

Special Meeting of the Board of  
Commissioners  
Wednesday, October 9, 2024 8:30 AM  
Underwood Tower  
4850 Underwood Tower  
Omaha , NE 68132

1. ANNOUNCEMENT OF OPEN MEETINGS ACT
2. ROLL CALL
3. PUBLIC COMMENTS
4. ACTION ITEMS
  - 4.1. CONSENT AGENDA ITEMS FOR CONSIDERATION
    - 4.1.1. Finance/Procurement/Operations Committee Resolutions
      - 4.1.1.1. Resolution 2024-85 OHA Past Due Write Offs

**RESOLUTION NO. 2024-85**  
**AUTHORIZATION TO CHARGE OFF**  
**VACATED TENANT ACCOUNT RECEIVABLES**

**WHEREAS** a list of Charge Off for Vacated Tenant Account Receivables as of September 23, 2024, has been presented to the Board of Commissioners of the Housing Authority of the City of Omaha (Board); and

**WHEREAS** the total charge-off for this period is \$49,628.00 which represents 23 tenants: and

**WHEREAS** it is necessary to charge off said amounts to comply with the findings of the Office of the Inspector General of the U.S. Department of Housing and Urban Development.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha that the CEO be authorized to grant approval for the total amount charged for all OHA properties.

This Resolution shall take effect immediately.

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David Levy, Chair  
OHA Board of Commissioners

**ATTEST**

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024

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Joanie Poore, Secretary  
Housing Authority of the City of Omaha

Property/Resident Codes	Late Fees	Legal Fees	Maintenance Charges	Cleaning /Moveout Charges	Rent	Explanation Of Larger Balances \$1200.00
<b>Benson Towers</b>			<b>300</b>		<b>1330</b>	
<b>t0077841</b>			<b>300</b>		<b>1330</b>	8 months rent/ personal property removal and cleaning charges
2440			300		1330	
<b>Crown Towers</b>			<b>2698</b>		<b>74</b>	
<b>t0070843</b>			<b>600</b>		<b>65</b>	
6053			600		65	
<b>t0093235</b>			<b>2098</b>		<b>9</b>	personal property removal/cleaning charges/fridge/stove replacement
6030			2098		9	
<b>Florence Towers</b>	<b>35</b>		<b>110</b>	<b>500</b>	<b>761</b>	
<b>t0085131</b>	<b>35</b>		<b>110</b>	<b>500</b>	<b>761</b>	
2671	35		110	500	761	
<b>Highland Tower</b>	<b>70</b>		<b>884</b>		<b>305</b>	
<b>Jackson Tower</b>	<b>455</b>		<b>11675.51</b>		<b>9425</b>	
<b>t0086185</b>	<b>105</b>		<b>1266.45</b>		<b>4242</b>	10 months rent/storage fees/cleaning & painting damage
2925	105		1266.45		4242	
<b>x0064159</b>	<b>70</b>		<b>147.5</b>		<b>2127</b>	8 months rent & misc maint repairs
2880	70		147.5		2127	
<b>t0039409</b>			<b>1806.67</b>			Trash removal and drywall repairs
2907			1806.67			
<b>t0077486</b>	<b>255</b>		<b>505</b>		<b>532</b>	
2982	255		505		532	
<b>t0086898</b>	<b>25</b>		<b>1413.45</b>		<b>50</b>	Unit paint, cleaning & blind replacement
3023	25		1413.45		50	
<b>t0067003</b>			<b>6536.44</b>		<b>2474</b>	5 months rent, floor replacement, trash out
2962			6536.44		2474	
<b>KayJay</b>	<b>270</b>		<b>535</b>		<b>3069</b>	
<b>t0078912</b>					<b>386</b>	
2229					386	

<b>t0069765</b>	<b>270</b>	<b>535</b>	<b>2683</b>	10 months rent & trash out costs
2225	270	535	2683	
<b>Park South</b>	<b>415</b>	<b>2353</b>	<b>7091</b>	
<b>t0083465</b>	<b>310</b>	<b>140</b>	<b>2175</b>	15 months rent
1998	310	140	2175	
<b>t0068233</b>	<b>105</b>		<b>4916</b>	7 months rent
1851	105		4916	
<b>t0061297</b>		<b>2213</b>		Trash Out/BioHazard Removal
1902		2213		
<b>Pine Tower</b>	<b>280</b>	<b>1368</b>	<b>2699</b>	
<b>t0077693</b>	<b>280</b>	<b>410</b>	<b>2574</b>	8 months rent/trash removal
2557	280	410	2574	
<b>x0066768</b>			<b>125</b>	
2551			125	
<b>t0070803</b>		<b>958</b>		
2641		958		
<b>Scatter Site North West</b>	<b>35</b>	<b>1505</b>	<b>281</b>	2 months rent /Cleaning & trash removal
<b>t0053528</b>	<b>35</b>	<b>1505</b>	<b>281</b>	
7765	35	1505	281	
<b>Southside</b>			<b>177</b>	<b>927.49</b>
<b>y0020572</b>				<b>100</b>
0036				100
0300			85	17
<b>z0040620</b>				<b>35</b>
0275				35
<b>x0063405</b>			<b>7</b>	<b>50</b>
0371			7	50
<b>q0065293</b>			<b>85</b>	<b>102.49</b>
0128			85	102.49
	<b>\$1,560</b>	<b>0</b>	<b>\$21,428.51</b>	<b>\$677.00</b>
				<b>\$25,962.49</b>
				<b>Total= \$49628.00</b>

4.1.1.2. Resolution 2024-86 Lead-Based Paint Renovation, Repair, Paint  
Services Phase 2, Contract

# Memorandum



To: The Board of Commissioners  
From: Charles Karl, Capital Improvements Manager  
Date: October 9<sup>th</sup>, 2024  
Re: Recommendation for Contract – Lead-Based Paint RRP (Phase 2)

## RECOMMENDED ACTION:

The Housing Authority of the City of Omaha (hereinafter “OHA”) staff recommends the OHA Board of Commissioners approve a contract with TCI General Contracting Services, LLC for a not-to-exceed (NTE) amount \$100,000 for lead-based paint renovation, repair, and painting (RRP) services in scattered site home locations. This contract would be for one year with the option to extend for up to two additional six-month periods with the Board of Commissioners’ approval.

## EXPLANATION:

OHA was awarded Capital Funds Lead Paint Program Grant to protect children and families from lead-based health hazards. OHA contracted with an environmental consultant to conduct a phased assessment for lead hazards. The consultant identified hazards in certain homes and recommended specific actions to monitor, stabilize, or otherwise remediate the hazards.

OHA used these findings to develop a scope of work which will remedy interior and exterior lead hazards. Common repairs included interior paint/drywall, trim, doors, windows, exterior paint/siding, and porches. Repair work for 19 units was included in this solicitation.

## METHOD OF PROCUREMENT:

OHA invited certified contractors to bid on a scope of work for Scattered Site Homes Lead-Based Paint Renovation, Repair and Paint (RRP) Services. The Invitation for Bid (IFB) was advertised locally in *The Daily Record* for two consecutive Fridays, August 16<sup>th</sup>, 2024 and August 23<sup>rd</sup>, 2024 with an available date of the proposal of August 16<sup>th</sup>, 2024.

OHA staff performed vendor outreach with six lead-certified contractors. The pre-bid conference was held on August 22<sup>nd</sup>, 2024 via Zoom. OHA received a total of three bids meeting the qualifications outlined in the IFB prior to the final deadline of September 17<sup>th</sup>, 2024. Based on the bids submitted, staff selected TCI General Contracting, LLC for all four lots.

Company	Lot 1	Lot 2	Lot 3	Lot 4	TOTALS
TCI	\$36,309	\$9,475	\$8,028	\$33,507	87319.00
HHERS	\$55,650	\$16,225	\$18,500	\$37,875	128250.00
Futures	No Bid	\$26,792	No Bid	\$73,200	99992.00

**PROJECT COST:** The contract will not exceed \$100,000. This amount includes a calculated increase of approximately 15% over the bid amount as an allowance for additional repairs which may result from the contractor's full inspection of the work sites.

**MBE/WBE/Section 3:** TCI General Contracting Services – MBE

**SOURCE OF FUNDS:** 2023 Capital Funds Formula Grant

**SPONSORS:** Charles Karl, Capital Improvements Manager  
Michael Wehling, Senior Director of Operations  
Jennifer Dexter, Procurement Manager

**RECOMMENDED BY:** Joanie Poore, CEO

**RESOLUTION NO. 2024 – 86**  
**CONTRACT FOR LEAD-BASED PAINT SERVICES**

**WHEREAS**, OHA desires contracted services to provide lead-based paint renovation, repair, and painting services;

**WHEREAS**, OHA conducted a public procurement process August-September 2024;

**WHEREAS**, OHA received three bids for this project, with the lowest bid submitted by TCI General Contracting Services, LLC; and

**WHEREAS**, staff recommends that the OHA Board of Commissioners approve a contract with TCI General Contracting Services, LLC in an amount not to exceed \$100,000, and for a contract term of one year with an option to renew for two additional six-month terms, to provide lead-based paint services;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves a contract with TCI General Contracting Services, LLC in an amount not to exceed \$100,000, and for a contract term of one year with an option to renew for two additional six-month periods, to provide lead-based paint services.

\_\_\_\_\_  
David Levy, Chairman  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

\_\_\_\_\_  
Joanie Poore, Secretary

4.1.1.3. Resolution 2024-87 Residential Home Window Replacement  
Services, Contract Extension

# Memorandum

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To: The OHA Board of Commissioners  
From: Charles Karl, Capital Improvements Manager  
Date: October 9<sup>th</sup>, 2024  
Re: Recommendation for Contract Amendment – Window Replacement

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## **RECOMMENDED ACTION:**

The Housing Authority of the City of Omaha (hereinafter “OHA”) staff recommends the OHA Board of Commissioners approve an extension to the Residential Home Window Replacement Services Contract (24-RESWINDOW-47) with TCI General Contracting from November 2<sup>nd</sup>, 2024 to May 1<sup>st</sup>, 2025.

## **EXPLANATION:**

In 2023, OHA contracted professional home inspections on virtually all public housing single family and plex homes. OHA staff used report data to develop a scope of work including replacement of windows, window trim, and window coverings. OHA contracted with TCI General Contracting Services to complete the required replacements. Delivery of materials was delayed due to supply chain issues on the manufacturer’s end. There is no change in the contract amount.

**PROJECT COST:** N/A

**SOURCE OF FUNDS:** 2022 CFP Formula Grant

**SPONSOR(S):** Charles Karl, Capital Improvements Manager  
Michael Wehling, Senior Director of Housing Operations  
Jennifer Dexter, Procurement Manager

**RECOMMENDED BY:** Joanie Poore, CEO

**RESOLUTION NO. 2024 – 87**  
**CONTRACT FOR WINDOW REPLACEMENT SERVICES**

**WHEREAS**, on May 2, 2024, in Resolution No. 2024-47, the Housing Authority of the City of Omaha (OHA) Board of Commissioners approved a contract with TCI General Contracting Services, LLC to provide residential home window replacement services;

**WHEREAS**, OHA's contract with TCI General Contracting Services, LLC is for a contract amount not to exceed \$75,000 and for a six-month term with an option to renew for an additional six months;

**WHEREAS**, OHA's contract with TCI General Contracting Services, LLC was delayed due to delivery of materials and supply chain issues with the manufacturing;

**WHEREAS**, staff recommends that the OHA Board of Commissioners approve a six-month extension of the contract with TCI General Contracting Services, LLC to provide window replacement services;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves a six-month extension of the contract with TCI General Contracting Services, LLC, with no increase in the contract amount of \$75,000, to provide window replacement services.

\_\_\_\_\_  
David Levy, Chair  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

\_\_\_\_\_  
Joanie Poore, Secretary

4.1.1.4. Resolution 2024-88 Site Drainage A&E Services, Contract

# Memorandum



To: The OHA Board of Commissioners  
From: Charles Karl, Capital Improvements Manager  
Date: October 9<sup>th</sup>, 2024  
Re: Recommendation for Contract – Site Drainage A&E

## RECOMMENDED ACTION:

Omaha Housing Authority (“OHA”) Staff recommends the OHA Board of Commissioners approve a contract with **Leo Daly** to provide architectural and engineering consulting services (A&E) to design site drainage solutions at Frances Court Apartments and Park Villa Apartments.

## EXPLANATION:

Frances Court and Park Villa both suffer from ongoing drainage problems related to stormwater and snow melt. While the details of the problems differ at each property, both require engineered drainage solutions to prevent damage to OHA property and risk of injury to tenants and visitors.

Leo Daly supplied OHA with a proposal for A&E services including phases for site analysis, engineering and design, solicitation, and construction administration. The NTE amount of this recommendation represents an approximate 15% increase over Leo Daly’s proposed fee of \$118,000.

## METHOD OF PROCUREMENT:

OHA published a Request for Qualifications (RFQ) on June 4, 2020. The RFQ was advertised in *The Daily Record* on two consecutive weeks. Numerous firms were also contacted by Procurement staff. Five A&E companies provided their qualifications prior to the deadline on July 7, 2020. This RFQ was evaluated and resulted in APMA as one of the qualified firms to complete future A&E projects for OHA.

All qualified A&E firms were evaluated against the characteristics and needs of this project. On 07/24/2024, a committee of OHA staff evaluated the qualifications and scored **Leo Daly** as the highest-rated firm for the Site Drainage project.

	APMA	Lathrum	Leo A Daly	Prochaska	Schemmer
Average Total Score	57.7	70.0	90.7	72.0	79.3

**PROJECT COST:** This contract will not exceed \$135,000.

**DBE/MBE/WBE Section 3 Status:** None

**SOURCE OF FUNDS:** 2023 CFP Formula Grant

**SPONSOR(S):** Charles Karl, Capital Improvements Manager  
Michael Welling, Senior Director of Operations  
Jennifer Dexter, Procurement Manager

**RECOMMENDED BY:** Joanie Poore, CEO

**RESOLUTION NO. 2024 – 88**  
**CONTRACT FOR A&E SERVICES FOR SITE DRAINAGE**

**WHEREAS**, staff of the Housing Authority of the City of Omaha (OHA) recommends contracting for A&E services needed to address site drainage problems at Frances Court and Park Villa;

**WHEREAS**, OHA conducted a public procurement process in accord with HUD regulations and OHA policies, issuing a Request for Qualifications in June 2020, for qualifications to be reviewed on a per-project basis;

**WHEREAS**, OHA received qualifications from five firms, including Leo A. Daly, and all five firms were determined to be qualified for future projects;

**WHEREAS**, staff evaluated all qualified firms against the characteristics and needs of this site drainage project, and staff's review identified Leo A. Daly as the highest-rated firm for this site drainage project; and

**WHEREAS**, staff recommends that the OHA Board of Commissioners approve a contract with Leo A. Daly in an amount not to exceed \$135,000 to provide A&E services to address site drainage problems at Frances Court and Park Villa;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves a contract with Leo A. Daly in an amount not to exceed \$135,000 to provide A&E services to address site drainage problems at Frances Court and Park Villa.

\_\_\_\_\_  
David Levy, Chairman  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

\_\_\_\_\_  
Joanie Poore, Secretary

4.1.1.5. Resolution 2024-89 Snow and Ice Removal, Renewal

# Memorandum



To: The OHA Board of Commissioners

From: Jennifer Dexter, Procurement Manager

Date: October 9, 2024

Re: Recommendation for Contract Renewal – Snow and Ice Removal Services

## RECOMMENDED ACTION:

The Housing Authority of the City of Omaha (hereinafter “OHA”) staff recommends the OHA Board of Commissioners approve renewal of contracts with Four Alarm Lawn Care, Panga Lawn & Snow Services, Navarro Lawn and Landscape, Inc., and GS Elite Services for Snow and Ice Removal Services. The extension would not require additional funds to be added. This would be the third one-year renewal with OHA reserving the right to renew for one (1) additional term with Board of Commissioner approval.

## PREVIOUS ACTION:

Action	Resolution	Effective Date	Amount	Cumulative Amount	Renewals available	No. of Vendors	Expire Date
Contract 21-SNOWRM-83	2021-75	11/22/2021	\$250,000	\$250,000	4	4	11/21/2022
First Renewal	2022-87	11/22/2022	\$250,000	\$500,000	3	4	11/21/2023
Second Renewal	2023-98	11/22/2023	\$0	\$500,000	2	4	11/21/2024

## PROPOSED ACTION:

Action	Resolution	Effective Date	Amount	Cumulative Amount	Renewals available	No. of Vendors	Expire Date
Third Renewal	2024-TBD	11/22/2024	\$0	\$500,000	1	4	11/21/2025

## PROJECT COST:

Company Name	WBE/MBE	Section 3 Business	Expended as of 8/31/2024
Four Alarm Lawncare	No	No	\$58,390
Panga Lawn & Snow Services	Yes	No	\$19,140
GS Elite Services	Yes	No	\$84,350
Navarro Lawn & Landscape	Yes	No	\$23,375
Total Spend			\$185,255

**METHOD OF PROCUREMENT:** Renewal

**SOURCE OF FUNDS:** The operating budgets of OHA properties utilizing the service.

**SPONSOR(S):** Jennifer Dexter, Procurement Manager  
Michael Wehling, Director of Public Housing

**RECOMMENDED BY:** Joanie Poore, CEO

**RESOLUTION NO. 2024 - 89**  
**RENEWAL OF CONTRACTS FOR SNOW AND ICE REMOVAL SERVICES**

**WHEREAS**, the Housing Authority of the City of Omaha (“OHA”) currently has contracts with Four Alarm Lawn Care, Panga Lawn & Snow Services, Navarro Lawn and Landscape, Inc., and GS Elite Services to provide snow and ice removal services at its properties;

**WHEREAS**, the contracts were procured in 2021 for a one-year term with an option for renew for four additional one-year terms;

**WHEREAS**, the current contracts will expire in November 2024, and staff recommends renewal of the contracts for an additional one-year term;

**WHEREAS**, the previous cumulative amount of the contract was \$500,000, and OHA staff does not recommend increasing the funding for the extension, for a total cumulative contract amount of \$500,000; and

**WHEREAS**, OHA staff recommends that the OHA Board of Commissioners approve a one-year renewal of the contracts with Four Alarm Lawn Care, Panga Lawn & Snow Services, Navarro Lawn and Landscape, Inc., and GS Elite Services to provide snow and ice removal services, with no increase in the contract amount of \$500,000;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves a one-year renewal of the contracts with Four Alarm Lawn Care, Panga Lawn & Snow Services, Navarro Lawn and Landscape, Inc., and GS Elite Services, with no increase in the contract amount of \$500,000.

\_\_\_\_\_  
David Levy, Chairman  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

\_\_\_\_\_  
Joanie Poore, Secretary  
Housing Authority of the City of Omaha

4.1.1.6. Resolution 2024-91 Group Health Insurance & Other Benefits,  
Renewal

# Memorandum



To: OHA Board of Commissioners  
From: Latina Jackson, HR Director  
Date: September 20, 2024  
Re: Contracts for Group Health Insurance and Other Employee Benefits

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**RECOMMENDED ACTION:**

Omaha Housing Authority (OHA) staff recommends that the OHA Board of Commissioners approve contracts for the renewal of OHA’s group health insurance for OHA employees and other employee benefits policies.

Attached is a renewal report from OHA’s insurance broker, Gallagher, which describes the recommended policy renewals. Information about estimated annual premiums is summarized below.

		2024	2025	Increase \$	Increase %
Group Health	Medica	\$2,787,240	\$2,898,730	\$111,490	4%
Dental	Ameritas	\$73,303	\$78,804	\$5,501	7.5%
Vision	Ameritas	\$21,346		\$0	0%
Life & AD&D	Lincoln Financial	\$49,396		\$0	0%
LTD	Lincoln Financial	\$9,944		\$0	0%
EAP	Best Care	\$2,602		\$0	0%

**EXPLANATION:**

**Group Health Insurance:** OHA staff recommends the renewal of OHA’s current plans, without change, based on the recommendation of OHA’s broker Gallagher. OHA would not want to change insurance providers too often—unless there were problems—because each change may affect employees’ network doctors and benefits. The 2025 premium cost is a 4% increase over 2024 premiums. This is a 3% decrease over last year's renewal. In 2025, OHA will also offer an additional accountable care organization plan (ACO) called Elevate by Medica. This plan is a partnership with Nebraska Health Network and Bryan Health.

**Other Employee Benefits Policies:** OHA offers other employee benefits including dental insurance, vision insurance, EAP programs, life insurance, and long-term disability policies. These plans are recommended to be renewed without a change in existing policies. Dental insurance has a 7.5% increase that is due to inflation. There are no cost increases for the other policies.

