



About the Rental Assistance Demonstration (RAD)

RAD was enacted by Congress in 2012 to preserve and improve affordable housing for low-income families. RAD allows public housing authorities (PHAs) to permanently convert public housing, Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation (Mod Rehab) properties to the project-based Section 8 housing program, either to project-based vouchers (PBV) or project-based rental assistance (PBRA). This conversion to project-based Section 8 allows PHAs to leverage public and private debt and equity, as well as use low-income housing tax credits, to maintain and improve existing affordable housing. This funding flexibility and stability were not available under the public housing, Rent Supp, RAP, and Mod Rehab programs.

As authorized, there are two components of the RAD program. Under RAD Component 1, only public housing units may convert to PBV or PBRA. The number of the Component 1 conversions is currently capped at 185,000 units nationwide, and the converting units are chosen through a competitive selection process by HUD. Under Component 2, RAD allows Rent Supplement, RAP, and Mod Rehab properties to PBV or PBRA. There is no competitive selection process for RAD Component 2.

What is the new RAD Notice?

On January 12, 2017, HUD released [HUD Notice 2012-32, REV-3](#)¹ (“new RAD Notice”), which contains several updates and changes to the RAD program that became effective upon publication in the Federal Register on January 19, 2017.² This new notice revises and supersedes [HUD Notice 2012-32, REV-2](#)³ (“prior RAD Notice”). The new RAD Notice also supplements the requirements described in the HUD RAD Notice on Fair Housing, Civil Rights, and Relocation ([HUD Notice 2016-17](#)).⁴

How does the new RAD Notice affect RAD Component 1 properties?

Number of RAD PBV Units

The new RAD Notice eliminates the cap on the number of project-based voucher (PBV) units in a RAD-converting project (see Section 1.6(A)(2)). The prior RAD Notice stated that for properties converting to PBV under RAD, only up to 50% of the units in the project could be assisted with PBVs, unless:

¹ RAD Notice Revision 3, HUD.GOV,

http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_Note_Rev3_Final.docx. See also HUD’s redlined version comparing Revision 2 with Revision 3 here:

http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_Note_Rev2_Blackline.docx.

² In addition to the provisions described in this memo, it should be noted that HUD proposed several changes to how PHAs apply to HUD to convert properties to RAD, but those provisions did not become immediately effective on January 19, 2017. Those provisions must go through a public comment process, which has been postponed, because the RAD authorization statute states: “Provided further, That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration.” See Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55 (Nov. 18, 2011)] as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, approved January 17, 2014) and the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, approved December 6, 2014).

³ http://portal.hud.gov/hudportal/documents/huddoc?id=PIHNotice_2012-32_062015.pdf.

⁴ http://portal.hud.gov/hudportal/documents/huddoc?id=16-17hsgn_16-17pihn.pdf.

- at least 50% of the units are single-family homes (four or fewer units per building),
- the units were serving elderly/disabled families, or
- the units were serving families receiving supportive services.

This change will allow public housing authorities to convert all of their units at a particular property to project based vouchers without qualifying for one of the exceptions listed above.

Tenant Education

The new RAD Notice seeks to improve the quality of information that must be provided to RAD-converting residents (see Section 1.8). The prior RAD Notice only required that PHAs have at least two meetings with RAD-converting residents before applying to convert the property to RAD, but did not describe what type of information had to be discussed or shared with residents during such meetings. Because of the new RAD Notice, HUD will now require PHAs to include as part of these meetings a discussion of the PHA's preliminary intentions regarding:

- Whether the conversion will permanently move assisted residents to another affordable housing location (called a "transfer of assistance");
- Whether there will be another entity that will have any ownership interest in the RAD-converted property (i.e. a private property owner);
- Whether there will be a change in the number or configuration of assisted units or any other change that would impact a household's ability to return to the property after any temporary relocation; and
- Whether the PHA will eliminate or not rebuild any units that have been vacant for more than 24 months at the time the PHA applies to HUD to convert the property to RAD.

The new RAD Notice requires that PHAs provide a "RAD Information Notice" to residents before it meets with residents to inform them of their rights (see Section 1.8). This RAD Information Notice was recently created and required by the HUD RAD Notice on Fair Housing, Civil Rights, and Relocation (HUD Notice 2016-17).

The new RAD Notice also states that PHAs must meet with tenants to discuss any material change in the calculation of their utility allowances and any substantial change to the conversion plans relative to what was presented in the RAD application to HUD or previous resident meeting (see Section 1.8).

The new RAD Notice requires PHAs to provide HUD with the date(s) of the resident meeting(s) held following the issuance of the Commitment to enter into a Housing Assistance Payment (CHAP) and a record of responses (written or oral) to resident comments and questions (see Attachment 1A(R)). The prior RAD Notice only required PHAs to provide this information before the issuance of the CHAP.

Resident Participation Funding in RAD PBRA Properties

The new RAD Notice states that, for RAD PBRA properties, resident participation funding must be calculated to include all units that *would have been occupied* if not for temporary relocation (see Attachment 1B(2)(A)). After the RAD conversion, tenants have the right to establish and operate a resident organization in accordance with 24 CFR Part 245. Additionally, property owners must provide at least \$25 per occupied unit per year for resident participation, of which at least \$15 per occupied unit per year must be provided to the legitimate resident organization at the property. The new RAD Notice provisions define "occupied unit" to include all units where residents are currently residing as

well as those units where residents have been temporarily relocated but would have resided there but for their temporary relocation.

