance relative to the utility allowance of the Converting Project (i.e., the public housing project), HUD will permit the RAD contract rent to be increased by a portion of the utility savings. See [Attachment 1C](#) for additional detail.
- f. **Restore-Rebuild Initial Contract Rents.** The initial contract rents for the Restore-Rebuild units will be based on the project's reasonably anticipated subsidy under the public housing program in accordance with a "RAD rent base year" described in Attachment 1C, as set forth in the NARR. In addition to applicable flexibilities as set forth in this Section 1.6.B.5, non-MTW PHAs may use existing HAP reserve funds to set the initial contract rents higher than the contract rent that is set forth in the NARR if the project meets both of the following conditions:
 - i. The Restore-Rebuild units may not make up more than:
 - a) The greater of 25 units or 25% of the units in the project; or
 - b) The greater of 25 units or 40% of units in the project if it is in census tract where the poverty rate is no greater than 20%.

³¹ [Reserved]

- c) The limitations in (a) and (b) above shall not apply to units that are made exclusively available to people who are elderly, eligible for supportive services, or youth receiving HCV Family Unification Program assistance.
- ii. The Restore-Rebuild project is in one of the following locations:
 - a) A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
 - b) A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

When a non-MTW PHA uses existing HAP reserves to supplement the initial contract rents, HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy levels. The initial contract rent is still subject to all other applicable program caps, and any use of the flexibilities referenced above in setting higher initial contract rents shall be subject to subsidy layering review.

- g. Rents in RAD/Section 18 Blends.** HUD will produce a single, blended rent schedule for all units resulting from a RAD/Section 18 Blend. The rent schedule will be calculated as the unit-weighted average contract rent by bedroom of:
 - the Converting Public Housing Assistance using the RAD rents based on their “RAD rent base year” described in Attachment 1C, and
 - the Converting TPV Assistance using the lower of 110% of the applicable FMR (or approved exception payment standard) minus any Utility Allowance or the Reasonable Rent.

The initial contract rent in a RAD/Section 18 Blend can use any of the flexibilities referenced in subsections a. through e. above.

- h. Initial PBV Rent Cap.** Notwithstanding HUD’s calculation of the initial contract rent based on the project’s subsidy under the public housing program and any modifications to the initial contract rent permitted under this Notice, initial PBV contract rents are subject to the statutory and regulatory PBV requirements governing contract rents, (except where alternative rent caps have been approved in a MTW Plan or included in an MTW Supplement to the PHA Plan). To this effect, initial contract rents cannot exceed the lower of: (a) the reasonable rent (as defined under 24 CFR § 982.4); (b) an amount determined by the PHA, not to exceed 110

percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in an MTW Plan or included in an MTW Supplement to the PHA Plan), minus any utility allowance; or (c) the rent requested by the owner.

6. **Method of Adjusting Contract Rents.** Contract rents will be adjusted only by HUD's OCAF (which is applied only to the portion of the rent not attributable to debt service) at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term.³² As such, section 8(o)(13)(I) of the Act and 24 CFR §§ 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the Contract Administrator in accordance with 24 CFR § 983.303.³³ However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract.³⁴ MTW agencies may not alter this requirement.
7. **Role of Independent Entity.** Where the Covered Project is PHA-owned as defined at 24 CFR § 983.3, in addition to the standard roles described in 24 CFR § 983.57(b) (i.e., determining reasonable rents and conducting HQS inspection) the independent entity must also determine the OCAF adjustment.
8. **Transfer of Assistance.** This section has been moved to [Section 1.4.A.12](#).
9. **Applicability of PBV Housing Types, Execution of RAD PBV HAP Contract, and RAD Rehab Assistance Payments.** For public housing conversions to PBV, the project will not be classified as one of the housing types defined in the PBV regulations (i.e., “existing housing,” “rehabilitated housing,” or “newly constructed housing”). Accordingly, regulations as well as other requirements that stem from a project’s classification as “existing housing,” “rehabilitated housing,” or “newly constructed housing,” shall not apply until HUD has accepted the certification

³² OCAFs are calculated and published each year by HUD in the Federal Register in order to calculate the contract rent for the project in the following fiscal year.

³³ If the Covered Project is deemed to be PHA-owned pursuant to HUD guidance, an independent entity will need to perform the rent-setting and inspection functions set out in 24 CFR § 983.59.