**SPONSORS:** Latina Jackson, HR Director

**RECOMMENDED BY:** Joanie Poore, CEO

# Renewal Overview



TOTAL PREMIUM			
Coverage	Current Premium	Renewal Premium	\$ Difference
Medical	\$2,787,240	\$2,898,730	\$111,490
Dental	\$73,303	\$78,804	\$5,501
Vision	\$21,346	\$21,346	\$0
Life and AD&D	\$49,396	\$49,396	\$0
Long-Term Disability	\$9,944	\$9,944	\$0
EAP	\$2,602	\$2,602	\$0
<b>Total</b>	<b>\$2,943,831</b>	<b>\$3,060,822</b>	<b>\$116,991</b>

EMPLOYER TOTALS			
Coverage	Current Premium	Renewal Premium	\$ Difference
Medical	\$2,229,792	\$2,356,267	\$126,475
Dental	\$58,645	\$63,043	\$4,398
Vision	\$0	\$0	\$0
Life and AD&D	\$2,602	\$2,602	\$0
Long-Term Disability	\$9,944	\$9,944	\$0
EAP	\$2,602	\$2,602	\$0
<b>Total</b>	<b>\$2,303,585</b>	<b>\$2,434,458</b>	<b>\$130,873</b>

EMPLOYEE TOTALS			
Coverage	Current Premium	Renewal Premium	\$ Difference
Medical	\$557,448	\$527,335	-\$30,113
Dental	\$14,659	\$15,761	\$1,102
Vision	\$21,346	\$21,346	\$0
<b>Total</b>	<b>\$593,453</b>	<b>\$564,442</b>	<b>-\$29,011</b>

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**RESOLUTION NO. 2024 - 91**  
**GROUP HEALTH INSURANCE & OTHER EMPLOYEE BENEFITS**

**WHEREAS**, the Housing Authority of the City of Omaha (OHA) wishes to provide group health insurance and other benefits for its employees;

**WHEREAS**, OHA contracted with Gallagher Insurance to serve as insurance broker for OHA's group health and other employee benefit policies, and Gallagher reviewed options and provided recommendations for renewals and changes;

**WHEREAS**, OHA staff recommends the renewal of OHA's current plan with Medica, without change, to provide group health insurance;

**WHEREAS**, OHA offers other employee benefits including dental insurance, vision insurance, EAP programs, life insurance, and long-term disability policies, and OHA staff has determined to renew the current policies without change;

**WHEREAS**, OHA staff recommends that the Board of Commissioners of the Housing Authority of the City of Omaha approve renewal of OHA's contract with Medica to provide group health insurance and contracts with Ameritas, Best Care, and Lincoln Financial to provide other employee benefits;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves renewal of OHA's contract with Medica to provide group health insurance and contracts with Ameritas, Best Care, and Lincoln Financial to provide other employee benefits.

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David Levy, Chair  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

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Joanie Poore, Secretary

4.1.2. Development/External Affairs/Public Relations Committee Resolutions

4.1.2.1. Resolution 2024-92 Annual Plan for 2025

# Memorandum

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To: OHA Board of Commissioners  
From: Brian Hansen, General Counsel  
Date: October 3, 2024  
Re: OHA'S Annual Plan for 2025

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**RECOMMENDED ACTIONS:** Staff of the Housing Authority of the City of Omaha (OHA) recommends that the Board of Commissioners approve OHA's Annual Plan for 2025 for submission to HUD by October 18, 2024.

**EXPLANATION:** The Quality Housing and Work Responsibility Act created a requirement for public housing authorities to submit Five-Year Plans and Annual Plans. The Five-Year Plan is intended to state an agency's goals and objectives for the next five-year period. In January 2021, OHA submitted its Five-Year Plan for 2021-2025, which was approved by HUD.

In addition, each year, OHA must submit an Annual Plan which includes a status report of OHA's progress on its goals, as well as a statement of OHA's key policies and major activities planned for the next year. OHA's draft Annual Plan for 2025 is attached.

Housing authorities are required to consult with the Resident Advisory Board to foster meaningful tenant participation in its planning. OHA's Resident Advisory Board is the Central Advisory Committee (CAC). OHA staff met with the CAC on September 5, 2024.

Housing authorities also are required to hold a public hearing, which was held on September 19, 2024 at 11:00 a.m. in OHA's Board Room at 1823 Harney Street. Notice of the hearing was published in the Daily Record to provide 45 days' notice and comment period, as required by HUD regulations. OHA's Annual Plan will consider and respond to all comments received.

The primary changes in the 2025 Annual Plan are continued implementation of policy changes required by HOTMA legislation. The 2025 Annual Plan also will include updates about OHA's progress in development activities and other goals and objectives.

**SPONSORS:** Brian Hansen, General Counsel

**RECOMMENDED BY:** Joanie Poore, CEO

**RESOLUTION NO. 2024 – 92  
OHA ANNUAL PLAN FOR 2025**

**WHEREAS**, Section 511 of the Quality Housing and Work Responsibility Act of 1998 established the Public Housing Agency Annual Plan requirement;

**WHEREAS**, OHA staff published notice of its Annual Plan process and public hearing in *The Daily Record* on July 31, 2024;

**WHEREAS**, housing authorities are required to use a Resident Advisory Board (RAB) to foster tenant participation in the preparation of the PHA Plans;

**WHEREAS**, OHA staff met with the Central Advisory Committee, OHA’s RAB, on September 5, 2024 to consult with resident leaders regarding OHA’s Annual Plan;

**WHEREAS**, OHA staff held a public hearing regarding the OHA’s Annual Plan on September 19, 2024 at 11:00 a.m. at the Central Office Board Room; and

**WHEREAS**, OHA staff recommends that the OHA Board of Commissioners approve the OHA Annual Plan for 2025 and PHA Certifications of Compliance with PHA Plan and Related Regulations including Required Civil Rights Certifications, contained in HUD form 50077-ST-HCV-HP, as required by the Department of Housing and Urban Development;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby approves the OHA Annual Plan for 2025 and PHA Certifications of Compliance with PHA Plan and Related Regulations including Required Civil Rights Certifications, contained in HUD form 50077-ST-HCV-HP, as required by the Department of Housing and Urban Development.

\_\_\_\_\_  
David Levy, Chairman  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

\_\_\_\_\_  
Joanie Poore, Secretary

**Certification of Compliance with PHA Plan and Related Regulations**  
**(Standard, Troubled, HCV-Only, and High Performer PHAs)**

U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 3/31/2024

**PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations including PHA Plan Elements that Have Changed**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairperson or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the    5-Year and/or    Annual PHA Plan, hereinafter referred to as "the Plan", of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) for the PHA fiscal year beginning 01/2025, in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located (24 CFR § 91.2).
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments (AI) to Fair Housing Choice, or Assessment of Fair Housing (AFH) when applicable, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan (24 CFR §§ 91.2, 91.225, 91.325, and 91.425).
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA provides assurance as part of this certification that:
  - (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
  - (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
  - (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d—4), the Fair Housing Act (42 U.S.C. 3601-19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title II of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and other applicable civil rights requirements and that it will affirmatively further fair housing in the administration of the program. In addition, if it administers a Housing Choice Voucher Program, the PHA certifies that it will administer the program in conformity with the Fair Housing Act, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act, and other applicable civil rights requirements, and that it will affirmatively further fair housing in the administration of the program.
7. The PHA will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR § 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair

housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR § 903.7(o)(3). The PHA will fulfill the requirements at 24 CFR § 903.7(o) and 24 CFR § 903.15(d). Until such time as the PHA is required to submit an AFH, the PHA will fulfill the requirements at 24 CFR § 903.7(o) promulgated prior to August 17, 2015, which means that it examines its programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintains records reflecting these analyses and actions.

8. For PHA Plans that include a policy for site-based waiting lists:

- The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2011-65);
- The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
- Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
- The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing; and
- The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR 903.7(o)(1).

9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.

10. In accordance with 24 CFR § 5.105(a)(2), HUD's Equal Access Rule, the PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.

11. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.

12. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.

13. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.

14. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).

15. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.

16. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.

17. The PHA will keep records in accordance with 2 CFR 200.333 and facilitate an effective audit to determine compliance with program requirements.

18. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.

19. The PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Financial Assistance, including but not limited to submitting the assurances required under 24 CFR §§ 1.5, 3.115, 8.50, and 107.25 by submitting an SF-424, including the required assurances in SF-424B or D, as applicable.

- 20. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
- 21. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
- 22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

**Omaha Housing Authority**

**NE001**

PHA Name

PHA Number/HA Code

Annual PHA Plan for Fiscal Year 2025

5-Year PHA Plan for Fiscal Years 20\_\_ - 20\_\_

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Name of Executive Director <b>MS Joanie Poore</b>		Name Board Chairman <b>David Levy</b>	
Signature	Date	Signature	Date

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to ensure compliance with PHA Plan, Civil Rights, and related laws and regulations including PHA plan elements that have changed.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Form identification:** NE001-Omaha Housing Authority form HUD-50077-ST-HCV-HP (Form ID - 408) for CY 2025 printed by MAUREEN NOVAK in HUD Secure Systems/Public Housing Portal at 09/27/2024 01:44PM EST



<b>B.</b>	<b>Plan Elements.</b>
<b>B.1</b>	<p><b>Revision of Existing PHA Plan Elements.</b>                  (a) Have the following PHA Plan elements been revised by the PHA?</p> <p>Y N</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Financial Resources.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Rent Determination.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Operation and Management.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Grievance Procedures.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Homeownership Programs.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Community Service and Self-Sufficiency Programs.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Safety and Crime Prevention.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Pet Policy.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Asset Management.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Substantial Deviation.</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Significant Amendment/Modification</li> </ul> <p>(b) If the PHA answered yes for any element, describe the revisions for each revised element(s):</p> <p><b>Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</b>                  Policies for the public housing program are provided in OHA's Admissions and Continued Occupancy Policy (ACOP). Policies for the Housing Choice Voucher (Section 8) program are provided in OHA's Administrative Plan. Both policy documents are available on OHA's website. OHA does not plan policy changes related to deconcentration. However, OHA plans policy changes related to eligibility, selection, and admissions, including: HOTMA Changes: During 2024 and 2025, OHA's Public Housing and HCV programs will continue implementing policy changes in accord with the Housing Opportunity Through Modernization Act of 2016 (HOTMA), HUD PIH Notice 2023-27, and any other HUD regulations and guidance. Admissions Preference Regarding Southside Relocation: OHA plans to add a local admissions preference targeted specifically to current residents of Southside Terrace subject to relocation for CNI redevelopment. Policy Revisions for PBV &amp; RAD Conversions: During 2024-2025, OHA intends PBV and RAD conversions of public housing units. OHA will develop policies, including changes to OHA's ACOP and Administrative Plan, in accord with HUD rules &amp; requirements for PBV &amp; RAD programs.</p> <p><b>Rent Determination.</b>                  HOTMA Changes: During 2024 and 2025, OHA's Public Housing and HCV programs will continue implementing policy changes in accord with the Housing Opportunity Through Modernization Act of 2016 (HOTMA), HUD PIH Notice 2023-27, and any other HUD regulations and guidance. Policy Revisions for PBV &amp; RAD Conversions: During 2024-2025, OHA intends PBV and RAD conversions of public housing units. OHA will develop policies, including changes to OHA's ACOP and Administrative Plan, in accord with HUD rules &amp; requirements for PBV &amp; RAD programs.</p> <p><b>Grievance Procedures.</b>                  HUD public housing regulations require that OHA's lease describe policies for selection of hearing officers for grievance hearings. In 2024-2025, OHA will implement an addendum to the public housing lease that describes policies for selection of hearing officers. OHA's lease addendum will be implemented in accord with HUD regulations for lease revisions at 24 CFR § 966. OHA notes that this lease addendum/revision does not involve changes in OHA's grievance procedures, which are provided in Chapter 14 of OHA's ACOP.</p> <p><b>Safety and Crime Prevention.</b>                  VAWA POLICIES: OHA has implemented policies and procedures in accord with the VAWA Reauthorization Acts and HUD implementing regulations. OHA's VAWA policies are provided in the public housing ACOP Chapter 16 and HCV Administrative Plan Chapter 16. These VAWA policies are provided in Attachment B.1.a. This attachment also contains OHA's forms and informational documents. OHA will continue to adapt its VAWA policies and reporting in accord with requirements of the VAWA reauthorizations and HUD implementing regulations and guidance, including policy and reporting changes from the 2022 and any subsequent VAWA reauthorization.</p> <p><b>Asset Management.</b>                  OHA is planning and pursuing repositioning options for its entire public housing portfolio. OHA's actions and proposed plans are described in DEVELOPMENT &amp; REPOSITIONING ACTIVITIES, attached below.</p> <p><b>Substantial Deviation.</b>                  OHA defines a "substantial deviation" as a change in the mission, goals, or objectives stated in OHA's approved Five-Year Agency Plan. OHA defines a "significant amendment or modification" to its agency plan to mean changes to rent or admissions policies or organization of the waiting list, with the exception of PBV project-specific preferences and selection criteria. A significant amendment or modification also includes changes in the use of replacement reserve funds under the Capital Fund, and any changes with regard to demolition or disposition, designation, homeownership programs, or conversion activities. OHA's definitions of "substantial deviation" and "significant amendment" 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.</p> <p><b>Significant Amendment/Modification</b>                  OHA defines a "substantial deviation" as a change in the mission, goals, or objectives stated in OHA's approved Five-Year Agency Plan. OHA defines a "significant amendment or modification" to its agency plan to mean changes to rent or admissions policies or organization of the waiting list, with the exception of PBV project-specific preferences and selection criteria. A significant amendment or modification also includes changes in the use of replacement reserve funds under the Capital Fund, and any changes with regard to demolition or disposition, designation, homeownership programs, or conversion activities. OHA's definitions of "substantial deviation" and "significant amendment" 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.</p> <p>(c) The PHA must submit its Deconcentration Policy for Field Office review.</p> <p><b>Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</b>                  OHA will submit its deconcentration analysis for Field Office review.;</p>
<b>B.2</b>	<p><b>New Activities.</b>                  (a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y N</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Hope VI or Choice Neighborhoods.</li> </ul>

- Mixed Finance Modernization or Development.
- Demolition and/or Disposition.
- Designated Housing for Elderly and/or Disabled Families.
- Conversion of Public Housing to Tenant-Based Assistance.
- Conversion of Public Housing to Project-Based Rental Assistance or Project-Based Vouchers under RAD.
- Occupancy by Over-Income Families.
- Occupancy by Police Officers.
- Non-Smoking Policies.
- Project-Based Vouchers.
- Units with Approved Vacancies for Modernization.
- Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).

(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project-based units and general locations, and describe how project basing would be consistent with the PHA Plan

**Hope VI or Choice Neighborhoods.**

See Attachment B.2 DEVELOPMENT & REPOSITIONING ACTIVITIES.

**Mixed Finance Modernization or Development.**

See Attachment B.2 DEVELOPMENT & REPOSITIONING ACTIVITIES.

**Demolition and/or Disposition.**

See Attachment B.2 DEVELOPMENT & REPOSITIONING ACTIVITIES.

**Designated Housing for Elderly and/or Disabled Families.**

OHA's designated housing plan was initially approved in 1997. OHA's designated housing plan currently includes 480 units in 4 developments targeted to persons who are elderly (age 62 or older) or near-elderly (age 50-62). OHA's designated housing plan was renewed in 2023 with no change. In 2025, OHA intends to request renewal of its designated housing plan without change. The 4 designated developments are: Kay Jay Tower (117 units), Evans Tower (110 units), Underwood Tower (104 units), and Crown Tower (149 units).

**Conversion of Public Housing to Project-Based Rental Assistance or Project-Based Vouchers under RAD.**

See Attachment B.2 RAD and Attachment B.2 RAD attachments. Also see Attachment B.2 DEVELOPMENT & REPOSITIONING ACTIVITIES.

**Occupancy by Over-Income Families.**

OHA will continue implementation of policy changes in accord with HOTMA requirements and HUD regulations and guidance pertaining to occupancy by over-income families. OHA may implement additional policy changes related to over-income families affected by OHA's relocation, repositioning, and PBV conversion activities.

**Project-Based Vouchers.**

See Attachment B.2 DEVELOPMENT & REPOSITIONING ACTIVITIES.

**Units with Approved Vacancies for Modernization.**

OHA will continue to request HUD approval of vacant units that require modernization and/or significant capital improvements in order to reoccupy such units.

**Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).**

OHA has grant funds from the following Capital Fund grant programs: 2019 Lead Hazard Reduction grant; and a Capital Fund At-Risk/Receivership/Substandard/Troubled Program grant for Jackson Tower. OHA will use these and any other capital grant program funds in accord with HUD requirements & its HUD-approved Five-Year Action Plan for the CFP Program.

**B.3 Progress Report.**  
Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan.  
**See Attachment B.3, Progress Report.**

**B.4 Capital Improvements.** Include a reference here to the most recent HUD-approved 5-Year Action Plan in EPIC and the date that it was approved.  
**See OHA's Capital Fund 5-Year Action Plan in EPIC approved by HUD on May 17, 2024.**

**B.5 Most Recent Fiscal Year Audit.**  
(a) Were there any findings in the most recent FY Audit?  
Y  N   
(b) If yes, please describe:  
**OHA's most recent audit is for FY2022. Attachment B.5 provides the audit report including findings and OHA's response.**

**C. Other Document and/or Certification Requirements.**

**C.1 Resident Advisory Board (RAB) Comments.**  
(a) Did the RAB(s) have comments to the PHA Plan?  
Y  N   
(b) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.  
**Attachment C.1 provides documentation of OHA's consultation with its RAB.**

C.2	<p><b>Certification by State or Local Officials.</b></p> <p>Form HUD 50077-SL, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
C.3	<p><b>Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.</b></p> <p>Form HUD-50077-ST-HCV-HP, <i>PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
C.4	<p><b>Challenged Elements.</b> If any element of the PHA Plan is challenged, a PHA must include such information as an attachment with a description of any challenges to Plan elements, the source of the challenge, and the PHA's response to the public.</p> <p>(a) Did the public challenge any elements of the Plan?                  Y <input type="checkbox"/> N <input checked="" type="checkbox"/></p> <p>If yes, include Challenged Elements.</p>
C.5	<p><b>Troubled PHA.</b></p> <p>(a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place?                  Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/A <input type="checkbox"/></p> <p>(b) If yes, please describe:</p>
<p><b>D. Affirmatively Furthering Fair Housing (AFFH).</b></p>	
D.1	<p><b>Affirmatively Furthering Fair Housing (AFFH).</b></p> <p>Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item.</p>

**Form identification:** NE001-Omaha Housing Authority Form HUD-50075-ST (Form ID - 1958) printed by MAUREEN NOVAK in HUD Secure Systems/Public Housing Portal at 09/29/2024 02:55PM EST

## ATTACHMENT B.2: DEVELOPMENT & REPOSITIONING ACTIVITIES

**CNI REDEVELOPMENT: SPENCER HOMES & NORTH 30<sup>TH</sup> ST NEIGHBORHOOD:** Spencer Homes was OHA's second oldest existing public housing development, built in the 1940s, with 111 units. In 2019, OHA and partners including the City of Omaha were awarded a \$25 million HUD Choice Neighborhoods Implementation (CNI) grant for revitalization of the North 30th Street neighborhood including OHA's public housing development, Spencer Homes. Relocation of all residents was completed in 2022. All Spencer units west of the North Freeway (Highway 75) were demolished in 2022. However, during the COVID period, demolition costs had increased significantly. This resulted in delay of demolition of Spencer units east of the North Freeway and change of sites for new construction. The Spencer units east of the North Freeway were demolished in 2024. Redevelopment is scheduled in phases and is proceeding timely. The CNI plans include 3 phases with Spencer replacement units. The first phase (Highlander Phase IV) is complete. The new properties—now known as The Overlook and Burdette + Wade—began leasing in 2023. The next phase, Kennedy Square East, is on-track for construction completion in late 2024. The final phase, Kennedy Square West, broke ground in April 2024 and is scheduled for completion in Fall 2025. Each phase includes roughly 37 Spencer replacement units. As each phase of construction is completed and ready for occupancy, former Spencer residents are notified and invited to exercise their right to lease replacement units & are assisted by OHA's relocation consultant, CVR Associates, and OHA's Intensive Services staff. Per CNI plans and LIHTC requirements, new developments will be owned by one or more LLCs or other entities. OHA may retain ownership of the underlying lands or may dispose of lands through sale or long-term ground lease to the owner entities or to an OHA controlled affiliate. OHA will submit applications to HUD for approval for disposition in accord with the CNI revitalization plans. OHA may continue to pursue acquisition of other properties in the neighborhood in support of the CNI redevelopment plan. OHA and its partners will pursue all available funding and resources for revitalization, including mixed finance opportunities, private funding, commitment of project-based voucher funding, RAD conversion, and any other resources and opportunities to support this neighborhood revitalization. OHA has committed PBV vouchers to this project.

