

THE HFA INSTITUTE 2025

Transferring RAD Properties to the PBRA Portfolio



National Council of
State Housing Agencies



**MRBs and
Other Federal
Homeownership
Programs**
JANUARY 15 – 17



Housing Credit
JANUARY 14 – 16



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
JANUARY 15 – 17



**HOME and
Housing Trust
Fund**
JANUARY 12 – 14



Speakers

- Heather Sievers
- Trainer/Consultant
- Nan McKay & Associates

- Samantha Sowards
- Senior Manager of Professional Services
- Nan McKay & Associates



Agenda

- We will be covering some of the most important differences in RAD PBRA properties
- However, there isn't time to cover everything
- We've provided some extra materials

Overview of the RAD Program

Section 1



What is RAD PBRA?

- Under the First Component of RAD, Public Housing Authorities (PHAs) convert Public Housing units to either:
 - Project-based rental assistance (PBRA)
 - HUD's Office of Multifamily Housing Programs
 - Project-Based Vouchers (PBV)
 - Office of Public and Indian Housing (PIH)

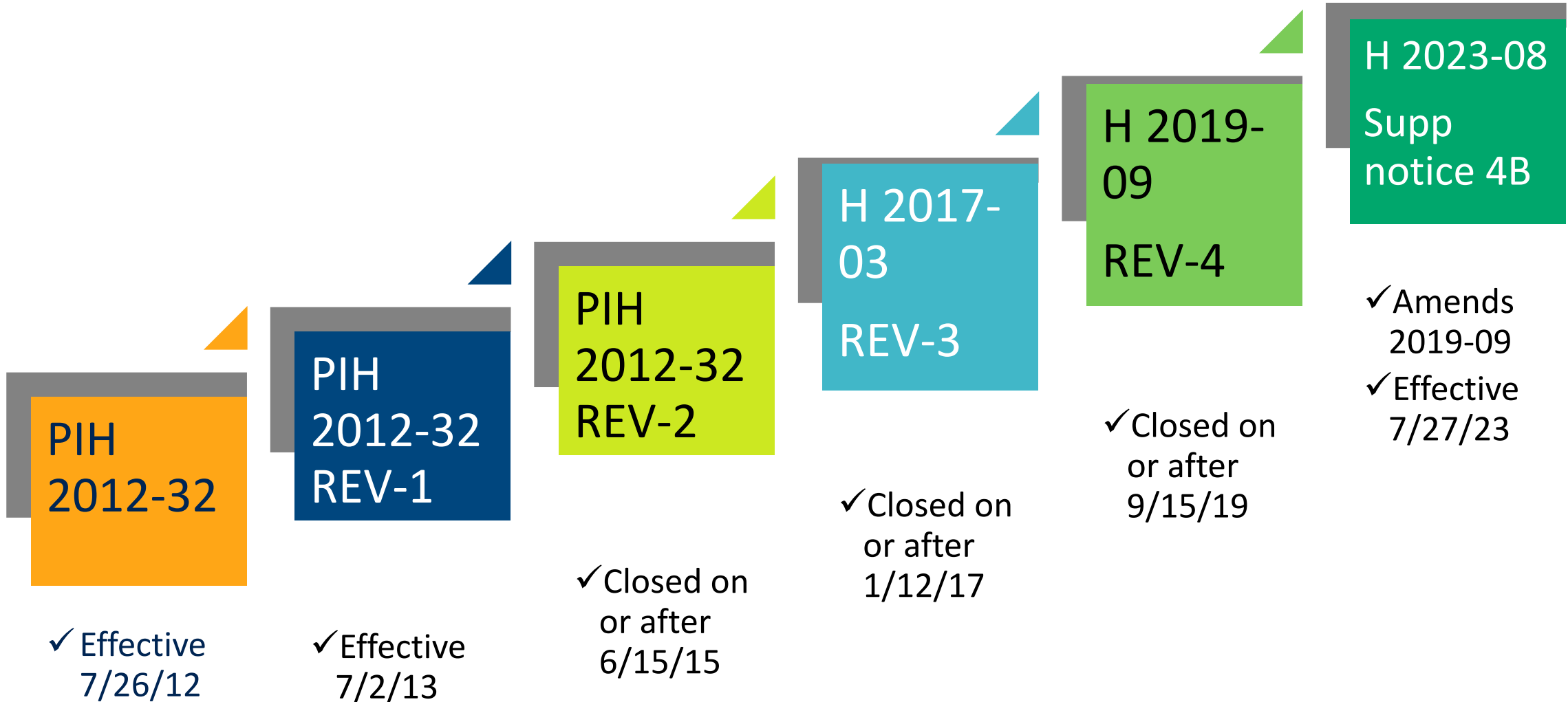
Why?

