



Pinellas County Housing Authority, Largo, FL

Rental Assistance Demonstration Program Section 8 Project-Based Voucher Program

**Office of Audit, Region 4
Atlanta, GA**

**Audit Report Number: 2018-AT-1007
July 13, 2018**



To: Thomas R. Davis, Director, Office of Recapitalization, HTR
Uche A. Oluku, Director, Office of Public Housing, 4DPH

//Signed//

From: Nikita N. Irons, Regional Inspector General for Audit, 4AGA

Subject: The Pinellas County Housing Authority, Largo, FL, Generally Administered Its Rental Assistance Demonstration Conversion but Did Not Fully Comply With HUD's Rent Reasonableness Determinations After Conversion

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Pinellas County Housing Authority's Rental Assistance Demonstration conversion.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 404-331-3369.



Audit Report Number: 2018-AT-1007

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The Pinellas County Housing Authority, Largo FL, Generally Administered Its Rental Assistance Demonstration Conversion but Did Not Fully Comply With HUD's Rent Reasonableness Determinations After Conversion

Highlights

What We Audited and Why

We audited the Pinellas County Housing Authority's Rental Assistance Demonstration Program (RAD) conversion to the Section 8 Project-Based Voucher program and compliance after the conversion. We selected the Authority for review in keeping with the goals of our annual audit plan. Our objective was to determine whether the Authority administered its RAD conversion in compliance with U.S. Department of Housing and Urban Development (HUD) requirements and complied with HUD's program requirements for conducting rent reasonableness determinations after conversion.

What We Found

The Authority generally administered its RAD conversion in accordance with HUD's requirements for written agreements, project financing sources, the expenditure of HUD funding, tenant occupancy, physical conditions assessments, and requirements for maintaining separate books and records. However, the Authority did not correctly calculate a relocation rental assistance payment to one tenant because it incorrectly applied utility amounts when calculating relocation assistance. As a result, it overpaid \$4,523 in relocation rental assistance.

The Authority did not fully comply with HUD's program requirements to use an independent third party after its RAD conversion to perform rent reasonableness determinations for the Authority-owned RAD project. This condition occurred because the Authority inappropriately determined that it was not necessary to contract with an independent party to perform the service. As a result, HUD and the Authority lacked assurance that the rent reasonableness determinations were properly conducted. Subsequent to our audit review, the Authority revised its policies and procedures to adhere to HUD requirements related to the rent reasonableness determinations.

What We Recommend

We recommend that the Director of the Office of Recapitalization require the Authority to support that it properly calculated relocation rental assistance payments and if there is an overpayment, reimburse the applicable RAD relocation account.

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Background and Objective

The Pinellas County Housing Authority was established in 1965 and is an independent agency operating under the authority of the Florida Statutes, Chapter 421, Public Housing, Part I- Housing Authorities. The Authority is governed by a five-member board of commissioners appointed by the governor of Florida. Its mission is to provide safe, quality housing for persons in need and to cultivate healthy, vibrant neighborhoods by creating, providing, and increasing high-quality housing opportunities in Pinellas County through effective and responsive management and responsible stewardship of public and private funds. As the largest public housing agency in Pinellas County, the Authority provides housing and rental assistance to individuals through Authority-owned affordable housing, public housing, and assisted living as well as through the administration of the Housing Choice Voucher program.

The Rental Assistance Demonstration Program (RAD) was authorized in fiscal year 2012 to preserve and improve public housing properties and address a \$26 billion nationwide backlog of deferred maintenance. RAD's purpose is to provide an opportunity to test the conversion of public housing and other U.S. Department of Housing and Urban Development (HUD)-assisted properties to long-term, project-based Section 8 rental assistance properties to achieve certain goals, including preserving and improving these properties by enabling public housing agencies to use private debt and equity to address immediate and long-term capital needs. RAD has two components. The first component allows the conversion of public housing and moderate rehabilitation properties to properties with long-term, project-based Section 8 rental assistance contracts. The second component allows rent supplement, rental assistance payments, and moderate rehabilitation properties to convert tenant protection vouchers to project-based assistance at the end of the contract.

