

## **Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program**

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### **INTRODUCTION**

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

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**PART I: GENERAL REQUIREMENTS**

**18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM**

This section gives a brief description of the Rental Assistance Demonstration (RAD) program.  
**No policy decisions are required.**

**18-I.B. APPLICABLE REGULATIONS**

This section discusses notices and guidance that pertain to the project-based voucher program under RAD.



**Decision Point: Which RAD notice(s) governs the PHA's RAD PBV projects?  
(Model plan, p. 18-5)**

**Things to Consider**

- The RAD PBV policies in Chapter 18 are based on Notice PIH 2019-23 (REV-4), as amended by RAD Supplemental Notice 4B. Depending on the closing date of the project, one or more of the PHA's projects may instead, however, be governed by the requirements of either Notice PIH 2012-32, REV-2 or Notice PIH 2012-32, REV-3. Because of this, policies will differ slightly in certain sections for these projects.
- The decision point below will allow the PHA to more easily identify projects that are governed by Notice PIH 2012-32, REV-2 or REV-3.
- If the PHA has projects governed by either Notice PIH 2012-32, REV-2 or REV-3, not only should the PHA identify all of its RAD PBV projects below, but in applicable sections of this Instruction Guide, the PHA should adopt policies in accordance with the notice in effect for those developments.
- In order to fill out the table in the policy section below:
  - If the PHA was seeking conversion, including having a CHAP issued, or closed a project between January 12, 2017, and September 4, 2019, enter "PIH 2012-32, REV-3" under *RAD Notice* below.
  - If the PHA was seeking conversion, including having a CHAP issued, or closed a project prior to January 12, 2017, enter "PIH 2012-32, REV-2" under *RAD Notice* below.
- If none of the PHA's project are governed by the predecessor notices to PIH 2019-23, the policy decision may be deleted.

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**CAUTION:** You must insert information here. The model administrative plan does not contain language that can be adopted as-is.



*Option 1: Use the model plan language shown below. Insert a list of each RAD projects receiving PBV assistance, the closing date, and the applicable RAD notice to the project.*

<u>Project</u>	<u>Closing Date</u>	<u>RAD Notice</u>
Maple Tower	09/26/2014	PIH 2012-32, REV-2
River Run	09/18/2014	PIH 2012-32, REV-2
West Arbor	11/01/2016	PIH 2012-32, REV-2
State Crossing	12/07/2020	PIH 2012-32, REV-3



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE  
[24 CFR 983.2]**



**Decision Point: Which of the PHA's tenant-based voucher policies will also apply to the RAD PBV program? (Model plan, p. 18-6)**

**Things to Consider**

- Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance.
- This chapter of the administrative plan closely follows the PBV program regulations. As a result, there are topics explicitly discussed in this chapter even though the RAD PBV rules and resulting policies are the same as those for the tenant-based voucher program (e.g., abatement of HAP, denial of admission, utility reimbursements).
- On the other hand, there are many topics that are not covered in this chapter because they are not explicitly mentioned under RAD PBV regulations, notices, or guidance; yet it must be made clear what policies the PHA will follow for the RAD PBV program (e.g., processing reexaminations, fair housing, program integrity).
- This policy is intended to minimize the duplication of policies that are the same for the tenant-based voucher and RAD PBV programs, and make clear to PHA staff, owners, and participants that unless prohibited by program regulations or otherwise stated in this chapter, the PHA policies related to tenant-based vouchers also apply to RAD PBV assistance.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

See Exhibit 18-1 for information on projects to which the PHA has attached RAD PBV assistance.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-I.D. RELOCATION REQUIREMENTS**

This section describes the relocation requirements for projects that have applied for conversion of assistance under the first component of RAD after and prior to November 10, 2016. **No policy decisions are required.**

**18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2016-17]**

This section describes the PHA's obligation to comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. **No policy decisions are required.**

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**PART II: PBV PROJECT SELECTION**

**18-II. A. OVERVIEW**

This section provides an overview of Part II. **No policy decisions are required.**

**18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]**

This section discusses ownership and control of RAD PBV developments. **No policy decisions are required.**

**18-II.C. PHA-OWNED UNITS [24 CFR 983.57, FR Notice 1/18/17, and  
Notice PIH 2017-21]**

If the project is PHA-owned pursuant to 24 CFR 983.59 (even though the project may be owned by a separate legal entity, if that entity is under the control of the PHA that is the voucher agency, the project may be deemed to be owned by the PHA), an independent entity will need to perform the rent-setting and inspection functions set forth in 24 CFR 983.59.



**Decision Point: Are units that are converted to PBV under RAD PHA-owned?  
(Model plan, p. 18-13)**

**Things to Consider**

- In order to be a PHA-owned unit, the PHA must have ownership interest in the building itself, not simply the land beneath the building.
- A unit is considered to be *owned by the PHA* if the unit is in a project that is owned by the PHA (which includes a PHA having “controlling interest” in the entity that owns the unit), owned by an entity wholly controlled by the PHA, or owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing or general partner.

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- *Controlling interest* means:
  - Holding more than 50 percent of the stock of any corporation;
  - Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
  - Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;
  - Holding more than 50 percent of all managing member interests in an LLC;
  - Holding more than 50 percent of all general partner interests in a partnership; or
  - Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category, a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.
- A unit is not considered to be owned by the PHA if:
  - The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself;
  - The PHA holds only security interest under a mortgage or deed of trust on the unit; or
  - The PHA has only a noncontrolling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit.
- HUD requires an independent agency to determine rent to owner, redetermined rent to owner, and rent reasonableness, in addition to conducting housing quality inspections to avoid any appearance of impropriety.
- Attachment B of Notice PIH 2017-21 provides detailed information on PHA selection of an independent entity.
- Please note that the model plan language calls for the PHA to identify the name of the independent entity. If units converted under RAD are not PHA-owned units, select Option 2.



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**CAUTION:** You must insert information here. The model plan does not contain language that can be adopted as-is



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If units converted to PBV under RAD are PHA-owned housing, the PHA will use **[insert name of the entity]** as the HUD-approved independent entity.



*Option 2: If units converted under RAD are not PHA-owned housing, delete the model plan language and insert the policy below.*

The units converted to PBV under RAD are not owned by the PHA.



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23;  
Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV-2]**

The section identifies the subsidy layering requirements. **No policy decisions are required.**

**18-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23 and  
Notice PIH 2023-19]**

This section discusses the percentage limitations on PBV assistance as well as the project cap in the PBV program. RAD PBV units do not count toward the PHA's authorized unit cap that applies to the standard PBV program. Further, when HUD published REV-3 of Notice PIH 2012-32 in June 2015, they eliminated the cap on the number of assisted units in each project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project remains 50 percent. In these projects, the PHA may maintain a 50 percent cap or, provided units met certain exceptions criteria, may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

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**Decision Point:** For projects governed by Notice PIH 2012-32, REV-2, will the PHA provide PBV assistance in excepted units? (Model plan, p. 18-16)

Things to Consider

- If the PHA decided not to include excepted units in any project, select Option 1. If this option is selected, **no further policy decisions are required.**
- If the PHA decided to include excepted units, select Option 2 and identify the RAD PBV projects in which excepted units are included. If you select Option 2, further policy decisions are required. The decision point for the type of excepted units directly follows this one.



*Option 1: If you do not wish to exceed the 50 percent cap, use the language below. No changes to the model policy are needed.*

For projects governed by Notice PIH 2012-32, REV-2, the PHA will not provide RAD PBV assistance for any excepted units.



*Option 2: If you want to exceed the 50 percent cap and include excepted units in the project, delete the model plan language and insert the language as shown below.*

The PHA will provide for excepted units in the following RAD PBV developments:

**Miller Manor, West Arbor, and Creekside**



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: What type of excepted units will the PHA provide?**

Things to Consider

- Under PIH 2012-32, REV-2, families living in units subject to a proposed RAD conversion must be given the option to receive supportive services. If such services are declined by the household, the unit is to remain under the HAP contract, the household must not be terminated from the PBV program, and the decision to decline an offer to receive supportive services does not represent grounds for lease termination.
- Once the initial household residing in the excepted unit vacates such unit, all PBV program requirements related to the required receipt of supportive services apply. 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(c), 983.261(a) and (d) for initial occupancy in the RAD converted project.
- Under the Housing Opportunity Through Modernization Act (HOTMA), the definition of *excepted unit* differs depending on when the HAP contract was executed.
  - Contracts executed prior to April 18, 2017, follow the “old” statutory PBV requirements for excepted units.
  - Projects where the HAP contract was executed on or after April 18, 2017, follow the new requirements that were implemented as a result of the HOTMA.
- Since projects that are governed by REV-2 of Notice PIH 2012-32 all fall under the pre-HOTMA requirements, the PHA and owner continue to operate under the “old” statutory requirements, which stated that the project cap does not apply to units for:
  - Elderly and/or disabled families
  - Families receiving supportive services (the family must have at least one member receiving at least one qualifying supportive service)
- However, under HOTMA, in projects governed by the “old” statutory requirements, the PHA and owner may agree to conform to the new HOTMA requirements as long as this change would not jeopardize assisted families’ eligibility for continued assistance in the project [Notice PIH 2017-21].

