

# Public Housing Converting to Project-Based Vouchers Occupancy Changes as it relates to RAD

SERC

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# You are Implementing PBV-RAD

- The program and things the PHA will undertake with conversion to the PBV Program- including operations, contracts, choice mobility, waiting lists management, resident rights, eligibility, income, assets, earned income disallowance, phase-in rents, etc.

# PHA Plan

- Conversion assistance and changes are considered a significant amendment to the PHA's Five-Year Plan for qualified and non-qualified PHAs, the Annual Plan for non-qualified PHAs, and the Moving to Work (MTW) Plan for MTW PHAs.

# Regulations and Procedures

- PBV- driven by the PBV Regulations and Administrative Plan
  - Structure of Admin Plan is critical
  - Two areas within the agency are brought together
    - Management
    - HCV
    - May have conflicting positions and competition for limited resources
  - Public Housing disappears

# Key Considerations

- Agency Plan Amendment- required
- Resident Participation- required
  - RIN Notice, GIN Notice, Notice of Intent to Acquire, RAD Relocation Notice,
- Choice Mobility- required
- Physical Needs Assessment- required
- Rent Phase-In- required
- Inspection- protocol
- Certain PHA benefits are still given- post conversion
  - Lease provisions
  - Grievance procedure
  - Tenant organization
- Right to return
- No screening for existing resident population

# Special Provisions Affecting Conversions to PBV- PIH 2012-32 rev 3 (1-12-17)

- 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.
  - Maximum Amount of PBV Assistance
  - Cap on the Number of PBV Units in Each Project
  - Owner Proposal Section
  - Site Selection
  - Length of the Contract
  - Mandatory Contract Renewal
  - Ownership or Control
  - RAD Use Agreement

# Special Provisions Affecting Conversions to PBV- continued

- Initial Contract Rent Setting
- MTW Fungibility
- Rent Bundling
- Future Replacement Housing Factor
- Method for Adjusting Contract Rents
- Transfer of Assistance
- Agreement Waiver and RAD Rehab Assistance
- HQS Inspections
- Floating Units
- No Rescreening of Tenants upon Conversion
- Right to Return
- Renewal of the Lease
- Phase-in of Tenant Rent Increases
- PH FSS and ROSS Programs
- Resident Participation and Funding



# Special Provisions Affecting Conversions to PBV- continued

- Resident Procedural Rights
  - Termination Notification
  - Grievance Process
- Earned Income Disregard (EID)
- Job Plus
- When the TTP exceeds Gross Rent
- Under-Occupied Unit
- Capital Fund Education and Training Community Facilities Program (CFCF)
- Access to Records, Including Requests for Information Related to Evaluation of Demonstration
- Additional Monitoring Requirement
- Davis Bacon Act and Section 3
- Establishing Waiting List
- Mandatory Insurance Coverage

# Special Provisions Affecting Conversions to PBV- continued

- Agreement Waiver
- Future Refinancing
- Administrative Fees for Public Housing Conversion
- Choice Mobility
- Reserve for Replacement
- Resident Notification

# Waiting List Management

# Waiting List Management

- Process should be outlined in the Admin Plan
- PHA will need to determine “who” manages the process
- Will be linked into SEMAP
- Required to have 98% accuracy on admissions
- Linked in with EIV process
- Further linked into Management Process
  - Exchanging information
  - Differences in eligibility and suitability

# Waiting List Management- continued

- Income Limits- 50%, 60% or 80%- option
- Links into LIHTC eligibility- if using Tax credit financing
- HUD requirements that everyone is eligible and no rescreening
- Higher income tenants and Flat Rents
- Changes in the TBV Waiting list Management because of Choice Mobility
  - Caps on the number assisted through the waiting list on an annual basis

# Establishment of Waiting List

- Applies to PBV
- 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted.
- These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

# Establishment of Waiting List-continued

- The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
  - i. Transferring an existing site-based waiting list to a new site-based waiting list.
  - ii. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
  - iii. 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.
  - iv. 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.