- Capital needs backlog in Public Housing estimated to be \$115 billion
- HUD launched RAD to assess effectiveness of converting PH units (and other programs) to long-term project-based Section 8
- From November 2011 to current:
 - \$20 billion in capital has been added to PH properties through RAD
 - An average of \$252,000 per unit
 - 212,000 rental units closed to date
 - Estimated 577,000 families

RAD Rules and Requirements

- Regulations at 24 CFR 880 (as amended for RAD) apply to RAD PBRA properties
- Some rules for “regular” PBRA are different or do not apply to RAD
- Units are no longer Public Housing after conversion
 - Major point of confusion for some PHAs
 - Some Public Housing rules apply in perpetuity to RAD properties

RAD Notice Timeline



MORs and the RAD Notice

- In general, the date the HAP contract is signed (“closing”) determines which RAD Notice each RAD property is required to follow
 - But some provisions, like Zero HAP rules, are applicable to all properties regardless of closing date
- A full MOR should be conducted within 6 months of the effective date of the HAP contract
- It is important for MOR purposes to know, and have available, the notice that applies to that property

RAD PBRA Reference Guide

- RAD Policy Quick Reference Guide to Multifamily Housing (PBRA) Requirements
 - Current version dated November 2023
 - Older versions also available

What is Moving To Work (MTW)?

- Allows some PHAs exemptions from some existing public housing and HCV rules and provides funding flexibility
- Currently, 138 MTW PHAs nationwide
- MTW is not applicable to RAD PBRA
- None of the program flexibilities under MTW apply after conversion to converted properties
 - This has been a point of confusion for many PHAs

HAP Contracts, UAs, and Rent Adjustments

Section 2



HAP Contracts

- Initial term of the HAP contract is 20 years
- After the initial term, at each contract renewal, HUD must offer, and the O/A must accept a contract renewal
 - Subject to appropriations
- RAD sites have all the same options for contract renewal that any other PBRA property has except RAD properties may not opt-out

Utility Allowances

- In general, initial HAP contract uses Public Housing UA that was in place prior to conversion
 - However, it is possible for a RAD site use an alternative UA at conversion (See Attachment 1C of the RAD Notice)
- Thereafter, O/A must follow Notice H 2015-04
 - For properties not undergoing rehab, O/A must use Notice H 2015-04 and establish a baseline analysis beginning with the first contract anniversary after the RAD conversion
 - If properties are undergoing rehab, Notice H 2015-04 is effective when the property is occupied and obtains 12 months of consumption data

Adjusting Contract Rents

- Rents are adjusted annually at the HAP contract anniversary date only by HUD's OCAF, subject to appropriations and the Maximum Rent
 - There is no option for budget-based adjustments
 - There is no option for early termination
 - OCAF excludes the portion of contract rent that is committed to debt service payments
- Maximum Rent is the higher of:
 - 140% of FMR – UA
 - Market rent as established by a rent comparability study (RCS)
 - Used to justify rent that exceeds 140% of FMR

Issues with Adjusting Contract Rents

- Early RAD rents in some cases were set well below market and some sites are struggling to cash flow at this time
- To date, HUD field offices have been responsible for processing rent adjustments and UA changes for RAD properties
- Nationally, there have been many problems with the annual processing of these adjustments
- Some properties have gone 5 years or longer without getting the annual adjustments processed
- This will be an area that O/As will need guidance on the expectation and process for requesting

Zero HAP Families

Section 3



Zero HAP Families

- Zero HAP = A family's TTP exceeds the gross rent for the unit
 - Gross rent = contract rent for the unit + UA
- HUD has changed how these rents are calculated three times:
 - Between 2012 and January 11, 2017 (REV-1 and REV-2)
 - Between January 12, 2017, and July 27, 2023 (REV-3 and REV-4)
 - After July 27, 2023 (Supp 4B)
- All properties now follow Supp 4B, but older certifications will follow older notices