The former Spencer Homes lands east of the North Freeway (Highway 75) originally were planned for CNI housing development. Cost increases during the COVID period resulted in delay of demolition of Spencer units east of the North Freeway and change of sites for new construction. As a result, the former Spencer Homes lands east of the North Freeway remain vacant land without development plans. Portions of these lands are not eligible for new housing development because of proximity to the highway. In addition, a parcel of former Spencer lands west of the North Freeway remains undeveloped vacant land not eligible for housing development. During 2024-2025, OHA plans to submit Section 18 applications to HUD for disposition of these lands (or to request amendment of prior Section 18 disposition approvals) for uses that support neighborhood revitalization goals. OHA is considering proposals to sell these lands to a local nonprofit, the Simple Foundation, for development of sports fields and facilities serving neighborhood youth including CNI residents. Otherwise, OHA plans disposition of these lands for uses that support neighborhood revitalization goals. OHA expects that dispositions will be at a negotiated price, which may be less than FMV, based on the commensurate public benefit to the community and namely benefits to the low-income residents in the neighborhood.

**CNI REDEVELOPMENT: SOUTHSIDE TERRACE & NEIGHBORHOOD:** Southside Terrace is OHA's oldest existing public housing development, built in 1943, with 378 public housing units and accoutrement buildings. In September 2022, OHA and its partners including the City of Omaha were awarded a \$50 million HUD Choice Neighborhoods Implementation (CNI) grant for this revitalization project including redevelopment of the Southside Terrace development. Southside Terrace is a large development. All redevelopment activities will be conducted in phases. At present, there are 4-5 planned phases of redevelopment on-site on the Southside Terrace property, plus additional phases including off-site development. The first phase of on-site redevelopment (Southside Terrace Phase I) began in 2023-2024. This phase is sited in the southeast corner of the Southside Terrace property. Relocation of residents was completed. Demolition and new construction activities (92 units) are in process. The next phase (Arbor Villa) planned off-site development on OHA's Arbor Villa site. However, the planned LIHTC funding is not yet approved for this site. OHA anticipates that LIHTC funding will be approved ultimately, but this has required changes in budgeting and timing of phases. The next phase (Southside Terrace Phase II) includes on-site development and is scheduled for financial closing in late 2024. Relocation of residents is in process. The next phase (Upland Parkway), a site located adjacent to Southside Terrace, is scheduled for closing in 2025. Per CNI plans and LIHTC requirements, developments will be owned by one or more LLCs or other entities. OHA may retain ownership of the underlying lands or dispose of lands through sale or long-term ground lease to the owner entities. Any Southside Terrace lands not used for housing development may be sold to a CNI partner, an OHA affiliate, or another community organization for uses supporting the neighborhood revitalization goals. During 2024-2025, OHA intends to submit application(s) to HUD for approval for disposition in accord with the CNI revitalization plans. OHA may pursue acquisition of other properties in the neighborhood in support of the CNI redevelopment plan. OHA and its partners will pursue all available funding and resources for revitalization, including mixed finance opportunities, private funding, commitment of project-based voucher funding, RAD conversion, and any other resources and opportunities to support this neighborhood revitalization. OHA has committed PBV vouchers to this project.

**REPOSITIONING & DISPOSITION OF SCATTERED SITE UNITS:** OHA's housing stock includes more than 600 units in single family homes, duplexes, and small developments. OHA's scattered site units are disproportionately costly in part because of the distance between units and, more so, because of the lack of standardization of systems and features and parts. These factors increase costs for maintenance and capital improvements. In addition, the age of some of OHA's scattered site units increases costs. During 2023-2024, OHA inspected its entire stock of scattered site properties. OHA's review identified roughly 60 units that OHA plans for sale due to disproportionate costs or related reasons. During 2024-2025, OHA intends to submit Section 18 disposition applications for sale of 60 or more scattered site units. OHA may prioritize sales to nonprofit affordable housing providers or for community development purposes. OHA is currently discussing plans with 2 local nonprofits for purchase of 6 OHA properties. The balance of units would be sold on the market, however current residents would have first right to purchase at appraised value. Non-purchasing residents would be provided all relocation rights and benefits per federal regulations. If any of these units are not sold, then OHA intends PBV conversion.

For scattered site units that OHA wishes to retain in its housing stock, OHA's first priority is PBV conversion. During 2024-2025, OHA intends to submit Section 18 applications to HUD for PBV conversion of 400+ scattered site units. OHA's PBV conversion applications are limited to units that meet HUD's definition of "scattered site" units (4 or fewer OHA units per block). The Section 18 applications will provide for removal of the units from the public housing program, conversion to PBV funding, and transfer of ownership to OHA's affiliate entity, River City Housing. In some cases (e.g., units currently owned by HIO LLCs), OHA's Section 18 application may request only removal of units from the public housing program and PBV conversion without disposition. Some OHA scattered site units do not meet HUD's definition of "scattered site." OHA may pursue RAD conversion of these units or alternately OHA may retain these units in its public housing stock for future repositioning. For its scattered site units, OHA will pursue all repositioning options available, including Section 18 disposition, RAD conversion, PBV conversion, mixed finance redevelopment, privately-financed redevelopment, or any other repositioning & funding options.

**REPOSITIONING & DISPOSITION OF HIO LIHTC PROPERTIES:** OHA's housing stock includes LIHTC mixed-finance properties owned by OHA's affiliate, Housing in Omaha, Inc. (HIO), which were acquired as part of OHA's resolution of the *Hawkins* lawsuit. Some of these properties have proven excessively costly to maintain. Some of these properties consistently operate with deficits of hundreds of thousands of dollars each year. OHA is evaluating repositioning options for all of its HIO LIHTC properties, including Section 18 disposition, mixed-finance redevelopment, RAD conversion, PBV conversion or other commitment of project-based voucher funding, and any other available resources and opportunities.

**Chambers Court** (NE001000021): Chambers Court is OHA's next priority because the property operates with deficits of hundreds of thousands of dollars per year for decades. This is a historic property, built in about 1905-1910. It has 70 total units including 32 public housing units. The property is subject to LURA restrictions through 2045. Throughout 2021-2022, OHA and its co-developer, Brinshore Development, reviewed repositioning options that would allow OHA to retain Chambers Court in its affordable housing stock, including RAD conversion with renovations needed to address capital needs to reduce maintenance and operating costs. However, OHA and Brinshore ultimately determined that RAD conversion was not feasible, namely because the property would not be eligible for LIHTC funds necessary for renovations. OHA determined that disposition of the Chambers Court property was necessary. OHA staff has been communicating with HUD regarding possible disposition. One disposition option involves transfer of assistance. OHA reviewed this option with guidance from consultants Greg Byrne and AH Forward and determined that this repositioning option was not financially feasible.

In June 2024, OHA submitted a Section 18 disposition application for sale of the Chambers Court property to Hoppe Development. The Chambers Court property would continue to be subject to LIHTC LURA which requires the property to be committed to specific affordable housing terms through 2045. The Chambers Court property also would be subject to a new HUD Deed of Trust. The sale would result in a loss of the 32 public housing subsidies. HUD does not require 1:1 replacement. OHA's application proposes to create 24 additional affordable units with long-term subsidies by committing PBVs to 10 non-ACC units in the Farnam Building plus 14 PBVs to its North Villa units. Thus this option would require use of up to 24 vouchers from OHA's HCV voucher stock. If this disposition application is approved, OHA would be eligible for 8 tenant protection vouchers. OHA recommends this disposition action, even though it would result in a net loss of OHA-administered HUD subsidies. This disposition would not result in a net loss of affordable housing units in our community, as the Chambers Court units are committed by LURA to remain affordable units through 2045. In addition, OHA believes that disposition is necessary to end the ongoing large financial losses that have continued over years, over decades, that limit resources available to OHA's housing portfolio city-wide, and that jeopardize OHA's financial viability.

**NOAH** (NE001000023): NOAH includes 24 single-family homes built in about 2005. These are units that OHA wishes to retain in its affordable housing stock. (See OHA's plans for scattered site units.) In June 2024, OHA submitted a Section 18 application to HUD for PBV conversion of 19 NOAH units. Five NOAH units do not meet HUD's definition of "scattered site" units. OHA may pursue RAD conversion of these 5 units or, alternately, OHA may retain these units in its public housing stock for future repositioning. The NOAH units have LURA restrictions stating that any disposition action must include all 24 units at the same time. OHA may consult with HUD to request that its SAC Section 18 application approve only removal of units from the public housing program and PBV conversion without disposition so that OHA may implement its PBV conversion of the 19 units without transfer of ownership, which would permit earlier PBV conversion of the 19 units.

**Farnam Building** (NE001000028): OHA may pursue RAD conversion of the Farnam Building. Alternately, OHA may retain the Farnam Building units in its public housing portfolio and consider other repositioning options. Depending on the outcome of Chambers Court plans, OHA may commit PBV vouchers to the 10 non-ACC units in the Farnam Building.

**Bayview** (NE001000027): OHA may pursue RAD conversion. Alternately, OHA may retain Bayview in its public housing portfolio and consider other repositioning options.

**Crown I & Crown II** (NE001000025 & NE001000026): Crown I and Crown II include 28 single-family homes built by OHA in about 2008 in response to the *Hawkins* lawsuit. These are units that OHA wishes to retain in its affordable housing stock. (See OHA's plans for scattered site units in Section 2.3 below.) OHA intends to submit a Section 18 application to HUD for PBV conversion of 23 units. Five units do not meet HUD's definition of "scattered site" units. OHA may pursue RAD conversion of these 5 units or, alternately, OHA may retain these units in its public housing stock for future repositioning. The Crown I and II units are subject to NIFA requirements that may restrict disposition required by PBV or RAD conversions, which may delay OHA repositioning actions.

**Keystone Crown** (NE001000029): This is a 37-unit development that includes multifamily buildings as well as some single-family homes located in west Omaha. In addition, OHA's scattered site stock includes 3 single-family homes adjacent to the Keystone Crown units. These units were built in early 2000s and are sited in a desirable West Omaha location. OHA wishes to retain the Keystone Crown and adjacent units in its affordable housing stock. OHA may pursue RAD conversion of these units or, alternately, OHA may retain these units in its public housing stock for future repositioning. OHA notes that the Keystone Crown units may be subject to NIFA requirements that may restrict disposition required by PBV or RAD conversions, which may delay OHA repositioning actions.

**REPOSITIONING OF OTHER OHA PROPERTIES:** As OHA reviews its portfolio, OHA intends to implement repositioning of other OHA properties, including OHA's high-rise tower developments. OHA's long-term plans for management and repositioning of these properties may require RAD conversion and mixed finance redevelopment. RAD conversion combined with mixed finance redevelopment may require disposition to new owner entities with OHA (or OHA controlled affiliate) in the ownership structure. OHA may pursue any other funding or repositioning options available, including Section 18 or other HUD applications; market disposition; disposition to OHA's controlled affiliate, River City Housing; redevelopment; conversions to project-based vouchers; mixed finance redevelopment; and/or other privately financed redevelopment.

**PROPOSED RAD CONVERSIONS:** OHA's repositioning efforts may include RAD conversion. Properties to be converted through RAD will be transferred to OHA's owned and controlled affiliate, River City Housing. RAD conversion combined with mixed finance redevelopment may require disposition to new owner entities with OHA (or OHA controlled affiliate) in the ownership structure. During 2025, OHA may submit RAD applications for multiple properties where OHA determines that the property/units should be retained in OHA's inventory and that RAD conversion is the best repositioning option. Attachment B.2.RAD provides information regarding OHA's units currently considered for possible RAD conversions. Alternately, OHA may retain these units in its public housing stock for future repositioning.

**DISPOSITION OF OHA'S FORMER CENTRAL OFFICE PROPERTY & ADJACENT PROPERTIES:** OHA's former central office building, located at address 540 S 27<sup>TH</sup> Street (next door to Jackson Tower), had been vacant and unused since 2015. Following HUD Section 18 approval, in 2024 OHA sold this property to Youth Emergency Services (YES) (or affiliate entity), a local nonprofit organization that serves homeless youth. There are follow-up matters, namely YES may require easement access from OHA's Jackson Tower parking lots. OHA anticipates that, during 2024-2025, OHA may submit Section 18 applications to HUD for these purposes.

**SALE OF VACANT LOTS:** OHA and HIO own a number of vacant properties throughout the City. During 2024-25 OHA may continue to pursue sale of vacant lots which are not planned for new construction. This includes OHA's property at 550 S. 70<sup>th</sup> Street, formerly site of a public housing single-family home which was destroyed by fire and subsequently demolished, but which remains in OHA's public housing inventory and covered by a HUD DOT. During 2023-2024, OHA intends to submit a Section 18 application to HUD for disposition of this vacant lot.

**DISPOSITION OF LAND TO CITY OF OMAHA:** The City of Omaha requires OHA disposition of a small corner of land (376 sf) at 48<sup>th</sup> and Y Streets for City street improvements. This land is on the property of an OHA scattered site single-family home. In 2024-2025, OHA will submit a Section 18 application for HUD approval of this disposition.

**ACQUISITION OF MAINTENANCE SHOP:** OHA is considering options for acquisition of a facility to support maintenance operations (staff, supplies and equipment) servicing public housing properties.

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

### OHA GOALS & OBJECTIVES FOR 2021-2025

#### **GOAL #1: Redevelop aged & deteriorated family properties.**

- 1.1 Complete Choice Neighborhood redevelopment of Spencer Homes.
- 1.2 Complete Choice Neighborhood redevelopment planning for Southside Terrace.
- 1.3 Begin redevelopment of Southside Terrace neighborhood.

#### **GOAL #2: Reposition properties that are disproportionately costly.**

- 2.1 Develop & implement repositioning plan for Securities Building.
- 2.2 Develop & implement repositioning plan for other HIO LIHTC properties.
- 2.3 Evaluate scattered site portfolio & implement disposition plan.
- 2.4 Develop & implement long-term plan for HIO56 properties.

#### **GOAL #3: Maintain & increase the number of low-income families served.**

- 3.1 Complete RHF development.
- 3.2 Apply for replacement housing vouchers for redevelopment and disposition projects.
- 3.3 Apply for grants of additional Mainstream & other vouchers.
- 3.4 Plan development of new LIPH units.

#### **GOAL #4: Improve physical condition & quality of life in OHA properties.**

- 4.1 Maintain PHAS PASS/REAC overall score of 24 points (60%).
- 4.2 Achieve REAC scores of 60% for each property & strive for 80+%.
- 4.3 Continue to implement security improvements.

#### **GOAL #5: Improve public housing management & operations to maintain standard performance & work toward high performance status.**

- 5.1 Maintain PHAS FASS overall score of 15 points (60%).
- 5.2 Achieve PHAS FASS score of 15 points (60%) for each property.
- 5.3 Maintain PHAS MASS overall score of 15 points (60%).
- 5.4 Achieve PHAS MASS score of 15 points (60%) for each property.
- 5.5 Achieve & maintain occupancy rate of 96% & strive for 98%.
- 5.6 Achieve & maintain TARS rate of below 1.5%.
- 5.7 Achieve & maintain PHAS MASS Accounts Payable score below .75.
- 5.8 Obligate 90% or more of CFP funds by the required date & timely expend CFP funds.

#### **GOAL #6: Effectively manage HCV & other voucher assistance programs.**

- 6.1 Maintain high-performing SEMAP rating.
- 6.2 Maintain HCV lease-up rate & strive for increased lease-up rate.
- 6.3 Effectively manage OHA's Mainstream, VASH, HOME, and PBV programs.

#### **GOAL #7: Other agency-wide service objectives**

- 7.1 Ensure compliance with fair housing & equal opportunity requirements.
- 7.2 Continue to develop electronic program access for participants.
- 7.3 Provide top-notch customer services to participants & public.
- 7.4 Promote self-sufficiency of assisted households.

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

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### GOAL #1: Redevelop aged & deteriorated family properties.

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#### 1.1 Complete Choice Neighborhood redevelopment of Spencer Homes.

Spencer Homes was OHA's second oldest existing public housing development, built in the 1940s, with 111 units. In 2019, OHA and partners including the City of Omaha were awarded a \$25 million HUD Choice Neighborhoods Implementation (CNI) grant for revitalization of the North 30th Street neighborhood including OHA's public housing development, Spencer Homes. Relocation of all residents was completed in 2022. All Spencer units west of the North Freeway (Highway 75) were demolished in 2022. However, during the COVID period, demolition costs had increased significantly. This resulted in delay of demolition of Spencer units east of the North Freeway and change of sites for new construction. The Spencer units east of the North Freeway were demolished in 2024.

Redevelopment is scheduled in phases and is proceeding timely. The CNI plans include 3 phases with Spencer replacement units. The first phase (Highlander Phase IV) is complete. The new properties—now known as The Overlook and Burdette + Wade—began leasing in 2023. The next phase, Kennedy Square East, is on-track for construction completion in late 2024. The final phase, Kennedy Square West, broke ground in April 2024 and is scheduled for completion in Fall 2025. Each phase includes roughly 37 Spencer replacement units. As each phase of construction is completed and ready for occupancy, former Spencer residents are notified and invited to exercise their right to lease replacement units & are assisted by OHA's relocation consultant, CVR Associates, and OHA's Intensive Services staff. Per CNI plans and LIHTC requirements, new developments will be owned by one or more LLCs or other entities. OHA may retain ownership of the underlying lands or may dispose of lands through sale or long-term ground lease to the owner entities or to an OHA controlled affiliate. OHA will submit applications to HUD for approval for disposition in accord with the CNI revitalization plans. OHA may continue to pursue acquisition of other properties in the neighborhood in support of the CNI redevelopment plan. OHA and its partners will pursue all available funding and resources for revitalization, including mixed finance opportunities, private funding, commitment of project-based voucher funding, RAD conversion, and any other resources and opportunities to support this neighborhood revitalization. OHA has committed PBV vouchers to this project.

The former Spencer Homes lands east of the North Freeway (Highway 75) originally were planned for CNI housing development. Cost increases during the COVID period resulted in delay of demolition of Spencer units east of the North Freeway and change of sites for new construction. As a result, the former Spencer Homes lands east of the North Freeway remain vacant land without development plans. Portions of these lands are not eligible for new housing development because of proximity to the highway. In addition, a parcel of former Spencer lands west of the North Freeway remains undeveloped vacant land not eligible for housing development. During 2024-2025, OHA plans to submit Section 18 applications to HUD for disposition of these lands (or to request amendment of prior Section 18 disposition approvals) for uses that support neighborhood revitalization goals. OHA is considering proposals to sell these lands to a local nonprofit, the Simple Foundation, for development of sports fields and facilities serving neighborhood youth including CNI residents. Otherwise, OHA plans disposition of these lands for uses that support neighborhood revitalization goals. OHA expects that dispositions will be at a negotiated price, which may be less than FMV, based on the commensurate public benefit to the community and namely benefits to the low-income residents in the neighborhood.

#### 1.2 Complete Choice Neighborhood redevelopment planning for Southside Terrace.

This objective has been completed.

In 2019, OHA and partners including the City of Omaha were awarded a \$1.3 million Choice Neighborhoods Planning (CNP) grant to plan revitalization of the Southside Terrace and Indian Hills neighborhood. CNP redevelopment planning was completed, and in September 2022 HUD awarded OHA and its partners a \$50 million HUD CNI grant for this revitalization project.

#### 1.3 Begin redevelopment of Southside Terrace neighborhood.

Southside Terrace is OHA's oldest existing public housing development, built in 1943, with 378 public housing units and accoutrement buildings. In September 2022, OHA and its partners including the City of Omaha were awarded a \$50 million HUD Choice Neighborhoods Implementation (CNI) grant for this revitalization project including redevelopment of the Southside Terrace development. Southside Terrace is a large development. All redevelopment activities will be conducted in phases. At present, there are 4-5 planned phases of redevelopment on-site on the Southside Terrace property, plus additional phases including off-site development. The first phase of on-site redevelopment (Southside Terrace Phase I) began in 2023-2024. This phase is sited in the southeast corner of the Southside Terrace property. Relocation of residents was completed. Demolition and new construction activities (92 units) are in process. The next phase (Arbor Villa) planned off-site development on OHA's Arbor Villa site. However, the planned LIHTC funding is not yet approved for this site. OHA anticipates that LIHTC funding will be approved ultimately, but this has required changes in budgeting and timing of phases. The next phase (Southside Terrace Phase II) includes on-site development and is scheduled for financial closing in late 2024. Relocation of residents is in process. The next phase (Upland Parkway), a site located adjacent to Southside Terrace, is scheduled for closing in 2025. Per CNI plans and LIHTC requirements, developments will be owned by one or more LLCs or other entities. OHA may retain ownership of the underlying lands or dispose of lands through sale or long-term ground lease to the owner entities. Any Southside Terrace lands not used for housing development may be sold to a CNI partner, an OHA affiliate, or another community organization for uses supporting the neighborhood revitalization goals. During 2024-2025, OHA intends to submit application(s) to HUD for approval for disposition in accord with the CNI revitalization plans. OHA may pursue acquisition of other properties in the neighborhood in support of the CNI redevelopment plan. OHA and its partners will pursue all available funding and resources for revitalization, including mixed finance opportunities, private funding, commitment of project-based voucher funding, RAD conversion, and any other resources and opportunities to support this neighborhood revitalization. OHA has committed PBV vouchers to this project.

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

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### GOAL #2: Reposition properties that are disproportionately costly.

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#### 2.1 Develop & implement repositioning plan for Securities Building.

This objective has been completed.