Prohibition of Tenant Rescreening

The new RAD Notice extends the prohibition on re-screening tenants to *current public housing households* who will reside in *non-RAD PBV or non-RAD PBRA units* that are *within a property that also contains RAD PBV or RAD PBRA units* (see Sections 1.6(C)(1) and 1.7(B)(1)). The RAD authorization statute prohibits re-screening tenants at the time of the RAD conversion, specifically stating that “That notwithstanding sections 3 and 16 of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements.” The new RAD Notice simply clarifies that RAD-converting tenants cannot be rescreened at the time of the RAD conversion, even if they are moving into units that are not specifically designated as part of the RAD conversion but are on the same property as RAD units.

Long-Term Affordability

The new RAD Notice explains how a public or non-profit may demonstrate ownership or control over properties post-RAD conversion (see Section 1.4(A)(11)). This language builds on the methods of ownership or control that were stated in the prior RAD Notice to include methods such as entering into a ground lease with the property owner.

Tenant Leases

The new RAD Notice states that PHAs must provide residents with notification of public housing lease termination at the time of the RAD conversion pursuant to 24 CFR 966.4(l)(3) and in accordance with local law, and must enter into new Section 8 leases effective as of the effective date of the HAP Contract (see Section 1.13(B)). The prior RAD Notice did not mention the new Section 8 leases, and only required that residents be provided with notification of public housing lease termination.

Tenant Rents

The new RAD Notice also clarifies the prior RAD Notice regarding how a tenant’s rent should be phased in over 3 or 5 years if the property owner is proposing to increase the tenant’s rent by the greater of 10% or \$25 purely as a result of conversion.

Lead-Based Paint Hazards

The new RAD Notice requires developers to identify as part of the scope of work for rehabilitation or new construction the need for interim controls of lead-based paint hazards in properties built before 1978 (see Section 1.4(A)(15)). The prior RAD Notice did not mention lead-based paint hazards.

Marketing and Leasing Available Units

The new RAD notice clarifies that the owner cannot market or lease any unit not occupied by a household exercising its right to remain in or return to the project before HUD approval of the Affirmative Fair Housing Marketing Plan (see Attachment 1A). The prior RAD Notice required that

each project have a HUD-approved AFHMP before the RAD *closing*, which was earlier than many properties will market or lease their units if most tenants exercise their right to remain.

How does the new RAD Notice affect RAD Component 2 properties?

Number of RAD PBV Units

The new RAD Notice eliminates the cap on the number of project-based voucher (PBV) units at a RAD-converting project (see Sections 2.5(C) and 3.5(C)). The prior RAD Notice (HUD Notice 2012-32, REV-2) stated that for properties converting to PBV under RAD, only up to 50% of the units in the project could be assisted with PBVs, unless:

- at least 50% of the units are single-family homes (four or fewer units per building),
- the units were serving elderly/disabled families, or
- the units were serving families receiving supportive services.

This change will allow public housing authorities to convert all of their units at a particular property to project based vouchers without qualifying for one of the exceptions listed above.

Contract Rents for Mod Rehab RAD PBRA Conversions

The new RAD Notice permits Mod Rehab properties converting to PRBA under RAD to adjust their contract rents (the total amount of rent specified in the HAP contract) up to 110% of the fair market rent (see Sections 2.6 and 3.6). The prior RAD Notice capped the contract rent at the lesser of the current contract rent or 120% of the applicable Section 8 Fair Market Rent (FMR) minus any utility allowances. The new RAD Notice instead caps the contract rent at the lesser of:

- the comparable market rent, as determined by a Rent Comparability Study prepared in accordance with Chapter 9 of the Section 8 Renewal Policy Guidebook;
- 110% of the applicable Fair Market Rent minus utility allowances; or
- 120% of the applicable Fair Market Rent minus utility allowances *if*:
 - the project preserves project-based rental assistance in communities with high percentages of rent-burdened households and where it is particularly hard to utilize tenant-based assistance;
 - the project serves to expand housing opportunities in communities with poverty rates less than 30%; and/or
 - the project supports revitalization activities that result in material private investment in the surrounding neighborhoods.

The new RAD Notice also authorizes the use of the applicable Fair Market Rent for a zero bedroom unit (efficiency FMR) when converting SRO units (see Section 2.7). The prior RAD Notice only allowed the use of 75% of the efficiency FMR when converting SRO units to RAD.

Additionally, the new RAD Notice permits the use of Small Area FMRs to calculate the contract rent cap, when approved by HUD (see Sections 2.5 and 2.6).

Lead-Based Paint Hazards

The new RAD Notice requires developers to identify as part of the scope of work for rehabilitation or new construction the need for lead-based paint abatement in properties built before 1978 (see Attachment 2A(F)(3)). The prior RAD Notice did not mention lead-based paint hazards.

Coordination with Continuum of Care

The new RAD Notice requires that SRO projects converting under RAD must submit with their financing plan evidence that the local Continuum of Care has been consulted about this RAD conversion (see Attachment 2A(P)), in addition to certain consultation requirements with the local Continuum of Care. The prior RAD Notice included the consultation requirements but did not require proof of such consultation for SRO projects at the time of the financing plan submission.

Prospective RAD Conversion: Short-Term Extensions

The new RAD Notice provides that any short-term extensions of Rent Supp or RAP contracts that are needed for the owner to prepare and submit a request under RAD before the contract reaches its expiration date must go through the Office of Recapitalization (see Section 3.3(A)(1)). The prior RAD Notice stated that such requests must go through the HUD Multifamily Hub or Regional Center with jurisdiction over the project.

Please email RAD@nhlp.org for further information.