# Establishment of the Waiting List-continued

- 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.



# Establishment of the Waiting List-continued

- 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.

# Establishment of the Waiting List-continued

- 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 wait-list of the transfer of assistance, and on how they can apply for residency at other sites.

# Establishment of the Waiting List-continued

- 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.

# Establishment of the Waiting List-continued

- 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.

# Establishment of the Waiting List-continued

- 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)

# Establishment of the Waiting List-continued

- A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.
- To implement this provision, HUD is specifying alternative requirements for 24 CFR § 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).

# Choice Mobility

- **HUD Goal:** Provide residents of all covered projects with portable tenant-based vouchers after initial occupancy
  - PBV: standard rules – may become TBV voucher after 1 year
  - May have an impact on the Agency and Cost

# Resident Choice-Mobility

## **PBV- changed under PIH 2012-32- rev 3.**

- Adhere to current program rules:
  - Minimum residency: 1 year
  - Waitlist priority if comparable PBV is not immediately available
- Ranking factor (in competition) for applicants who obtain/commit choice- mobility vouchers



# Choice Mobility-continued

- 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.

# Choice Mobility-continued

- 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.

# Choice Mobility-continued

- Therefore, HUD is establishing an alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD.

# Choice Mobility-continued

- 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.

# Choice Mobility-continued

- In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

# Choice Mobility-continued

- 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).
- This alternative requirement does not apply to PBVs entered into outside of the context of RAD.
- MTW agencies may not alter this requirement.

# Phase-in Rent for Program Changes

# Phase-in of Tenant Rent Increases

- Applies to PBV
- If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years.
- 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.
- This policy must be in place at conversion and may not be modified after conversion.
- Place it in the Admin Plan



# Phase-in Conditions

- Student Rule Provisions
- Changes in the Utility Allowance (energy conservation)
- Flat Renters
- Other Conditions that change as a Result of Program Changes

# PHA Option on Phase-in

- 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

# Phase-in Methods

- The method described explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established.
- For purposes of phase-in “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.

# Phase-in Example of Resident that Does Not have a change in income over the 3 years

- 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

# 3 Year Phase-in Example on Flat Rent

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

# 5 year Example of the Phase-in on Flat Rent

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

# End of Phase-in for Reduction of TTP

- 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.

# Student Rule Provisions

This would be linked to the Phase-in for the  
Rent Increase



# Student Ineligibility Provisions – They are now Under the Voucher Program

- No assistance shall be provided under Section 8 to any individual who is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the U.S. military; is unmarried; does not have a dependent child; **is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005**, and is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

# Student Ineligibility Common Questions

- Does the final rule apply to public housing?
- Does the final rule apply to students that currently reside with parents in the HCV Program?
- Does the rule also apply to part-time students?
- What does the rule mean?
- Does the rule allow for prorated assistance?
- Let's review HUD's responses to these questions and more by looking at the tables.

# What ifs ?- Eligibility for Assistance

- College Student
  - Veteran
  - 22 years old
  - Single
  - No dependents
  - Lives in apartment by campus, but parents not living with the student are over-income
- Are they eligible?

# What Ifs ?- Eligibility for Assistance - continued

- Community College
  - 21 years old
  - Non-veteran
  - Unmarried
  - 1 dependent child
  - Student is income eligible, but one of the parents not living with the student family is over-income for Section 8
- Are they eligible?

# What Ifs ?- Eligibility for Assistance - continued

- Higher Education Technical Trade School
  - 24 Years of Age
  - Non-veteran
  - Does not have a dependent child
  - Unmarried
  - Is individually eligible and wants to live separately from the parents, but parents are not eligible
    - Parents are not on the application
- Are they eligible?