OHA's housing stock includes HIO-owned LIHTC properties that have proven disproportionately costly to maintain. OHA's first priority was disposition of the Securities Building. In August 2021, OHA submitted a Section 18 application for market disposition of the property. This application was approved by HUD. During 2022, all tenants were relocated. The Securities Building was sold in August 2022. The property will remain affordable housing under the LURA which requires continued operation as affordable housing.

#### 2.2 Develop & implement repositioning plans for other HIO LIHTC properties.

OHA's housing stock includes LIHTC mixed-finance properties owned by OHA's affiliate, Housing in Omaha, Inc. (HIO), which were acquired as part of OHA's resolution of the *Hawkins* lawsuit. Some of these properties have proven excessively costly to maintain. Some of these properties consistently operate with deficits of hundreds of thousands of dollars each year. OHA is evaluating repositioning options for all of its HIO LIHTC properties, including Section 18 disposition, mixed-finance redevelopment, RAD conversion, PBV conversion or other commitment of project-based voucher funding, and any other available resources and opportunities.

**Chambers Court** (NE001000021): Chambers Court is OHA's next priority because the property operates with deficits of hundreds of thousands of dollars per year for decades. This is a historic property, built in about 1905-1910. It has 70 total units including 32 public housing units. The property is subject to LURA restrictions through 2045. Throughout 2021-2022, OHA and its co-developer, Brinshore Development, reviewed repositioning options that would allow OHA to retain Chambers Court in its affordable housing stock, including RAD conversion with renovations needed to address capital needs to reduce maintenance and operating costs. However, OHA and Brinshore ultimately determined that RAD conversion was not feasible. OHA determined that disposition of the Chambers Court property was necessary. OHA staff has been communicating with HUD regarding possible disposition. One disposition option involves transfer of assistance. OHA reviewed this option with guidance from consultants Greg Byrne and AH Forward and determined that this repositioning option was not financially feasible.

In June 2024, OHA submitted a Section 18 disposition application for sale of the Chambers Court property to Hoppe Development. The Chambers Court property would continue to be subject to LIHTC LURA which requires the property to be committed to specific affordable housing terms through 2045. The Chambers Court property also would be subject to a new HUD Deed of Trust. The sale would result in a loss of the 32 public housing subsidies. HUD does not require 1:1 replacement. OHA's application proposes commitment of 24 PBVs to ensure long-term affordable units including 10 non-ACC units in the Farnam Building plus 14 PBVs to its North Villa units. This option would require use of up to 24 vouchers from OHA's HCV voucher stock. If this disposition application is approved, OHA would be eligible for 8 tenant protection vouchers. OHA recommends this disposition action. Even though this disposition would result in a net loss of OHA-administered HUD subsidies, it would not result in a net loss of affordable housing units in our community, as the Chambers Court units are committed by LURA to remain affordable units through 2045. In addition, OHA believes that disposition is necessary to end the ongoing large financial losses that have continued over years, over decades, that limit resources available to OHA's housing portfolio city-wide, and that jeopardize OHA's financial viability.

**NOAH** (NE001000023): NOAH includes 24 single-family homes built in about 2005. These are units that OHA wishes to retain in its affordable housing stock. (See OHA's plans for scattered site units.) In June 2024, OHA submitted a Section 18 application to HUD for PBV conversion of 19 NOAH units. Five NOAH units do not meet HUD's definition of "scattered site" units. OHA may pursue RAD conversion of these 5 units or, alternately, OHA may retain these units in its public housing stock for future repositioning. The NOAH units have LURA restrictions stating that any disposition action must include all 24 units at the same time. OHA may consult with HUD to request that its SAC Section 18 application approve only removal of units from the public housing program and PBV conversion without disposition so that OHA may implement its PBV conversion of the 19 units without transfer of ownership, if possible, which would permit earlier PBV conversion of the 19 units.

**Farnam Building** (NE001000028): OHA may pursue RAD conversion of the Farnam Building. Alternately, OHA may retain the Farnam Building units in its public housing portfolio and consider other repositioning options. Depending on the outcome of Chambers Court plans, OHA may commit PBV vouchers to the 10 non-ACC units in the Farnam Building.

**Bayview** (NE001000027): OHA may pursue RAD conversion. Alternately, OHA may retain Bayview in its public housing portfolio and consider other repositioning options.

**Crown I & Crown II** (NE001000025 & NE001000026): Crown I and Crown II include 28 single-family homes built by OHA in about 2008 in response to the *Hawkins* lawsuit. These are units that OHA wishes to retain in its affordable housing stock. (See OHA's plans for scattered site units.) OHA intends to submit a Section 18 application to HUD for PBV conversion of 23 units. Five units do not meet HUD's definition of "scattered site" units. OHA may pursue RAD conversion of these 5 units or, alternately, OHA may retain these units in its public housing stock for future repositioning. The Crown I and II units are subject to NIFA requirements that may restrict disposition required by PBV or RAD conversions, which may delay OHA repositioning actions. OHA may consult with NIFA and HUD to request that a Section 18 application approve only removal of units from the public housing program and PBV conversion, without disposition, so that OHA may implement its PBV conversion of the 19 units without transfer of ownership, if possible.

**Keystone Crown** (NE001000029): This is a 37-unit development that includes multifamily buildings as well as some single-family homes located in west Omaha. In addition, OHA's scattered site stock includes 3 single-family homes adjacent to the Keystone Crown units. These units were built in early 2000s and are sited in a desirable West Omaha location. OHA wishes to retain the Keystone Crown and adjacent units in its affordable housing

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

stock. OHA may pursue RAD conversion of these units or, alternately, OHA may retain these units in its public housing stock for future repositioning. OHA notes that the Keystone Crown units may be subject to NIFA requirements that may restrict disposition required by PBV or RAD conversions, which may delay OHA repositioning actions.

### **2.3 Evaluate scattered site portfolio & implement disposition plans.**

OHA's housing stock includes more than 600 units in single family homes, duplexes, and small developments. OHA's scattered site units are disproportionately costly in part because of the distance between units and, more so, because of the lack of standardization of systems and features and parts. These factors increase costs for maintenance and capital improvements. In addition, the age of some of OHA's scattered site units increases costs. During 2023-2024, OHA inspected its entire stock of scattered site properties. OHA's review identified roughly 60 units that OHA plans for sale due to disproportionate costs or related reasons. During 2024-2025, OHA intends to submit Section 18 disposition applications for sale of 60 or more scattered site units. OHA may prioritize sales to nonprofit affordable housing providers or for community development purposes. OHA is currently discussing plans with 2 local nonprofits for purchase of 6 OHA properties. The balance of units would be sold on the market, however current residents would have first right to purchase at appraised value. Non-purchasing residents would be provided all relocation rights and benefits per federal regulations. If any of these units are not sold, then OHA intends PBV conversion.

For scattered site units that OHA wishes to retain in its housing stock, OHA's first priority is PBV conversion. During 2024-2025, OHA intends to submit Section 18 applications to HUD for PBV conversion of 400+ scattered site units. OHA's PBV conversion applications are limited to units that meet HUD's definition of "scattered site" units (4 or fewer OHA units per block). The Section 18 applications will provide for removal of the units from the public housing program, conversion to PBV funding, and transfer of ownership to OHA's affiliate entity, River City Housing. In some cases (e.g., units currently owned by HIO LLCs), OHA's Section 18 application may request only removal of units from the public housing program and PBV conversion without disposition. Some OHA scattered site units do not meet HUD's definition of "scattered site." OHA may pursue RAD conversion of these units or alternately OHA may retain these units in its public housing stock for future repositioning. For its scattered site units, OHA will pursue all repositioning options available, including Section 18 disposition, RAD conversion, PBV conversion, mixed finance redevelopment, privately-financed redevelopment, or any other repositioning & funding options.

### **2.4 Develop & implement long-term plan for HIO56 properties.**

OHA and HIO's housing stock includes 56 rental units developed under HUD's Section 8 New Construction program, a program that HUD discontinued in about 1983. In 2020, OHA exited the HUD contract. Current tenants of these units were offered the opportunity to remain in their current unit or, alternately, to move to another rental unit in the private market, with Enhanced Tenant Protection Vouchers. The 56 units no longer receive any subsidy except for units that remain occupied by tenants with Enhanced Tenant Protection Vouchers. OHA and HIO will plan repositioning of these HIO56 properties.

Park Villa (24 units): OHA pursued acquisition and renovations of this property with RHF funds. Park Villa was converted to ACC public housing units beginning January 1, 2024. See 3.1 below. OHA may pursue RAD conversion of these units or, alternately, OHA may retain these units in its public housing stock for future repositioning.

Arbor Villa (18 units): Since OHA exited the former HUD HAP contract, this property receives no HUD project-based subsidies. It is occupied by tenants paying the market rent including tenants with HCV vouchers. The Arbor Villa site is planned for off-site redevelopment as part of the Southside Terrace CNI revitalization (see 1.3 above). This will require relocation of residents. However, the planned LIHTC funding was not approved for this site. OHA anticipates that LIHTC funding will be approved ultimately, and that relocation of current residents may begin in 2025.

North Villas (14 units): The North Villas include 3 small properties (Binney, Emmet, & Pinkney Villas) with 14 total units. Since OHA exited the former HUD HAP contract, these units have received no project-based subsidies. They are occupied by tenants paying the market rent including tenants with HCV vouchers. OHA wishes to retain these units in its affordable housing stock. OHA is considering commitment of PBVs to these 14 units as part of OHA's proposed disposition of Chambers Court (see 2.2 above). Alternately, OHA may pursue any repositioning options available, including market disposition; disposition to OHA's new controlled affiliated agency, River City Housing; redevelopment; conversion to public housing units; RAD conversion; conversion to project-based vouchers; mixed finance redevelopment; privately-financed redevelopment. OHA will review these properties along with its review of other "scattered site" properties (see 2.3 above).

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

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### GOAL #3: Maintain & increase the number of low-income families served.

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#### 3.1 Complete RHF development.

This objective has been completed.

OHA had accumulated Replacement Housing Factor (RHF) funds for development of new public housing units. In 2021, HUD approved a Development Proposal to use the RHF grant funds to purchase Park Villa for renovation and conversion to public housing. During 2021, Park Villa was sold by HIO to OHA, and all RHF grant funds were timely expended. The project involved significant exterior and interior renovations. Renovations were completed, and the property was converted to ACC public housing units effective January 1, 2024.

#### 3.2 Apply for replacement housing vouchers for redevelopment and disposition projects.

Repositioning and disposition activities may result in a reduction of public housing units. For many repositioning activities, HUD permits PHAs to apply for replacement tenant protection vouchers. The replacement housing vouchers may be used by current tenants for relocation, and replacement housing vouchers not used by tenants for relocation are added to OHA's Housing Choice Voucher stock. The purpose is to minimize the loss of affordable housing subsidies, as much as possible.

In its repositioning and disposition activities, OHA has applied for and been awarded the maximum number of replacement housing vouchers to maximize its resources for providing affordable housing.

#### 3.3 Apply for grants of additional Mainstream & other vouchers.

At the time that OHA established these five-year goals & objectives for 2021-2025, OHA did not anticipate COVID requirements, Emergency Housing Vouchers, and OHA's award of a second CNI grant for Southside Terrace (see 1.3 above). In addition, OHA's current plans include more aggressive pursuit of repositioning options, including PBV & RAD conversions of 600+ scattered site units. OHA's CNI redevelopment and repositioning activities—and related relocation activities—require significant staff time and resources. During 2021-2025, OHA has determined that its staff time and resources are better dedicated to these activities rather than to applying for additional voucher grant programs.

During COVID, OHA was awarded 142 Emergency Housing Vouchers. The period to lease Emergency Housing Vouchers has ended for OHA. OHA will work with families to determine continued eligibility for Emergency Housing Vouchers.

#### 3.4 Plan development of new LIPH units.

At the time that OHA established these five-year goals & objectives for 2021-2025, OHA did not anticipate its award of a second CNI grant for Southside Terrace (see 1.3 above) and its more aggressive pursuit of repositioning options, including PBV & RAD conversions of 600+ scattered site units. OHA's CNI redevelopment and other repositioning activities are now OHA's top priorities rather than development of new public housing units. OHA remains committed to development of additional affordable housing units, however OHA expects that its commitment to affordable housing development would be pursued not through construction of new public housing units but, rather, through PBV commitments and other partnerships with housing developers.

**PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025**

**GOAL #4: Improve physical condition & quality of life in OHA properties.**

**4.1 Maintain PHAS PASS/REAC overall score of 24 points (60%).**

During 2021, there were no REAC inspections due to COVID.  
 For 2022, OHA’s overall REAC score is 27 (68%).  
 For 2023, OHA’s overall REAC score is 27 (68%). Note that, in 2023, REAC inspections were completed for some properties but not all.  
 For 2024, most REAC inspections are pending, and no overall score is available yet.

**4.2 Achieve REAC scores of 60% for each property & strive for 80+%.**

Below are REAC scores by percentage. Scores for 2020 are provided for comparison. During 2021, there were no REAC inspections due to COVID. In 2023, REAC inspections were completed for some properties but not all. For 2024, most REAC inspections are in the process of being scheduled, and scores are not available for most properties. The column labeled “2023/24” provides the most current scores for each property.

AMP	Property	2020	2021	2022	2023/24	2025	NOTES
NE001000001	Southside	36	n/a	53	84		CNI REDEVELOPMENT IN PROCESS
NE001000002	Spencer	80	n/a	n/a	n/a	n/a	CNI UNITS REMOVED IN 2022
NE001000005	KayJay	29	n/a	72	72		
NE001000006	Evans	57	n/a	72	94		
NE001000008	Park South	73	n/a	78	95		
NE001000009	Benson	72	n/a	85	85		
NE001000010	Pine	62	n/a	86	86		
NE001000011	Florence	65	n/a	83	83		
NE001000012	Highland	80	n/a	72	72		
NE001000013	Jackson	54	n/a	58	88		
NE001000014	Underwood	51	n/a	82	82		
NE001000015	Crown Tower	92	n/a	88	88		
NE001000016	SCNE	65	n/a	64	64		
NE001000017	SCSE	59	n/a	68	68		
NE001000018	SCNW	45	n/a	70	70		
NE001000019	SCSW	69	n/a	43	59		
NE001000021	Chambers	61	n/a	26	92		DISPOSITION APPLICATION 06/2024
NE001000022	Keystone	51	n/a	62	62		
NE001000023	NOAH	45	n/a	64	64		
NE001000024	Securities	39	n/a	54	n/a	n/a	SOLD 08/2022
NE001000025	Crown1	45	n/a	40	92		
NE001000026	Crown2	74	n/a	63	83		
NE001000027	Bayview	68	n/a	69	90		
NE001000028	Farnam	54	n/a	56	80		
NE001000031	Park Villa	n/a	n/a	n/a	n/a		ACC UNITS BEGINNING 01/2024

**4.3 Continue to implement security improvements.**

In previous years, OHA’s security efforts depended primarily on scheduled patrols by third-party contracted security guards. Beginning in 2021, OHA has been reorganizing its public safety staffing and contracts. This has been an ongoing process. In 2022, OHA hired a new Public Safety Manager and began reorganizing the staffing and functions of its public safety division. In 2024, OHA hired a new Public Safety Manager, Marlin McClarty, and OHA made organizational changes so that the public safety division now reports directly to property management. OHA’s in-house public safety staff conducts regular building patrols, they are visible and engaged in OHA’s properties, familiar to and with our residents. This helps staff identify and address issues proactively. Having an in-house public safety staff also improves OHA’s response to immediate problems and crises. OHA’s public safety staff works closely with property management and legal department staff as well as OPD and rescue services. OHA continues to use contracted security guard patrols and services as needed.

OHA has completed capital investments in camera surveillance for OHA properties. Our new camera system is sophisticated and much superior to our former security cameras. The new camera system increases the capacity and investigative ability of property management and public safety staff, and it provides strong support for police and legal actions. In addition, OHA has been in the process of upgrading access controls, such as badge access to tower properties. OHA continues to upgrade access controls.

**PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025**

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**GOAL #5: Improve public housing management & operations to maintain standard performance & work toward high performance status.**

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**5.1 Maintain PHAS FASS overall score of 15 points (60%).**

HUD did not provide FASS scores for 2020.

For 2021, OHA's overall FASS score is 11.70.

For 2022, OHA's overall FASS score is 9.20.

For 2023, OHA anticipates that HUD will publish final FASS scores in Fall 2024. The current projection is an overall score of 9.10 points.

2024 FASS scores are not available; the fiscal year is still in progress.

**5.2 Achieve PHAS FASS score of 15 points (60%) for each property.**

HUD did not provide FASS scores in 2020.

For 2023, OHA anticipates that HUD will publish final FASS scores in Fall 2024.

2024 FASS scores are not available; the fiscal year is still in progress.

AMP	Property	2020	2021	2022	2023	2024	2025	NOTES
NE001000001	Southside	n/a	10.02	21.67	24.60			CNI REDEVELOPMENT IN PROCESS
NE001000002	Spencer	n/a	21.44	25.00	25.00			CNI UNITS REMOVED IN 2022
NE001000005	KayJay	n/a	2.00	2.00	2.00			
NE001000006	Evans	n/a	2.00	2.00	2.00			
NE001000008	Park South	n/a	6.53	2.00	2.00			
NE001000009	Benson	n/a	9.25	2.00	2.00			
NE001000010	Pine	n/a	21.41	11.50	11.17			
NE001000011	Florence	n/a	9.30	2.00	2.00			
NE001000012	Highland	n/a	11.65	2.00	2.00			
NE001000013	Jackson	n/a	2.00	2.00	2.00			
NE001000014	Underwood	n/a	21.64	9.25	2.00			
NE001000015	Crown Tower	n/a	22.87	22.40	10.59			
NE001000016	SCNE	n/a	11.31	9.58	2.00			
NE001000017	SCSE	n/a	24.75	18.04	21.54			
NE001000018	SCNW	n/a	25.00	25.00	25.00			
NE001000019	SCSW	n/a	2.00	2.00	9.49			
NE001000031	Park Villa	n/a	n/a	n/a	n/a			ACC UNITS BEGINNING 01/2024

**PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025**

**5.3 Maintain PHAS MASS overall score of 15 points (60%).**

For 2021, HUD did not issue PHAS MASS scores. As of July 2021, OHA's internal measures projected an overall MASS score of 15.48.

For 2022, OHA's MASS score is 13.

For 2023, as of August 2024, OHA has not received final HUD MASS scores. As of August 2023, OHA projected an overall MASS score of 16.50.

For 2024, MASS scores are still pending. As of June 2024, OHA projects an overall MASS score of 16.17.

**5.4 Achieve PHAS MASS score of 15 points (60%) for each property.**

For 2021, HUD did not issue PHAS MASS scores. MASS scores are based on OHA internal measures.

For 2023, OHA has not received final HUD MASS scores.

For 2024, MASS scores are still pending.

AMP	Property	2021	2022	2023	2024	2025	NOTES
NE001000001	Southside	13	10				CNI REDEVELOPMENT IN PROOCESS
NE001000002	Spencer	18	n/a	n/a	n/a	n/a	CNI UNITS REMOVED IN 2022
NE001000005	KayJay	21	10				
NE001000006	Evans	17	10				
NE001000008	Park South	21	22				
NE001000009	Benson	13	10				
NE001000010	Pine	17	22				
NE001000011	Florence	17	14				
NE001000012	Highland	21	10				
NE001000013	Jackson	9	10				
NE001000014	Underwood	21	10				
NE001000015	Crown Tower	17	10				
NE001000016	SCNE	10	11				
NE001000017	SCSE	12	11				
NE001000018	SCNW	20	25				
NE001000019	SCSW	12	10				
NE001000031	Park Villa	n/a	n/a	n/a			ACC UNITS BEGINNING 01/2024

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

### 5.5 Achieve & maintain occupancy rate of 96% & strive for 98%.

In previous years, OHA's occupancy rate was generally well below 96%. As of July 2021, the YTD occupancy rate (unit months leased/unit months available) was roughly 91%.

Beginning in 2021, OHA's occupancy rates have increased steadily each month. As of July 2021, the occupancy rate was 95.9%. OHA has continued to maintain its increased occupancy rates.

- For 2022-2024, as of June 30 each year, OHA achieved occupancy rates at 98%.
- For 2022, OHA's occupancy rate for the whole year (unit months leased/unit months available) was 96.6%.
- For 2023, as of August 2023, the occupancy rate (unit months leased/unit months available) was 96.9% and 13 of 23 public housing developments had an occupancy rate of 98% or higher.
- For 2024, as of June 30, 2024, OHA's occupancy rate was 98.1%.

### 5.6 Achieve & maintain TARs rate of below 1.5%.

"TARs" is an acronym for Tenant Accounts Receivable. It is a measure of unpaid balances owed by current tenants.

OHA expects that it cannot meet this objective during the 5-year period of 2021-2025. As of June 30, 2024, OHA has a TARs rate of 8.6%. TARs rates for 2021-2023 were even higher.

