

**Housing Authority of the City of Cumberland**  
**Attachment R – Rental Assistance Demonstration (RAD)**  
**PHA Plan Amendment**

The Housing Authority of the City of Cumberland is amending its annual and/or 5-year PHA Plan because it was a successful applicant in the Rental Assistance Demonstration (RAD) program. As a result, the Housing Authority of the City of Cumberland will be converting to Project Based Rental Assistance under the guidelines of PIH Notice 2012-32, REV-3 and any successor Notices. Upon conversion to Project Based Rental Assistance the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in Section 1.7 of PIH Notice 2012-32, REV-3; and Joint Housing PIH Notice H-2014-09/PIH-2014-17). These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, the Housing Authority of the City of Cumberland certifies that it is currently compliant with all fair housing and civil rights requirements and is not currently under any form of voluntary compliance agreement, consent order, consent decree, final judicial ruling, and/or administrative ruling or decision.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing the Housing Authority of the City of Cumberland with access to private sources of capital to repair and preserve its affordable housing assets. Private sources may include grants, tax credits, in kind contributions and borrowing funds from assorted financial institutions.

Please be aware that upon conversion, the Housing Authority's Capital Fund Program (CFP) and its Replacement Housing Factor (RHF) Budgets will be reduced by the pro rata share of Public Housing Developments converted as part of the RAD program. The FY 2016 amounts for these programs were: \$520,197 for CFP and \$39,828 for RHF and assigned to Banneker Gardens. The approximate pro-rated amounts for each development based upon the FY 2016 amounts are listed herein. The Housing Authority will also be contributing Operating Reserves in the combined amount of \$776,119 or greater.

The Housing Authority of the City of Cumberland currently has debt under the Capital Fund Financing Program and will be working with Deutsche Bank to address outstanding debt issues, which may result in additional reductions of Capital Funds. The Housing Authority of the City of Cumberland currently has debt under an Energy Performance Contract and will be working with TD Equipment Finance to address outstanding debt issues, which may result in additional reductions of Capital or Operating Funds. A HUD Repayment Agreement exists whereby Annual Capital Funds are used to repay our developments for previous expenses and will also need to be paid off at RAD closings.

There will be no changes in the policies that govern eligibility, admission, selection, and occupancy of units at any development after they have been converted other than those outlined within this amendment. This includes waiting list preferences that will be adopted for the converted site as well as the Resident Rights and Participation, Waiting List and Grievance Procedures for residents stated in 1.7.B and 1.7.C and attachment 1B of the PIH notice 2012-032 Rev 3.

## **Significant Amendment Definition**

As part of the Rental Assistance Demonstration (RAD), the Housing Authority of the City of Cumberland is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
- b. Changes to the Capital Fund Budget produced as a result of each approved RAD conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- c. Changes to the construction and rehabilitation plan for each approved RAD conversion;  
and
- d. Changes to the financing structure for each approved RAD conversion.

## DEVELOPMENT DESCRIPTION

Public Housing Project:	<b>Jane Frazier Village</b>		Total # of Units: 125
PIC Development ID Number:	MD005000001		Conversion Type: RAD – PBRA
Pre-RAD Unit Type:	Family		Post-RAD Unit Type: Family
FY16 Capital Fund Allocation:	\$153,000		Estimated Reserves: \$273,985
Transfer of Assistance: Competed RAD will result in 14 units lost which will be combined with other developments lost units and developed at a new site(s) at end of RAD conversion & filled with applicants from all waiting lists			
Units by Bedroom Size	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why ( <i>De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc</i> )
Efficiency	0	0	N/A
One Bedroom	24	24	No Change
Two Bedroom	56	60	Transfer of Assistance – eliminating 8 units in building 11 & 12 to provide: 1) needed site parking; 2) community space/playground; and 3) assist with site deconcentration. Unit Reconfiguration - reconfigured 3 BR TH units to provide 6 HC flat units and 6 standard flat units
Three Bedroom	39	27	Twelve 3 BR TH units will be reconfigured to provide six 2 BR HC flat units and six standard 2 BR flat units
Four Bedroom	6	0	Transfer of Assistance – eliminating 6 units in building 11 & 12 to provide 1) needed site parking; 2) community space/playground; and 3) assist with site deconcentration
<b>Total</b>	<b>125</b>	<b>111</b>	
Handicapped Accessible	0	6	Six units or 5% of the total units will be accessible Post Conversion as 2 BR units

**Explain any changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted:** There are no changes planned other than those mandated by the Mixed Finance program. Applicants will remain on the waiting list by date and time application received. The existing waiting list will be utilized for the transfer of assistance units until exhausted then followed by the creation of a new waiting list for the units.