# What Ifs ?- Eligibility for Assistance - continued

- College Student
  - 20 years of age
  - Not a veteran
  - Is unmarried
  - Does not have a dependent child
  - Is income eligible and parents living in another state are below very low income levels for the area
- Are they eligible?

# Income Requirement for HCV Higher Education Student

- For Section 8 Programs **only** and as provided under the restrictions on assistance to students enrolled in institutions of higher education, any assistance, in excess of amounts received for tuition and fees, that an individual receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education, shall be considered income to the individual, except the financial assistance described in this paragraph is not considered income for persons over the age of 23 with dependent children.

# Income Requirement for HCV Higher Education Student- Loans

- For purposes of income inclusions, “financial assistance” does not include loan proceeds for the purpose of determining income



# What Ifs ?- Determination of Income

- College Student
  - Veteran
  - 22 years old
  - Single
  - No dependents
  - Lives in apartment by campus, but parents not living with the student are over-income
- Source of Income
  - Higher Education Grant- \$20,000 per year
  - Tuition – \$6,000 per year
- What is the Annual Income?

# What Ifs ?- Determination of Income - continued

- Community College
  - 24 years old
  - Non veteran
  - Unmarried
  - 1 dependent child
  - Student is income eligible, but one of the parents not living with the student family is over-income for Section 8
- Higher Education- \$10,000
- Private Sources (parents)- \$10,000
- Tuition Expense is \$6,000
- What is the Annual Income?

# What Ifs ?- Determination of Income - continued

- Higher Education Technical Trade School
  - 24 Years of Age
  - Non-veteran
  - Does not have a dependent child
  - Unmarried
  - Is individually eligible and lives separately from the parents, but parents are not eligible. Parents are not a participant in HCV Program
  - Source of Income
    - Student Loan of \$6,000 per year
    - Grant from the Technical School- \$5,000 per year
    - Tuition is \$3,000 per year
  - What is the Annual Income?

# What Ifs ?- Determination of Income - continued

- College Student
  - 20 years of age
  - Not a veteran
  - Is unmarried
  - Does not have a dependent child
  - Is income eligible and parents living in another state are below very low income levels for the area
- Source of Income
  - Educational Scholarship from Higher Education Act of 1965 for \$20,000
  - Parents contribution of \$3,000 per year
- Tuition is waived by the University
- What is the Annual Income?

# Earned Income Disallowance

# EID- conversions

- Use the current window of opportunity
- Does not extend the time period
- Only 1 EID during their stay in assisted housing
- Watch for new provisions under HOTMA

# Earned Income Disregard (EID)

- Applies to PBV
- 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.

# Earned Income Disregard (EID)- continued

- Applies to PBV
- In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only disabled persons is waived.
- The waiver and resulting alternative requirement only applies to tenants receiving the EID and working at the time of conversion.



# When TTP Exceeds Gross Rent Upon Conversion

# When Tenant TTP 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.

# Waiver of PBV Requirements

- 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.

# When TTP Exceeds Gross Rent-continued

- 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.
- 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.

# When TTP Exceeds Gross Rent-continued

- Following conversion, 24 CFR § 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time.
- Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days.

# When TTP Exceeds Gross Rent-continued

- If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has vacated the property.

# When TTP Exceeds Gross Rent-continued

- If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating” units have been permitted, Section 1.6.B.10 of this Notice.

# Other Provisions



# Resident Procedural Rights

- Applies to PBV
- Termination Notification
  - 14 days
  - 30 days
  - Reasonable time for expedited
- Grievance Process
  - An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as 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.
    - For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
    - For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

# Renewal of Tenant Lease

- Applies to PBV
- Under current regulations at 24 CFR § 983.257(b)(3), upon lease expiration, a PHA can choose not to renew the lease, but must state good cause.
- In such a case, the regulatory consequence is the loss of the assisted unit.
- Under RAD, the PHA must renew all leases upon lease expiration, unless cause exists.