During the COVID period's moratoriums on evictions, many OHA tenants accrued large balances of unpaid rent. Subsequent CDC-related policies essentially prevented evictions for nonpayment of rent and resulted in continued accrual of unpaid rent. During the COVID period, OHA made every effort to assist tenants, including repayment agreements and Emergency Rental Assistance. For many families, these resources were not a long-term solution. COVID Emergency Rental Assistance funds were ended in 2023.

Beginning during the COVID period, HUD required PHAs to provide 30-days' notice and opportunity to cure in its nonpayment notices. In addition, during COVID, OHA initiated a routine practice of offering stipulated agreements that would provide tenants with additional time to cure nonpayment even following the housing court hearing. These procedures that provide extra time have helped some tenants to cure and to retain their housing. At the same time, these procedures affect OHA's TARs.

Beginning in 2022, the local Tenant Assistance Program began providing volunteer lawyers to provide limited representation for tenants at housing court. The TAP volunteer lawyers project has been beneficial not only to our residents but also to OHA. At the same time, other community advocates have initiated multiple lawsuits against OHA, have rallied a handful of like-minded tenants to refuse to pay rent and to file lawsuits, and require continuances of OHA eviction actions.

### 5.7 Achieve & maintain PHAS MASS Accounts Payable score below 0.75.

OHA's MASS Accounts Payable score is below 0.75.

### 5.8 Obligate 90% or more of CFP funds by the required date & timely expend CFP funds.

All annual allocation of CFP funds have been timely obligated & timely expended.

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

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### **GOAL #6: Effectively manage HCV & other voucher assistance programs.**

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#### **6.1 Maintain high-performing SEMAP rating.**

OHA currently has a standard SEMAP rating. During the 2024 SEMAP review, it was found that OHA had more than 10% of all annual reexaminations overdue. This means that OHA did not meet the SEMAP requirement of having less than 5% of annual reexaminations overdue. OHA has revised current recertification procedures to increase efficiency and effectiveness. All staff will be trained to review the applicable PIH notices and the pertinent HCV Guidebook chapters on annual recertifications. Our agency will identify and train additional staff to timely transmit to PIC and correct errors. OHA strives to return to high-performing SEMAP rating. OHA is working with HUD TA services provided in 2024.

#### **6.2 Maintain HCV lease-up rate & strive for increased lease-up rate.**

OHA has a lease-up rate of 53% and is striving to increase the lease-up rate. OHA is working with HUD TA services provided in 2024.

#### **6.3 Effectively manage OHA's Mainstream, VASH, HOME, and PBV programs.**

OHA continues to effectively manage these programs and work toward improvement in coordination with funding partners and the administration of their programs.

## PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025

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### GOAL #7: Other agency-wide service objectives

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#### 7.1 Ensure compliance with fair housing & equal opportunity requirements.

OHA continues its commitment to fair housing, nondiscrimination, and equal opportunity. During 2022 -2024, OHA staff in both the public housing program and HCV program participated in HUD's fair housing training webinars. OHA will continue ongoing staff training regarding fair housing requirements, including accommodations of disability and VAWA. In addition, in 2023, OHA contracted with a third-party company (Lighthouse) to provide a resource for employees to voice anonymously any complaints or issues.

#### 7.2 Continue to develop electronic program access for participants.

It had long been a goal for OHA to make program activities and documents accessible electronically so that program participants could handle their business with OHA electronically, rather than OHA requiring in-person appointments & submission of paper documents. The COVID pandemic restrictions made this a top priority. Improvements include:

- All applicant/resident forms have been converted to DocuSign.
- Resident Portal where residents can pay rent online, submit maintenance requests, get their rent ledger, check inspection status.
- Most forms for applicants/tenants/program participants have been converted to forms available & usable on our online portal.
- Applicant Portal – applicants can apply for PH/HVC and check their status online.
- Landlord portal – landlords can submit info online, check HAP payment status, get needed documents, check inspection status.
- Residents/participants will be able to do interims/annuals online, submit docs online.

OHA's applicants, tenants, and program participants are now able to handle most business with OHA electronically, however OHA provides in-person appointments & services & submission of paper documents as needed.

#### 7.3 Provide top-notch customer service to participants & public.

At the time OHA established these 5-year goals and objectives, OHA had not anticipated the need for quick and extensive expansion of electronic/online access to services, required by COVID. COVID made it a priority, and, thereafter, this has become OHA's primary priority for customer service. From 2020 forward, OHA's customer service improvements have focused on electronic/online access to services, as described in 7.2 above. During the remaining years of OHA's 5-Year Plan for 2021-2025, OHA expects that its goals and objectives for improving customer service will be dedicated to continued expansion and improvements of its online resources. OHA will continue to make improvements to provide strong and effective customer service to our program participants and the public. Meanwhile, continued expansion of OHA's online resources is a very beneficial customer service improvement for OHA's tenants, program participants, and applicants.

#### 7.4 Promote self-sufficiency of assisted households.

OHA is dedicated to fostering a vibrant and mutually beneficial relationship between our residents and our staff, with the ultimate aim of enhancing the well-being and economic prosperity of all residents, spanning from the youngest to the elderly and all those in between. OHA collaborates with residents, community groups, business partners, resettlement organizations, and other key stakeholders, and our primary objective is to ensure the delivery of high-quality services and programs to the diverse populations we serve. At the heart of our resident services are our dedicated Service Coordinators. These professionals provide essential support, including case management and coaching, as well as facilitate access to community-based providers offering a wide array of social services and enriching activities. OHA's continuous efforts are concentrated on expanding and strengthening programs for both public housing and voucher families. This includes a significant focus on broadening enrichment initiatives, sports, educational opportunities, and college placement services for youth and families. Additionally, we prioritize soft skills training, job readiness preparation, and facilitating job placement and career development.

Our overarching mission is to empower individuals and families to attain economic stability and personal well-being. Resident Service Programs are designed to foster community engagement, promote economic growth, ensure financial stability, and create opportunities for self-sufficiency among all residents. Moreover, Resident Service Coordinators at our senior properties play a pivotal role in assisting residents to achieve self-sufficiency while successfully aging in place. Programs encompass various facets of quality of life and wellness, including resident engagement and community participation, health and wellness, housing stability, and financial stability. Health and Wellness initiatives include health screenings, physical fitness classes, and opportunities for socialization, while housing stability services encompass vital support for housing inspections and lease education.

Resident Service Coordinators fulfill a range of core functions:

- **Comprehensive Assessments:** Resident Service Coordinators conduct comprehensive, non-clinical assessments of residents for wellness and social needs. This ensures that our services are tailored to meet individual requirements.
- **Service Access and Coordination:** Resident Service Coordinators help residents identify, access, and coordinate services, including closely monitoring services provided and maintaining consistent communication with service providers. This ensures that residents receive the necessary support and follow through with services.
- **Monitoring and Follow-Through:** Resident Service Coordinators continuously monitor the receipt and follow-through of services. They play a crucial role in encouraging and motivating residents to engage with providers and actively participate in their own care and services management.

## **PROGRESS REPORT: OHA GOALS & OBJECTIVES FOR 2021-2025**

- **Educational and Preventative Health Programs:** We proactively develop and arrange educational and preventative health programs and services for residents. This includes initiatives aimed at improving their overall well-being and quality of life.
- **Community Partnerships:** Resident Service Coordinators are dedicated to developing and sustaining partnerships with community-based supportive service providers and other community stakeholders. These partnerships enhance our ability to meet the diverse needs of our residents.
- **Resource Directory:** We maintain an up-to-date resource directory of local service providers. This ensures that residents have easy access to information about available services and resources.

OHA's dedicated staff remains steadfast in its commitment to forging and expanding critical community partnerships and resources that align with the agency's self-sufficiency and service objectives. Simultaneously, we are tirelessly working towards developing additional resources to support resident services through the Omaha Housing Authority Foundation.

## **ATTACHMENT B.2.RAD**

### **PROPOSED RAD CONVERSIONS: SCATTERED SITES & SMALL DEVELOPMENTS**

HUD's Rental Assistance Demonstration (RAD) program was designed to assist public housing agencies in addressing the capital needs and financial viability of public housing properties in order to preserve these affordable housing assets. RAD conversion makes it possible for a property to borrow funds to address capital needs. RAD conversion also stabilizes the amount of revenue per unit. Upon RAD conversion, units will be removed from the public housing program and converted to Section 8 funding according to a RAD-specified formula. If OHA's applications for RAD conversion are approved by HUD, the public housing units will be converted to RAD Project Based Vouchers under the guidelines of HUD notice PIH 2019-23, Rev-4, and any successor notices. OHA's Capital Fund budget will be reduced by the pro rata share of public housing units converted as part of the RAD program.

HUD's RAD program requires specific resident rights and protections. Upon RAD conversion, OHA will adopt the resident rights, participation, waiting list and grievance procedures as required by HUD in notices PIH 2019-23, namely Section 1.6.C-D, PIH-2016-17, and any successor notices. These resident rights and protections requirements are appended to this Attachment B.2.rad and incorporated herein.

The following pages provide information related to the OHA public housing units and developments that OHA proposes for RAD conversion at present. These include:

- SCSE Frances Court (15 units) (3706-3736 Frances Street)
- NOAH (5 units that don't qualify as "scattered sites") (2026-2042 N. 18<sup>th</sup> Street)
- Keystone Crown (37 units)
- SCNW 8715, 8765, & 8771 Sahler Street (3 units on the Keystone site, formerly AMP SCKC)
- Crown I & II (28 units)
- SCNE Alamo 118 N 36th ST (14 units)
- Bayview 1234 S. 13<sup>th</sup> Street (12 units)
- SCNW 3042 Menke Cir (6 units)
- SCSW 11805 Cryer Ave (6 units)
- SCNE 3338 Meredith (6 units)
- SCNE 5817 N 24th (6 units)
- SCNW Cherry Tree 8304 Underwood (30 units)

In addition, OHA proposes RAD conversion of any other single-family homes, duplexes, and 3-4-unit properties that OHA wishes to retain in its affordable housing portfolio but that are not eligible for PBV conversion through Section 18 because they do not meet HUD's definition of "scattered site" units.

OHA's Five-Year CFP Plan includes approximately \$1,000,000 for RAD conversions. OHA is in the process of revising its Five-Year CFP Plan in accord with these proposed RAD conversions.

OHA certifies that it is currently compliant with all fair housing and civil rights requirements. In accord with HUD's RAD review process, OHA's proposed RAD conversion plans will be submitted to HUD FHEO for review. OHA's RAD conversions will comply with all applicable site selection and neighborhood reviews as required by HUD, and all appropriate requirements and procedures will be followed.

## FRANCES COURT

Public Housing Project: Frances Court  
 PIC Development ID: NE001000017 (Scattered Sites South East)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 15  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$210.07 per ACC unit per month est; \$35,292 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	8		8	8	
Three Bedroom	6		6	6	
Four Bedroom					
Nondwelling unit		1	1	1	
<b>Total</b>	<b>14</b>	<b>1</b>	<b>15</b>	<b>15</b>	

## NOAH (5 units 2026-2042 N. 18<sup>th</sup> Street)

Public Housing Project: NOAH (5 units 2026-2042 N. 18<sup>th</sup> Street)  
 PIC Development ID: NE001000023  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 5  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$197.93 per ACC unit per month est; \$11,876 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom					
Three Bedroom	2		2	2	
Four Bedroom	3		3	3	
<b>Total</b>	<b>5</b>		<b>5</b>	<b>5</b>	

## KEYSTONE CROWN

Public Housing Project: Keystone Crown  
 PIC Development ID: NE001000022  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 37  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$193.22 per ACC unit per month est; \$85,790 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	8		8	8	
Three Bedroom	23		23	23	
Four Bedroom	6		6	6	
<b>Total</b>	<b>37</b>		<b>37</b>	<b>37</b>	

## 8715, 8765, & 8777 SAHLER STREET

Public Housing Project: 8715, 8765, & 8777 Sahler Street (3 units formerly AMP SCKC)  
 PIC Development ID: NE001000018 (Scattered Sites North West)  
 Conversion Type: RAD  
 Transfer of Assistance: n/a  
 Total Units: 3  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$202.51 per ACC unit per month est; \$7,290 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom					
Three Bedroom					
Four Bedroom	3		3	3	
<b>Total</b>	<b>3</b>		<b>3</b>	<b>3</b>	

## CROWN I

Public Housing Project: Crown I  
 PIC Development ID: NE001000025  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 16  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$193.97 per ACC unit per month est; \$37,242 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom					
Three Bedroom	16		16	16	
Four Bedroom					
<b>Total</b>	<b>16</b>		<b>16</b>	<b>16</b>	

## CROWN II

Public Housing Project: Crown II  
 PIC Development ID: NE001000026  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 12  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$193.97 per ACC unit per month est; \$27,932 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom					
Three Bedroom	12		12	12	
Four Bedroom					
<b>Total</b>	<b>12</b>		<b>12</b>	<b>12</b>	

## ALAMO

Public Housing Project: Alamo (118 N. 36<sup>th</sup> Street)  
 PIC Development ID: NE001000016 (Scattered Sites North East)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 14  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$245.46 per ACC unit per month est; \$41,237 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom	6		6	6	
Two Bedroom	8		8	8	
Three Bedroom					
Four Bedroom					
<b>Total</b>	<b>14</b>		<b>14</b>	<b>14</b>	

## BAYVIEW

Public Housing Project: Bayview  
 PIC Development ID: NE001000027  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 12  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$186.26 per ACC unit per month est; \$26,821 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom					
Three Bedroom	12		12	12	
Four Bedroom					
<b>Total</b>	<b>12</b>		<b>12</b>	<b>12</b>	

### 3042-3052 MENKE CIRCLE

Public Housing Project: 3042-3052 Menke Circle (6 units)  
 PIC Development ID: NE001000018 (Scattered Sites North West)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 6  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$202.51 per ACC unit per month est; \$14,581 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	6		6	6	
Three Bedroom					
Four Bedroom					
<b>Total</b>	<b>6</b>		<b>6</b>	<b>6</b>	

### 11805-11819 CRYER AVE

Public Housing Project: 11805-11819 Cryer Ave  
 PIC Development ID: NE001000019 (Scattered Sites South West)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 6  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$229.14 per ACC unit per month est; \$16,498 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	2		2	2	
Three Bedroom	3		3	3	
Four Bedroom	1		1	1	
<b>Total</b>	<b>6</b>		<b>6</b>	<b>6</b>	

### 3338-3348 MEREDITH AVE

Public Housing Project: 3338-3348 Meredith Ave  
 PIC Development ID: NE001000016 (Scattered Sites North East)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 6  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$245.46 per ACC unit per month est; \$17,673 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	6		6	6	
Three Bedroom					
Four Bedroom					
<b>Total</b>	<b>6</b>		<b>6</b>	<b>6</b>	

### 5817-5827 N. 24<sup>TH</sup> STREET

Public Housing Project: 5817-5827 N. 24<sup>th</sup> Street  
 PIC Development ID: NE001000016 (Scattered Sites North East)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 6  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$245.46 per ACC unit per month est; \$17,673 total per year est

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom					
Two Bedroom	6		6	6	
Three Bedroom					
Four Bedroom					
<b>Total</b>	<b>6</b>		<b>6</b>	<b>6</b>	

## CHERRY TREE

Public Housing Project: Cherry Tree  
 PIC Development ID: NE001000018 (Scattered Sites North West)  
 Conversion Type: RAD PBV  
 Transfer of Assistance: n/a  
 Total Units: 30  
 Pre-RAD Unit Type: Family/General Occupancy  
 Post-RAD Unit Type: Family/General Occupancy  
 Capital Fund allocation: \$202.51 per ACC unit per month est; \$72,904 total per year est.

Bedroom Type:	Number of Units Pre-Conversion			Number of Units Post-Conversion	Change in Number of Units per Bedroom Type
	ACC	Other	Total		
Efficiency					No changes in number of units
One bedroom	14		14	14	
Two Bedroom	16		16	16	
Three Bedroom					
Four Bedroom					
<b>Total</b>	<b>30</b>		<b>30</b>	<b>30</b>	

**Attachment 1B – Resident Provisions in Conversions of Assistance  
from Public Housing to PBRA and PBV**

This Attachment contains two sections, describing:

- 1B.1 Summary of Resident Provisions
  - 1B.2 Resident Participation and Funding
- 

1B.1 Summary of Resident Provisions

The following is a summary of special provisions and alternative requirements related to tenants of public housing projects converting under RAD (including for those that will reside in non-RAD PBV units in the Covered project):

- Conversion will be considered a significant action requiring discussion in the PHA’s Five-Year Plan, Annual Plan or MTW Plan or requiring a significant amendment to a PHA Plan (see [Section 1.5.E](#) of this Notice);
- Notification of proposed conversion, meetings during the conversion process, written response to residents comments on conversion, and notification of conversion approval and impact (see [Section 1.8](#) of this Notice);
- No rescreening at conversion (see [Section 1.6.C.1](#) of this Notice for conversions to PBV and [Section 1.7.B.1](#) for conversions to PBRA);
- A right to return, which covers the right to return to the rent-assisted property after temporary relocation (when temporary relocation is necessary to facilitate rehabilitation or construction), or the right to occupancy of the new unit if the rental assistance is transferred to a new unit. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Phase-in of tenant rent increases (see [Section 1.6.C.3](#) of this Notice for conversions to PBV and [Section 1.7.B.3](#) for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see [Sections 1.6.C.5 and 1.6.C.9](#) of this Notice, for conversions to PBV and [Section 1.7.B.4](#) for conversions to PBRA);
- Continued Earned Income Disregard (see [Section 1.6.C.8](#) of this Notice, for conversions to PBV and [Section 1.7.B.7](#) for conversions to PBRA);

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

- Continued recognition of and funding for legitimate residents organizations (see [Section 1.6.C.6](#) of this Notice for conversions to PBV, [Section 1.7.B.5](#) of this Notice for conversions to PBRA, and below in Attachment 1B.2 for additional requirements for both programs);
- Procedural rights consistent with section 6 of the Act (see [Section 1.6.C.7](#) of this Notice for conversions to PBV and [Section 1.7.B.6](#) of this Notice for conversions to PBRA); and
- Choice-mobility option allowing a resident to move with a tenant-based voucher after tenancy in the Covered Project (see 24 CFR § 983.260 for conversions to PBV and Section 1.7.C.5 of this Notice for conversions to PBRA).

The foregoing is a summary of special provisions and alternative requirements relating to residents of public housing projects converting to RAD and does not attempt to capture all program requirements and details. For additional information, refer to the full text of this Notice and to the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **1B.2 Resident Participation and Funding<sup>98</sup>**

The following provisions contain the resident participation and funding requirements for public housing conversions to PBRA and PBV, respectively.

#### **A. PBRA: Resident Participation and Funding**

Residents of Covered Projects converting assistance 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, a Project Owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization at the covered property. Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation. These funds must be used for resident education, organizing around tenancy issues, and training activities.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible uses of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the HUD Field Office for intervention only after documented efforts to at direct resolution have proven unsuccessful.

#### **B. PBV: Resident Participation and Funding**

To support resident participation following conversion of assistance, residents of Covered Projects converting assistance to the PBV program will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living

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<sup>98</sup> For the purposes of this Attachment, HUD uses the term “Project Owner” to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

## Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- 1. Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

- 2. Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:
  - a. Distributing leaflets in lobby areas;
  - b. Placing leaflets at or under residents' doors;
  - c. Distributing leaflets in common areas;
  - d. Initiating contact with residents;
  - e. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
  - f. Posting information on bulletin boards;
  - g. Assisting resident to participate in resident organization activities;
  - h. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
  - i. Formulating responses to Project Owner's requests for:
    - i. Rent increases;
    - ii. Partial payment of claims;
    - iii. The conversion from project-based paid utilities to resident-paid utilities;
    - iv. A reduction in resident utility allowances;
    - v. Major capital additions; and

## Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

vi. Prepayment of loans.

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- 3. Meeting Space.** Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
- a. Residents or a resident organization and used for activities related to the operation of the resident organization; or
  - b. Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

- 4. Resident Organizers.** A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- 5. Canvassing.** If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

## Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- 6. Funding.** Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property.<sup>99</sup> These funds must be used for resident education, organizing around tenancy issues, and training activities. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible use of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the Contract Administrator for intervention only after documented efforts to at direct resolution have proven unsuccessful.

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<sup>99</sup> Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation.

**11. Floating Units.** Upon the request of the owner to the Voucher Agency that will administer the Covered Project, HUD will permit PBV assistance to float among units within the project having the same bedroom size. A unit to which assistance is floated must be comparable in condition to the unit it is replacing (i.e., the unit must be of the same quality and amenities as the unit it is replacing). Assistance may float from a required UFAS accessible unit only to another UFAS accessible unit that has the same bedroom size and accessibility 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 when there is no longer need for the reasonable accommodation provided the required number of UFAS units is maintained. Units that float are not specifically designated under the HAP Contract. Therefore, the 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. Instead, the HAP Contract must specify the number and type of units in the property that are designated as RAD units, including any excepted units. From the time of the initial execution of the PBV RAD HAP Contract, the property must maintain the same number and type of UFAS accessible units. Floating units are subject to all of the requirements in this Notice and the PBV regulations, including physical inspections, rent adjustments, and income-mixing requirements. The alternative requirements with respect to floating units do not apply to non-RAD PBV units.