In September 2011, the Authority entered into a limited liability partnership, Landings at Cross Bayou, LLLP, which was formed for the purpose of developing and operating a multifamily project. In August 2013, the Authority submitted an application to convert its 185-unit public housing project called French Villas to a 184-unit project-based voucher project under the name Landings at Cross Bayou. In October 2013, the partnership received its RAD award and commitment to enter into a housing assistance payments contract for the project under the first RAD component. In December 2013, HUD issued the RAD conversion commitment¹ for the partnership to convert the project. The project was substantially renovated totaling more than \$24 million in development costs and had been placed into service as of March 2015.

Our objective was to determine whether the Authority administered its RAD conversion in accordance with HUD requirements and complied with HUD's program requirements for conducting rent reasonableness determinations after its RAD conversion.

¹ RAD conversion commitment – agreement between HUD and the public housing agency, following HUD approval of the financing plan, that describes the terms and conditions of the conversion.

Results of Audit

Finding 1: The Authority Generally Administered Its RAD Conversion in Accordance With HUD Requirements

The Authority generally administered its RAD conversion in accordance with HUD's requirements. Specifically, it generally executed the proper written agreements, secured project financing sources, spent HUD funds for eligible and reasonable purposes, followed occupancy requirements, obtained a waiver for the physical conditions assessment, and complied with requirements for maintaining separate books and records for the RAD conversion.

However, the Authority did not correctly calculate a relocation rental assistance payment to one tenant, which resulted in an overpayment. This condition occurred because the Authority applied the incorrect utility amounts when calculating the relocation rental assistance payment. As a result, it overpaid the tenant \$4,523 in relocation rental assistance over a 42-month period.

Written Agreements Were Properly Executed

The Authority properly executed written agreements for the RAD project in accordance with HUD requirements. Specifically, it executed the RAD use agreement, which contained the appropriate provisions for contract terms, use restrictions and tenant incomes, subordination, and fair housing requirements, and the ground lease agreement, which preserved its interest by a long-term ground lease and a leasehold mortgage on the RAD property, as provided in Office of Public and Indian Housing (PIH) Notice PIH 2012-32, REV-1, paragraphs 1.6(B)(4) and 1.6(B)(3), respectively. In addition, the Authority executed the development agreement, which contained a developer fee amount that did not exceed the 15 percent of total development costs for a low-income housing tax credit (LIHTC) transaction as stated in Notice PIH 2012-32, REV-1, paragraph 1.14(B).²

Financing Sources Were Secured

The Authority adequately secured the funding sources for the RAD conversion as required by Notice PIH-2012-32, REV-1, paragraphs 1.9(A)(2) and 1.9(B). The funding sources for the RAD project included (1) 9 percent LIHTC equity, (2) a leasehold mortgage for the acquisition of the covered project's land and building, (3) a construction and permanent loan, (4) HOME Investment Partnerships Program funds, and (5) the Authority's public housing operating reserves.³ The Authority provided support for funding sources, including the certificate of

² See to appendix B for requirements in Notice PIH 2012-32, REV-1, paragraphs 1.6(B)(4), 1.6(B)(3), and 1.14(B).

³ Operating reserves are funds accumulated through the operation of public housing with assistance from the Public Housing Operating Fund program.

binding commitment for the 9 percent LIHTC and financing letters of intent and commitment from the financing providers.⁴

HUD Funds Were Used for Eligible and Reasonable Purposes

The Authority spent HUD funds for eligible and reasonable purposes for the RAD conversion as required. Specifically, we reviewed the use of HOME funds, capital funds, operating funds, and RAD rehabilitation assistance⁵ funds. The HOME funds were used for eligible development costs in connection with the rehabilitation of the RAD project as provided in the land use restriction agreement for the HOME program. The capital, operating, and RAD rehabilitation assistance funds were used for eligible and supported relocation rental assistance payments and tenants' moving expenses.⁶