## DEVELOPMENT DESCRIPTION

Public Housing Project:	<b>Fort Cumberland Homes</b>	Total # of Units:	80
PIC Development ID Number:	MD005000002	Conversion Type:	RAD – PBRA
Pre-RAD Unit Type:	Family	Post-RAD Unit Type:	Family
FY16 Capital Fund Allocation:	\$97,920	Estimated Reserves:	\$173,983
Transfer of Assistance: Competed RAD will result in 2 less units which will be combined with other developments lost units and developed at a new site(s) at end of RAD conversion & filled with applicants from all waiting lists			
Units by Bedroom Size	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why <i>(De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc)</i>
Efficiency	0	0	N/A
One Bedroom	0	22	See Below
Two Bedroom	47	31	See Below
Three Bedroom	30	22	Unit Reconfiguration – One 8 unit building (11) will be converted from 3 BR to 2 BR to accommodate need from 4-2 BR units lost to H/C units, to assist in reducing concentration and to accommodate a room for furnace, water heater, laundry room
Four Bedroom	3	3	No Change
<b>Total</b>	<b>80</b>	<b>78</b>	
Handicapped Accessible	0	4	Four units or 5% of the total units will be accessible Post Conversion as 2 BR units

### Unit Reconfiguration

Building 6 & 7 will be converted from 2 BR units to 1 BR units to: 1) meet the unmet need for 1 BR units; 2) assist with deconcentration of the development; and 3) to accommodate a room for the new furnace, water heater, and a laundry room.

Building 8 with 4-2BR TH will be reconfigured to facilitate 2 HC ground floor units and 3-1 BR flats above them.

Building 9 with 4-2BR TH will be demolished & replaced with a community center.

Building 10 with 5-2 BR units will be reconfigured to 1-2BR TH, 2 HC ground floor units and 3-1 BR flats above.

**Explain any changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted:** There are no changes planned other than those mandated by the Mixed Finance program. Applicants will remain on the waiting list by date and time application received. The existing waiting list will be utilized for the transfer of assistance units until exhausted then followed by the creation of a new waiting list for the units.

## DEVELOPMENT DESCRIPTION

Public Housing Project:		<b>John F. Kennedy Homes</b>		Total # of Units:	100
PIC Development ID Number:		MD005000004		Conversion Type:	RAD – PBRA
Pre-RAD Unit Type:		Family		Post-RAD Unit Type:	Family
FY16 Capital Fund Allocation:		\$122,400		Estimated Reserves:	\$220,237
Transfer of Assistance:		None			
Units by Bedroom Size	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why ( <i>De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc</i> )		
Efficiency	40	10	Unit Reconfiguration – 30 undesirable hard to rent small efficiency units to have adjoining hallways and a common balcony used to convert to 1 BR units.		
One Bedroom	60	90			
Two Bedroom	0	0	No Change		
<b>Total</b>	<b>100</b>	<b>100</b>			
Handicapped Accessible	5	10	Ten units or 10% of the total units will be accessible Post Conversion as 1 BR units		

**Explain any changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted:** There are no changes planned other than those mandated by the Mixed Finance program. Applicants will remain on the waiting list by date and time application received.