³⁴ The rent to owner may fall below the initial contract rent: 1) to correct errors in calculations in accordance with HUD requirements; 2) if additional housing assistance has been combined with PBV assistance after the execution of the initial HAP Contract and a rent decrease is required pursuant to § 983.55 (Prohibition of excess public assistance); or 3) if a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

of Work completion under the RCC. Following the completion of Work, the contract shall be subject to all PBV requirements that apply to “existing housing.”

The PHA and Project Owner will enter into a RAD PBV HAP Contract and will follow the requirements in this Notice with regard to conditions for entering into the HAP contract, executing the HAP contract, and conducting any Work. Except as provided under Section 1.4.A.12 (Transfers of Assistance), the RAD PBV HAP Contract will take effect before any Work begins.

During the period of Work identified in the RCC, standard HAP Contract funding procedures will be used for occupied units. Units covered under the RAD PBV HAP Contract that are not occupied at any point during the period of Work identified in the RCC may be eligible, subject to the conditions below, for Rehab Assistance Payments equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents (see Attachment 1C). During the period of rehabilitation or construction as identified in the RCC, the maximum number of units for which a Project Owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for Operating Fund or Capital Fund subsidy prior to conversion. As a result, some units in the Covered Project may not be eligible for Rehab Assistance Payments.

The Project Owner will no longer be eligible to receive RAD Rehab Assistance Payments upon the earlier of completion of the Work or expiration of the time period identified in the RCC for completion of all Work, which date is specified in the RAD PBV HAP Contract. After such date, all units under the HAP Contract will be eligible for payment only for occupied units or for vacancy payments, as applicable. MTW agencies may not alter this requirement.

To effectuate the above requirements, the definitions of “existing housing,” “rehabilitated housing,” and “newly constructed housing” at 24 CFR § 983.3(b), the definitions of “development activity” and “substantial improvement” at 24 CFR § 983.3(b) with respect to Work completed under the RCC, and 42 USC 1437f(o)(13)(A) and 24 CFR § 983.5(a)(2) describing the housing types for which a PHA enters into a HAP Contract in the PBV program, are waived. The requirements of this Notice shall apply with regard to the procedures for attaching PBV assistance to a Covered Project or to Work completed under the RCC in place of the PBV requirements stemming from the housing type classifications, such as: 24 CFR § 983.5(a)(3) (procedure for developing housing), 24 CFR § 983.10(b)(6)(i)-(ii), (8), and (10) (Administrative Plan policies), 24 CFR § 983.11 (Subsidy Layering Review), 24 CFR § 983.51(e)(2) (requirements before entering into a HAP Contract), 24 CFR § 983.52(d) (commencement of construction), 24 CFR § 983.56(a)(2)

(environmental review), 24 CFR § 983.103(a)-(c) (pre-selection and initial inspections; see Section 1.6.B.10 for alternative inspection requirements), 24 CFR Subpart D (governing development activity), and 24 CFR § 983.204(a)-(c) (procedure for executing the HAP Contract). With respect to site selection standards, HUD requires site selection standards in compliance with this Notice and Notice PIH 2016-17/H 2016-17.

10. HQS Inspections. Section 8(o)(8)(A) of the Act provides that HAP Contract units must be inspected to ensure compliance with HQS prior to payment of any assistance on behalf of a family. When Work is occurring under RAD, HUD requires that all units undergo inspection for HQS no later than the date of completion of the Work as indicated in the RCC. To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP Contract instead of conducting an initial inspection. During the period of the Work, HQS requirements apply. The PHA must enforce the Project Owner's obligations under this paragraph and conduct inspections when needed, for example in response to tenant complaints or other information coming to its attention, and the owner must correct any deficiencies in accordance with HQS requirements (i.e. no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the Work as indicated in the RCC). To effectuate the revised initial inspection requirement for RAD PBV units and Legacy Non-RAD PBV units within a Covered Project when such units are replacing public housing units at the time of conversion, HUD is waiving and establishing an alternative requirement to section 8(o)(8)(A) of the Act.