# No Re-screening of Tenants upon Conversion

- Applies to PBV
- Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions.
- Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.
- Once that remaining household moves out, the unit must be leased to an eligible family.

# Right to Return

- Applies to PBV
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed.
- Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or Owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.
- Newer provisions in PIH 2012-32 rev 3 Section 1.4.A.5(ii).

# Right to Return- Follow Relocation Plan

- Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery.
- Where the transfer of assistance to a new site is warranted and approved (see Section 1.4.A.12), residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

# Under-Occupied Unit –Wrong-size 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

# Under-occupied Unit- continued

- 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.
- MTW agencies may not modify this requirement.
- Process should be in the Admin Plan

# Public Housing FSS and ROSS Programs.

- Applies to PBV
- Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program, subject to the following:
  - Must convert the participants
  - Must create or administer HCV FSS Program



# Maximum Amount of PBV Assistance

- Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which is currently set at 20 percent of the amount of budget authority allocated to a PHA under the Housing Choice Voucher program.
- HOTMA will increase the 20% provision in restricted cases.
- To implement this provision, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6.

# Cap on the Number of PBV Units in Each Project

- There is no cap on the number of units that may receive PBV assistance in each project. To implement these provisions, HUD is waiving section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR 983.56, 983.257(b), 983.262(a) and (d).

# Owner Proposal Selection Procedures

- HUD is waiving 24 CFR 983.51. With respect to the site selection standards.
- HUD requires compliance with the site selection as set forth in Notice PIH 2012-32 rev. 3.

# Site Selection

- **Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2).**
- HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site.

# Length of Contract- PBV

- Covered PBV projects shall have an initial HAP term of at least 15 years (up to 20 years upon request of the PHA and with approval by the agency administering the vouchers).

# Mandatory Contract Renewal

- Applies to PBV
- By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall 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.

# Ownership or Control (See Section 1.4. A.11 For Changes- See HOTMA definition)

- Applies to PBV
- Pursuant to the RAD statute, during the initial term and all renewal terms of the HAP contract, HUD will require ownership or control of assisted units by a public or non-profit entity.
- However, as HUD, in its sole discretion, determines necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations of, or default under, the HAP contract, HUD will require ownership or control of assisted units in the following priority: (1) a capable public entity; and (2) a capable non-public entity (e.g., a private entity), as determined by the Secretary.

# RAD Use Agreement

- Applies to PBV
- Recorded superior to other liens
- Will run the same time as the initial HAP Contract, automatically renew upon extension of renewal
- Requires in event of breach or non-compliance, new tenants must have incomes at or below 80 percent of median income
- Requires compliance with all applicable fair housing and civil rights requirements



# Initial Contract Rent Setting

- Applies to PBV
- HUD has calculated initial contract rents for every public housing project based on each project's subsidy under the public housing program.
- The initial contract rents cannot exceed the lower of: (a) the reasonable rent (as defined under 24 CFR § 983.303); (b) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard), minus any utility allowance; or (c) the rent requested by the owner
- In the event that current funding exceeds the amounts established above, a PHA may make a permanent transfer of any subsidy in excess of the allowable rent caps to its voucher program to support Choice-Mobility.
- In a limited number of situations where converting projects with LIHTCs are located outside of a Qualified Census Tract, rents are determined in accordance with 24 CFR 983.301(c).

# Method of Adjusting Contract Rents

- Applies to PBV
- Contract rents will be adjusted annually by HUD's OCAF at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term
- Not Automatic- see provisions of the regulation- also tied to reasonableness

# Method of Adjusting Contract 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
- If PHA owned or substantially controlled- must have supporting documentation by an independent.