Between 2012 and 1/11/17

REV-1 and REV-2

- Applicable to both in-place residents *and all new admissions thereafter*
- When TTP exceeds gross rent:
 - Owner may not process a termination of assistance
 - Tenant rent = 30% of household adjusted income (TTP) – UA
- HUD did not allow for zero HAP families at PBRA/LIHTC sites where rents must not be more than the LIHTC max

Example

- Contract rent: \$850
- UA: \$50
- Family's TTP: \$4,000

- \$850 contract rent + \$50 UA = \$900 gross rent
- Family's TTP exceeds the gross rent

- \$4,000 TTP - \$50 UA = **\$3,500 tenant rent**

Zero HAP Families under REV-1 and REV-2

- Tenant is still considered a Section 8 tenant
- Annual and interim recertifications must still be conducted
- Do not process through TRACS/EIV
- OCAF increases still apply
- If income decreases, assistance may be reinstated
- To move a new family into the property, households must be under the income limit and HAP must be paid

Between 1/1/17 and 7/27/23

REV-3 and REV-4

- Applicable to both in-place residents *as well as for new admissions*
- When TTP exceeds gross rent:
 - Owner may not process a termination of assistance
 - Tenant rent equal to the lesser of:
 - TTP (which is not capped at gross rent) - UA
 - Any applicable maximum rent under LIHTC regulations
 - No allowance for things like HOME etc.

Example

Contract rent: \$955

UA: \$65

Family's TTP: \$1,350

\$955 contract rent + \$65 UA = \$1,020 gross rent

Family's TTP of \$1,350 exceeds the gross rent

\$1,350 TTP - \$65 UA = \$1,285

LIHTC max = \$1,219

The lesser of the two = **\$1,219**

Zero HAP Families under REV-3 and REV-4

- The notice did not say that the “lesser of” cannot be less than the gross rent and does not mention the FMR
- This allowed for rents to be capped at the LIHTC max
- In this case, when a family is zero HAP, they could be paying less than the gross rent

Zero HAP Families under REV-3 and REV-4

- Tenant is still considered a Section 8 tenant
- Tenant retains rights under the model lease
- Annual and interim recertifications must still be conducted
- Do not process through TRACS/EIV
- OCAF increases still apply
- If income decreases, assistance may be reinstated
- To move a new family into the property, households must be under the income limit and HAP must be paid

After 7/27/23

Supplement 4B

- Applicable to both in-place residents and new admissions to the project *during the initial term of the contract*
- When TTP equals or exceeds gross rent, tenant rent equals the “Alternate Rent”

Alternate Rent

- The Alternate Rent is the lower of:
 - TTP - UA (subject to any required phase-in); or
 - Zero-HAP Rent Cap; which is the lower of:
 - Applicable FMR* - UA; or
 - If the unit is subject to a more restrictive rent setting requirements (LIHTC, HOME) the rent to owner set to comply with those requirements

Note: If the "lesser of test" results in a Zero-HAP Rent Cap that is below the gross rent, then TTP is capped at the gross rent for the unit.

Example

Contract rent: \$955

UA: \$65

Family's TTP: \$1,350

\$955 contract rent + \$65 UA = \$1,020 gross rent

Family's TTP of \$1,350 exceeds the gross rent

Example

LIHTC max = \$1,219
FMR = \$1,013

To calculate tenant rent, pick the lesser of:

\$1,350 TTP - \$65 UA = \$1,285

Zero-HAP Rent Cap:

LIHTC max = \$1,219

\$1,013 FMR - \$65 UA = \$948

Family pays lesser of \$1,285; \$1,219; or **\$948**

***Note that under this rule, there are times where the LIHTC max would be less than the gross rent and if the HUD rule is followed, the unit will be out of compliance with the LIHTC regulations**

Zero HAP Families under Supplement 4B

- Tenant retains rights under the model lease
- Annual and interim recertifications must still be conducted
- Do not process through TRACS
 - But may be required in the future
- No mention of EIV in the notice
- OCAF increases still apply
- If income decreases, assistance may be reinstated
- All families who would otherwise qualify for assistance in the unit, must be admitted- there is no longer requirement for HAP at move in