HUD Occupancy Requirements Were Followed

The Authority generally administered its RAD conversion in accordance with HUD's tenant occupancy requirements. Specifically, it advised tenants of their rights to return and did not require rescreening and advised tenants of their mobility rights. The assessment was based on our understanding of the actions taken by the Authority to manage the relocation of the tenants and our review of select tenant files. Additionally, the Authority provided supporting documentation, which showed that the resident meetings were conducted as required and the waiting lists were properly described in the Authority's Housing Choice Voucher program administrative plan and further established in the management plan for the RAD project as required.⁷

A Waiver Was Obtained for the Physical Conditions Assessment

The Authority obtained a waiver from HUD for the physical conditions assessment (PCA) as provided in PIH Notice 2012-32, REV-1, attachment 1A.1(B) and section 1.5 due to the substantial nature of the renovation work necessary for the RAD conversion. The Authority provided documentation supporting HUD's approval to waive the Authority's requirement to provide the PCA.⁸

Separate Books and Records Were Maintained

The Authority maintained its books and records separately from those of the RAD ownership entity, Landings at Cross Bayou, LLLP. Our review of the limited partnership agreement for the formation of Landings at Cross Bayou, LLLP, showed that the managing general partner maintained the books and records for the RAD ownership entity separately. The audited financial statements of the Authority and RAD ownership entity showed that the books and records of the RAD ownership entity were maintained separately from those of the Authority. In addition, the Authority established and maintained separate general ledger accounts to track

⁴ See to appendix B for requirements in Notice PIH-2012-32, REV-1, paragraphs 1.9(A)(2) and 1.9(B).

⁵ This relates to RAD rehabilitation assistance payments received for RAD-converted units that were not occupied and underwent rehabilitation or construction.

⁶ See appendix B for use of HUD funds in Notice PIH 2012-32, REV-1, paragraphs 1.5(A) and 1.13(B).

⁷ See appendix B for occupancy requirements at Notice PIH 2012-32, REV-1, paragraphs 1.6(C)(1), 1.6(C)(2), 1.6(D)(4), and 1.8 and HUD regulations at 24 CFR (Code of Federal Regulations) 983.260(a) and (b).

⁸ See appendix B for PCA requirements and waivers in PIH Notice 2012-32, REV-1, attachment 1A.1(B) and section 1.5.

relocation expenditures paid from operating and capital funds, relocation funds received from RAD project financing sources, and other miscellaneous RAD project predevelopment expenses.

A Relocation Rental Assistance Payment Was Not Calculated Correctly

The Authority did not correctly calculate the relocation rental assistance payment to a displaced tenant⁹ who elected to permanently relocate from the project as a result of the RAD project rehabilitation. Our expenditure review sample included payments to 3 of the 13 tenants who received relocation rental assistance payments under the Uniform Relocation Act.¹⁰ We reviewed the relocation rental assistance payment calculations for 3 of the 13 tenants and determined that the Authority incorrectly calculated the monthly assistance payment for 1 of the 3 tenants. Federal regulations at 49 CFR (Code of Federal Regulations) 24.402(b)(1) provide that the payment for rental assistance for a displaced tenant must be 42 times the difference of the monthly rental for the displacement dwelling and the lesser of the monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling or the monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling occupied by the displaced person.

The condition described above occurred because the Authority applied the incorrect utility amounts when calculating the relocation rental assistance payment. Specifically, the Authority misinterpreted a 62-day period water and sewer invoice and a quarterly waste management invoice for a monthly invoice. As a result, it overpaid the tenant \$4,523 in relocation rental assistance over a 42-month period. After we provided the Authority the overpayment calculation, it reimbursed the RAD operating account \$4,523 from its non-Federal funds. In addition, the Authority stated that it checked the relocation rental assistance payment calculations for the other 10 tenants and did not find the same error. However, we did not review the rental assistance payment calculations and the related supporting documentation for other 10 tenants to confirm the Authority's statement.