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- Under HOTMA, the project cap does not apply to units when:
  - The units are exclusively for elderly families
  - The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
    - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].
- If the PHA wishes to adopt post-HOTMA requirements for excepted units, the language in the model policy below will need to be amended. See the standard PBV chapter in Section 17-II.F. for sample language.
- If the PHA offers excepted units with supportive services, with the exception of in-place tenants at the time of conversion who may decline services, the PHA may require that in order for other families to reside in excepted units, they must be receiving supportive services. These services must be identified in the administrative plan.
- The PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers, as a condition of living in excepted units (although services may be offered).
- In determining whether or not to allow families to reside in excepted units, the PHA should consider the type and nature of housing that will be provided, the needs of the intended recipients, the ability of owners to provide required supportive services on-site or otherwise, or the availability of supportive service providers in the community that could be easily accessible to a project.
- The options that follow run the gamut of situations that may be appropriate to various PHAs, including not requiring families to receive supportive services (Option 1), offering services to disabled families (Option 2) only, or all families in need of services (Option 3).
- Note that should your PHA choose to offer mandatory supportive services, you must state how you will monitor families' receipt of such services. The decision point for monitoring receipt of services follows this one.

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- ☐ *Option 1: If you want to exceed the 50 percent cap, but do not wish to require families to receive supportive services, insert the model plan language as shown below.*

The PHA will not require families living in excepted units to receive supportive services. Therefore, excepted units will be limited to those made available for elderly or disabled families.

- ☐ *Option 2: To offer services only to disabled families, insert the model plan language as shown below.*

The PHA will develop housing for occupancy by disabled families in need of services. With the exception of in-place families at the time of conversion who decline services, families must receive the services, and successfully complete the service program, to be eligible for continued occupancy. Families that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F.

The following types of services will be provided depending on the needs of the family:

- Transportation for activities such as grocery shopping, attending medical and dental appointments;
- Supervised taking of medications;
- Treatment for drug rehabilitation in the case of current abusers;
- Treatment for alcohol addiction in the case of current abusers;
- Training in housekeeping and homemaking activities;
- Family budgeting;
- Childcare;
- Parenting skills;
- Computer labs; and
- Work skills development and job training.

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*Option 3: To offer services to disabled families, other families in need of supportive services, or families participating in the FSS program, insert the model plan language as shown below.*

The PHA will develop housing for occupancy by families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. With the exception of in-place families at the time of conversion who decline services, families must receive the services, or successfully complete the service program, to be eligible for continued occupancy. With the exception of families on FSS, families that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F. The following types of services will be provided depending on the needs of the family:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family budgeting;

Childcare;

Parenting skills;

Computer labs; and

Work skills development and job training.



*Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: How will the PHA monitor that families are receiving services or that families have successfully completed their service program? If your PHA will not provide excepted units for supportive services, do not include this section.**

**Things to Consider**

- If the PHA does not offer assistance in excepted units, do not include this section.
- Under Notice PIH 2012-32, REV-2, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs from the standard PBV program. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit will remain under the HAP contract, the household will not be terminated from the PBV program, and the decision to decline an offer to receive supportive services will not represent a ground for lease termination.
- Once the initial household residing in the excepted unit under RAD vacates such unit, all pre-HOTMA PBV program requirements related to the required receipt of supportive services may apply. For those families, if a family is living in a project-based unit that is excepted from the 50 percent per project cap on project-basing because of participation in a supportive services program, and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.
- The PHA must monitor an excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement (with the exception of FSS).
- The PHA administrative plan must state the form and frequency of such monitoring.
- In determining the form and frequency of the monitoring, the PHA should consider whether the PHA has the staff capacity to monitor the receipt of services by participating families.
- In addition, the PHA may want to consider whether the service providers or owner (in the case of owner-provided services) are willing to submit a monthly report to the PHA of the families that are receiving services. If the owner has reporting obligations, these should be stated in the HAP contract.
- Monitoring on a monthly basis simplifies the verification process, as opposed to a quarterly basis where three months worth of verification and documentation would have to be verified and checked. However, if the PHA has a very small number of families receiving services, quarterly verification may be appropriate.
- If your PHA will monitor on a monthly basis, select Option 1. To monitor on a quarterly basis, select Option 2.

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*Option 1: Use the model plan language as shown below.*

On a monthly basis, the PHA will monitor all families that are receiving services to determine if such families will be allowed to continue receiving PBV assistance. The PHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternatively, each service provider will submit a report to the PHA identifying the services received by each family, and the PHA will check to see if all services required in the statement of family obligation or FSS contract of participation were received.

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*Option 2: Use the model plan language as shown below.*

On a quarterly basis, the PHA will monitor all families that are receiving services to determine if such families will be allowed to continue receiving PBV assistance. The PHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternatively, each service provider will submit a report to the PHA identifying the services received by each family, and the PHA will check to see if all services required in the statement of family obligation or FSS contract of participation were received.

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*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



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**Decision Point: If the PHA offers assistance in “excepted units,” how long will the family have to move out of the unit before their housing assistance payments will be terminated if they no longer meet the criteria for a “qualifying family” in connection with the 50 percent per project cap exception? If your PHA will not provide excepted units for supportive services, do not include this section.**

Things to Consider

- If the PHA does not offer assistance in excepted units, do not include this section.
- In-place families at the time of conversion must be given the option to receive supportive services and may decline that option. If services are declined, the unit remains under HAP contract and the family may not be terminated from the program for this reason.
- For families that move in after the conversion, the PHA has the option under the pre-HOTMA regulations to allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members’ control.
- The pre-HOTMA regulations state that a PHA must determine a “reasonable period” in which a family must move out of a PBV unit when they no longer meet the definition of *qualifying family*.
- Note that for families participating in FSS, failure to meet obligations under the FSS program is not an allowable termination of assistance as this is prohibited under 24 CFR 984.101(d).
- Under Option 1, the PHA will grant an exception for families who initially qualified to live in the excepted unit but no longer qualify because of a change in circumstances beyond the family’s control. For all other families, the PHA will give families 30 days to move out of a PBV unit because they no longer qualify to reside in an excepted unit. This is the same time period offered to families that are required to move to another assisted unit (because they occupy the wrong size unit or an accessible unit that they do not need). Offering all families that are required to move the same amount of time to do so provides consistency and promotes fairness in the treatment of tenants.
- The language under Option 1 also allows the PHA to extend the 30-day period if it is necessary due to circumstances beyond the family’s control. Although examples of circumstances are given, the policy does not provide an exhaustive list.
- If you adopt a different time period for families required to move to another assisted unit, you may wish to use that same time frame in this policy.
- Option 2 is the same as Option 1, with a blank space to fill in the amount of time given to families before they must move out of a PBV unit because they no longer qualify to reside in an excepted unit.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

This policy does not apply to in-place families at the time of conversion who decline the offer of supportive services or families who fail to meet their obligations under an FSS contract of participation. For all other families, the PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members' control.

In all other cases, when the PHA determines that a family no longer meets the criteria for a "qualifying family" in connection with the 50 percent per project cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.



*Option 2: Delete the model plan language. Fill in the blanks and substitute the language shown below.*

This policy does not apply to in-place families at the time of conversion who decline the offer of supportive services or families who fail to meet their obligations under an FSS contract of participation. For all other families, the PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members' control.

In all other cases, when the PHA determines that a family no longer meets the criteria for a "qualifying family" in connection with the 50 percent per project cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given \_\_\_ days from the date of the notice to move out of the PBV unit. If the family does not move out within this \_\_\_-day time frame, the PHA will terminate the housing assistance payments at the expiration of this \_\_\_-day period.

The PHA may make exceptions to this \_\_\_-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

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*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**18-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]**

This section describes the site and neighborhood standards for RAD PBV. **No policy decisions are required.**

**18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]**

The financing plan includes a requirement for an environmental review. **No policy decisions are required.**

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**PART III: DWELLING UNITS**

**18-III.A. OVERVIEW**

This section provides an overview for Part III. **No policy decisions are required.**

**18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101 and 24 CFR 5.703]**

Housing quality standards for the tenant-based program generally apply to the PBV program. Housing quality standards requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

**No policy decisions are required.**

**Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program. **No policy decisions are required.**

**18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES  
[Notice PIH 2016-17]**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8. **No policy decisions are required.**

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**18-III.D. INSPECTING UNITS [24 CFR 983.103]**

This section identifies special inspection requirements for the PBV program including initial, turnover, periodic, and other inspections. In addition, it explains requirements related to the inspection of PHA-owned units.

**Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23, and Notice PIH 2023-19]**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with housing quality standards. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet housing quality standards by the date indicated in the RAD Conversion Commitment (RCC). **No policy decisions are required.**

**Turnover Inspections [24 CFR 983.103(d), FR Notice 1/18/17, and Notice PIH 2017-20]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with housing quality standards. **No policy decisions are required.**

**Periodic Inspections [24 CFR 983.103(e); FR Notice 6/25/14]**

At least once every 24 months (or once every 36 months for small rural PHAs) during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with housing quality standards.



**Decision Point: How often will the PHA inspect a random sample to determine if contract units and the premises are maintained in accordance with housing quality standards? (Model plan, p. 18-20)**

**Things to Consider**

- The regulations require that units must be inspected at least biennially for the HCV and PBV programs and at least every three years for small rural PHAs. PHAs that choose to continue to inspect units annually must revise their policies since this is now a discretionary option.
- PHAs may employ both annual and biennial inspections as long as the criteria are fair and are applied uniformly.
- HUD discourages agencies from adopting biennial inspections for reasons unrelated to the owner's record of compliance. For example, a policy based on the unit's distance from PHA facilities would not be acceptable.
- Because PHAs are only required to inspect a random sample of at least 20 percent of contract units, the default policy keeps inspections at the annual basis because the inspection burden is already less than it would be in the HCV program.

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- On the other hand, if the PHA is conducting biennial inspections in the HCV program and the PHA wishes to mirror HCV inspection requirements, Option 2 would allow PHAs to conduct inspections biennially rather than annually.
- Per a *Federal Register* notice issued February 7, 2020, small rural PHAs ((i.e., PHAs administering fewer than 550 combined vouchers and public housing units operating in a rural area as defined in the notice) have the flexibility to conduct inspections at least once every three years, or triennially, rather than biennially. If the PHA is a small rural PHA opting to conduct triennial inspections as specified in Section 8-II.C. of this administrative plan, PBV provisions would still apply, except the random sample requirement would apply every three years rather than biennially, and the small rural PHA may, at its discretion, choose to select Option 3 below. However, small rural PHAs may not begin using the three-year inspection schedule until after the next currently scheduled inspection is carried out. That is, if a unit is currently on a biennial inspection schedule, and one year has passed since the last inspection, its next inspection must still take place the following year, and only after that may the PHA implement the three-year inspection schedule. This flexibility only applies to periodic inspections during the period of time a participant lives in a unit and does not apply to initial and interim inspections. If the PHA implements a triennial inspection schedule for periodic inspections, all requirements related to lead safety still apply.

☐

*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with applicable housing quality standards.

☒

*Option 2: Delete model plan language and substitute language as shown below.*

The PHA will inspect once every 24 months a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with applicable housing quality standards.

☐

*Option 3: Delete model plan language and substitute language as shown below.*

The PHA is a small rural PHA conducting triennial inspections. As such, beginning after its next currently scheduled inspection, the PHA will inspect once every 36 months a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with applicable housing quality standards.

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*Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**Alternative Inspections [24 CFR 983.103(i); Notice PIH 2016-05]**

In the case of a PBV project financed under a federal, state, or local housing program that is subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.



**Decision Point: Will the PHA accept the results of inspections performed by HUD or conducted for other housing programs for the annual/biennial inspection? (Model plan, p. 18-21)**

Things to Consider

- The PHA may implement the use of alternative inspections for both initial and periodic inspections or may limit the use of alternative inspections to either initial or periodic inspections.
- In order to qualify as an alternative inspection method, the eligible inspection method must meet the requirements under 24 CFR 982.406(c).
- The PHA must identify alternative inspection methods being used in the administrative plan.
- If an alternative inspection method employs sampling, then a PHA may rely on such alternative inspection method for purposes of an initial or periodic inspection only if units occupied by program participants are included in the population of units forming the basis of the sample.
- In order for a PHA to rely on the results of an alternative inspection for purposes of periodic inspection, a property must meet the standards or requirements regarding housing quality or safety applicable to properties assisted under the program using the alternative inspection method. To make the determination of whether such standards or requirements are met, the PHA must adhere to the following procedures:
  - If a property is inspected under an alternative inspection method, and the property receives a “pass” score, then the PHA may rely on that inspection.
  - If a property is inspected under an alternative inspection method, and the property receives a “fail” score, then the PHA may not rely on that inspection.
  - If a property is inspected under an alternative inspection method that does not employ a pass/fail determination—for example, in the case of a program where deficiencies are simply identified—then the PHA must review the list of deficiencies to determine whether any cited deficiency would have resulted in a “fail” score under housing quality standards. If no such deficiency exists, then the PHA may rely on the inspection. If such a deficiency does exist, then the PHA may not rely on the inspection.



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- Since additional staff time will be required to determine whether units passed or failed inspection and it may be difficult for the PHA to obtain inspection reports from other entities, Option 1 states that the PHA will not rely on alternative inspection methods.
- If the PHA wishes to use alternative inspection methods, select Option 2.

☐

*Option 1: Use the model plan language shown below. No change to the model plan is needed.*

The PHA will not rely on alternative inspection standards.

☒

*Option 2: Replace the language in the model plan with the following:*

The PHA may accept the results of inspections performed by HUD REAC, or for the HOME or LIHTC programs. Inspections will only be accepted if PBV and HCV units are included in the population of units forming the basis of the sample.

The PHA will not utilize inspection results other than from inspections conducted by HUD or for the HOME or LIHTC programs.

Inspection reports and other data must be provided to the PHA within five business days of the inspection. The PHA will review the inspection reports and determine whether the unit will receive a “pass” within five business days. If the PHA determines that the unit does not pass, the PHA will notify the owner and conduct an inspection within 10 business days.

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*Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA’s policy.*

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**Interim Inspections [24 CFR 983.103(f)]**



**Decision Point:** What policies does the PHA want to establish with respect to interim inspections? (Model plan, p. 18-21)



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

During an interim inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the periodic inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full inspection.



*Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

**Follow Up Inspections [24 CFR 983.103(f)(2)]**

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected a housing quality standards violation and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of housing quality standards. **No policy decisions are required.**

**Supervisory Quality Control Inspections [24 CFR 983.103(f)(3)]**

In conducting PHA supervisory quality control inspections, the PHA should include a representative sample of both tenant-based and project-based units. **No policy decisions are required.**

**Inspecting PHA-Owned Units [24 CFR 983.103(g); Notice PIH 2017-21]**

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD. **No policy decisions are required.**

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**PART IV: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

**18-IV.A. OVERVIEW [*RAD PBV Quick Reference Guide* 6/20]**

This section provides an overview of Part IV. No policy decisions are required.

**18-IV.B. HAP CONTRACT REQUIREMENTS**

**Contract Information [*RAD PBV Quick Reference Guide* 6/20; Notice PIH 2019-23]**

This section describes the information that must be included in a PBV HAP contract. **No policy decisions are required.**

**Execution of the HAP Contract [*RAD Blast!* 7/11/16]**

When the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. **No policy decisions are required.**

**Term of HAP Contract [Notice PIH 2019-23]**

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years. **No policy decisions are required.**

**Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. **No policy decisions are required.**

**Mandatory Contract Renewal [Notice PIH 2019-23]**

By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. **No policy decisions are required.**

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**Remedies for Housing Quality Standards Deficiencies [24 CFR 983.208(b)]**

*The following is applicable to HAP contracts executed or renewed before June 6, 2024.*

The PHA may not make any HAP payment to the owner for a contract unit during any period for which the unit does not comply with NSPIRE standards.



**Decision Point: What policies will the PHA follow regarding abatement of HAP and HAP contract termination due to owner noncompliance with NSPIRE? (Model plan, p. 18-24)**

Things to Consider

- The PHA has already developed policies regarding this issue for its tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will abate contracts for noncompliance with housing quality standards in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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*The following is applicable to HAP contracts executed or renewed June 6, 2024, or later.*

**Enforcement of Housing Quality Standards [24 CFR 983.208(b)]**

In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control (other than damage resulting from ordinary use), the PHA may waive the owner's responsibility to remedy the violation. The HAP to the owner may not be withheld or abated if the owner responsibility has been waived. However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. In addition, the PHA may terminate the family's assistance because of housing quality standards breach (beyond damage resulting from ordinary use) caused by any member of the household, guest, or other person under the tenant's control.