**C. PBV 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>36</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV 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, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of

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<sup>36</sup> These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

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. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to 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 Part 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.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident’s right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant’s TTP) would increase the tenant’s TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (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 and must communicate such policy in writing to affected residents. 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 PBV TTP” refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV 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 (the first recertification following conversion), 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 PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP<sup>37</sup>

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 PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

*Please Note:* In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**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 participate in the PHA's FSS program.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.<sup>38</sup> Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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,

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV 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. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
  
6. **Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
  - a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
    - i. A reasonable period of time, but not to exceed 30 days:
      1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      2. 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. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 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 after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 8. Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance 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. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.

**9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because 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) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>41</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

alternative requirement that the PHA must reinstate the unit after the family has left the property. 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, Section 1.6.B.10 of the Notice.

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 made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

**10. Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this 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 unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived for current residents remaining or returning to the Covered Project. MTW agencies may not modify this requirement. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

#### **D. PBV: 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. Please see Appendix IV for reporting units in Form HUD-50058.
- 2. Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.<sup>42</sup>
- 3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
- 4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply 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 shall consider the best means to transition applicants from the current public housing waiting list, including:
  - a. Transferring an existing site-based waiting list to a new site-based waiting list.

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. 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.

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 shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) 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 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 waiting 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 community-wide 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).<sup>43</sup>

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. **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 project property.
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 but HUD review of liens must be performed prior to execution.
7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998" and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

- 8. Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, 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.

If as a result of participation in RAD a significant percentage of the PHA's HCV program becomes PBV assistance, 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. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, 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: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year 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. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

**9. Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

**10. Initial Certifications and Tenant Rent Calculations.** The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Public and Indian Housing**  
**Office of Housing**

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<b>Special Attention of:</b>	<b>Notice</b>	H 2016-17 PIH 2016-17 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors		
Public Housing Program Center Directors	Issued:	November 10, 2016
Multifamily HUB Directors		
Multifamily Program Center Directors	Effective:	November 10, 2016
Regional and Field Office Directors		
Regional Administrators	Expires:	This Notice remains in effect until amended, superseded, or rescinded
Performance Based Contract Administrators		
RAD Transaction Managers		
Regional Relocation Specialists	Supplements:	PIH Notice 2012-32 (HA) REV-2
	Supersedes:	H 2014-09/PIH 2014-17

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**SUBJECT:** Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.<sup>1</sup>

**SECTION 1. Purpose, Applicability and Major Provisions of this Notice**

**1.1. Purpose**

This notice (Notice) provides PHAs,<sup>2</sup> Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

<sup>1</sup> While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

<sup>2</sup> Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.

regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.<sup>3</sup>

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

<sup>3</sup> Important fair housing, other civil rights, and relocation considerations apply also to the Second Component of RAD as provided in the RAD Notice. Participants in the Second Component of RAD must continue to comply with applicable fair housing, civil rights, and relocation statutes and regulations, and HUD may, at any time, initiate compliance or enforcement actions in connection with such requirements. The RAD Notice will continue as the primary source of information on fair housing and other civil rights requirements covering the Second Component of RAD without any change until further notice.

(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

## **1.2. PHA and Project Owner Responsibilities**

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

### **MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.**

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.<sup>4</sup>

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

<sup>4</sup> The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.

that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.<sup>5</sup> The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.<sup>6</sup> The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

### **1.3. Applicability**

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

<sup>5</sup> For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

<sup>6</sup> See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

09/PIH 2014-17. For such projects and where otherwise appropriate in cases of hardship as determined by HUD, HUD may apply the terms of H 2014-09/PIH 2014-17 with respect to relocation activities, but not with respect to fair housing and civil rights requirements.

RAD projects which have been awarded Choice Neighborhoods Implementation (CNI) grants are subject to the provisions of the applicable Choice Neighborhoods Notice of Funding Availability (NOFA) and grant agreement regarding site and neighborhood standards and are not subject to the RAD front-end civil rights transaction reviews described in this Notice. For properties being redeveloped with funding under a CNI grant, the relocation requirements set forth in this Notice are superseded by guidance regarding relocation included in the CNI NOFA. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a Choice Neighborhood project's conversion of assistance.

#### **1.4. Explanation of Major Provisions**

This Notice adds to and revises pre-existing guidance related to fair housing, civil rights, and relocation (as contained in the RAD Notice and H 2014-09/PIH 2014-17) with respect to RAD transactions. Among the key provisions and changes are the following:

##### Fair Housing & Civil Rights

- Reaffirms the applicability of fair housing and civil rights requirements to all RAD-related activities (see, e.g., Section 3.3 and Section 4);
- Reiterates when HUD front-end civil rights review (originally outlined in the RAD Notice) is required in addition to the PHA's analysis and certification of compliance, to assist the PHA and Project Owner to comply with fair housing and civil rights requirements (see Section 5.3);
- Outlines certain conditions under which HUD will conduct a front-end review to determine whether the site is in an area of minority concentration relative to the site's housing market area (see Section 5.4(A));
- Provides guidance, for purposes of the RAD front-end civil rights review, on the concepts of "area of minority concentration" and "housing market area" that are reviewed when determining whether a site is in an area of minority concentration (see Section 5.4(B));
- Elaborates on specific information that HUD will consider, and that PHAs should provide evidence of, in order for a proposed site to meet the existing exceptions to permit new construction in an area of minority concentration, identifies presumptions for meeting the sufficient comparable opportunities exception and describes factors that HUD may consider in evaluating the overriding housing needs exception (see Section 5.4(C) and Section 5.4(D));
- Articulates issues that HUD will consider in completing the front-end civil rights review for transfers of assistance, including, for example, accessibility and minority concentration (see Section 5.5);
- Outlines the information to be submitted for HUD's front-end civil rights review of transactions where unit reductions, unit reconfigurations, or changes in occupancy are proposed (see Section 5.6);
- Identifies the situations where front-end civil rights reviews are required when changes in the accessibility features of a site are made (see Section 5.7(B)); and

- Prohibits the Project Owner of a Converted Project with a PBRA HAP contract from initiating any new leasing or marketing activities (other than leasing and outreach to households holding a right to return to the Covered Project), including the solicitation, distribution or acceptance of applications or development of a waiting list, until HUD has approved the Affirmative Fair Housing Marketing Plan (“AFHMP”) (see Section 5.8).

### Relocation

- Requires PHAs or Project Owners to prepare a written relocation plan for all transactions that involve permanent relocation or temporary relocation anticipated to exceed 12 months (see Section 6.1);
- Requires PHAs to provide residents with a RAD Information Notice (RIN) in order to ensure that residents are informed of potential project plans and of their rights in connection with RAD prior to submission of the RAD application (see Section 6.6(A));
- Clarifies that the General Information Notice (GIN), when applicable, should be provided as soon as feasible and no later than 30 days following the issuance of the CHAP (see Section 6.6(B));
- Requires Project Owners to provide a notification of Return to the Covered Project, when applicable (see Section 6.6(F));
- Moves the date before which PHAs are prohibited from beginning any physical relocation earlier in the conversion process (specifically, from the date of Closing to the later of the effective date of the RCC and the expiration of the 30- or 90-day RAD Notice of Relocation period, as applicable) (see Section 6.8);
- Clarifies the specific requirements applicable to different types of relocation (e.g., moves within a property, temporary relocation of less than 12 months, etc.) (see, e.g., Section 6.4);
- Provides enhanced guidance on the right to return requirements, any offers of alternative housing options and the documentation that must be retained when tenants choose an alternative housing option and decline their right to return (see, e.g., Section 6.2 and Section 6.10);
- Describes how HUD has administratively implemented URA requirements and URA relocation assistance and payments for displaced persons, when applicable, to residents who choose to decline the right of return and, instead, choose voluntary permanent relocation (see, e.g., Section 6.4(C) through (F) and Section 6.10);
- Requires PHAs to maintain detailed data regarding each household that will be relocated, with key dates of notices and moves (see Section 6.9); and
- Identifies key fair housing and civil rights requirements applicable during relocation (see, e.g., Section 4).

### **1.5. Request for Public Comment**

HUD acknowledges the complexity of the issues addressed in this Notice. This Notice is effective immediately upon issuance, but HUD also seeks comment from the public regarding the clarity and organization of the Notice and regarding areas where the policies and procedures described are unclear or ambiguous. HUD will consider whether changes in response to comments are justified and will implement any appropriate changes in a revision of this Notice. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov) within 30 days of the issuance of this Notice.

## **1.6. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA), HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. OMB approved information collection forms will be posted on the RAD website and the Federal Register.

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## **SECTION 3. Background**

### **3.1. RAD Authority**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, enacted November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, enacted January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, enacted December 6, 2014), and the Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2016), collectively and as it may be further amended from time to time, the “RAD Statute.” RAD allows certain eligible properties to convert assistance to long-term project-based Section 8 contracts and has two separate components. The First Component allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two different Section 8 housing assistance programs: project based vouchers (PBVs) or project-based rental assistance (PBRA). The “Second Component” of RAD allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation programs to convert certain units to PBV or PBRA Section 8 units following certain contract expirations or terminations. The RAD Statute is implemented by the RAD Notice.

### **3.2. Definitions**

All capitalized terms defined in the RAD Notice, as amended, shall have the definitions ascribed to them therein unless otherwise specifically noted in this Notice.<sup>7</sup> Pre-conversion projects whose assistance is converting from public housing to Section 8 under RAD are referred to in the RAD Notice and in this Notice as “Converting Projects.” Post-conversion projects are referred to in the RAD Notice and this Notice as “Covered Projects.”

### **3.3. Applicable Legal Authorities**

Appendix I to this Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. Part 2 of Appendix I provides greater detail regarding federal accessibility requirements set forth in three of the legal authorities described in Appendix I,

<sup>7</sup> Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.<sup>8</sup> In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

### **3.4. Further Information**

Because each RAD proposal varies in its scope, this Notice may not address each PHA's or Project Owner's specific circumstances. PHAs and Project Owners should carefully review the laws, regulations, notices, and guidance material referenced in this Notice. Any questions related to the administration of the RAD program should be referred to the appropriate RAD Transaction Manager (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process**

This Section provides a summary overview of key principles regarding program implementation and an overview of generally applicable fair housing and civil rights requirements. Appendix I identifies the key legal authorities from which these principles are derived. These key principals, together and with the legal authorities identified in Appendix I, frame the PHA's efforts to implement a RAD conversion. In some cases, these requirements are particularly relevant to the process of planning the RAD conversion, while in others they have particular relevance for the structure of the RAD transaction itself, and in yet other cases, both. Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection, new construction, occupancy policies, changes in unit configuration, increases or reductions in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration, program accessibility, tenant selection policies and priority transfers, providing information to and communicating with persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair

<sup>8</sup> See Pub. L. No. 112-55, as amended.

Housing Marketing Plans (AFHMPs). All PHAs must consider civil rights when structuring these and other elements of their RAD transaction.

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.<sup>9</sup> Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.<sup>10</sup> As described further below, the Fair Housing Act prohibits discrimination in housing<sup>11</sup> and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.<sup>12</sup> In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin<sup>13</sup> and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.<sup>14</sup> RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.<sup>15</sup> Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

<sup>9</sup> See 24 C.F.R. § 5.105.

<sup>10</sup> See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

<sup>11</sup> See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

<sup>12</sup> 42 U.S.C. § 3608(d) and (e).

<sup>13</sup> See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

<sup>14</sup> See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

<sup>15</sup> See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.<sup>16</sup> Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.<sup>17</sup>

- **Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.<sup>18</sup> The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.<sup>19</sup> In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>20</sup> ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.<sup>21</sup> Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- **Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

<sup>16</sup> 24 C.F.R. § 5.150 *et seq.*

<sup>17</sup> *See* 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

<sup>18</sup> *See* 24 C.F.R. § 1.4(b)(3).

<sup>19</sup> *See* 24 C.F.R. § 1.4(b)(6).

<sup>20</sup> *See* 24 C.F.R. § 8.4(b)(5).

<sup>21</sup> *See* 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

permanently displaced has meaningful access to any public meetings regarding the project; and (c) they provide meaningful access to LEP persons to any information provided to residents including, but not limited to, any relocation notices. Generally, the PHA or Project Owner will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.<sup>22</sup>

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.
- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.<sup>23</sup> Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.<sup>24</sup>

<sup>22</sup> For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q26](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26).

<sup>23</sup> In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

<sup>24</sup> See 28 C.F.R. part 35, Appendix B.

- **Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.<sup>25</sup> PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

For more information about compliance with accessibility requirements, the PHA or Project Owner should refer to appropriate notices concerning civil rights requirements and may contact HUD's Office of Fair Housing and Equal Opportunity in either the Washington, D.C. or applicable field offices for more specific guidance. For additional, non-exhaustive guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.

<sup>25</sup> For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.<sup>26</sup> Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.<sup>27</sup>
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

<sup>26</sup> For additional information regarding reasonable accommodations under the Fair Housing Act, *see* the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>.

<sup>27</sup> *See* 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."

accommodations under Section 504 and because of similar requirements under the ADA even though the Fair Housing Act may only require the owner to allow such changes to be made and paid for by the individual with a disability. Before determining that they are not required to make or pay for structural changes, PHAs and Project Owners are encouraged to consider carefully their obligations under each applicable statute.

## **SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions**

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

### **5.1. RAD Eligibility Review**

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

## **5.2. PHA's Proposed Site Selection and Certification**

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).<sup>28</sup> Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.<sup>29</sup> PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."<sup>30</sup> Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.<sup>31</sup>

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

<sup>28</sup> See the provisions of Section 1.6.A.4 of the RAD Notice.

<sup>29</sup> 42 U.S.C. § 1437f(bb).

<sup>30</sup> For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." See Appendix III of the RAD Notice, paragraph (a).

<sup>31</sup> See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

requirements described in 24 C.F.R. § 8.4(b)(5).<sup>32</sup> The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.<sup>33</sup> Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.<sup>34</sup>

<sup>32</sup> See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

<sup>33</sup> See 28 C.F.R. § 35.130(b)(4).

<sup>34</sup> In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

### **5.3. RAD Front-End Civil Rights Transaction Review**

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

#### *A) Activities Subject to Front-End Civil Rights Review*

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,<sup>35</sup> as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

<sup>35</sup> Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

*B) Fair Housing, Civil Rights, and Relocation Checklist*

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.<sup>36</sup> HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

<sup>36</sup> The Checklist is available at [www.hud.gov/rad](http://www.hud.gov/rad). As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at [www.hud.gov/rad](http://www.hud.gov/rad), HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.<sup>37</sup>

*C) Timing of Front-End Review Submissions*

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

*D) Completion of HUD's Front-End Review*

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

<sup>37</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

#### **5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction**

##### *A) Conditions Triggering Review*

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.<sup>38</sup>

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

<sup>38</sup> 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

- ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
- iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

*B) Analysis of Areas of Minority Concentration*

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.<sup>39</sup>
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

<sup>39</sup> The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1&src=pt](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt). However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.

understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.<sup>40</sup> HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

- (3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.<sup>41</sup> The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

*C) The Sufficient Comparable Opportunities Exception*

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

<sup>40</sup> For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

<sup>41</sup> Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

serve the same income group, are located in the same housing market area, and are in standard condition.<sup>42</sup>

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”<sup>43</sup>

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”<sup>44</sup> Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- “A significant number of assisted housing units are available outside areas of minority concentration.”<sup>45</sup> While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD’s consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.<sup>46</sup>
- “There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.”<sup>47</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA’s jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- “There are racially integrated neighborhoods in the locality.”<sup>48</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

<sup>42</sup> See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

<sup>43</sup> 24 C.F.R. § 983.57(e)(3)(iii); see also Appendix III of the RAD Notice, paragraph (e)(1).

<sup>44</sup> 24 C.F.R. § 983.57(e)(3)(v); see also Appendix III of the RAD Notice, paragraph (e)(1)(B).

<sup>45</sup> 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

<sup>46</sup> Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

<sup>47</sup> 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

<sup>48</sup> 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

- “Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.”<sup>49</sup> Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- “Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.”<sup>50</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- “A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs” (e.g., the Housing Choice Voucher programs).<sup>51</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD’s analysis would be a significant proportion.
- “Comparable housing opportunities have been made available outside areas of minority concentration through other programs.”<sup>52</sup> To facilitate HUD’s consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA’s portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

<sup>49</sup> 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

<sup>50</sup> 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

<sup>51</sup> 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

<sup>52</sup> 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.<sup>53</sup> The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.<sup>54</sup> Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

<sup>53</sup> When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

<sup>54</sup> For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

*D) The Overriding Housing Needs Exception*

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD<sup>55</sup> outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”<sup>56</sup>

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

<sup>55</sup> See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

<sup>56</sup> 24 C.F.R. § 983.57(e)(3)(vi); see also Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the “neighborhood” is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The “immediate neighborhood” is generally a smaller geographic area than the “neighborhood.”

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.<sup>57</sup>
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a "Revitalizing Area"

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a "revitalizing area" but in particular will consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

<sup>57</sup> Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

- household income, high or increasing homeownership rates and/or high or increased employment; and
- ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
    - Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
    - Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
    - Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

### (3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.<sup>58</sup> For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

## **5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance**

### *A) Applicable Standards*

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

<sup>58</sup> 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase “on the basis of race, color, creed, sex or national origin.” See Appendix III of the RAD Notice.

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

*B) Analysis of Transfers of Assistance*

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.<sup>59</sup> This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.<sup>60</sup> For purposes of this analysis, HUD will examine the minority concentration of:
  - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
  - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
  - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
  - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
  - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

<sup>59</sup> 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

<sup>60</sup> While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.

- (d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

### **5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements**

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.<sup>61</sup> However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.<sup>62</sup>

#### *A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution*

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

<sup>61</sup> See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

<sup>62</sup> Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.<sup>63</sup> In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

<sup>63</sup> See Section 1.4.A.4 of the RAD Notice.

units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

*B) Review of Changes in Occupancy Type*

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

**5.7. Other Front-End Civil Rights Review for RAD Transactions**

*A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.*

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

*B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.*

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

*C) Remedial Agreements and Orders.*

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

**5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance**

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.<sup>64</sup> Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.<sup>65</sup> They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

<sup>64</sup> The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

<sup>65</sup> *See* 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

## **SECTION 6. RELOCATION REQUIREMENTS**

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner<sup>66</sup> should plan such activities to reasonably minimize any disruption to residents’ lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

<sup>66</sup> Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.<sup>67</sup>

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.<sup>68</sup>

## **6.1. Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.<sup>69</sup> All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

<sup>67</sup> 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

<sup>68</sup> A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

<sup>69</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation in connection with proposed conversion plans.</li> <li>• Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback.</li> <li>• Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.</li> </ul>
2. After submission of RAD application	<ul style="list-style-type: none"> <li>• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements.</li> <li>• Survey residents to inform relocation planning and relocation process.</li> <li>• Develop a relocation plan (see Appendix II for recommended content).</li> <li>• Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.<sup>70</sup></li> </ul>
3. Following issuance of the CHAP, or earlier if warranted	<ul style="list-style-type: none"> <li>• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.</li> </ul>
4. While preparing Financing Plan	<ul style="list-style-type: none"> <li>• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager.</li> <li>• Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities.</li> <li>• Identify relocation housing options .</li> <li>• Budget for relocation expenses and for compliance with accessibility requirements.</li> <li>• Submit the Checklist and, where applicable, the relocation plan.</li> <li>• If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA).</li> <li>• If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as</li> </ul>

<sup>70</sup> Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> <li>• Meet with residents to describe approved conversion plans and discuss required relocation.</li> <li>• The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)).</li> <li>• If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice.</li> <li>• Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.</li> </ul>
6. Post-Closing	<ul style="list-style-type: none"> <li>• Ongoing implementation of relocation</li> <li>• Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice</li> <li>• Implementation of the residents’ right to return</li> </ul>

**6.2. Resident Right to Return**

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.<sup>71</sup> Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project’s conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident’s unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;<sup>72</sup>

<sup>71</sup> The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

<sup>72</sup> See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.

- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;<sup>73</sup> and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.<sup>74</sup>

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

<sup>73</sup> In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

<sup>74</sup> Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf) for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

### **6.3. Admissions and Continued Occupancy Requirements**

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

### **6.4. Types of Moves and Relocation**

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.<sup>75</sup> In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

#### *A) Moves within the same building or complex of buildings<sup>76</sup>*

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.<sup>77</sup> The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

<sup>75</sup> PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

<sup>76</sup> An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

<sup>77</sup> Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

*B) Temporary relocation lasting one year or less*

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.<sup>78</sup>

*C) Temporary relocation initially expected to last one year or less, but which extends beyond one year*

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*D) Temporary relocation anticipated to last more than one year*

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

<sup>78</sup> HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a “displaced person” would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident’s right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*E) Permanent moves in connection with a transfer of assistance*

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

*F) Voluntary permanent relocation*

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

### **6.5. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

### **6.6. Resident Relocation Notification (Notices)**

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.<sup>79</sup> PHAs and Project Owners are also encouraged to provide

<sup>79</sup> The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at [www.hud.gov/rad](http://www.hud.gov/rad).