Conclusion

The Authority generally ensured that its RAD conversion was administered in accordance with HUD requirements. Specifically, the Authority executed the proper written agreements, secured project financing sources, spent HUD funds for eligible and reasonable purposes, followed occupancy requirements, obtained a waiver for the physical conditions assessment, and complied with requirements for maintaining separate books and records for the RAD conversion. However, it did not correctly calculate a relocation rental assistance payment to one tenant because it misinterpreted a 62-day period water and sewer invoice and a quarterly waste management invoice for a monthly invoice. As a result, the Authority overpaid the tenant \$4,523 in relocation rental assistance over a 42-month period.

⁹ See appendix B for the definition of a displaced person in Federal regulations at 49 CFR 24.2(a)(9).

¹⁰ The Uniform Relocation Act is a Federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real estate property or displace persons from their homes, businesses, or farms. The Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for Federal or federally funded projects.

Recommendation

We recommend that the Director of the Office of Recapitalization require the Authority to

- 1A. Provide supporting documentation for subsequent review to show that it properly calculated relocation rental assistance payments for the 10 tenants and if there is an overpayment, reimburse the applicable RAD relocation account from non-Federal funds.

Finding 2: The Authority Did Not Fully Comply With HUD's Requirements for Rent Reasonableness Determinations

The Authority did not comply with HUD's program requirements for conducting rent reasonableness determinations after its RAD conversion. Specifically, it did not use an independent third party to perform rent reasonableness determinations for the Authority-owned RAD project as required. The Authority inappropriately determined that it was not necessary to contract with an independent party to perform services or obtain data that the Authority could provide itself because it already performed rent reasonableness determinations for Section 8 units under its Housing Choice Voucher program. In addition, the Authority reasoned that its inspectors knew the local market and thus had a better idea of what was a reasonable rent for an area. This reasoning resulted in the Authority's not complying with HUD's requirements for independence and subjected the unit rents at the RAD project to the risk of being inflated or above market.

An Independent Third Party Was Not Used To Perform Rent Reasonableness Determinations

HUD regulations at 24 CFR 983.303(f) provide that for public housing agency-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD rather than by the agency. The Authority elected to perform the rent reasonableness internally using third-party software. The Authority updated the software's database by regularly entering information of comparable units from the local area. To determine whether a unit rent was reasonable, Authority staff would enter the search parameters, and the software would generate comparables for the subject unit. Given the Authority's direct interest in the project and the potential ability for the Authority to influence the output of the rent reasonableness determinations, the Authority's use of the software to perform rent reasonableness determinations did not comply with HUD requirements for independence.

The Authority inappropriately determined that it was not necessary to contract with an independent party to perform services or obtain data that the Authority could provide itself because it already performed rent reasonableness determinations for Section 8 units under its Housing Choice Voucher program. In addition, the Authority reasoned that its inspectors knew the local market and thus had a better idea of what was a reasonable rent for an area. This reasoning resulted in the Authority's not complying with HUD's requirements for independence and subjected the unit rents at the RAD project to the risk of being inflated or above market.

After we communicated the violation to the Authority, it requested a third-party agency to determine whether the initial rents and adjusted rents were reasonable. The third-party agency certified that the initial rents and 2017 and 2018 adjusted rents charged by the RAD project were reasonable. We also informed the Authority that the third-party agency must be approved by HUD. The Authority took our recommendation and obtained HUD approval for the third-party agency that certified to the reasonableness of the rents. In addition, subsequent to our audit review, the Authority updated its policies and procedures to require the use of an independent third party approved by HUD to conduct rent reasonableness for PHA owned units as required by 24 CFR 983.303(f). Therefore, no recommendations were included in the report for this finding.

Scope and Methodology

We performed our audit work between November 2017 and May 2018 at the Authority's office located at 11479 Ulmerton Road in Largo, FL, and at our offices in Jacksonville and Miami, FL. Our review covered the period January 1, 2013, through October 31, 2017.