**Decision Point: When will the PHA waive the owner's responsibility to remedy violations? (Model plan, p. 18-25)**



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will waive the owner's responsibility for housing quality standards deficiencies that have been determined to have been caused by the tenant, any member of the household, or any guest or other person under the tenant's control, to the extent the tenant can be held responsible for ensuring that the deficiencies are corrected: the tenant must take all necessary steps permissible under the lease and State and local law to remedy the deficiency. This may include paying the owner for the cost of the necessary repairs in accordance with the lease.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Family Obligation [24 CFR 983.208(c)]**



**Decision Point:** How will the PHA define *ordinary wear and tear*? (Model plan, p. 18 -26)

Things to Consider

- The regulation states that the family is responsible for any member of the household or guest damages the dwelling unit or premises “beyond ordinary wear and tear” but does not define this term.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*Damages beyond ordinary wear and tear* will be considered to be damages which could be assessed against the security deposit under state law or in court practice.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

**PHA Remedies [24 CFR 983.208(d)]**

The remedies listed below apply when housing quality standards deficiencies are identified as the result of an inspection other than a pre-selection, initial, or turnover inspection. The PHA must identify in its administrative plan the conditions under which it will withhold HAP and the conditions under which it will abate HAP or terminate the HAP contract for units other than the unit with housing quality standards deficiencies.

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**Decision Point:** What remedies will the PHA take when the unit does not pass housing quality standards? (Model plan, p. 18-27)



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies housing quality standards failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

The PHA will not withhold assistance payments upon notification to the owner of the deficiencies.

When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

If the owner is responsible for correcting the deficiency, the notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated.

Likewise, if the family is responsible for correcting the deficiency, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**HAP Withholding [24 CFR 983.208(d)(1)]**

A PHA may withhold assistance payments for units that have housing quality standards deficiencies once the PHA has notified the owner in writing of the deficiencies.

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**Decision Point: Will the PHA withhold assistance payments? (Model plan, p. 18-27)**

Things to Consider

- The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP.
- In this case, if the unit is brought into compliance during the applicable cure period, the PHA resumes assistance payments and provide assistance payments to cover the time period for which the payments were withheld.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not withhold assistance payments upon notification to the owner of the deficiencies.



*Option 2: Delete the language in the model plan and replace with the following.*

The PHA will withhold assistance payments upon notification to the owner of any non-life-threatening deficiencies. Withholding will occur during the cure period, which is 30 days (or a PHA-approved extension). The PHA will not withhold HAP when deficiencies are life-threatening. If the owner fails to make repairs during the applicable cure period, the PHA will follow policies for abatement and termination of the HAP contract as outlined below.



*Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*



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**HAP Abatement [24 CFR 983.208(d)(2)]**

The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period.



**Decision Point: What is the effective date of abatements? (Model plan, p. 18-28)**

**Things to Consider**

- If an owner fails to correct deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments.
- No retroactive payments will be made to the owner for the period of time the rent was abated.
- The PHA may choose to abate payments for all units covered by the HAP contract due to a contract unit's noncompliance with the housing quality standards, even if some of the contract units continue to meet housing quality standards. Option 1 states that the PHA will only abate HAP on those units that do not meet housing quality standards. If the PHA wishes to abate HAP on all units, the model policy should be edited.
- Owner rents are not abated as a result of deficiencies that are the family's responsibility.
- The PHA has the option of placing the abatement as of the first of the month following the expiration of the 30-day abatement notice or abating rent exactly 30 days after expiration of the notice and prorating the rent the owner is due.
- Abating HAP exactly 30 days after notice to the owner imposes on the PHA the additional administrative burden of prorating the amount of HAP the owner is entitled to. However, waiting until the first of the following month delays the abatement.
- If HAP is abated exactly 30 days after the correction period expires, the PHA will either have to offset future HAPs or collect the overpaid amount directly from the owner if no future HAPs are made (HAP contract is terminated).



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA-specified correction period (including any extension).

The PHA will abate payments only for those contract units that do not meet housing quality standards.



*Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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**Decision Point: When will reinspections occur and housing assistance payments reinstated following abatement of HAP? (Model plan, p. 18-28)**



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.



*Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

**Failure to Make Repairs**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. If the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP contract for the unit and the family will have to move to receive continued assistance. In this case, the PHA must issue the family its voucher to move at least 30 days prior to the termination of the HAP contract.



**Decision Point: How long will the PHA permit a unit to be abated before the HAP contract will be terminated? (Model plan, p. 18-29)**



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will issue a family whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame a voucher no later than 30 days prior to the termination of the HAP contract. The initial term of the voucher will be 120 calendar days. No briefing is required for these families.

In order to receive tenant-based assistance under the HCV program, the family must submit a Request for Tenancy Approval and proposed lease within the 120-day period, unless the PHA grants an extension. The PHA will follow the policies set forth in Chapter 5 on voucher extension and expiration.



*Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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**Offer of Public Housing [24 CFR 983.208(d)(6)(ii)]**

If the family is unable to lease a new unit within the term of the voucher, and the PHA owns or operates public housing, the PHA must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.

Things to Consider

- Select Option 1 if the PHA operates public housing units.
- If the PHA does not operate a public housing program, but does have PBV units, the PHA may, but is not required to, adopt Option 2 to allow the family to move to a PBV unit. Since the move would be within the same program, the family's eligibility would not be determined, and the family would simply transfer to another PBV unit.
- If the PHA has no public housing units and does not wish to offer the family continued assistance in a PBV unit, Option 3 should be selected.



**Decision Point: Does the PHA own public housing, and if so, what are the PHA's policies on offering the family continued assistance in a public housing unit? (Model plan, p. 18-29)**



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA does operate a public housing program and will provide a preference for PBV families whose units are being removed from the HAP contract or whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who were unable to lease a new unit within the term of the voucher.

Thirty days prior to the expiration date of the voucher, the PHA will provide written notice to the family stating that the PHA does provide such a preference and providing an estimation of availability for the appropriately sized public housing unit.



Option 2: Delete the model plan language and substitute the language below if the PHA wishes to offer the family continued assistance in a PBV unit.

The PHA does not operate any public housing units. However, the PHA will offer the family continued assistance in a suitable PBV unit. Thirty days prior to the expiration of the family's voucher, the PHA will provide the family with written notice offering them an appropriately sized PBV unit. If the family accepts the unit offer, the PHA will process a transfer for the family.

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- ☒ *Option 3: Delete the model plan language and substitute the language below if the PHA does not have any public housing units.*

The PHA does not operate any public housing units.

- ☐ *Option 4: Use another PHA-established policy giving the family a longer voucher term. Edit the model plan language or delete it and insert the PHA's policy.*

**Relocation Assistance [24 CFR 983.208(d)(6)(iii)]**

PHAs may assist families relocating due to the HAP contract being terminated as a result of the owner failing to make required repairs within the required time frame in finding a new unit, including using up to two months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by the PHA based on their locality.

- ☒ **Decision Point: Will the PHA offer relocation assistance? (Model plan, p. 18-30)**

Things to Consider

- If the PHA uses withheld and abated payments to assist with relocation costs, the PHA must provide security deposit assistance to the family as necessary.
- If the family receives security deposit assistance from the PHA for the new unit, the PHA may require the family to remit the security deposit returned by the owner of the new unit at such time that the lease is terminated, up to the amount of security deposit provided by the PHA for that unit.

- ☐ *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will assist families with disabilities with locating available accessible units in accordance with program requirements.

The PHA will use up to two months of withheld and abated payment to assist with any required security deposit at the new unit. Funds will not be used for any other relocation assistance.

If the family receives a refund of a security deposit for the new unit, the PHA will not require any amount to be remitted to the PHA.

- ☒ *Option 2: Use another PHA-established policy giving the family a longer voucher term. Edit the model plan language or delete it and insert the PHA's policy.*

The PHA will not assist families with relocation due to the HAP contract being terminated.

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**18-IV.C. AMENDMENTS TO THE HAP CONTRACT**

**Floating Units [Notice PIH 2019-23]**

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among unoccupied units within the project that are the same bedroom size.



**Decision Point: Will the PHA allow assistance to float among unoccupied units within the project? (Model plan, p. 18-30)**

**Things to Consider**

- The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.
- For UFAS accessible units, assistance may only float to another UFAS accessible unit with the same bedroom size and 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 where there is no longer a need for the reasonable accommodation provided the required number of UFAS units is maintained.
- If the PHA decides to float assistance, a tracking system will need to be implemented to ensure that units are comparable.
- Units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units,. 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.
- Particularly in mixed finance developments layered with low-income housing tax credits, the PHA may wish to float assistance among units in order to allow the PHA to more easily meet requirements of the LIHTC program.