11. Floating Units. Upon the request of the owner to the Voucher Agency that will administer the Covered Project, HUD will permit PBV assistance to float among units within the project having the same bedroom size. A unit to which assistance is floated must be comparable in condition to the unit it is replacing (i.e., the unit must be of the same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit when there is no longer need for the reasonable accommodation provided the required

³⁵ [Reserved]

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 Legacy 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.³⁶ Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a public housing program participant 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, 24 CFR § 983.251(a)(2) and 24 CFR § 983.255(a)(1), concerning eligibility and targeting of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to apply to current public housing residents of the Converting Project that will reside in Legacy 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 Legacy Non-RAD PBV

³⁶ 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.

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 Legacy 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 TTP³⁷

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 Legacy Non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 4. Family Self Sufficiency (FSS).** PHAs and Project Owners must follow the FSS regulations at 24 CFR part 984. Public Housing residents that are currently FSS participants must be allowed to continue to participate in the PHA's FSS program for the duration of the grant's period of performance. The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted through RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement and any applicable 24 CFR part 200 requirements. If the PHA continues to run an FSS program that serves public housing, HCV (including PBV), and/or PBRA participants, the PHA will

³⁷ 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.

continue to be eligible (subject to FSS Funding Notice requirements) to apply for FSS funding. Due to the program merger between public housing FSS and HCV FSS that took place pursuant to the FY2014 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 through RAD.

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any Legacy 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 Legacy 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;

³⁸ [Reserved]

³⁹ [Reserved]

- ii. Not less than 30 days in the case of nonpayment of rent and in conformance with the terms of the Tenancy Addendum (HUD Form 52530c or replacement form); and
 - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- b. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

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

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),⁴⁰ an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - 1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
 - 2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address

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

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 Legacy Non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 7. Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any Legacy 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 FY2014 and/or subsequent fiscal year 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 grant agreement and/or work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project (see provisions in the relevant Jobs Plus NOFO and/or Grant Agreement). If the Jobs Plus program is continued, the grantee must agree to continue to implement the program according to HUD's program requirements. During the term of the Jobs

Plus grant period after conversion, residents previously enrolled in the Jobs Plus rent incentive may continue their enrollment and any project resident may enroll in services or the rent incentive after conversion. To facilitate the uniform treatment of residents and units, any Jobs Plus program at a target project(s) may also enroll residents in any Legacy Non-RAD PBV units in a Covered Project that replaced former public housing at the time of conversion in Jobs Plus services and in the Jobs Plus financial/rent incentive. To facilitate the ongoing availability of services for resident participants of Jobs Plus, HUD is waiving and establishing an alternative requirement to the “Self Sufficiency Programs” account in the Consolidated Appropriations Act, 2024 (and subsequent Appropriations Acts, as applicable) that restricts Jobs Plus grants to serving only public housing residents.

- 9. Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit’s occupants are eligible for housing assistance payments (24 CFR §§ 983.52(c) and 983.251(a)(2)). Also, a PHA must remove a unit from the HAP Contract when no assistance has been paid for 180 days because the family’s TTP has risen to a level that is equal to or greater than the Gross Rent. (24 CFR § 983.258 and § 983.211).

Pre-Conversion Residents. Since the rent limitation under this Section of the Notice may result in current residents having TTPs that exceed the Gross Rent, 24 CFR §§ 983.52(c) and 983.251(a)(2) does not apply in order to provide RAD PBV assistance to residents who were living in the Converting Project prior to conversion. As necessary to further implement the alternative requirements described below, HUD is waiving 24 CFR §983.258 and §983.211, as well as the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 and 24 CFR § 983.353(b)(1) as modified by Section 1.6.B.5 of this Notice.

HUD is establishing an alternative requirement that the unit for a family with a TTP that equals or exceeds Gross Rent must be placed on the PBV HAP Contract and the family shall be admitted to the PBV program. In such cases the resident is considered a participant under the PBV program and all the family obligations and protections under RAD and PBV apply to the resident.

During any period when the family’s TTP is equal to or above the Gross Rent, the zero-HAP family will pay an alternate rent to owner that is the lower of:

- a. the family’s TTP less the Utility Allowance, subject to any required phase-in pursuant to Section 1.6.C.3 of this Notice; or
- b. the Zero-HAP Rent Cap, which is the lower of either:

- i. 110% of the applicable FMR less the Utility Allowance; or
- ii. In the event the units are subject to more restrictive rent setting requirements under the LIHTC or HOME programs, or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

During any period that the family's TTP falls below the Gross Rent, the normal PBV requirements apply and the family would pay 30% of adjusted income, less utility allowance.