To accomplish our objective, we

- Reviewed applicable laws, regulations, and relevant HUD program requirements for RAD conversions, including public law, the Code of Federal Regulations, and Office of Public and Indian Housing notices.
- Interviewed Authority officials and staff and the RAD project developer and consultants.
- Consulted with HUD officials on issues identified during the review.
- Reviewed the Authority's audited financial statements, board minutes, and organizational structure.
- Reviewed the Authority's RAD financial records, including the chart of accounts, general ledgers, and check registers.
- Reviewed Authority's policies and procedures for compliance with occupancy requirements and the independent third party for rent reasonableness requirements.
- Reviewed the RAD project's audited financial statements, including ownership structure and distribution and developers.
- Reviewed the RAD applications, financing plans, financing letters, loan closing documents, written agreements, and waiver to the physical conditions assessment.

We reviewed HUD funds used in the RAD conversion, including HOME funds, capital funds, operating funds, and RAD rehabilitation assistance funds, to determine whether the Authority spent HUD funds for eligible and reasonable purposes. We reviewed 100 percent of the \$300,000 in HOME funds used for project construction. For the other HUD funds, we chose a nonstatistical sampling method to capture transactions with larger distribution amounts to select a sample of relocation payments from the Authority's RAD check register as of October 31, 2017, for review.¹¹ The check register included 22 relocation accounts with distribution amounts totaling more than \$1.7 million and payment dates from August 2013 to September 2017. Of the 22 accounts, we selected the 3 accounts with the largest distribution amounts totaling more than

¹¹ A nonstatistical sample was used due to the small dollar amount of each transaction. There were more than 97 percent of the 4,659 relocation transactions with distribution amounts less than \$1,000.

\$1.4 million and consisting of rental assistance payments to landlords for temporary relocation, rental assistance payments to tenants for permanent relocation, and moving expenses. Due to the amount of transactions, we selected three payees from each account with the largest payments.¹² The results of the review applied only to the specific items reviewed and cannot be projected to the universe of transactions.

We did not use the computer-processed data generated by the Authority to support our audit overall finding and conclusion. Instead, our conclusion was based on the supporting documentation obtained during the audit, including but not limited to written agreements; tenant files; interviews; construction draw documents; project development costs certification; and inspection, site, and field reports.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

¹² While reviewing the transactions associated with each account, we identified a significant amount of transactions with small amounts. Therefore, we selected the highest three payees from each account.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Relevance and reliability of information – Policies and procedures that management has implemented to reasonably ensure that operational and financial information used for decision making and reporting externally is relevant, reliable, and fairly disclosed in reports.
- Compliance with laws and regulations – Policies and procedures that management has implemented to provide reasonable assurance that program implementation is in accordance with laws, regulations, and provisions of contracts or grant agreements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- The Authority did not use an independent third party to perform rent reasonableness determinations for the Authority-owned RAD project as required (finding 2).

Appendix A

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



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Debra Johnson
Executive Director

June 22, 2018

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Regional Inspector General for Audit
Office of Audit Region 4
Richard B. Russell Federal Building
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Atlanta, GA 30303-3388

RE: Comments in Response to Pinellas County Housing Authority Rental Assistance Demonstration Conversion Audit

Dear Ms. Irons:

Thank you very much for the opportunity to provide a response to the recent review of Pinellas County Housing Authority's Rental Assistance Demonstration conversion. We are committed to striving for excellence in compliance in the administration of all of our HUD programs, and we value our HUD Miami Field Office team for their ongoing technical assistance and guidance.

The Pinellas County Housing Authority sincerely appreciated the professionalism, expertise, and attention to detail provided by the auditors during the course of the RAD audit. The following response to each of the findings is respectfully submitted:

Finding 1: The Authority agrees that an error was made in the calculation of the Uniform Relocation Act (URA) payment made to one former resident. This was due to the misinterpretation of the billing period for the utilities. Following review and confirmation of the calculation with the auditor during the audit, the Authority immediately reimbursed the RAD project account for the full overpayment in the amount of \$4,523 from its non-Federal funds. The Authority also checked the other URA payments made to assure that this same error did not occur in other calculations.