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- ☐ *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*
- The PHA will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.
- ☒ *Option 2: Delete model plan language and substitute language as shown below.*
- The PHA will not float assistance among unoccupied units within the project.
- ☐ *Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

### Reduction in HAP Contract Units [Notice PIH 2019-23]

The PHA may not reduce the number of assisted units without written HUD approval. **No policy decisions are required.**

### 18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.207(b)(2) and (g), and 24 CFR 983.302(e)]

This section explains the term HAP contract year and describes how the HAP anniversary is determined. **No policy decisions are required.**

### 18-IV.E. OWNER'S RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

This section describes the items to which an owner certifies when the owner executes the HAP contract and at all times during the term of the HAP contract. **No policy decisions are required.**

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**PART V: SELECTION OF PBV PROGRAM PARTICIPANTS**

**18-V.A. OVERVIEW**

This section provides an overview of Part V. No policy decisions are required.

**18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON  
CONVERSION [Notice PIH 2019-23]**

This section describes the requirement that in-place tenants at the time of conversion not be rescreened. **No policy decisions are required.**

**18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

Applicants for RAD PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program.



**Decision Point: What policies will the PHA follow for determining the eligibility of applicants for PBV assistance? (Model plan, p. 18-34)**

Things to Consider

- The PHA has already developed policies for determining eligibility for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion.
- If Chapter 3 contains discretionary eligibility requirements for the tenant-based voucher program that you do not want to use for the PBV program, any exceptions or differences in the policies should be listed here (see Option 2).



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.



*Option 2: Delete model plan language and substitute language as shown below.*

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3, with the following exceptions:

**[Insert list of exceptions from Chapter 3]**



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c);  
Notice PIH 2019-23]**



**Decision Point: What type of waiting list will the PHA use for RAD PBV units?  
(Model plan, p. 18-36)**

**Things to Consider**

- 24 CFR 983.251, which sets out PBV program requirements related to establishing and maintaining a waiting lists applies to RAD PBV unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.
- The PHA must consider the best means to transition applicants from the current public housing waiting list.
- It is easier to manage and administer a PBV waiting list that is separate from the tenant-based voucher waiting list.
- Likewise, if a PHA has more than one development with RAD PBV assistance, it may be easier to manage a separate waiting list for each development, particularly if the PHA wants to provide preferences for occupancy of specific units.
- If a PHA has multiple PBV projects aimed at serving specific populations and will have services on site to serve these populations, establishing separate waiting lists for these projects may be necessary so that specific preferences for families needing these services can be provided for different projects or buildings.
- When transferring an existing site-based waiting list to a new site-based waiting list, if the PHA is transferring the 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 transitioning from site-based to community-wide lists, the PHA must consider how to inform applicants on the site-based waiting list how to apply for a PBV program-wide or HCV program-wide waiting list.
- If transitioning from public housing community-wide to other community-wide or site-based lists, the PHA must consider how to inform applicants on a public housing community-wide waiting list on how to apply for a voucher-wide, PBV program-wide, or site-based waiting list.



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- If transitioning from community-wide to a site-based waiting list, the PHA must 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 converted project's initial waiting list. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be done so in accordance with the date and time of their original application to the centralized public housing waiting list.
- The model plan language requires you to insert information here based on your local circumstances.
- If you want to establish a community-wide RAD PBV waiting list rather than for each project or development, select Option 2.

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**CAUTION:** You must insert information here. The model administrative plan does not contain language that can be adopted as-is.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed other than to enter the list of projects receiving PBV assistance.*

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has waiting lists for the following RAD PBV projects:

**[Insert list of projects/buildings receiving PBV assistance for which separate waiting lists are maintained].**

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 will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists 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 will have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

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*Option 2: Delete model plan language and substitute language as shown below.*

The PHA will establish a community-wide waiting list for the PHA's entire RAD PBV program.

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 will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists 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 will have priority on the waiting lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

The PHA will establish a community-wide waiting list for the PHA's entire RAD PBV program.

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**18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the waiting list. **No policy decisions are required.**

**Income Targeting [24 CFR 983.251(c)(9); Notice PIH 2019-23]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs. **No policy decisions are required.**

**Units with Accessibility Features [24 CFR 983.251(c)(9)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner. **No policy decisions are required.**

**Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]**



**Decision Point: Will the PHA establish criteria or preferences for the occupancy of RAD PBV units? (Model plan, p. 18-37)**

**Things to Consider**

- If the converted project will serve a different population than the one served by the original project, the PHA must obtain written HUD approval.
- The PHA may use the same selection preferences that are used for the tenant-based voucher program, to establish selection criteria or preferences for the RAD PBV program as a whole, or for occupancy of particular RAD PBV developments or units.
- The preferences offered by a PHA (if any) will depend on the local housing needs, the type of housing that is receiving project-based assistance, whether services are being offered, and whether the housing is intended for particular populations (e.g., victims of domestic violence, homeless, disabled, elderly, etc.).
- The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that the preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability. In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.
- Examples of this type of preference may include a preference for persons who qualify for employment assistance or transportation services, or for a person who qualifies for housekeeping assistance, case management, or outpatient health services.

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- If the PHA adopts a disability-specific service, the PHA must consider how to implement the preference consistent with Section 504 and the Americans with Disabilities Act (ADA), and their implementing regulations. Regulations require that the PHA ensures that the person with disabilities can interact with persons without disabilities to the fullest extent possible in an integrated housing setting.
- Further, the Fair Housing Act and related regulations require a dispersion of units occupied by individuals with disabilities, and that the owner not assign individuals with disabilities to a particular section or floor of a building.
- Also, a PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require the individuals be transitioned to different projects based on service needs.
- Preferences may not be given to persons with a specific disability.
- Preferences make the waiting list management process more complex and difficult to administer. They may also make the selection process harder for families to understand.
- Selection preferences may prevent some families without preference from ever being selected for PBV assistance.
- Because preferences are specific to particular PHAs and dependent on local conditions and local PBV programs, the model plan does not include any preferences.
- HUD recommends that when using a site-based waiting list the PHA consider waiting list policies that expand opportunities for tenants seeking an emergency transfer under the PHA's Emergency Transfer Plan (ETP) under VAWA. As such, and to align this policy with the emergency transfer policy found in section 18-VI.E., Option 1 states that, while the PHA will not offer preferences, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another. If the PHA does not have site-based waiting lists, or if this policy is not adopted, the corresponding policy in Section 18-VI.E. will need to be revised to remove this language.
- If you have separate PBV waiting lists by project or development, and have preferences for these waiting lists, select Option 2.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

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*Option 2: Delete model plan language and substitute language as shown below.*

The following preferences have been established for the PBV program:

**Disabled, residential, and Continuum of Care**

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*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-V.F. OFFER OF PBV ASSISTANCE**

**Refusal of Offer [24 CFR 983.251(e)]**

This section describes the actions the PHA is prohibited from taking against a family who has applied for, received, or refused an offer of PBV assistance. If a family refuses the PHA's offer of PBV assistance or the owner rejects a family for admission to the owner's PBV unit, the family's position on the PHA waiting list for tenant-based assistance is not affected regardless of the type of PBV waiting list used by the PHA.



**Decision Point: How will the PHA define *good cause* for rejection of a unit offer?**  
**(Model plan, p. 18-38)**



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will define *good cause* for rejection of a unit offer as any of the factors listed above.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**Acceptance of Offer [24 CFR 983.252(a) and (b)]**

***Family Briefing***

This section describes the PHA's obligation to conduct an oral briefing and provide the family with a briefing packet for those families that have accepted a unit offer. **No policy decisions are required.**

***Persons with Disabilities***

This section describes the PHA's obligation to make sure information is provided in an accessible format to persons with disabilities and to have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit. **No policy decisions are required (see relevant policies in Chapter 2).**

***Persons with Limited English Proficiency [24 CFR 983.252(d)]***

This section describes the PHA's obligation to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. **No policy decisions are required (see relevant policies in Chapter 2).**

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**18-V.G. LEASING OF CONTRACT UNITS [24 CFR 983.252]**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease.

**Leasing [24 CFR 983.253(a)]**

This section describes the requirements for who can lease contract units. **No policy decisions are required.**

**Filling Vacancies [24 CFR 983.254(a)]**

This section describes the owner's obligation to notify the PHA about vacancies in contract units, and the PHA's obligation to refer families to the owner to fill such vacancies.