After a family has paid the Zero-HAP Rent Cap as set by this Section for a period of 180 days, the PHA shall remove the unit from the HAP Contract and the family's participation in the PBV program ends.⁴¹ If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP Contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP Contract unless the PHA previously substituted a different unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP Contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap set by this section and the family is otherwise eligible for PBV assistance. The PHA shall, at the earliest opportunity^{4B-8},

⁴¹ For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance (Gross Rent = \$550). The FMR for the unit size in the area in which the project is located is \$800. Following conversion, the family is responsible for paying \$550 in tenant rent. If the resident's income rises or is subject to a rent increase phase-in and all other conditions remain the same, the family would pay TTP until the tenant rent reached the Zero-HAP Rent Cap of \$830 (\$880, which is 110% of the \$800 FMR, minus the \$50 utility allowance), at which point the family would continue paying \$830, and unless the family's income and TTP subsequently decreases, the unit would be removed from the contract after 180 days. Families paying less than TTP because of the phased in Tenant Rent Increase alternative requirement are not paying the Zero-HAP Rent Cap and are not subject to this 180-day requirement. However, if the family's Calculated PBV TTP under section 1.6.C.3 is more than the Gross Rent, the family is a zero-HAP family and the applicability of the phased in Tenant Rent increase would end when the amount the family would pay under that alternative requirement meets or exceeds the Zero-HAP Rent Cap. At that point in time the family would pay the Zero-HAP Rent Cap and would be subject to all zero-HAP family requirements of this section, including the 180-day requirement.

^{4B-8} If the project was partially assisted and the PHA previously substituted a different unit on the HAP Contract, the PHA shall substitute the family's unit for a vacant unit on the HAP Contract if there is a vacant unit at the time of

reinstate the family's unit back onto the HAP Contract to provide rental assistance to the family. All PBV requirements with respect to the unit, such as compliance with HQS, apply while the unit is under the HAP Contract or added back to the HAP Contract.

New Admission Families. Unless a PHA requests and receives the waiver described below, any new admission to the Covered Project must meet the eligibility requirements at 24 CFR § 982.201 and require a subsidy payment at admission to the PBV program, which means the family's TTP may not equal or exceed the Gross Rent for the unit at that time. Furthermore, a PHA must remove a new admission family's unit from the PBV HAP Contract when no assistance has been paid for 180 days because a new admission family's TTP subsequently increased to equal or exceed the Gross Rent. However, HUD is imposing an alternative requirement in such cases. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit on the HAP Contract and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver of 24 CFR §§983.53(c), 983.258, 983.211, and 983.301 from HUD for the Covered Project. The waiver will apply the alternative requirements applicable to the pre-conversion residents in this Section to new admission families.

The PHA may request the waiver during the RAD conversion process or may subsequently request the waiver any time after the effective date of the HAP Contract. In order for the waiver to be approved, the PHA must demonstrate that based on the RAD rent calculated in accordance with Attachment 1C, the monthly two-bedroom RAD Gross Rent is less than: 30% of the monthly income of a family of four at the midpoint between the Very Low Income (VLI) HUD Income Limit and Extremely Low Income (ELI) HUD Income Limit for the area in which the Covered Project is located.

For waivers submitted during the conversion process, the Office of Recapitalization may grant the waiver after review of the Financing Plan and confirmation that the

the request, or by doing so as soon as a unit on the HAP Contract becomes vacant if there are no vacant units on the HAP Contract at the time of the family request.

RAD rents meet the waiver rent threshold described above.^{4B-9} The Office of Recapitalization shall document the waiver by adding an additional provision to the RCC before closing. For waivers submitted after the effective date of the HAP Contract, the waiver is submitted through the normal waiver process outlined in Notice PIH 2018-16 (or any successor notice). In both cases, the approved waiver will be for the initial term of the PBV HAP Contract.

If the waiver is approved, the new admission families covered under the waiver are participants under the PBV program, all the family obligations and protections under RAD and PBV apply to the family, the RAD PBV families shall be subject to the same alternative requirements applicable to the pre-conversion residents under this Section, and the unit is subject to all PBV program requirements, as modified by this Notice.