## DEVELOPMENT DESCRIPTION

Public Housing Project:	<b>Queen City Tower</b>		Total # of Units: 95
PIC Development ID Number:	MD005000005		Conversion Type: RAD – PBRA
Pre-RAD Unit Type:	Family		Post-RAD Unit Type: Family
FY16 Capital Fund Allocation:	\$116,280		Estimated Reserves: \$207,196
Transfer of Assistance: Competed RAD will result in 17 efficiency units lost which will be combined with other developments lost units and developed at a new site(s) at end of RAD conversion & filled with applicants from all waiting lists			
<b>Units by Bedroom Size</b>	<b>Number of Units Pre-Conversion</b>	<b>Number of Units Post-Conversion</b>	<b>Change in Number of Units per Bedroom Type and Why</b> ( <i>De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc</i> )
Efficiency	50	16	Unit Reconfiguration – undesirable hard to rent small efficiency units to be combined with other efficiency units to provide 14 - 1 BR units
One Bedroom	40	54	
Two Bedroom	5	8	Unit Reconfiguration – 3 undesirable hard to rent small efficiency units to be combined with 3-1 BR units to form 3 additional 2 BR units
<b>Total</b>	<b>95</b>	<b>78</b>	
Handicapped Accessible	3	8	Eight units or 10% of the total units will be accessible Post Conversion as 4-1 BR and 4- 2 BR units

**Explain any changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted:** There are no changes planned other than those mandated by the Mixed Finance program. Applicants will remain on the waiting list by date and time application received. The existing waiting list will be utilized for the transfer of assistance units until exhausted then followed by the creation of a new waiting list for the units.

## DEVELOPMENT DESCRIPTION

Public Housing Project:	<b>Banneker Gardens</b>		Total # of Units: 25
PIC Development ID Number:	MD005000008		Conversion Type: RAD – PBRA
Pre-RAD Unit Type:	Family		Post-RAD Unit Type: Family
FY16 Capital Fund Allocation:	\$30,600		Estimated Reserves: \$51,631
Transfer of Assistance:	None		
<b>Units by Bedroom Size</b>	<b>Number of Units Pre-Conversion</b>	<b>Number of Units Post-Conversion</b>	<b>Change in Number of Units per Bedroom Type and Why</b> ( <i>De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc</i> )
One Bedroom	10	10	No Change
Two Bedroom	15	15	No Change
<b>Total</b>	<b>25</b>	<b>25</b>	
Handicapped Accessible	3	3	No Change

**Explain any changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project after it has been converted:** There are no changes planned other than those mandated by the Mixed Finance program. Applicants will remain on the waiting list by date and time application received.

**Special Amendment Notes:**

1. The Housing Authority is not currently under any form of voluntary compliance agreement, consent order, consent decree, final judicial ruling, and/or administrative ruling or decision.
2. The RAD conversion complies with all applicable site selection and neighborhood review standards according to The Communities Group who serves as our co-developers. All known appropriate procedures have been followed.
3. In place relocation is expected/planned at all developments. Existing vacancies will either be rehabilitated first or used to temporarily house relocated tenants during construction.
4. The Resident Advisory Board met with the following attachments in support:
  - a. Minutes & Sign In Sheet of the 2/23/2017 Meeting
  - b. Minutes & Sign In Sheet of the 4/17/2017 Meeting
  - c. Letter of support from the RAB
5. There were no elements or policies which were challenged.
6. The following required certifications are attached:
  - a. HUD-50077                      Civil Rights Certification
  - b. HUD-50077-SL                Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan
  - c. HUD-50077-CRT-SM Certification of Compliance with PHA Plans and Related Regulations
  - d. Board of Commissioners Resolution
7. The budgets of current and future Capital Fund Program grants will be reduced according to the pro-rated amounts indicated in the above pages. Even though the funds will be reduced and eventually eliminated, all projects will receive more physical improvement than would be possible in decades of CFP funding.
8. The Housing Authority currently has a CFFP loan for Banneker Gardens with our remaining four developments serving as collateral for that loan. Each time that we close on a property/development conversion, we will pay down a sufficient amount in order to maintain a 1.3 coverage ratio on our ACC funding from the remaining properties.
9. The Housing Authority currently has an EPC Loan for four of our five developments. In order to make the RAD conversion for each development, the portion of the loan assigned to the development being converted will be paid off.
10. All current waiting lists will continue to be used at the converted sites and applicants will remain on the waiting list by date and time application received. The only modification to be made to the waiting list and selection will be to be in compliance with program requirements.