# Transfer of Assistance

- Applies to PBV
- Pursuant to the RAD statute, in order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, with HUD and lender and/or investor approval, after consultation with residents, and consistency with the Consolidated Plan, a PHA (as owner) may transfer part or all of a rental assistance contract and a RAD Use Agreement to unassisted units owned or controlled by a public or non-profit entity, etc.
- See PIH 2012-32 Rev 3- Section 1.4.A.12

# RAD Rehab Assistance

- Applies to PBV
- Units that are not occupied and will be undergoing rehabilitation or construction as identified in the approved Financing Plan and RAD Conversion Commitment will be eligible for assistance equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents

# HQS Inspections

- HUD is waiving and establishing alternative requirements if the units must undergo substantial completion of work- prior to the conversion.
- Generally, the unit must pass HQS prior to any assistance payment.
- See PIH 2012-32 rev 3 on HQS Inspection- page 50

# Floating Units

- Discretion to allow the floating of units as a part of mixed financed or partial conversion of a property.
- See PIH 2012-32 rev 3 Floating Units- page 50.

# Resident Participation and Funding

- Applies to PBV
- Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.



# Jobs Plus

- Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target project(s) under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant relocation and/or change in building occupancy is planned.
- If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project.

# **Access to Records, Including Requests for Information Related to Evaluation of Demonstration**

- Applies to PBV
- PHAs must agree to any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.

# Additional Monitoring Requirement

- Applies to PBV
- The PHA's Board must approve the operating budget for the covered project annually in accordance with HUD requirements.
- 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 the evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC

# Davis-Bacon Act and Section 3-

- Applies to PBV- PIH 2012-32 Rev 3 Section 1.4.A.13 and 1.4.A.14
- Davis-Bacon Act and Section 3 shall apply to all initial repairs that are identified in the Financing Plan to the extent that such repairs qualify as construction or rehabilitation, regardless of whether the project qualifies as “existing housing.”
- Developmental requirements under 24 CFR § 983.154 and fair housing provisions under 24 CFR § 983.152(c)(vi) continue to apply. (Applicable to projects with nine or more units).

# Inspections

- PBV will be subject to UPCS-V upon final implementation of UPCS-V by HUD
- PBV- Initial inspections still required on all units
- PBV- Current foundation on HQS
  - Annual Inspection criteria is different
    - 20% of units inspected to determine if all units need to be inspected

# Mandatory Insurance Coverage

- Applies to PBV
- The project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except with the written approval of HUD to the contrary.

# Agreement Waiver

- PIH 2012-32 Rev 3 Section 1.6.B.8
- For public housing conversions to PBV, there will be no Agreement to Enter into a Housing Assistance Payments (AHAP) contract.
- Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D are waived.

# Future Refinancing

- Applies to PBV
- Owners must receive HUD approval for any refinancing or restructuring of permanent debt within the HAP contract term to ensure the financing is consistent with long-term preservation.



# Future Financing- continued

- 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 RAD Conversion Commitment (RCC)

# Administrative Fees for Public Housing Conversions

- Applies to PBV
- Initial period- no additional Admin fees.
- After this transition period, the ACC will be amended to include Section 8 funding that corresponds to the units covered by the ACC.
- At that time, the regular Section 8 Administrative Fee funding provisions will apply.

# Supportive Services for PBV- however modified

- HUD Requirement for Exemption
  - Applies at turnover, not for existing residents
  - Can be FSS participation or any other supportive services program as defined by HCV Administrative Plan
  - Plan may be reviewed by PHA or other funder for sufficiency
  - Key components
    - Intake and Assessment
    - Case Management
    - Individual Action Plan and Goals
    - Tracking and Reporting

# Supportive Goals

- Typical Program Goals
  - Self-sufficiency
  - Upward Mobility
  - Educational Achievement
  - Quality of Life

# Supportive Services- Sources of Funding

- Existing FSS Program
- Priority points for New HCV FSS coordinator positions in upcoming FSS competitions
- Site's operating budgets
- HCV Administrative Fees
- Partnership Agencies
- 501(c) 3 Affiliates
- Grants and other private sources

# 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.

# Reserve Replacement- continued

- 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.

# Questions

- Thanks You
- Contact Information