*A) RAD Information Notice*

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

*B) General Information Notice (49 C.F.R. § 24.203(a))*

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, "as soon as feasible" may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, "as soon as feasible" shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

*C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))*

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).<sup>80</sup> The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

*D) RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

<sup>80</sup> Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.

Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.<sup>81</sup>

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.<sup>82</sup>

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.<sup>83</sup> The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
  - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.<sup>84</sup> PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

<sup>81</sup> PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. *See* Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

<sup>82</sup> The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

<sup>83</sup> The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

<sup>84</sup> Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.<sup>85</sup>
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).<sup>86</sup>
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

<sup>85</sup> Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

<sup>86</sup> PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

*E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))*

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.<sup>87</sup>

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

<sup>87</sup> To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

#### *F) Notification of Return to the Covered Project*

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.<sup>88</sup>

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

#### **6.7. Relocation Advisory Services**

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

<sup>88</sup> If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).<sup>89</sup> Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

## **6.8. Initiation of Relocation**

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

**Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC**, unless moves are authorized under Section 7, below (“Applicability of HCV and Public Housing Requirements”) or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident’s request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

## **6.9. Records and Documentation; Resident Log**

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA’s and/or Project Owner’s compliance, as applicable, with this Notice and the URA.<sup>90</sup> HUD may request to review some or all of such records in the event of compliance

<sup>89</sup> For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

<sup>90</sup> Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
  - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
  - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
  - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
  - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
  - Date of the RAD Information Notice

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation<sup>91</sup>
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.<sup>92</sup>
- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

## **6.10. Alternative Housing Options**

Under the RAD Notice, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

### *A) Requirements for Any Offer of Alternative Housing Options*

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

<sup>91</sup> The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

<sup>92</sup> In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.<sup>93</sup>

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

*B) Assisted Housing Options as Alternatives*

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

<sup>93</sup> For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.

PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

*C) Monetary Elements Associated With Alternative Housing Options*

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.<sup>94</sup>
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

*D) Disclosure and Agreement to Alternative Housing Options*

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;<sup>95</sup> b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

<sup>94</sup> Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

<sup>95</sup> In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after

the earlier of issuance of the NOIA or the effective date of the RCC.<sup>96</sup> If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

### **6.11. Lump Sum Payments**

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

## **SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS**

### **7.1. HCV Waiting List Administration Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

<sup>96</sup> The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

## **7.2. HCV Waiting List Administration Related to the RAD Transaction**

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.<sup>97</sup>

## **7.3. Public Housing Transfers Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)<sup>98</sup> or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.<sup>99</sup> Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

<sup>97</sup> PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

<sup>98</sup> Title IV, section 40001-40703.

<sup>99</sup> Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

#### **7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction**

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a “demolition, disposition, revitalization or rehabilitation transfer” as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA’s admissions and occupancy policy and may occur at any time pursuant to the PHA’s admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident’s transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

#### **7.5. Public Housing as a Temporary Relocation Resource**

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA’s portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA’s Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA’s public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD’s Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

#### **7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction**

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

#### **7.7. Right-Sizing**

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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Lourdes Castro-Ramirez  
Principal Deputy Assistant Secretary for  
Public and Indian Housing

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Principal Deputy Assistant Secretary for  
Housing

**APPENDIX I: Applicable Legal Authorities**

**APPENDIX II: Recommended Relocation Plan Contents**

## **APPENDIX I: Applicable Legal Authorities**

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### **Part 1**

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

#### **Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)**

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.<sup>100</sup> In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.<sup>101</sup>

<sup>100</sup> See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

<sup>101</sup> For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address

Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

#### United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

#### Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).<sup>102</sup>

significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

<sup>102</sup> See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

### Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”<sup>103</sup>

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>104</sup> These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

<sup>103</sup> 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

<sup>104</sup> 24 C.F.R. § 8.4(b)(5).

providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

### Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

### Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.<sup>105</sup> The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

<sup>105</sup> For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

## Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

## **Part 2 – Accessibility Requirements**

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.<sup>106</sup> All three laws may also require reasonable accommodations or modifications.

### Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

<sup>106</sup>See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.<sup>107</sup> These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.<sup>108</sup>

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.<sup>109</sup> The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).<sup>110</sup> HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.<sup>111</sup> HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.<sup>112</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

<sup>107</sup> See 24 C.F.R. § 100.205.

<sup>108</sup> For more information about the design and construction provisions of the Fair Housing Act, see [www.fairhousingfirst.org](http://www.fairhousingfirst.org). See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: [www.hud.gov/offices/fheo/library/hudjointstatement.pdf](http://www.hud.gov/offices/fheo/library/hudjointstatement.pdf).

<sup>109</sup> See 24 C.F.R. § 8.3.

<sup>110</sup> The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

<sup>111</sup> See 24 C.F.R. § 8.22.

<sup>112</sup> See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), [http://www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

### Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.<sup>113</sup>

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.<sup>114</sup> If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.<sup>115</sup>

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

<sup>113</sup> See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

<sup>114</sup> HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

<sup>115</sup> 24 C.F.R. § 8.23(b).

regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.<sup>116</sup>

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

#### Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.<sup>117</sup> This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

#### Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.<sup>118</sup> Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.<sup>119</sup>

<sup>116</sup> See <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

<sup>117</sup> See 24 C.F.R. §§ 8.26 and 8.27.

<sup>118</sup> See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

<sup>119</sup> For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.

## **APPENDIX II: Recommended Relocation Plan Contents**

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While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

### **I. Project Summary**

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

## **II. Project Occupancy**

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

## **III. Resident Return and Re-occupancy Policies**

The Plan should address how the project will honor the RAD right to return requirements and the “no re-screening upon conversion” policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

## **IV. Temporary Relocation Assistance**

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
    - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”<sup>120</sup>
    - Use a contractor or moving company
    - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

<sup>120</sup> Defined at 24 C.F.R. 905.108.

- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

## **V. Transfer of Assistance**

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

## **VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance**

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: [www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).<sup>121</sup>

## **VII. Relocation Budget**

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
- Number and cost of one permanent move to a unit not within the same building/complex
- Any required dislocation allowance

- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
- 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
- 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

<sup>121</sup> See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

## **VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations**

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

## **IX. Appeal Process**

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

## **X. Certification**

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

## **Technical Assistance**

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).



## **NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN'S ACT**

### **To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that OHA's housing programs are in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.

### **Protections for Applicants**

If you otherwise qualify for assistance under OHA's housing programs, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

### **Protections for Tenants**

If you are receiving assistance under an OHA housing program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under OHA's housing programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

OHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If OHA chooses to remove the abuser or perpetrator, OHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, OHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, OHA must follow Federal, State, and local eviction procedures. In order to divide a lease, OHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

## **Moving to Another Unit**

Upon your request, OHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, OHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

(2) You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

(3)(a) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

(3)(b) You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

OHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

OHA's emergency transfer plan provides further information on emergency transfers, and OHA must make a copy of its emergency transfer plan available to you if you ask to see it.

## **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

OHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from OHA must be in writing, and OHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. OHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to OHA as documentation. It is your choice which of the following to submit if OHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by OHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that OHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, OHA does not have to provide you with the protections contained in this notice.

If OHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), OHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, OHA does not have to provide you with the protections contained in this notice.

### **Confidentiality**

OHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

OHA must not allow any individual administering assistance or other services on behalf of OHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

OHA must not enter your information into any shared database or disclose your information to any other entity or individual. OHA, however, may disclose the information provided if:

- You give written permission to OHA to release the information on a time limited basis.
- OHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires OHA or your landlord to release the information.

VAWA does not limit OHA’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, OHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if OHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- Would occur within an immediate time frame, and
- Could result in death or serious bodily harm to other tenants or those who work on the property.

If OHA can demonstrate the above, OHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

## **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

## **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD at HUD's Omaha field office:

U.S. Department of Housing and Urban Development  
1616 Capitol Avenue, Suite 329  
Omaha, NE 68102-4908  
Phone: (402) 492-3101  
TTY: (402) 492-3183 or 800) 877-8339 or dial 7-1-1 (Not available in all areas.)

## **For Additional Information**

You may view a copy of HUD's notice and final VAWA rule at:

[https://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2016/HUDNo\\_16-159](https://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-159)

Additionally, OHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact OHA's public housing or Section 8 office.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

## **Attachment: Certification form HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## **EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

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OHA is committed to providing housing protections for victims of domestic violence, dating violence, sexual assault, and stalking. Some victims may need to move quickly because they may not be safe remaining in a home that is shared with or known to their abuser. OHA tenants who are victims of domestic violence, dating violence, sexual assault, or stalking may request an emergency transfer from the tenant's current unit to another unit. OHA has established this Emergency Transfer Plan to describe our procedures for providing victims with emergency transfers to a safe dwelling unit.

These protections are provided by law in accordance with the Violence Against Women's Act. These protections are available regardless of sex, gender identity, or sexual orientation. OHA's Emergency Transfer Plan is based on a model published by the US Department of Housing and Urban Development, the federal agency that oversees OHA's compliance with VAWA and other federal regulations.

OHA will provide reasonable accommodations to this policy for individuals with disabilities.

### **Eligibility for Emergency Transfers**

Emergency transfer requests may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if:

- The tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit.
- The tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify OHA's management office and submit a written request for an emergency transfer. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under OHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

## **Confidentiality**

OHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives OHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See OHA's "Notice of Occupancy Rights under the Violence Against Women Act" for more information about OHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## **Emergency Transfer Timing and Availability**

OHA's ability to honor emergency transfer requests may depend on whether OHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

OHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. OHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. OHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If OHA has no safe and available units for which a tenant who needs an emergency is eligible, OHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, OHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

- Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).
- Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.
- Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

\_\_\_\_\_

\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## **PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY**

### **16-VII.A. OVERVIEW**

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

### **16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

### **16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]**

#### **Notification to Public**

OHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

OHA will make the following information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of OHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

#### **Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

OHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2.

OHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. OHA will also include such information in all notices of denial of assistance (see section 3-III.F).

OHA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. OHA will also include such information in all lease termination notices (see section 13-IV.D).

OHA is not limited to providing VAWA information at the times specified in the above policy. If OHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases OHA make alternative delivery arrangements that will not put the victim at risk.

Whenever OHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, OHA may decide not to send mail regarding VAWA protections to the victim's unit if OHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, OHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room. The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **16-VII.D. DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. The individual must be allowed at least 14 business days after receipt of the request to submit the documentation. OHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy OHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

OHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where OHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, OHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). OHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to OHA. OHA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to OHA. If OHA does not receive third-party documentation, and OHA will deny or terminate assistance as a result, OHA must hold separate hearings for the tenants [Notice PIH 2017-08].

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

OHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as OHA may allow, OHA may deny relief for protection under VAWA.

### **16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to OHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that OHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

**EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE  
AGAINST WOMEN ACT, FORM HUD-5380**

**[Insert Name of Housing Provider]**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Removing the Abuser or Perpetrator from the Household**

OHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If OHA chooses to remove the abuser or perpetrator, OHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, OHA must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, OHA must follow Federal, State, and local eviction procedures. In order to divide a lease, OHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

## **Moving to Another Unit**

Upon your request, OHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, OHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, OHA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your PHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your PHA may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

OHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families. OHA's emergency transfer plan provides further information on emergency transfers, and OHA must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

OHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from OHA must be in writing, and OHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. OHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to OHA as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by OHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that OHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, OHA does not have to provide you with the protections contained in this notice.

If OHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), OHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, OHA does not have to provide you with the protections contained in this notice.

## **Confidentiality**

OHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

OHA must not allow any individual administering assistance or other services on behalf of OHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

OHA must not enter your information into any shared database or disclose your information to any other entity or individual. OHA, however, may disclose the information provided if:

- You give written permission to OHA to release the information on a time limited basis.
- OHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires OHA to release the information.

VAWA does not limit OHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, OHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if OHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If OHA can demonstrate the above, OHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

## **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

## **Non-Compliance with The Requirements of This Notice**

You may report your PHA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

## **For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, OHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

**EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382**

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): _____ _____ _____
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This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**  
**Public Housing Program**

**Emergency Transfers**

OHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>3</sup> OHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The ability of OHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether OHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

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<sup>3</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify OHA's management office and submit a written request for a transfer to **any PHA office**. OHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under OHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

OHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives OHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about OHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

OHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. OHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. OHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If OHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, OHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, OHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: Public Housing (PH) Program**

If you are a public housing resident and request an emergency transfer as described in this plan, OHA will attempt to assist you in moving to a safe unit quickly. OHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, OHA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by OHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, OHA will refer you to organizations that may be able to further assist you.

## **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
- (2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

\_\_\_\_\_  
\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

### **16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]**

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

## **16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]**

### **Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

#### PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

## **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

### PHA Policy

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

### PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

## **Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

### PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

## **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA’s request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

### PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

#### PHA Policy

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

### **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

#### PHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE  
VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380**

**[Insert Name of Housing Provider]**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the housing choice voucher program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the housing choice voucher program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Removing the Abuser or Perpetrator from the Household**

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

## **Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

## **Confidentiality**

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

## **Other Laws**

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**



**EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,  
FORM HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING  
(HCV VERSION)**

Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual  
Assault, or Stalking  
Housing Choice Voucher Program**

**Emergency Transfers**

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>3</sup> the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

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<sup>3</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **[Insert other programs the PHA provides, such as LIHTC or HOME]**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

## **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.



**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

\_\_\_\_\_

\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_



## MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

[Insert Name of Housing Provider]

### NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

#### **Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through [insert name of housing provider] HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

#### **Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

#### **Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

- 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
- 2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

- a. Form HUD-55383 (Self-Certification Form); or
- b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:
  - 2) Signed by the applicant or tenant; and
  - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

### **Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

### **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

## **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

### **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

## Service Providers

[insert name of housing provider] has extensive relationships with local service providers. [insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

## Definitions

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area  
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
[insert name of housing provider] VAWA Notice of Occupancy Rights

**HOUSING AUTHORITY OF THE CITY OF OMAHA, NEBRASKA**  
**FINANCIAL STATEMENTS AND**  
**SUPPLEMENTARY INFORMATION**  
**YEAR ENDED DECEMBER 31, 2022**  
**WITH**  
**REPORT OF INDEPENDENT AUDITORS**

**HOUSING AUTHORITY OF THE CITY OF OMAHA, NEBRASKA  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
FOR THE YEAR ENDED DECEMBER 31, 2022**

I. Summary of Auditors' Results

Financial Statements

- |    |   |               |
|----|---|---------------|
| 1. | Type of auditors' report issued:                    | Unmodified    |
| 2. | Internal control over financial reporting           |               |
|    | a. Material weakness(es) identified?                | Yes           |
|    | b. Significant deficiency(ies) identified?          | None reported |
| 3. | Noncompliance material to the financial statements? | Yes           |

Federal Awards

- |    |  |               |
|----|--|---------------|
| 1. | Internal control over compliance:  |               |
|    | a. Material weakness(es) identified?   | Yes           |
|    | b. Significant deficiency(ies) identified?   | None Reported |
| 2. | Type of auditors' report on compliance for major program:  |               |
|    | 14.871 Housing Choice Voucher Program - Qualified  |               |
|    | 14.879 Mainstream Program - Unmodified   |               |
|    | 14.EHV Emergency Housing Vouchers Program - Unmodified   |               |
| 3. | Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? | Yes           |

4. Identification of major program:

<u>ALN Number</u>	<u>Name of Federal Program</u>
	Housing Voucher Cluster
14.871	Housing Choice Voucher Program
14.879	Mainstream Program
14.EHV	Emergency Housing Vouchers Program

- |    |  |             |
|----|--|-------------|
| 5. | Dollar threshold used to distinguish between Type A and Type B Programs: | \$1,765,366 |
| 6. | Auditee qualified as low-risk Auditee?                                   | No          |

**HOUSING AUTHORITY OF THE CITY OF OMAHA, NEBRASKA  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (continued)  
FOR THE YEAR ENDED DECEMBER 31, 2022**

II. Financial Statement Findings

**Finding 2022-001**

Statement of condition: The unaudited account balances of fixed assets, accounts payable, accrued interest payable, and other current liabilities, were misstated. In addition, there were numerous journal entries proposed during the audit.

Criteria: The Authority must ensure that proper internal controls are in place to initiate, authorize, record, process and report financial data reliably in accordance with generally accepted accounting principles.

Condition: There is a reasonable possibility that a misstatement of the Authority's financial statements will not be prevented or detected by the Authority's internal control.

Cause: Controls are not in place to ensure the Authority records and reports financial data reliably in accordance with generally accepted accounting principles.

Recommendation: The Authority should ensure proper internal controls, which include timely monthly reconciliations of account balances, are in place to prevent material weaknesses from occurring.

Authority Response: Auditee agrees with the auditor and management will be responsible for implementing the corrective action plan.

III. Federal Award Findings and Questioned Costs

**Finding 2022-002**

Federal Agency: U.S. Department of Housing and Urban Development  
Federal Program Titles: Section 8 Housing Choice Vouchers Program,  
Federal Catalog Numbers: 14.871  
Material Noncompliance  
Non Compliance Material to the Financial Statements: Yes  
Material Weakness in Internal Control over Compliance

Criteria: Tenant Files. The PHA must do the following: As a condition of admission or continued occupancy, require the tenant and other family member to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).

Condition: Based upon inspection of the Authority's files and on discussion with management, there were documents that were unavailable for examination at the time of audit.

Context: Of a sample size of forty-five (45) tenant files, the following information was unavailable for examination at the time of audit:

- (2) Lead Based Paint forms
- (1) Original Application
- (2) Verification of Income
- (1) Verification of Assets
- (1) Annual HQS Inspection form
- (1) HUD Form 9887 Consent to Release Information
- (1) HUD Form 50058

Our sample size is statistically valid.

**HOUSING AUTHORITY OF THE CITY OF OMAHA, NEBRASKA  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (continued)  
FOR THE YEAR ENDED DECEMBER 31, 2022**

III. Federal Award Findings and Questioned Costs (continued)

**Finding 2022-002 (continued)**

Known Questioned Costs: 25,506

Cause: There is a material weakness in internal controls over the compliance for the eligibility type of compliance related to the maintenance of tenant files. The Authority has not properly considered, designed, implemented, maintained and monitored a system of internal controls that reasonably assures the program is in compliance.

Effect: The Section 8 Housing Choice Voucher Program is in material non-compliance with the eligibility type of compliance requirements of the program.

Recommendation: We recommend the Authority design and implement internal control procedures that will reasonably assure compliance with the Uniform Guidance and the compliance supplement.

View of Responsible Officials and Corrective Actions: The Authority accepts the recommendation of the auditor. The Authority will increase oversight in the Section 8 Housing Choice Vouchers Program to ensure that established internal control policies are being followed on a timely basis.

IV. Summary of Prior Audit Findings

**Finding 2021-001**

Observation: Several material adjusting journal entries were required in order to reconcile beginning net position to the prior year's audited financial statements.

Status: This finding remains open. See audit Finding 2022-001

**Finding 2021-002**

Observation: Tenant file documentation was not found during examination of Section 8 Housing Choice Vouchers tenant files.

Status: This finding remains open. See audit Finding 2022-002.



## Omaha Housing Authority

1823 Harney Street ~ Omaha, NE 68102 ~ 402.444.6900 ~ [www.ohauthority.org](http://www.ohauthority.org)

### **CENTRAL ADVISORY COMMITTEE MEETING**

September 5, 2024, 1:30 p.m., at Crown Tower

### **OHA'S ANNUAL PLAN FOR 2025**

1. Purpose of the Annual Plan and process
2. Overview of HUD Annual Plan documents
3. Policy Changes for the Public Housing and Section 8 programs
4. Redevelopment and repositioning activities

**We welcome your feedback!**

Please provide any written comments and suggestions to:

[OHAPlans@OHAuthority.org](mailto:OHAPlans@OHAuthority.org)

Or by mail to:  
OHA Attn: Annual Plan  
1823 Harney Street  
Omaha, NE 68102

Or written comments may be submitted at any OHA office.  
Please make sure your comments state Attn: Annual Plan

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Agenda for September CAC meeting 9/5/24

Prayer-

Pledge of Allegiance-

Visitors-

Zone manager updates-

Finance- New process with stipend and check requests, Board updates

Election process- For open positions on boards

Services events at all Towers-

Mental Health services available- Community Alliance

What classes would residents like at the building?