PIH Notice 2012-32, REV-3 Section 1.7.B  
PBRA Resident Rights and Participation

1. No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>46</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBRA requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Further, so as to facilitate the right to return to the assisted property, this provision shall apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR § 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.
2. Right to Return.  
See section 1.4.A.5(ii) and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return.
3. Phase-in of Tenant Rent Increases. If a resident's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years or 5 years. Eligibility for the phase-in is to be determined at the Initial Certification which occurs at the time the household is converted to PBRA. A phase-in must not be applied after the household's Initial Certification. To implement the phase-in, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 880.201 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. 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 method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established. For purposes of this section "Calculated Multifamily TTP" refers to the TTP calculated in accordance with regulations at 24 CFR § 5.628 (not capped at Gross Rent) and the "most recently paid TTP" refers to the TTP recorded on the family's most recent HUD Form 50059. If a family in a project converting from Public Housing to PBRA was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

#### Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in prior to Year 3 AR – 50% of difference between most recently paid TTP and Calculated Multifamily TTP
- Year 3: Year 3 AR and all subsequent recertification's – Year 3 AR and any IR in Year 3: Full Calculated Multifamily TTP

#### Five Year Phase-in

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and Calculated Multifamily TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and Calculated Multifamily TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and Calculated Multifamily TTP
- Year 5 AR and all subsequent recertification's – Full Calculated Multifamily TTP

4. Family Self-Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs. Public Housing residents that are currently FSS participants will continue to be eligible for FSS once their housing is converted under RAD. All Project Owners will be required to administer the FSS program or partner with another agency to administer the FSS program in accordance with the requirements of 24 CFR part 984, the participants' contracts of participation, and future guidance published by HUD. The PHA may continue to use any FSS funds already awarded to serve FSS participants in Covered Projects. At the completion of the FSS grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Through waiver in this Notice, FSS funds awarded in FY14 and prior FSS funds may be used to continue to serve FSS participants living in units converted under RAD to PBRA. Pursuant to the FY 2015 Appropriations Act, any FSS funds awarded in FY 2015 (and thereafter if the provision is extended), may be used to also serve any other PBRA resident (regardless of whether the resident is in a Covered Project). Project Owners will be allowed to use any funds already granted for FSS coordinator salaries until such funds are expended. All Project Owners will be required to provide both service coordinators and payments to escrow until the end of the Contract of Participation for each resident. If the Project Owner is a PHA that continues to run an FSS program that serves public housing and/or HCV FSS participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve public housing, HCV and/or PBRA FSS participants. However, if the PHA no longer has a public housing or HCV program, the Project Owner is not eligible to apply for FSS funding. The owner is not required to enroll new participants, but may choose to do so in accordance with Housing Notice 2016-08

Upon conversion, funds escrowed under the public housing program for FSS participants shall be transferred into the PBRA escrow account and be considered PBRA funds, thus reverting to PBRA if forfeited by the FSS participant.

To ensure that HAP payments are processed correctly, and until TRACS is modified, the Project Owner must notify [MF\\_FSS@hud.gov](mailto:MF_FSS@hud.gov) that there are current FSS participants residing in the Covered Project. If a Project Owner of a Covered Project refuses to continue a FSS program, the PHA and the Project Owner will enter into an arrangement allowing the PHA to continue to operate the FSS program until all converted PBRA FSS participants have completed their Contracts according to 24 CFR § 984.303. Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants nor will its residents be eligible to be served by future ROSS-SC grants, as ROSS-SC, by statute, can serve only public housing residents. At the completion of the ROSS-SC grant, grantees should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profits or local Resident Association and this consequence of a RAD conversion may impact those entities.

5. Resident Participation and Funding. Residents of Covered Projects with assistance converted to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR part 245 (Tenant Participation in Multifamily Housing Projects). In addition, in accordance with Attachment 1B, residents will be eligible for resident participation funding.
6. Resident Procedural Rights. The information provided below must be included as part of the House Rules for the associated project and the House Rules must be furnished to HUD as part of the Financing Plan submission. See Attachment 1E for a sample Addendum to the House Rules.
  - i. Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR § 880.607 and the Multifamily HUD Model Lease.
    - a. *Termination of Tenancy and Assistance.* The termination procedure for RAD conversions to PBRA will additionally require that Project Owners provide adequate written notice of termination of the lease which shall be:
      - i. A reasonable period of time, but not to exceed 30 days:
        - o If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
        - o In the event of any drug-related or violent criminal activity or any felony conviction;
      - ii. Not less than 14 days in the case of nonpayment of rent; and
      - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
    - b. *Termination of Assistance.* In all other cases, the requirements at 24 CFR §880.603, the Multifamily HUD Model Lease, and any other HUD multifamily administrative guidance shall apply.
  - ii. Grievance Process. Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act. In addition to program rules that require that tenants are given notice of covered actions under 24 CFR

part 245 (including increases in rent, conversions of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant paid utility allowances), HUD requires that:

- a. Residents be provided with notice of the specific grounds of the Project Owner's proposed adverse action, as well as their right to an informal hearing with the Project Owner;
- b. Residents have an opportunity for an informal hearing with an impartial member of the Project Owner's staff within a reasonable period of time;
- c. Residents have the opportunity to be represented by another person of their choice, to ask questions of witnesses, have others make statements at the hearing, and to examine any regulations and any evidence relied upon by the Project Owner as the basis for the adverse action. With reasonable notice to the Project Owner, prior to hearing and at the residents' own cost, residents may copy any documents or records related to the proposed adverse action; and
- d. Project Owners provide the resident with a written decision within a reasonable period of time stating the grounds for the adverse action and the evidence the Project Owner relied on as the basis for the adverse action.

The Project Owner will be bound by decisions from these hearings, except if (x) the hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing, or (y) the decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law. If the Project Owner determines that it is not bound by a hearing decision, the Project Owner must promptly notify the resident of this determination, and of the reasons for the determination.

7. **Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID exclusion after conversion, in accordance with regulations at 24 CFR § 960.255. After conversion, no other tenants will be eligible to receive the EID. If a tenant receiving the EID exclusion undergoes a break in employment, ceases to use the EID exclusion, or the EID exclusion expires in accordance with 24 CFR § 960.255, the tenant will no longer receive the EID exclusion and the Owner will no longer be subject to the provisions of 24 CFR § 960.255. Furthermore, tenants whose EID ceases or expires after conversion shall not be subject to the rent phase-in provision, as described in Section 1.7.B.3; instead, the rent will automatically be adjusted to the appropriate rent level based upon tenant income at that time.
8. **Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target project(s) under RAD will be able to finish out their Jobs Plus grant at that site unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements.
9. **When Total Tenant Payment Exceeds Gross Rent.** Under the PBRA program, assisted families typically pay 30% of adjusted gross income toward rent and utilities, referred to as TTP. Under normal PBRA rules, a Project Owner must process a termination of assistance pursuant to section 8-5 C. of Housing Handbook 4350.3, REV-1 when the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance,

for the unit (i.e., the Gross Rent)). In addition, section 8-6 A.1 provides that, when terminating a tenant's assistance, the owner is to increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy).

For residents living in the Converting Project on the date of conversion and all new admissions to the Covered Project thereafter, when TTP equals or exceeds the contract rent plus any utility allowance, the Project Owner must charge a tenant rent equal to the lesser of (a) TTP (which is not capped at gross rent), less the utility allowance in the contract, or (b) any applicable maximum rent allowable under LIHTC regulations.<sup>49</sup> To this end, HUD is waiving sections 8-5 C. and 8-6 A. 1. Of Housing Handbook 4350.3, REV-1. In such cases, the tenant will still be considered a Section 8 tenant and will still have the rights and be subject to the requirements of Section 8 tenants. Tenants will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those provided through this Notice, and tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning reexamination of family income and composition found in 24 CFR §§ 5.657 and 880.603(c). When TTP equals or exceeds Gross Rent, the excess rent collected by the owner is considered project funds and must be used for project purposes. Assistance may subsequently be reinstated if the Tenant becomes eligible for assistance. In the event that the tenant moves out, the Project Owner must select an applicant from the waiting list who meets the applicable income limits for the project.

The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS) but may be required to do so in the future when a future revision of the TRACS can accept such certifications. All normal actions for the contract rent shall continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract—since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental assistance.

10. Under-occupied Units. If at the time of conversion, an eligible family assisted under the HAP Contract is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriate sized unit becomes available in the Covered Project, HUD is waiving the portion of 24 CFR § 880.605 that assumes the unit has become under-occupied as the result of a change in family size.