Comment 1

**Ref to OIG
Evaluation**

Auditee Comments

Comment 2

Finding 2: The Authority agrees that it did not use an independent third-party agency approved by HUD to determine the initial rent reasonableness for its' RAD units as required. During the audit; however, PCHA did have an independent third party review the initial rent reasonableness determination as well as subsequent rent reasonable determination, and the rent for the RAD project was determined to be reasonable. The independent third party was also subsequently approved by HUD.

Comment 3

In addition, the Authority has updated its HCV Administrative Plan (Chapters 11 and 20) to include the following procedure:

Rent Reasonableness for PHA-owned units

As required by HUD regulations at 24 CFR 983.303(f) the HA will use an independent third party approved by HUD to conduct rent reasonableness for PHA owned units. The independent third party must be approved by HUD. In addition, the independent third party must notify HUD of its rent determination of PHA owned units in accordance with HUD regulations.

Again, thank you very much for the opportunity to provide this information. Please feel free to contact me if you have any questions.

Sincerely,



Debbie Johnson
Executive Director

OIG Evaluation of Auditee Comments

- Comment 1 The Authority agreed that it made an error in the calculation of the Uniform Relocation Act relocation assistance payment of a former resident and reimbursed the RAD project account \$4,523 for the overpayment due the calculation error. OIG acknowledges the subsequent review and adjustments made by the Authority to address this issue. We recommend that the Authority provide documentation supporting this review and the subsequent adjustments to HUD during the audit resolution process.
- Comment 2 The Authority agreed that it did not observe the rent reasonableness requirement, but corrected the issue by obtaining an independent third party contractor to retroactively review the rent reasonableness determinations. The Authority also obtained HUD approval of the independent third party. We commend the Authority for acknowledging and quickly addressing the rent reasonableness requirement.
- Comment 3 The Authority provided supporting documentation that showed it updated its Housing Choice Voucher program administrative plan to include the 24 CFR 983.303(f) requirement. In addition, the Authority obtained HUD approval for an independent third party contractor to perform future rent reasonableness determinations of the Authority-owned units. Therefore, no recommendations were included in the report for finding 2.

Appendix B

Relevant Federal Criteria

Notice PIH 2012-32, REV-1, paragraph 1.6(B)(4) – Pursuant to the RAD statute, covered projects shall have an initial RAD Use Agreement that:

- a. Will be recorded superior to other liens on the property;
- b. Will run for the same term as the initial HAP [housing assistance payments] contract, automatically renew upon extension or renewal of the HAP contract for a term that runs with the renewal term of the HAP contract, and remain in effect even in the case of abatement or termination of the HAP contract;
- c. Requires that in the event that the HAP contract is removed due to breach, noncompliance or insufficiency of Appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income (AMI) at the time of admission and rents may not exceed 30% of 80% of median income for an appropriate size unit for the remainder of the term of the RAD Use Agreement; and

Requires compliance with all applicable fair housing and civil rights requirements.

Notice PIH 2012-32, REV-1, paragraph 1.6(B)(3) – Pursuant to the RAD statute, during the initial term and all renewal terms of the HAP contract, HUD will require ownership or control of assisted units by a public or non-profit entity. HUD may allow ownership of the project to be transferred to a for-profit entity to facilitate such entity's use of tax credits, but only if the PHA preserves its interest in the property in a manner approved by the Secretary.

Notice PIH 2012-32, REV-1, paragraph 1.14(B) – On LIHTC transactions, PHAs may earn a developer fee payable from the tax credit equity subject to the LIHTC allocating agency's limitations on developer fees, and in no case to exceed 15 percent of total development costs.

Notice PIH-2012-32, REV-1, paragraph 1.9(A)(2) – A financing letter of interest/intent from each lender or equity investor, indicating, among other conditions, that the proposed pro-forma is reasonable. This letter is required where third-party financing is indicated in the application RAD application. The financing letter of interest/intent does not promise or imply a commitment to make a loan or equity investment but does signify that the lender or investor has reviewed the pro-forma for the subject project and considers it reasonable to proceed with further analysis and due diligence.