Summary

2012- 1/11/2017
REV-1 and REV-2

- TTP - UA

1/12/17 – 7/27/23
REV 3 and REV-4

- Lesser of:
 - TTP (which is not capped at gross rent) – UA
 - Applicable LIHTC maximum

After 7/28/23 Supp 4B

- Lesser of:
 - TTP (subject to phase-in) – UA; or
 - Zero-HAP Rent Cap; which is the lower of:
 - Applicable FMR – UA; or
 - LIHTC or HOME rent



TRACS and Vouchers

Section 4

TRACS Submissions

- RAD properties historically sent their tenant data and voucher requests directly into TRACS
 - This has been a source of a lot of errors
 - Some O/As have gone months without payments due to unacceptable TRACS compliance percentages
- Anticipate a lot of additional guidance needed in this area
- Also, some software does not have the capability of doing baseline submissions

Year of Conversion

- During the year of conversion, the O/A is spending down the money they were paid under the Public Housing program
- RAD properties do not begin to receive payments through the Multifamily system until January 1 the year following conversion
 - This time is called *the year of conversion*
 - Example:
 - HAP contract effective 7/1/24
 - MF HAP did not begin until 1/1/25
 - So 7/1/24 – 12/31/24 is the year of conversion

Year of Conversion Requests

- During the year of conversion, O/As must submit vouchers with a \$0 payment request
 - Enter a *Miscellaneous Accounting Request (OARQ)* to zero the amount out
- These zero-sum vouchers **MUST** be submitted during the year of conversion
 - If it is not zero, it will be rejected in TRACS

Voucher Payments

- Even though HUD requires these zero-sum vouchers be submitted, no one has been checking to ensure that it has happened, and no penalties were assessed for noncompliance with the rule
- But on January 1, HAP payments are delayed if they did not get their TRACS compliance percentage corrected

RAD Initial Conversions

Section 5



RAD Conversions

- When converting existing household to RAD an Initial Certification (IC) must be created and submitted to TRACS
 - Total Tenant Payment (TTP) that was in place on the last 50058 before conversion must match the TTP on the IC 50059
 - Residents typically retain their recertification date listed on the last 50058 as well
- When creating the IC for each household, the PHA must set the “do not check eligibility” code in TRACS
- Some information that is required to be submitted on the 50059 is not collected on the 50058
 - PHA is required to complete these fields to create the initial certifications (IC)

AR/IR Corresponding to Conversion Date

- There may be an AR or an IR that is supposed to be effective on the same date as the conversion IC
 - Recertifications must still be completed
- The O/A must:
 - Create the IC using the most recent 50058
 - Does phase-in apply?
 - Sign and send to TRACS
 - After TRACS has accepted the IC and it shows as current, correct the conversion IC using the new income data from the AR or IR

Choice Mobility and Unit Transfers

Section 6

Choice Mobility

- Residents have a right to move with tenant-based rental assistance (housing choice voucher (HCV)) the later of:
 - 24 months from date of execution of the HAP
 - or
 - 24 months after the move-in date
- This is called Choice Mobility
- Some exceptions granted by HUD
- Some options to create caps on the number of vouchers

Transfers

- Under public housing, residents are allowed to transfer from one public housing project to any other public housing project in the PHA's inventory (PHA has a transfer list)
 - May transfer to any unit for which they qualify within the PH program
- This is not the case in PBRA, even when there are VAWA requests
 - Unless the AE has approved a VAWA preference at the property
- The VAWA Emergency Transfer Plan should be reviewed to ensure proper application of the rules

Applications and the Waiting List

Section 7



Applications

- For households that were in place at the time of conversion, the following documents will not be in the resident file:
 - Application
 - Background check
 - EIV Existing Tenant Search
 - Landlord reference
 - Application approval letter
- Best practice: Include a place holder in these files for this section explaining they were an in-place family at the time of conversion and note what documents will be missing

Establishment of the Waiting List

- RAD PBRA properties may use project-specific or community-wide waiting list
- How the transition is handled depends on what was used in PH and what the O/A will operate after conversion
 - H 2019-09 REV 4
- Creation of list done using existing PH rules
 - Including posting/notification requirements
 - May use a lottery system
- After initial waiting list established, O/A must administer the list under standard PBRA rules
- Must maintain the list in accordance with applicable civil rights and fair housing laws and regulations

What's different about how you audit?