C. PBRA: Other Miscellaneous Provisions.

1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration. PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.
2. Davis-Bacon prevailing wages and Section 3 of the Housing and Urban Development Act of 1968 (Section 3). This section has been moved to 1.4.A.13 and 1.4.A.14.
3. Establishment of Waiting List. The Project Owner can utilize a project-specific or community waiting list. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
  - i. Transferring an existing site-based waiting list to a new site-based waiting list.
  - ii. Transferring an existing site-based waiting list to a PBRA program-wide or HCV program-wide waiting list.
  - iii. Transferring an existing community-wide public housing waiting list to a PBRA program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
  - iv. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

To the extent the wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing communitywide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).50

A Project Owner must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 880.603 regarding selection and admission of assisted tenants. However, after the initial waiting list has been established, the Project Owner shall administer its waiting list for the Covered Project in accordance with 24 CFR § 880.603.

4. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project.
5. **Choice-Mobility.** HUD seeks to provide all residents of Covered Projects with viable Choice-Mobility options. PHAs that are applying to convert the assistance of a project to PBRA are required to provide a Choice-Mobility option to residents of Covered Projects in accordance with the following:
  - i. *Resident Eligibility.* Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 24 months from date of execution of the HAP or (b) 24 months after the move-in date.
  - ii. *Voucher Inventory Turnover Cap.* Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.
  - iii. *Project Turnover Cap.* Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the property, in any year, a PHA may limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the PHA could limit the number of families exercising Choice-Mobility to 15 in any year, but not to less than 15.) While a voucher agency is not required to establish a project turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

HUD's goal is to have all residents in the Demonstration offered a Choice-Mobility option within a reasonable time after conversion. However, as HUD recognizes that not all PHAs will have vouchers sufficient to support this effort, HUD will take the following actions:

- Provide voucher agencies that make such a commitment bonus points provided under the Section Eight Management Assessment Program (SEMAP) for deconcentration.
- Grant a good-cause exemption from the Choice-Mobility requirement for no more than 10 percent of units in the Demonstration. HUD will consider requests for good-cause exemptions only from the following types of PHAs:

- o Public housing–only agencies, defined as agencies that own units under a public housing ACC, but do not administer, directly or through an affiliate, a Housing Choice Voucher program; or
  - o Combined agencies that currently have more than one-third of their turnover vouchers set aside for veterans, as defined for the purpose of HUD-VASH, or homeless populations, as defined in 24 CFR § 91.5. To be eligible for this exemption, the PHA’s admission policies must have been formally approved by the PHA’s board prior to the time of application.
6. Future Refinancing. Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC.
7. Submission of Year-End Financial Statements. Projects converting assistance to PBRA must comply with 24 CFR part 5, subpart H, as amended, revised, or modified by HUD.
8. Classification of Converting Projects as Pre-1981 Act Projects under Section 16(c) of the United States Housing Act of 1937. For purposes of ensuring maximum flexibility in converting to PBRA, all projects converting to PBRA shall be treated as Pre-1981 Act Projects under Section 16(c) of the Act. Section 16(c)(1), which applies to pre-1981 Act projects, restricts occupancy by families that are other than very low income to 25% of overall occupancy. Thus, Project Owners of projects converting to PBRA may admit applicants with incomes up to the low-income limit. HUD Headquarters tracks the 25% restriction on a nationwide basis. Project Owners of projects converting to PBRA do not need to request an exception to admit low income families. In order to implement this provision, HUD is specifying alternative requirements for section 16(c)(2) of the Act and 24 CFR § 5.653(d)(2) to require Project Owners of projects converting to PBRA to adhere to the requirements of section 16(c)(1) of the Act and 24 CFR § 5.653(d)(1).
9. Owner-Adopted Preferences. Project Owners may adopt a preference for elderly single persons pursuant to 24 CFR § 5.655(c)(5) and Housing Handbook 4350.3, Chapter 4, provided the adoption of such preference can be implemented consistent with the residents’ right of return under this Notice. Project Owners who wish to adopt a preference for populations that are not identified in 24 CFR § 5.655(c)(5) (e.g., elderly families, near-elderly single persons, near-elderly families), may do so pursuant to Housing Notice 2013-21 (July 25, 2013). A Project Owner may not adopt a preference that would have the purpose or effect of substantially delaying or denying the participation of other eligible families in the program on the basis of race, color, national origin, religion, sex, disability, or familial status, or would create or perpetuate segregation