Notice PIH-2012-32, REV-1, paragraph 1.9(B) – Applicants proposing to use 9% LIHTCs are required to submit a letter from the credit-issuing authority if a reservation has not already been secured.

Notice PIH 2012-32, REV-1, paragraph 1.5(A) – PHAs are permitted to use available public housing funding as an additional source of capital in the development budget to support conversion, whether for rehabilitation or new construction. Eligible conversion-related uses for these funds include pre-development, development, or rehabilitation costs and establishment of a capital replacement reserve or operating reserve. Following execution of

the HAP, PHAs [public housing agencies] are authorized to use Operating and Capital Funds to make HAP payments for the remainder of the calendar year of conversion.

A PHA may expend up to \$100,000 in public housing program funds in related pre-development conversion costs per project without HUD approval. In the case of a PHA that is converting all units under ACC [annual contributions contract], there is no restriction on the amount of public housing funds that may be contributed to the converting project(s) at the point of conversion, i.e., the PHA may convey all program funds to the project undergoing conversion.

Notice PIH 2012-32, REV-1, paragraph 1.13(B) – In the initial year of conversion of assistance, projects will be funded through the public housing accounts. As such, at closing, a PHA shall provide a certification that it will make Operating and Capital funds available, in amounts determined by HUD, within RAD Budget Line Items in the Line of Credit Control System. The PHA must use all such funds to make monthly HAP payments for the remainder of that calendar year. For the remaining months of the calendar year, the PHA can use its available public housing or other funds to make up any gap in rental subsidy as a result of Operating and Capital Fund allocations to a RAD project that are lower than the HAP subsidy due to the project.

Notice PIH 2012-32, REV-1, paragraph 1.6(C)(1) – Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions.

Notice PIH 2012-32, REV-1, paragraph 1.6(C)(2) – Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed.

HUD regulations at 24 CFR 983.260(a) and (b) state that the family may terminate the assisted lease at any time after the first year of occupancy. If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Notice PIH 2012-32, REV-1, paragraph 1.8 – Prior to submitting an application to participate in the Demonstration, HUD requires a PHA to:

1. Notify residents of projects proposed for conversion and legitimate resident organizations of the PHA's intent to pursue a conversion;
2. Conduct at least two meetings with residents of projects proposed for conversion to discuss conversion plans and provide opportunity for comment; and
3. Prepare comprehensive written responses to comments received in connection with the required resident meetings on the proposed conversion to be submitted with the RAD Application.

Once a PHA is selected to participate in the Demonstration, it must have at least one more meeting with residents before HUD will execute a HAP contract.

Upon issuance of the RAD Conversion Commitment, the PHA must notify each affected household that conversion of the project has been approved, and inform households of the specific rehabilitation or construction plans and any impact the conversion may have on them.

Notice PIH 2012-32, REV-1, paragraph 1.6(D)(4) – In establishing the waiting list for the converted project, the PHA shall utilize the project-specific waiting list that existed at the time of conversion. In addition, the waiting list must be established and maintained in accordance with PBV program requirements.

Notice PIH 2012-32, REV-1, attachment 1A.1(B) – The PCA submission is required on every property, regardless of whether third-party financing is involved, except for units replaced with new construction.

Notice PIH 2012-32, REV-1, paragraph 1.5 – Under the Demonstration, HUD has the authority to waive or specify alternative public housing requirements, or to establish requirements for converted assistance under the demonstration.

Federal regulations at 49 CFR 24.2(a)(9) define the term displaced person to mean any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property before its acquisition but who does not meet the length of occupancy requirements of the Uniform Relocation Act as described in sections 24.401(a) and 24.402(a)) as follows:

- (A) As a direct result of a written notice of intent to acquire (see § 24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
- (B) As a direct result of rehabilitation or demolition for a project; or
- (C) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.