- If a community-wide waiting list is used, be prepared to learn how the O/A manages that list
 - In what order offers are made for each property?
 - Should be spelled out in detail in their TSP
- If the O/A chooses to use a lottery system, be prepared to learn how the O/A manages that system
 - How groups of applicants are notified at once about an available unit
 - What the deciding factor is for which applicant gets that unit?
 - What happens with the applicants that don't get that unit?
 - Should be spelled out in detail in their TSP

Relocation Notices

- Current relocation notice is H 2016-17
- For conversions closed prior to 2016, Notice H 2014-17 applies
 - Much less required for resident notification
- HUD established a series of notices to residents that are mandatory regarding RAD relocations
 - Must be delivered either in-person or by certified mail with return receipt requested
 - Specific times these notices must be delivered
- Resident log for tracking all relocations is also required
- Notices and log will be subject to a compliance review during the MOR
 - Refer to Notice H 2016-17, Section 6.6 for details
 - Footnotes in these sections provide a lot of information and examples



Preferences

Section 8

Preferences

- Any preference adopted as part of the conversion that will alter the occupancy of the property is subject to an upfront civil rights review during the RAD conversion process
- Preferences that require HUD Multifamily AE approval prior to execution of the HAP contract include, but are not limited to:
 - Elderly families
 - Near-elderly single persons
 - Near-elderly families

Owner-Adopted Elderly/Disabled Preferences

- Owners may not establish or, where previously approved under PH rules, maintain a designation for elderly families or disabled families
 - For example, designated elderly developments
- However, owners may adopt a selection preference, with HUD AE approval, which permits those applicants to be selected from the waiting list and housed before other eligible families
 - For example, a preference for elderly families

Rent Phase-In

Section 9



Rent Phase-In

- In-place tenants at the time of conversion are eligible to have rents phased-in if purely as a result of conversion, the amount the tenant would pay for rent and utilities (TTP) would increase the greater of 10% or \$25
- Rent increase phased in over 3 years or 5 years
 - PHA develops a policy
- Eligibility for the phase-in is to be determined at the IC which occurs at the time the household is converted to PBRA
 - A phase-in must not be applied after the household's IC

Rent Override

- If TTP would be different from the 50058 on the IC because of the phase-in, the O/A must use the rent override option in their site software for the creation of the initial IC
- If this is the case, the O/A can enter an alternate TTP and TRACS will accept it
 - Make sure the override flag is only set for the IC process and the standard PBRA calculation rules apply after conversion
 - Unless the household is eligible for rent phase in at their first AR or IR
- The last completed 50058 should be in the file so that the CA can audit to ensure the TTP on the IC matches the TTP on the 50058

Eligibility

Section 10



Affirmative Fair Housing Marketing Plan

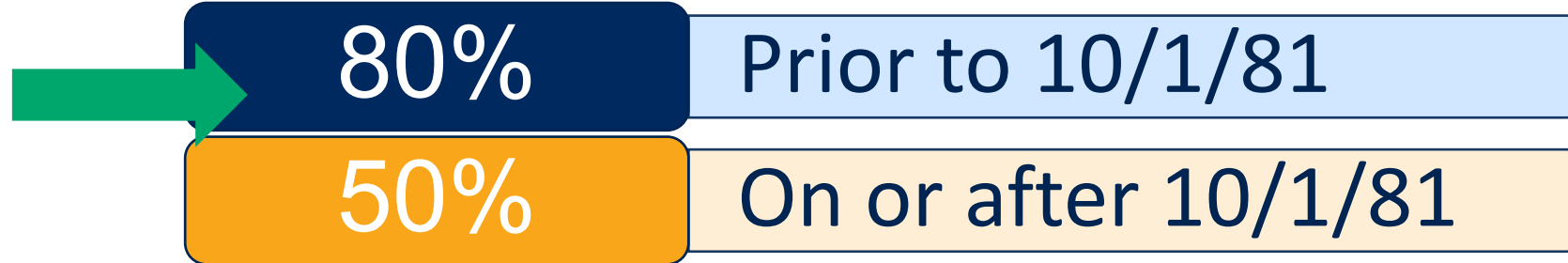
- Was approved as part of the RAD conversion closing package
- New for PHAs:
 - Marketing in accordance with this type of plan
 - Having to review and/or update it at least every 5 years
- It is common for a PHA to keep community wide wait lists and/or to have them closed for long periods of time
- In these cases, while the wait list is closed, the PHA would not have marketed the property