**Decision Point: How quickly must the owner notify the PHA of a vacancy or expected vacancy and in what format must the notice be given? (Model plan, p. 18-40)**

**Things to Consider**

- The regulation states that the owner must “promptly” notify the PHA of any expected vacancy or vacancy in a contract unit.
- To minimize vacancy days and avoid making vacancy payments (if applicable) for units that are unoccupied, it is important for the PHA to know about vacancies as soon as possible. This will allow the PHA to refer a sufficient number of families to the owner as quickly as possible.
- Although the standard of providing notice of 10 business days is used throughout much of the model plan, due to the time-sensitive nature of this information, the model plan gives the owner five business days to provide this information to the PHA.
- The model plan calls for the notice to be in writing (via email). It is important for the PHA to have this information in writing, so that if a unit is vacant for 120 days or more from the owner notice of vacancy, the PHA can take action to reduce the number of contract units under the PBV HAP based on this written documentation.



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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The owner must notify the PHA in writing via email within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families determined eligible to the owner for a suitability determination within 30 calendar days of receiving such notice from the owner. If the owner rejects the family after conducting a suitability screening, the owner must provide a copy of the rejection notice to the PHA. The owner may not offer a unit to a family until the PHA determines that the family is eligible for the program and has given the owner written confirmation.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-V.H. TENANT SCREENING [24 CFR 983.255]**

**PHA Option**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.



**Decision Point: Will the PHA conduct screening to determine the applicant's suitability as a tenant? (Model plan, p. 18-41)**

**Things to Consider**

- In Section 3-III.D., the model plan states that the PHA will not conduct screening for suitability for applicants receiving tenant-based vouchers.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you have adopted a policy that the PHA will screen for suitability, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: When will the PHA provide required information to the landlord, and will the PHA provide owners with information about a prospective tenant's past history beyond that required by HUD regulations? (Model plan, p. 18-41)**

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 3-III.D. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you did not adopt the model plan language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**Owner Responsibility**

This section states that it is the responsibility of the owner to screen for suitability of tenancy and describes the factors that the owner can consider in doing so. **No policy decisions are required.**

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**PART VI: OCCUPANCY**

**18-VI.A. OVERVIEW**

This section is an overview of Part VI. **No policy decisions are required.**

**18-VI.B. LEASE [24 CFR 983.256]**

This provides a general description of lease requirements. **No policy decisions are required.**

**Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]**

This section describes required lease provisions. **No policy decisions are required.**

**Tenancy Addendum [24 CFR 983.256(d)]**

This section describes the requirements related to the HUD-prescribed tenancy addendum. **No policy decisions are required.**

**Initial Term and Lease Renewal [24 CFR 983.256(f); *RAD PBV Quick Reference Guide* 6/20]**

This section describes the requirements for the initial term of the lease and lease renewal. **No policy decisions are required.**

**Changes in the Lease [24 CFR 983.256(e)]**

This section describes the provisions governing changes to the lease. **No policy decisions are required.**

**Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons as an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. **No policy decisions are required.**

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

This section describes the owner’s right to determine how long a family may be absent from the contract unit. **No policy decisions are required.**

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**Continuation of Housing Assistance Payments [24 CFR 982.258; Notice PIH 2019-23;  
Notice PIH 2023-19; *RAD PBV Quick Reference Guide* 6/20]**

***Pre-Conversion Residents***

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. **No policy decisions are required.**

***New Admission Families***

Unless a waiver is requested and approved, 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. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property 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.

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 from HUD for the covered project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

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**Decision Point: Will the PHA request a waiver from HUD to apply the requirements for in-place families to new admission families? (Model plan, p. 18-47)**

Things to Consider

- In order to adopt this policy, the PHA would need to submit a waiver request in accordance with Notice PIH 2019-23. The PHA may do so during the RAD conversion process or may subsequently request the waiver any time after the effective date of the HAP contract.
- The waiver will apply the alternative requirements applicable to the pre-conversion residents in this Section to new admission families.
- In order for the waiver to be approved, the PHA must demonstrate that based on the RAD rent calculated, the monthly two-bedroom RAD gross rent is less than: 30 percent 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.
- Option 1 below states that the PHA will not request a waiver from HUD.
- If your PHA has requested and been granted a waiver to allow these families to occupy units, select Option 2.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not request waivers from HUD to apply the alternative requirements applicable to pre-conversion residents to new admission families.

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*Option 2: If a waiver is requested, delete the model plan language and substitute with the language shown below.*

The PHA has requested and has been granted a waiver from HUD in order to apply the alternative requirements applicable to the pre-conversion residents to new admission families. 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 are subject to the same alternative requirements applicable to the pre-conversion residents, and the unit is subject to all PBV program requirements.

Further, the covered projects that receive the waiver are subject to an alternative income targeting requirement that at least 75 percent of new admissions to the PBV units (both RAD and non-RAD PBV units) in the covered project in any PHA fiscal year are extremely low-income (ELI) families. 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.



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**Decision Point: For families admitted after the conversion, how will the PHA treat changes in family circumstances that occur within this 180-day period, and when must families report these changes? (Model plan, p. 18-47)**

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 12-I.B. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 12-I.B., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 12-I.B. Family No Longer Requires Assistance, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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**Security Deposits [24 CFR 983.259; *RAD PBV Quick Reference Guide* 6/20]**



**Decision Point:** What limits will the PHA place on the amount of security deposit the owner is allowed to collect from the family? (Model plan, p. 18-48)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 9-I.E. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 9-I.E., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 9-I.E. Security Deposits, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.



Option 2: Delete the model plan language. Substitute the language below.

The PHA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

**18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]**

This section discusses public housing FSS participants at the time of conversion to RAD PBV. **No policy decisions are required.**

**18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]**

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. **No policy decisions are required.**

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**18-VI.E. MOVES**

**Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260;  
Notice PIH 2019-23]**



**Decision Point: If the family is required to move because they are occupying a wrong-size unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, what type of assistance will the family be offered and when will the family and owner be notified? (Model plan, p. 18-50)**

**Things to Consider**

- All in-place tenants at the time of conversion are eligible to remain in the project. Any non-RAD PBV units located in the same project are also subject to these requirements.
- Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project.
- If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.
- The regulations state that the PHA policy on offering continued housing assistance must be stated in the administrative plan. In addition, it lists the following forms of housing assistance that can be offered:
  - PBV assistance in the same project or in another project;
  - Other project-based housing assistance (e.g., public housing);
  - Tenant-based rental assistance under the voucher program; and
  - Other comparable public or private tenant-based assistance (e.g., under the HOME program).
- The model plan language calls for a family to first be offered PBV assistance in the same building or project. This may be the best alternative for the family because it keeps them in the same general location where services they need may be available and allows children to stay in the same schools.

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- If an appropriate-size unit is not available in the same building or project, the model plan language states that families will be offered PBV assistance in another project as the next alternative. If your PHA only has one PBV project, this option should be eliminated from the plan.
- The final type of assistance that will be offered according to the model plan language is tenant-based voucher assistance.
- If a PHA has public housing units or other programs that could provide comparable units, these can be added to the list. In addition, the order in which the different types of housing assistance are offered can be changed to reflect local desires and circumstances.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will notify the family and the owner of the requirement to move based on the family's occupancy of a wrong-size or accessible unit within 60 days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance an appropriately sized unit in in the same building or project

PBV assistance an appropriately sized unit in in another project

Tenant-based voucher assistance



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: If the PHA offers a family another form of assistance that is not a tenant-based voucher, what process will the PHA follow? (Model plan, p. 18-51)**



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 90 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 90-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 90-day period.

Except in the case of an offer by the PHA of PBV assistance or other project-based housing assistance in an appropriate size unit, the family accepts the offer but does not move out, the PHA may make exceptions to this 90-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member, or to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing. The family must make such a request in writing prior to the end of the 90-day period. The PHA will only grant one extension, which will not exceed an additional 90 days.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

The PHA will not offer the family another form of assistance that is not a tenant-based voucher.

**Family Right to Move [24 CFR 983.261]**

This section describes the family's right to move after the initial term of the lease. **No policy decisions are required.**

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**Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]**

***Family's Right to Choice Mobility***



**Decision Point: How will the PHA notify RAD families of their right to choice mobility? (Model plan, p. 18-52)**

**Things to Consider**

- Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.
- In August 2020, the Poverty and Race Research Action Council (PRRAC) released guidance consisting of a series of best practices to help ensure that PHAs are successfully implementing choice mobility in their RAD programs. In this guidance, PRRAC strongly recommends that PHAs' administrative plans include a statement to the right to choice mobility and for PHAs to provide clear information on choice mobility to RAD families at multiple points in the RAD process, including at the time the family signs a lease for a RAD unit and during their annual recertification.
- Further, PRRAC recommends PHAs consider ways make choice mobility information more accessible to families with limited English proficiency (LEP) and persons with disabilities. The model policy reflects these recommendations.



**Option 1: Use the model plan language shown below. No changes to the model plan are needed.**

To ensure that RAD residents are fully aware of and understand their rights under choice mobility, the PHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas and will provide a summary of the steps necessary to exercise this option at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.



**Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.**

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***Moving with Continued Assistance under Choice Mobility***



**Decision Point: When may the family request a choice mobility voucher? (Model plan, p. 18-53)**

**Things to Consider**

- Regulations require that if the family terminates the assisted lease in accordance with program requirements at any time after the first year of occupancy, the PHA must offer the family the opportunity for continued tenant-based rental assistance.
- The model policy clarifies that if the family transfers units within the same project, the 12-month clock does not reset; however, if the family moves from one assisted project to another during the initial 12-month period, the 12-month clock does reset. Regulation and guidance do not explicitly address this issue; therefore, if the PHA wishes to adopt an alternate policy, the PHA should use Option 2.



**Option 1: Use the model plan language shown below. No changes to the model plan are needed.**

Except for families seeking protection under VAWA, prior to providing notice to the owner to terminate the lease, any eligible family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement. The PHA will process the request within 10 business days of receiving the family's request. The PHA will verify that the family has met the 12-month occupancy requirement. No additional screening will be performed.

If the request is approved by the PHA, the family will receive the next available tenant-based voucher.



**Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.**

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**Decision Point: How will the PHA maintain the waiting list if no vouchers are available when families request choice mobility? (Model plan, p. 18-53)**

Things to Consider

- In order to give choice mobility families priority over families on the tenant-based list, the PHA may either maintain a waiting list of choice mobility families separately from the tenant-based list or may place choice mobility families on the tenant-based list, provided all choice mobility families are issued vouchers before families on the tenant-based list. For ease of administration, Option 1 states that the PHA will maintain two separate lists.
- Further, since the optional turnover cap is monitored on an agency-wide basis, for ease of administration, Option 1 states that the PHA will maintain an agency-wide choice mobility list, rather than a development-specific list.
- If the PHA has both standard and RAD PBV units, families under both programs receive the same priority for choice mobility. Option 1 states the PHA will place families for both programs on the choice mobility waiting list by date and time of their request.
- Finally, if the PHA has both standard and RAD PBV, since there is no turnover cap for families on the standard PBV program, if the PHA wishes to adopt a turnover cap for RAD units, the PHA will need to identify standard PBV families on the mobility waiting list in the event the RAD PBV choice mobility cap is reached. In this case, the PHA would continue issuing vouchers to standard PBV families.



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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If a tenant-based voucher is not immediately available, the PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units. A RAD resident does not have priority for tenant-based assistance over a non-RAD PBV resident and vice versa. Once a family is placed on the list, the PHA will send the family an acknowledgement of receipt of their request and successful placement on the list. If a family requests a tenant-based voucher and then is unable or unwilling to move once the PHA offers the family a tenant-based voucher, the family's name will be removed from the list. The family may resubmit a new request to move at any time.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: Will the PHA rescreen RAD families prior to issuing a choice mobility voucher? (Model plan, p. 18-53)**

Things to Consider

- As part of its tenant protection provisions, Notice PIH 2019-23 prohibits the exclusion of households from occupancy at RAD covered projects at conversion based on rescreening, income eligibility, or income targeting.
- As such, the August 2020 PRRAC guidance on choice mobility recommends that PHAs avoid subjecting RAD families applying for choice mobility vouchers to any additional screening requirements in order to receive a tenant-based voucher. This is because the potential for choice mobility should be available to as many residents as possible. The model policy reflects this recommendation.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher. While the family will not be required to attend a standard HCV briefing in order to receive a voucher, the PHA will promptly schedule a meeting with each family at the time of voucher issuance.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Decision Point: When will families exercising choice mobility be required to vacate their unit? (Model plan, p. 18-53)**

Things to Consider

- The August 2020 PRRAC guidance on choice mobility advises PHAs to avoid requiring families to vacate their RAD units before a lease has been entered into using a tenant-based voucher. PRRAC further encourages PHAs to notify families of their right to remain in the RAD unit should they fail to secure a rental unit using the choice mobility voucher. The model policy contains language to this effect.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher so long as the resident has not yet provided notice to vacate to the owner. At the time the PHA issues a choice mobility voucher, the PHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher. If family's search term (and any extensions) expires, the PHA must issue the voucher to the next eligible family. The family's name will be removed from the priority list, and the family will be able to resubmit a request at a later time.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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***Turnover Cap***



**Decision Point: Will the PHA establish a turnover cap for choice mobility? (Model plan, p. 18-54)**

**Things to Consider**

- This option only applies to PHAs where 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.
- Turnover caps are optional for PHAs who meet the threshold. If the PHA either does not wish to establish a turnover cap or does not meet the 20 percent threshold, select Option 2.
- For PHAs that meet the threshold, as a result of participation in RAD 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. At the same time, the PHA still needs to be able to use tenant-based vouchers to address the specific housing needs and priorities of the community.
- The PHA should consider the likelihood that little to no tenant-based vouchers will be issued, particularly in the second year after conversion, and the impact this may have on families on their tenant-based list, including the number of families on the PHA's tenant-based list and the average wait for a voucher.
- Turnover caps may be administratively burdensome because they require the PHA to establish a system by which individuals who requested a choice mobility voucher and were denied due to the cap to be given priority the following year when choice mobility vouchers are again available.
- The default policy imposes the cap because of the adverse effect choice mobility may have on families on the PHA's tenant-based list. Select Option 1 if the PHA meets the 20 percent threshold and wishes to implement the cap.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.



*Option 2: Delete the model plan language and substitute the language as shown below.*

The PHA will not establish a choice mobility cap.



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**Emergency Transfers under VAWA [24 CFR 983.261(f) and (g)]**

HUD requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.



**Decision Point: What type of assistance will the PHA offer victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking who have been living in their PBV unit for less than one year or who have been living in their unit for a year or more but for whom a voucher is not immediately available? (Model plan, p. 18-56)**

**Things to Consider**

- Notice PIH 2017-08 requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, or stalking requests to move after less than a year. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without redetermining program eligibility.
  - Note that while the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.
- If an internal transfer is not feasible, the model policy offers the option for an external transfer to either the PHA's tenant-based HCV program or the PHA's public housing program. If the PHA does not have a public housing program, the model language will need to be edited. Further, the model policy also assumes that the PHA's public housing program has a preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. If it does not, the model policy will need to be edited.
- If the family terminates the lease in accordance with PHA requirements at any time after the first year of occupancy, the PHA is required to offer the family the opportunity for continued tenant-based assistance in the form of a voucher or other comparable tenant-based rental assistance [24 CFR 983.261]. If a voucher is not immediately available, the PHA must give the family the next available opportunity for continued tenant-based assistance.
- If the family has lived in the unit for less than a year, the PHA is not required to provide the family with any form of continued assistance.

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- While the PHA cannot waive the requirement that the participant live in the unit for a year, the PHA may place the participant on the HCV waiting list and expedite the process for receiving a tenant-based voucher by offering a waiting list preference for such individuals. Notice PIH 2017-08 requires the PHA to select PBV residents from the HCV tenant-based waiting list in this situation only. The model policy assumes the PHA has adopted such a preference (See Section 4-III.C.). If your PHA did not adopt such a preference, the language in the model policy will need to be edited.
- HUD recommends that when using a site-based waiting list, the PHA consider waiting list policies that expand opportunities for tenants seeking an emergency transfer under the PHA's Emergency Transfer Plan (ETP) under VAWA. As such, and to align this policy with the emergency transfer policy regarding preferences found in section 18-V.E., Option 1 states that the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another. If the PHA does not have site-based waiting lists, or if this policy was not adopted in 18-V.E., Option 1 will need to be revised to remove this language.
- Further, the PHA must address situations in which victims who are eligible to receive a tenant-based voucher are unable to receive one because a voucher is not immediately available. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without re-determining program eligibility.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may request an external emergency transfer to the PHA's public housing program for which they are required to apply. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



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Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV). Such a decision will be made by the PHA based on the availability of tenant-based vouchers. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in its HCV program in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

### **18-VI.F. REEXAMINATIONS [*RAD PBV Quick Reference Guide 6/20*]**

This section describes initial certification for in-place families. **No policy decisions are required.**

### **18-VI.G. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]**

This section describes the procedural rights for public housing residents in projects converting to PBV under RAD. Any non-RAD PBV units located in the same project are also subject to these requirements. **No policy decisions are required.**

### **18-VI.H. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]**

This section describes the circumstances under which residents in converted projects have the right to request informal hearings and the requirements concerning such hearings. **No policy decisions are required.**

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**PART VII: DETERMINING CONTRACT RENT**

**18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]**

This section provides an overview of Part VII. **No policy decisions are required.**

**18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; *RAD PBV Quick Reference Guide 6/20*; PHA Asset Repositioning “How to Apply OCAF for RAD PBV” Webinar]**

This section describes how rents are adjusted annually.