Further, Covered Projects that receive the waiver shall be subject to an alternative income targeting requirement that at least 75% of new admissions to the PBV units (both RAD and non-RAD PBV units) in the Covered Project in any PHA fiscal year are ELI families.^{4B-10} If there are less than four new admissions to the Covered Project in a PHA fiscal year, the income targeting is determined by combining the new admissions for that fiscal year with the new admissions for the subsequent fiscal year (or years) until the combined total of new admissions equals or exceeds four for those consecutive fiscal years.^{4B-11}

^{4B-9} An example of the waiver rent threshold calculation is as follows. Assume the applicable VLI limit is \$46,850 and the ELI limit is \$28,100. The midpoint income is \$37,475 ($\$46,850 + \$28,100 = \$74,950$; $\$74,950/2 = \$37,475$). To calculate the affordable monthly rent, the midpoint income is divided by 12 and multiplied by 0.30 ($\$37,475/12 = \$3,123$; $\$3,123 \times 0.30 = \937). If the RAD Rent is less than \$937, the Covered Project is eligible for the waiver.

^{4B-10} This alternative requirement for the Covered Project is in addition to the PHA's HCV/PBV program income targeting requirements at 24 CFR 982.201(b)(2). Admissions to the Covered Project continue to be taken into account when determining income targeting in accordance with 24 CFR 982.201(b)(2).

^{4B-11} For example, assume in fiscal year in which the waiver was granted the Covered Project had one new admission and in following fiscal year had three new admissions. Compliance with the Covered Project income targeting requirement would be determined based on the combined total of the 4 new admissions over the two fiscal years (3 of the 4 new admissions to PBV units the Covered Project must have been ELI families).

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 Legacy 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. Review of Financial Documents.** The Project Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. When timely requested by the Contract Administrator, the Project Owner must also submit property-specific audited year-end financial statements within a reasonable time established by the Contract Administrator. The Contract Administrator must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.⁴²
- 3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
- 4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial

⁴² 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.

order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

- a. Transferring an existing site-based waiting list to a new site-based waiting list.
- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions

requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).⁴³

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)(iii). 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 Legacy 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

⁴³ 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.

evidenced through the RCC but HUD review of liens must be performed prior to execution.

7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded with public housing funds. For example, if the project’s assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

8. **Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA’s HCV program becomes PBV assistance, it is possible for most or all of a PHA’s turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs

where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

9. **Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.
10. **Initial Certifications and Tenant Rent Calculations.** The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered

Project, any Legacy 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 24 CFR § 983.2(c)(7)(iii) and 24 CFR § 983.301(f)(4).

1.7 Special Provisions Affecting Conversions to PBRA

Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBRA program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration.

For public housing projects converting assistance to PBRA under the First Component of the Demonstration, 24 CFR part 880, Section 8 Housing Assistance Payments Program for New Construction as modified for RAD and as set forth in Appendix I, and applicable existing and subsequent Office of Housing guidance⁴⁴ will apply, except for the provisions listed below. These “special” provisions are grouped into three categories: Contract Terms, Resident Rights and Participation, and Other Miscellaneous Provisions. Where applicable, reference is made to the affected statute and/or regulation. For additional background purposes, HUD has provided Appendix I, which is a copy of the existing 24 CFR part 880 regulation with the provisions stricken that will not apply to Covered Projects. Additionally, Appendix II includes the specific provisions of the Act that are inapplicable to PBRA conversions. Finally, Appendix III includes the site and neighborhood standards that apply to PBRA.

Conversions from a RAD/Section 18 Blend will result in a single form of RAD PBRA HAP contract for the Converting Public Housing Assistance and Converting TPV Assistance and will include all of the same requirements.

A. PBRA Contract Terms.

- 1. Length of Contract.** Covered Projects shall have an initial HAP Contract term of 20 years. To implement this provision, HUD is specifying alternative requirements for section 8(d)(2)(A) of the Act, which establishes a maximum term of 15 years for “an existing structure.” Additionally, 24 CFR § 880.502, which imposes maximum

⁴⁴ Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1). Future changes to part 880 would apply to RAD as long as the future changes are not provisions that have been stricken in the final Notice.