In-Place Families

- The O/A should be able to produce a report from their software identifying existing households who were in-place prior to RAD conversion
- Once remaining household moves out, unit must be leased to an eligible family

Applying Income Limits

- Income limits for Multifamily Section 8 properties are based on date of initial HAP contract



- Extremely low-income limit for income targeting
- New admissions use low-income limit (80%)
 - Treated as pre-1981 contracts
 - Not applicable to in-place families

Student Status

- Student rule does not exist in public housing
- At conversion, in-place families that would be subject to the student rule are grandfathered in, but...
- The student rule is an ongoing eligibility requirement, so...
- At the first IR or AR *after conversion*, families must meet student rule eligibility requirements or have their assistance terminated

Move in Inspection

- If the site went through rehab as part of the RAD conversion:
 - There will not be a move in inspection until after the work is completed in the unit
- If the site did not go through rehab:
 - The move in inspection from LIPH should be moved forward to the PBRA file
 - *Either way, it is best practice to add a place holder to the file to note circumstances

Initial Lease Execution

- Must use the current HUD model lease: HUD 90105-A *Model Lease for Subsidized Programs*
 - For in-place tenants, effective date must equal HAP contract effective date
 - Must be signed by O/A and all adult household members on or before HAP contract effective date

Lease Addenda

- At the time of the initial lease signing, the O/A will also need to obtain:
 - The VAWA lease addendum (one for each adult HH member)
 - Lead-based paint disclosure form (if applicable)
 - Provide LBP brochure and LBP disclosure
 - Pet rules (if applicable)
 - Owner's live-in aide addendum (if applicable)
 - Owner's police or security personnel addendum (if applicable)

Information Given to Families

- Additionally, at initial lease signing. O/A must provide copies of all of the following:
 - EIV & You Brochure
 - HUD 9887A Fact Sheet
 - Fact Sheet – How Your Rent is Determined
 - Resident’s Rights and Responsibilities Brochure
- The PHA will also need to collect:
 - 9887/9887A
 - General release
 - Acknowledgement of receipt of HUD required documents
 - Race and Ethnic Data collection form for each HH member

House Rules

- RAD PBRA sites are required to have House Rules that include resident rights as listed in Attachment 1E of RAD notices
 - Termination notification
 - Grievance procedures
 - Choice mobility
- O/A may develop additional house rules consistent with HUD requirements
- At the time of the initial lease signing, O/A must provide a copy of the new House Rules to all households and obtain signature of receipt.

Lead Based Paint

- It is somewhat common to have full remediation of lead-based paint issues during the RAD rehabilitation activities
 - So even though there are many RAD properties built prior to 1978, they may no longer be subject to the LBP requirements
 - Sites should have the reports documenting the status of LBP at the property for review at MOR

Pet Rules

- Existing pets must be grandfathered in at conversion
- May restrict pets to households that were part of the conversion
- May have a no pet policy after conversion
- If pets are allowed
 - Must develop pet rules using the HUD Handbook requirements
 - If household has a pet, or the O/A established a pet policy after conversion, the O/A must have lease addendum (HUD-approved) adding language regarding pets from 202 lease

Other Occupancy Issues

Section 11



Earned Income Disallowance (EID)

- Applies to adult family members who had an increase in earned income and met certain criteria prior to RAD conversion
- Exclusion for some or all earned income
- Tenants receiving EID at time of conversion continue to receive the exclusion until:
 - Break in employment
 - Ceases to use the exclusion
 - Exclusion expires (after 24 months)
- Rents are not phased-in when EID ends, automatically adjusted to appropriate level

Earned Income Disallowance (EID)