**Decision Point: How will contract rent adjustments be handled? (Model plan, p. 18-61)**

**Things to Consider**

- The OCAF is not automatically applied each year. Even though it's the contract administrator's responsibility to apply the OCAF, the project owner must still request the OCAF adjustment. HUD recommends starting the request process at least 60 days before the contract anniversary date. Option 1 states the owner will request the OCAF adjustment at least 120 days, but no less than 60 days, prior to the anniversary date.
- Where the covered project is PHA-owned, an independent entity must determine rent reasonableness and determine the OCAF adjustment. Option 1 of the model policy includes language referring to the independent entity since the model policy assumes that RAD PBV projects are likely PHA-owned. If the project is not PHA-owned, the PHA should edit Option 1 accordingly.
- Use of the Form HUD-9625 to determine adjusted rents is optional for the PHA that administers the contract or the independent entity. If the PHA or independent entity wishes to use its own tool, they may. While the results of the analysis are not required to be submitted to HUD, HUD recommends that the PHA retain a copy of the methodology used for audit purposes. If the project is PHA-owned, the independent entity will need to verify the rent setting calculations in the tool. For ease of administration, Option 1 states that the HUD form will be used. If the PHA wishes to use its own methodology, the model policy language should be changed.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The owner will request a contract rent adjustment from the PHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify the PHA who administers the contract in writing of the results of its review of the rent adjustment request. The PHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the PHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**Rent Decrease**

**No policy decisions are required.**

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**18-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; *RAD PBV Quick Reference Guide* 6/20]**



**Decision Point: What utility allowance will the PHA use for RAD PBV developments? (Model plan, p. 18-61)**

**Things to Consider**

- The PHA may use the HCV utility allowance for RAD PBV units.
- However, unlike in the standard PBV program, the PHA may instead apply site-specific utility allowances.
- If a site-specific utility allowance is used, the utility allowance must be calculated in accordance with Notice H 2015-04. The project owner may carry out all of the responsibilities associated with the notice, but the PHA must ensure that the utility allowance was calculated correctly.
- The site-specific utility allowance would apply to any non-RAD PBV units in the project as well.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will use the HCV utility allowance schedule for the RAD PBV developments.



*Option 2: Delete the model plan language and substitute the language as shown below.*

The PHA will use site-specific utility allowances at the following developments:

**[List all developments with site-specific utility allowances]**



*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-VII.D. REASONABLE RENT [983.301(d) and 24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract. **No policy decisions are required.**

**How to Determine Reasonable Rent [24 CFR 983.303(c)]**

This section explains how the PHA should determine whether or not a rent is reasonable. **No policy decisions are required.**

***Comparability Analysis [24 CFR 983.303(d)]***

This section describes the analysis the PHA must complete and the records that must be kept to document that the PHA has determined that a PBV rent is reasonable. **No policy decisions are required.**

***PHA-Owned Units [24 CFR 983.303(f)]***

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. **No policy decisions are required.**

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**PART VIII: PAYMENTS TO OWNER**

**18-VIII.A. HOUSING ASSISTANCE PAYMENTS**

This section describes under what conditions the PHA will make housing assistance payments to the owner. **No policy decisions are required.**

**18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]**

**Payment at Move-Out Month [24 CFR 983.352(a)]**



**Decision Point:** If the PHA determines that the owner is responsible for a vacancy and therefore may not keep the housing assistance payment for the month in which the family moved out, how will the PHA recover the amount owed from the owner? (Model plan, p. 18-64)

Things to Consider

- The PHA has already established policies regarding amounts owed to the PHA by a landlord for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, the PHA will notify the owner of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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**Vacancy Payments**



**Decision Point: Will the HAP contract provide for vacancy payments to the owner, and if so, what amount will be paid and for what period? (Model plan, p. 18-64)**

**Things to Consider**

- The PHA is not required to offer vacancy payments.
- A vacancy payment may only be made for a maximum of two months and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).
- Within these regulatory limits, the PHA still has discretion. For example, the PHA could negotiate a maximum payment of 50 percent of the monthly rent to owner for a period of one month.
- The model language clarifies that if vacancy payments will be made, this information, including the amount of the payment and period for which the payments will be made, will be added to the HAP contract.



*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.



*Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



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**Decision Point: If the HAP contract calls for vacancy payments to be made, what must the owner do in order to receive vacancy payments? (Model plan, p. 18-65)**

Things to Consider

- Because it is possible that not all HAP contracts will call for vacancy payments to be made, the model plan language clarifies that this policy is conditional.
- To qualify for vacancy payments, the owner must notify the PHA of any vacancy in accordance with the policy in Section 18-V.G. (five business days).
- Although the notification of the vacancy must be submitted within five business days, the actual request for vacancy payments will be submitted later (following the vacancy period for which the owner is seeking reimbursement).
- The request for the vacancy payment must be made within 10 business days of the end of the period for which the owner is seeking reimbursement. In addition, the owner has 10 business days to provide any additional documentation requested by the PHA to support the owner's request (10 business days is the standard timeframe used throughout much of the plan).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made in writing (including via email) within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

If vacancy payments are made, the PHA will make vacancy payments for the period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will not exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment will cover only the period the unit remains vacant.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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**18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]**

**Initial Certifications [Notice PIH 2019-23]**

This section clarifies the amount that will be used to determine tenant rent on the family's initial certification. **No policy decisions are required.**

**Tenant and PHA Responsibilities**

This section clarifies the tenant and PHA's responsibilities in making payments to the owner for tenant rent. **No policy decisions are required.**

**Utility Reimbursements [24 CFR 983.353(d)]**



**Decision Point: To whom will the PHA make utility reimbursement payments?  
(Model plan, p. 18-66)**

**Things to Consider**

- In Section 6-III.A., the model plan states that the PHA will make utility reimbursement payments to the family rather than the utility company.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and participants.
- If in Section 6-III.A., you have adopted a policy that utility reimbursement payments will be made to the utility supplier, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.



**Option 1: Use the model plan language shown below. No changes to the model plan are needed.**

The PHA will make utility reimbursements directly to the family.



**Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.**

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**18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning “Phase-in of Tenant Rents” Webinar]**



**Decision Point: Will the PHA conduct required phase-ins of tenant rent increases over three years or five years? (Model plan, p. 18-67)**

**Things to Consider**

- If the amount the tenant would pay for rent and utilities (TTP) 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 three or five 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.
- 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 PHA must communicate its policy in writing to effected residents. The model policy states that the PHA will communicate this to the family at the time the PHA first determines the family qualifies for the phase-in. The PHA may choose to communicate this at a different point since the RAD notice only states that the family be notified in writing but does not state when notification must occur.
- The default policy opts for conducting phase-ins over a three-year period for ease of tracking. However, Option 2 contains language for a five-year phase-in should your PHA find this more suitable to its circumstances.
- Note: the policy options below reflect Notice PIH 2019-23. For other phase-in options, please see Notice PIH 2012-32, REV-2.
- To facilitate the uniform treatment of residents and units at a covered project, any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions. This includes non-RAD units in a RAD/Section 18 Blend.
- Rent phase-ins only apply if they occur “purely as a result of the conversion.”
  - A rent phase-in would not apply if the rent increases because of new household income at the time of the conversion or the household has come to the end of their EID period.
  - A phase-in may apply if a household was on flat rent while in public housing, and by moving to income-based rent as a result of the RAD conversion, their tenant rent increases, or if the tenant moves to a new unit because of the RAD conversion where the rent is higher.

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*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

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*Option 2: Delete the model plan language and insert the language as shown below.*

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a five-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 20 percent of difference between the most recently paid TTP or flat rent and the standard TTP

Year 2: Year 2 any recertification (interim or annual) prior to Year 3 AR: 25 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 any recertification (interim or annual) prior to Year 4 AR: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 4: Year 4 any recertification (interim or annual) prior to Year 5 AR: 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 5 Annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

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*Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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**18-VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]**

**Meals and Supportive Services**

This section describes when an owner is able to charge a family living in a PBV unit for meals and supportive services. **No policy decisions are required.**

**Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants. **No policy decisions are required.**

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**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the administrative plan.  
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? ☐ Yes ☒ No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) ☐ Yes ☒ No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



**Decision Point: Are any changes required to this chapter?**

- ☐ No. No changes to the model plan are needed.
- ☒ Yes. Edits only. Edit and insert PHA language as appropriate.
- ☐ Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



**Decision Point: Are changes required in other chapters as a result of changes to this chapter?**

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- ☐ No. Changes to other chapters are not necessary.
- ☒ Yes. Changes to the following chapters are also required: Chapter 3

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