- No family may qualify for the EID after conversion, as it doesn't exist in Multifamily programs
- HOTMA removed the statutory authority for the EID
 - Any family receiving EID prior to 1/1/24 continues to qualify
 - EID fully sunsets 1/1/26
- Documentation will need to be moved forward to the PBRA file for any household that was receiving the benefit prior to conversion

Termination and Grievance Process

- Additional requirements for termination notifications and grievances for RAD PBRA properties
- Must be included in the House Rules as an attachment to the lease
- Must follow some of the previous PH policy/procedures for termination notices and grievances
- See RAD notice for specific required language

Late Fees

- HUD model lease requires late fees
 - \$5 late fee on 6th of month
 - \$1 a day for remainder of month until that month's rent has been paid (up to \$30)
- PH not required to charge late fees
 - Some PHAs do not charge late fees
 - No set amount for late fees in PH as long as they are reasonable

Annual Recertification

- PH does not require the four reminder notices and verifications are only good for 60 days from the reexam/request date (changes to 120 days under HOTA)
- The PBRA notification requirements and timing is all new to PHAs
- Termination of assistance also does not exist in PH
- Termination of assistance and termination of tenancy are the same thing in PH



EIV

Section 12



EIV

- EIV for Multifamily is different than for PH
- MF rules for EIV are much stricter than PH rules
- MF EIV does not have some of the reporting capabilities PH EIV has
- Not required in PH:
 - Specific Use & Security Policy
 - EIV Master File
 - Permanent Records Binder
- Process is all new and O/As will need guidance

FSS in PBRA

Section 13



Family Self-Sufficiency (FSS) Program

- FSS program is being covered here because you are more likely to see the program on a RAD PBRA property
- Many PHAs have FSS programs under Public Housing and want to carry them over to Multifamily after conversion

RAD PBRA and FSS

- Current PH participants will continue to be eligible after conversion
- All current escrow funds will be transferred to PBRA escrow account
- PH grant funds cannot be used to provide services to new participants under Multifamily

Family Self-Sufficiency

- FSS program – Notice H 2016-08 and 2022 FSS final Rule
 - Provides incentives and supports to help families increase their earned income and reduce their dependence on public assistance programs
 - Participation in the program is voluntary for owners and families
 - PHA may change the HOH on the 50059 to the person who executes the FSS Contract of Participation (CoP)

Family Self-Sufficiency

- The family gets the money in escrow when:
 - All HH members have been free of welfare assistance (TANF) for at least a year before expiration of the CoP
 - The family has fulfilled all obligations of the CoP (unless there was good cause)
 - The family has complied with the lease
 - HOH has sought and maintained suitable employment (there is no minimum employment period)

FSS and MORs

- While conducting the onsite portion of the MOR, determine if the property has an FSS program, and if so:
 - Look at an FSS participant's file and ensure the Contract of Participation (CoP) is properly executed
 - Look at the escrow documentation to determine if it is being calculated correctly
 - NMA offers training on how to do this

Resident Participation and Funding and Rehab Assistance

Section 14



Resident Participation

- Resident Advisory Boards are required in public housing
- Residents of RAD PBRA projects have the right to establish and operate a resident organization
 - The PHA must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization

Resident Participation

- Resident participation funding applies to all occupied units as well as units which would have been occupied if not for temporary relocation
- These funds must be used for resident education, organizing around tenancy issues, and training activities
- Residents must make requests for these funds in writing
 - These requests will be subject to approval
- See PIH Notice 2013-21 for more detailed information

Rehab Assistance Payments

- During the period of rehabilitation or construction (as identified in the RCC) the PHA can receive RAD Rehab Assistance Payments (RAP)
 - The HAP contract will detail the payment amounts per unit and length of time
- These payments are for units vacant due to rehab/construction
- The funds are considered operating income
 - No funds will be paid for occupied units
 - The monthly amounts will be pro-rated for partial months of occupancy

Requesting Funds

- In the year of conversion, part of the initial year funding tool
- In the year after conversion:
 - Complete a RAP summary form
 - Create an OARQ on the monthly HAP voucher
 - Submit to HUD for payment

Speakers

- Heather Sievers
- hsievers@nanmckay.com

- Samantha Sowards
- ssowards@nanmckay.com

- NMA offers an in-depth class on RAD PBRA for PBCAs
- Email Sales@nanmckay.com