Open discussion-

Closing prayer-

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## Omaha Housing Authority

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### CENTRAL ADVISORY COMMITTEE MEETING

September 5, 2024 at 1:30 p.m., Crown Tower, 5904 Henninger Drive

**PLEASE SIGN IN**

NAME	DEVELOPMENT
Coretta Gully	Pine tower
Sharon Johnson	Crown Tower
Jennifer Burnett	Evans Tower
Michael Daily	Benson



# Omaha Housing Authority

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## CENTRAL ADVISORY COMMITTEE MEETING

September 5, 2024 at 1:30 p.m., Crown Tower, 5904 Henninger Drive

**PLEASE SIGN IN**

NAME	DEVELOPMENT
Kristine Wright	Jackson
Rebecca Lyons	Park South
Jaime Delaney	Underwood
John Williams	RAY LAY



# Omaha Housing Authority

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## CENTRAL ADVISORY COMMITTEE MEETING

September 5, 2024 at 1:30 p.m., Crown Tower, 5904 Henninger Drive

**PLEASE SIGN IN**

NAME	DEVELOPMENT
David Moore	Park North Tower

## 4.2. ADDITIONAL ITEMS FOR CONSIDERATION

### 4.2.1. Resolution 2024-90 ACOP Revisions

# Memorandum

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To: OHA Board of Commissioners

From: Susan Gilroy, Director of Compliance

Date: October 9, 2024

Re: Revision to ACOP (Admissions and Continued Occupancy Policies)

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## **RECOMMENDATION**

Staff of the Housing Authority of the City of Omaha (OHA) recommends that the Board of Commissioners approve revisions of OHA's Admissions and Continued Occupancy Policy (ACOP) Chapters 00 through 04 for the public housing program.

## **BACKGROUND**

The ACOP is reviewed and updated annually. The ACOP was last updated in June 2023. OHA uses an ACOP policy template purchased from Nan McKay & Associates, which is considered an industry standard and reflects best practices. For 2024, the ACOP Chapters 00-04 has been brought current with all recent HUD requirements and guidance, including the following:

- HOTMA changes for Sections 102 and 104 for income and assets will start once HUD announces the new effective date of implementation.
- Chapter 00 – added Introduction- About the ACOP
- Chapter 01- updated Overview of the Program and Plan
  - Updated Mission statement to match 5-year Agency Plan
  - Mandatory and Discretionary policies
- Chapter 02- Fair Housing and Equal Opportunity- there were no updates, wording clean-up only
- Chapter 03- Eligibility
  - Major changes in Assets and Real Property
  - Definitions of family, including displaced person, minors, foster child and foster adults, household members and family members
  - HUD consent form for access to financial records
  - Denial for housing based on asset limitations
  - Restrictions on Assistance based on Asset Ownership
- Chapter 04- Applications, Waiting List and Tenant Selection
  - Revisions to ACOP to match current practices
  - Updated to one Public Housing waiting list
  - Revisions to Re-opening the wait list
  - Added Senior preference to select out of order to fill vacancies
  - Added CNI Relocation for Split Families preference
  - Added preference for Section 8 HCV families who are displaced due to non-compliance by landlords/owners in making required repairs noted on HQS/NSPIRE inspections.

Additional revisions will be made in upcoming board meetings to incorporate the remaining HOTMA provisions and policy updates in the rest of the ACOP chapters.

**SUMMARY**

The Housing Authority of the City of Omaha (hereinafter "OHA") Staff recommends that the Board of Commissioners approve the revisions to the Public Housing ACOP (Admissions and continued Occupancy Policies).

**SPONSORS:** Susan Gilroy, Director of Compliance

**RECOMMENDED BY:** Joanie Poore, CEO

# ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

JUNE 2023

HOUSING AUTHORITY OF THE  
CITY OF OMAHA

# Admissions and Continued Occupancy Policy (ACOP)

HOUSING AUTHORITY OF THE CITY OF OMAHA

Approved by the Board of Commissioners: TBD ~~June 2023~~

## Introduction

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### ABOUT THE ACOP

#### REFERENCES CITED IN THE ACOP

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

#### HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

#### State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

#### Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

## RESOURCES CITED IN THE ACOP

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The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

### Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: *New PH OCC GB, Lease Requirements*, p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the Public Housing Occupancy Guidebook.

### Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

**Resources and Where to Find Them**

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: [https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips).

Following is a list of resources helpful to the PHA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations <a href="http://www.ecfr.gov">http://www.ecfr.gov</a>
Earned Income Disregard FAQs <a href="https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid">https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid</a>
Enterprise Income Verification (EIV) System PHA Security Procedures, Version 1.2, issued January 2005 <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
Executive Order 11063 <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>
Federal Register <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>
HOTMA Final Rule <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
HOTMA Implementation Notice, PIH 2023-27 <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
HUD-50058 Instruction Booklet <a href="https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF">https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</a>
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>
Notice PIH 2010-26, Nondiscrimination and Accessibility Notice <a href="http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf">http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf</a>
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System <a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a>

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Notice PHH 2018-24, Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits, and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report

<https://www.hud.gov/sites/dfiles/PHH/documents/PHH-2018-24-EIV-SSN-Notice-FINAL.pdf>

OMB Circular A-133

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf>

Public Housing Occupancy Guidebook, June 2003

[https://www.hud.gov/sites/documents/DOC\\_10760.PDF](https://www.hud.gov/sites/documents/DOC_10760.PDF)

VAWA Resources

<https://www.hud.gov/yawa>

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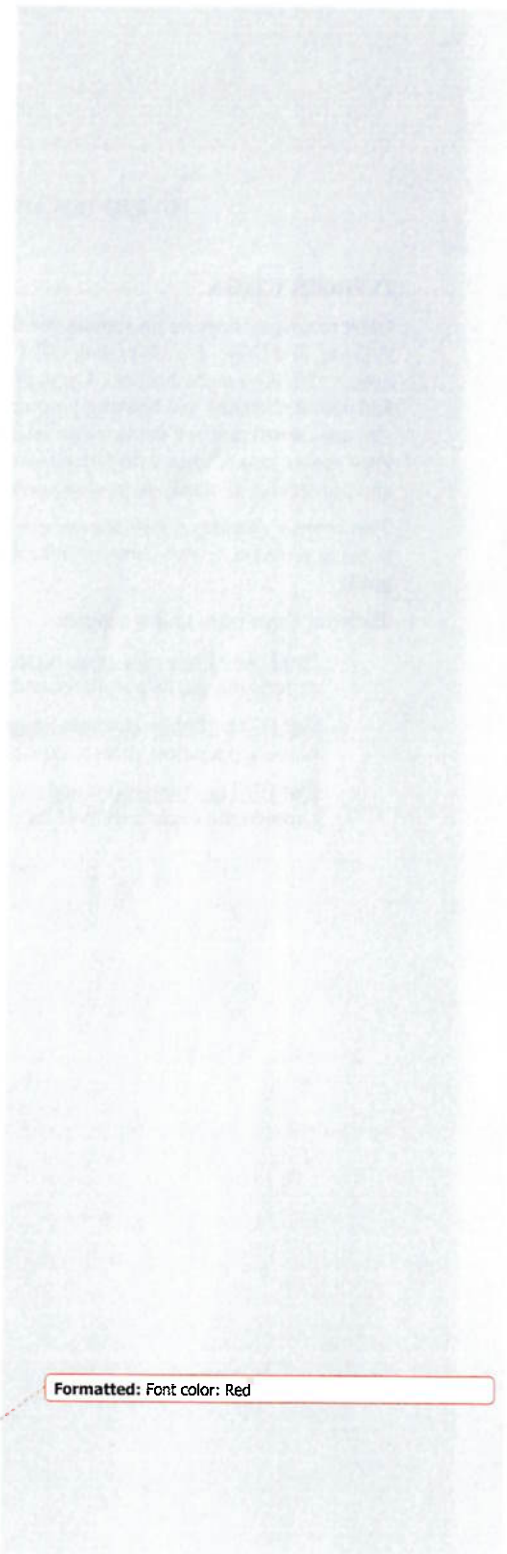
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The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website:  
[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)

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**Chapter 1**  
**OVERVIEW OF THE PROGRAM AND PLAN**

**INTRODUCTION**

OHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. OHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about OHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PIA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

## PART I: THE PHA

### 1-I.A. OVERVIEW

This part describes the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

Public housing is funded by the federal government and administered by the **Omaha Housing Authority** for the jurisdiction of **Omaha, Nebraska**.

OHA is governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which OHA conducts ~~business~~ **and business and** ensures that those policies are followed **by** OHA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of OHA are taken through written resolutions, adopted by the board and entered into the official records of OHA.

The principal staff member of OHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day-to-day operations of OHA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising OHA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some PHAs, the ED is known by another title, such as chief executive officer or president.

### 1-I.C. OHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

~~OHA's mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. OHA is to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing. The mission of the Housing Authority of the City of Omaha is to provide and sustain quality and safe affordable housing.~~

#### 1-1.D. THE OHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, OHA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, OHA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, free of health and safety hazards – in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE) ~~decent, safe, and sanitary housing in good repair~~ ~~—in compliance with program uniform physical condition standards—~~ for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward de-concentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing OHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of OHA's support systems and commitment to our employees and their development.

OHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

### 1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the PHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the PHA.

The job of the PHA pursuant to HUD regulations is to provide ~~decent, safe, and sanitary housing, in good repair~~ safe, habitable dwelling units; to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are determined to be eligible for the program, the PHA makes an offer of a housing unit. If the applicant accepts the offer, the PHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

### 1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, the PHA must enter into an Annual Contributions Contract (ACC) with HUD. The PHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the PHA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

## PART II: THE PUBLIC HOUSING PROGRAM

### 1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

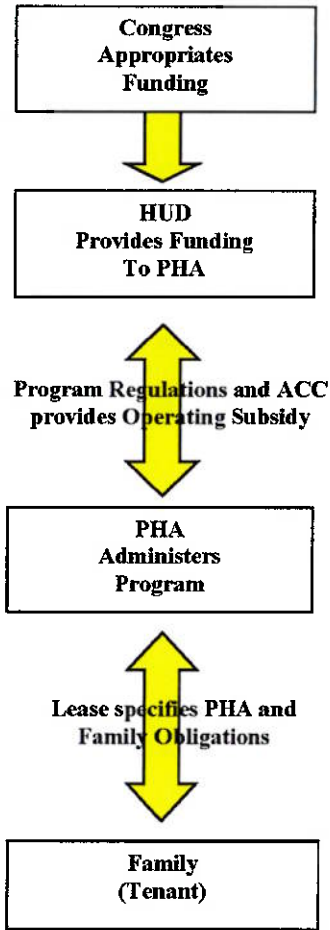
The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

OHA will implement HOTMA regulations once HUD announces the effective date of implementation for Sections 102 and 104 income and assets provisions in accordance with PIH 2023-27.

**The Public Housing Relationships**



### What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration.

### What does the PHA do?

OHA's responsibilities originate in federal regulations and the ACC. OHA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of ~~decent, safe, sanitary, and in good repair~~ safe, habitable dwelling units (including assuring compliance ~~with uniform physical conditions standards~~ National Standards for the Physical Inspection of Real Estate (NSPIRE))
- Make sure OHA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ~~Annual Contributions Contract~~ ACC, HUD-approved applications for funding, the PHA's ACOP, and other applicable federal, state and local laws.

### **What does the tenant do?**

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and OHA house rules, as applicable
- Provide OHA with complete and accurate information, determined by OHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by OHA
- Allow OHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of ~~uniform physical condition standards~~ NSPIRE caused by the family
- Not engage in drug-related or violent criminal activity
- Notify OHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify OHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to OHA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

### **1-III.D. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

## **PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES**

### **1-III.A. OVERVIEW AND PURPOSE OF THE POLICY**

The ACOP is OHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in OHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. OHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

### **1-III.B. CONTENTS OF THE POLICY**

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in OHA's written policy. At a minimum, the ACOP plan should cover PHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving de-concentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Policies and rules about safety and ownership of pets in public housing (Chapter 10).

### **~~New Approach to Policy Development~~ Mandatory vs. Discretionary Policy**

~~HUD has developed an approach to monitoring PHAs that emphasizes the importance of consistency in operation and decision-making. The ACOP supports that goal by clearly setting forth the PHA's operating policies.~~

~~A primary focus of HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. Referring to and following the ACOP is essential to maintaining consistency in applying PHA policy.~~

HUD makes a distinction between mandatory policies and non-mandatory policies:

- **Mandatory policies:** those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- **Optional, non-binding guidance:** includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD's **new direction** emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts **its own optional an alternative** policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

### **1-III.C. UPDATING AND REVISING THE POLICY**

OHA will revise this ACOP as needed to comply with changes in HUD regulations, OHA operations, or when needed to ensure staff consistency in operation. The original policy and any changes must be approved by the board of commissioners of OHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

## Chapter 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of OHA's public housing operations.

This chapter describes HUD regulations and OHA policies related to these topics in three parts:

**Part I: Nondiscrimination.** This part presents the body of laws and regulations governing the responsibilities of OHA regarding nondiscrimination.

**Part II: Policies Related to Persons with Disabilities.** This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

**Part III: Prohibition of Discrimination Against Limited English Proficiency Persons.** This part details the obligations of the PHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

## PART I: NONDISCRIMINATION

### 2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations prohibit discrimination, and provide for additional protections, regarding sexual orientation, gender identity, and marital status [FR Notice 02/03/12]. OHA will comply with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- The Violence against Women Act (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights that may subsequently be enacted

### 2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

OHA will not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. OHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988]. OHA does not identify any additional protected classes.

OHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others

- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Subject anyone to sexual harassment
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

**Providing Information to Families**

OHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, OHA will provide information to public housing applicant families about civil rights requirements.

**2-I.C. DISCRIMINATION COMPLAINTS**

**General Housing Discrimination Complaints**

If an applicant or tenant family believes that any family member has been discriminated against by OHA, the family should advise OHA staff. HUD requires OHA to make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

In all cases, OHA will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

Applicants or tenant families who believe that they have been subject to unlawful discrimination are encouraged to notify OHA. OHA prefers that the family submit its complaint in writing, but OHA does not require it. If a family makes a verbal complaint, OHA staff will assist the family to record the complaint in writing.

Upon receipt of a complaint, OHA will conduct an investigation into all allegations of discrimination and will attempt to resolve all discrimination complaints. OHA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in OHA lobbies, will reference how to file a complaint with FHEO.

Upon completion of OHA's investigation, OHA will provide the complainant with written notice of its determination, including OHA's findings, the reasons for its determination, and any proposed corrective actions. OHA will keep a record of all complaints, investigations, notices, and corrective actions.

OHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

#### **Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. OHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify OHA either orally or in writing.

Upon receiving the complaint, OHA will provide a written notice to those alleged to have violated the rule. OHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

OHA will attempt to remedy discrimination complaints made against OHA and will conduct an investigation into all allegations of discrimination.

Upon conclusion of OHA's investigation, OHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

OHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

#### **VAWA Complaint Processing [Notice FHEO 2023-01]**

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

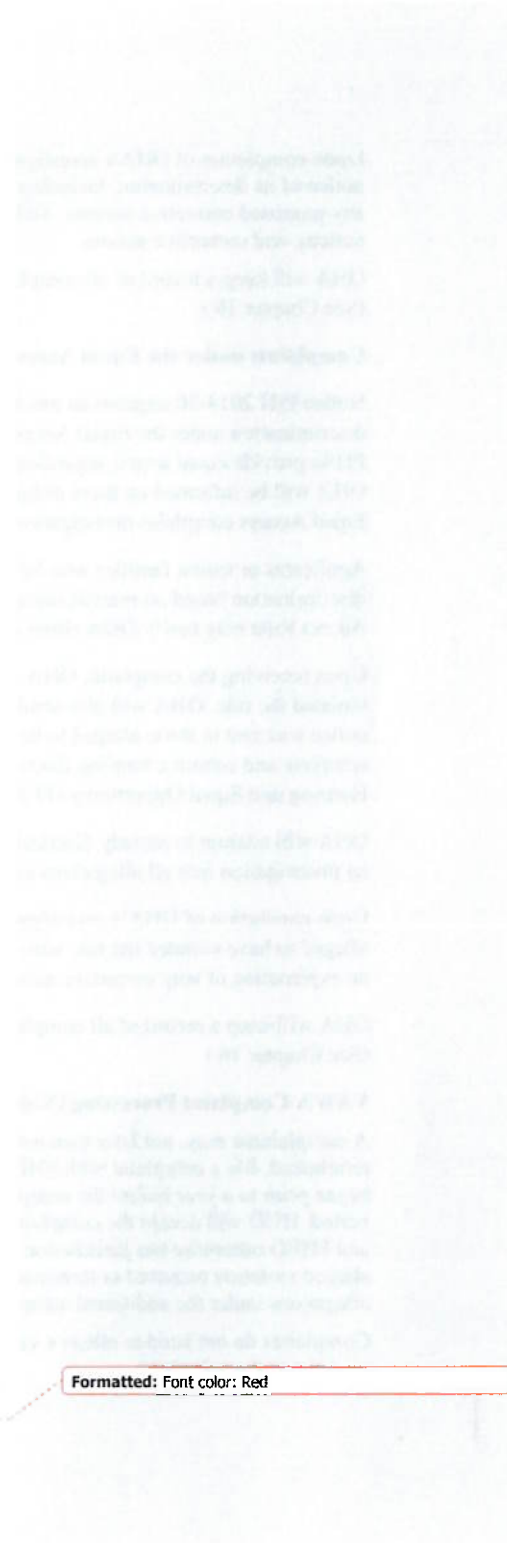
Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

Applicants or tenant families who wish to file a VAWA complaint against OHA may notify OHA either orally or in writing.

OHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). OHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

OHA will attempt to remedy complaints made against OHA and will conduct an investigation into all allegations of discrimination.

OHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)



## **PART II: REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

One type of disability discrimination prohibited by fair housing laws is the failure to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to benefit from the OHA's housing, programs, and services.

OHA must ensure that persons with disabilities have full access to OHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

OHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

OHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by OHA, by including the following language:

"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

OHA will display posters and other housing information and signage in locations throughout OHA's office in such a manner as to be easily readable from a wheelchair.

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION & REASONABLE MODIFICATION**

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

### **Types of Reasonable Accommodations**

When it is reasonable (see definition above and Section 2-II.E), the PHA shall accommodate the needs of a person with disabilities. Examples of reasonable accommodations include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing "large-print" forms
- Conducting home visits
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with OHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

### **2-II.C. REQUEST FOR AN ACCOMMODATION**

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that OHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]. Likewise, any occasion when an applicant or tenant indicates that a modification to their housing is needed because of a disability, HUD requires that OHA treat the information as a request for a reasonable accommodation.

The family must explain what type of accommodation is needed to provide the person with the disability full access to OHA's programs and services. If the need for the accommodation is not readily apparent or known to OHA, the family must explain the relationship between the requested accommodation and the disability.

OHA will encourage the family to make its request in writing using a reasonable accommodation

request form. However, OHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

## **2-II.D. VERIFICATION OF DISABILITY**

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, OHA must determine that the person meets the definition of a person with a disability, and whether the requested accommodation is necessary to provide the family with equal opportunity to use and enjoy a dwelling unit or otherwise to benefit from OHA's programs and services.

If a person's disability is apparent or otherwise known to OHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]. If a family indicates that an accommodation is required for a disability that is not apparent or otherwise known to the OHA, OHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, OHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- OHA must request only information that is necessary to evaluate the disability-related need for the accommodation. OHA may not inquire about the nature or extent of any disability.
- Medical records will not be requested or retained in the participant file.
- In the event that OHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, OHA will dispose of it. In place of the information, OHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

**2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION** [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

OHA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on OHA, or fundamentally alter the nature of OHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of OHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, OHA may enter into discussions with the family, request more information from the family, or may require the family to sign a consent form so that OHA may verify the need for the requested accommodation.

After a request for an accommodation is presented, OHA will respond, in writing, within 14 calendar days.

If OHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal this determination through OHA's grievance procedures.

If OHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of OHA's operations), OHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and/or without imposing an undue financial and administrative burden.

If OHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussions, OHA will notify the family, in writing, of its determination within 14 calendar days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal this determination through OHA's grievance procedures.

**2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS** [24 CFR 8.6]

HUD regulations require OHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to OHA's programs and services. At the

initial point of contact with each applicant, OHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

## **2-II.G. PHYSICAL ACCESSIBILITY**

OHA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

OHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of OHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

~~Newly constructed~~Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

**2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

OHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with OHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, OHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to OHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, OHA must make the accommodation [24 CFR 966.7].

In addition, OHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

## **PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)**

### **2-III.A. OVERVIEW**

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

OHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, OHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to OHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on OHA.

### **2-III.B. ORAL INTERPRETATION**

OHA will offer competent interpretation services free of charge, upon request, to the LEP person.

OHA will utilize a language line for telephone interpreter services. When exercising the option to conduct remote hearings, however, OHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by OHA. OHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, OHA will not rely as on the minor to serve as the interpreter.

OHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), OHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

### **2-III.C. WRITTEN TRANSLATION**

Translation is the replacement of a written text from one language into an equivalent written text in another language. In order to comply with written-translation obligations, OHA will take the following steps:

OHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, OHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

### **2-III.D. IMPLEMENTATION PLAN**

After completing the four-factor analysis and deciding what language assistance services are appropriate, OHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If OHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to OHA's public housing program and services. If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

**EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY  
UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]  
INCLUDING REASONABLE ACCOMMODATIONS**

For purposes related to reasonable accommodations, the definition of a person with a disability includes any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

The phrase “major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

The phrase “has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

The phrase “is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

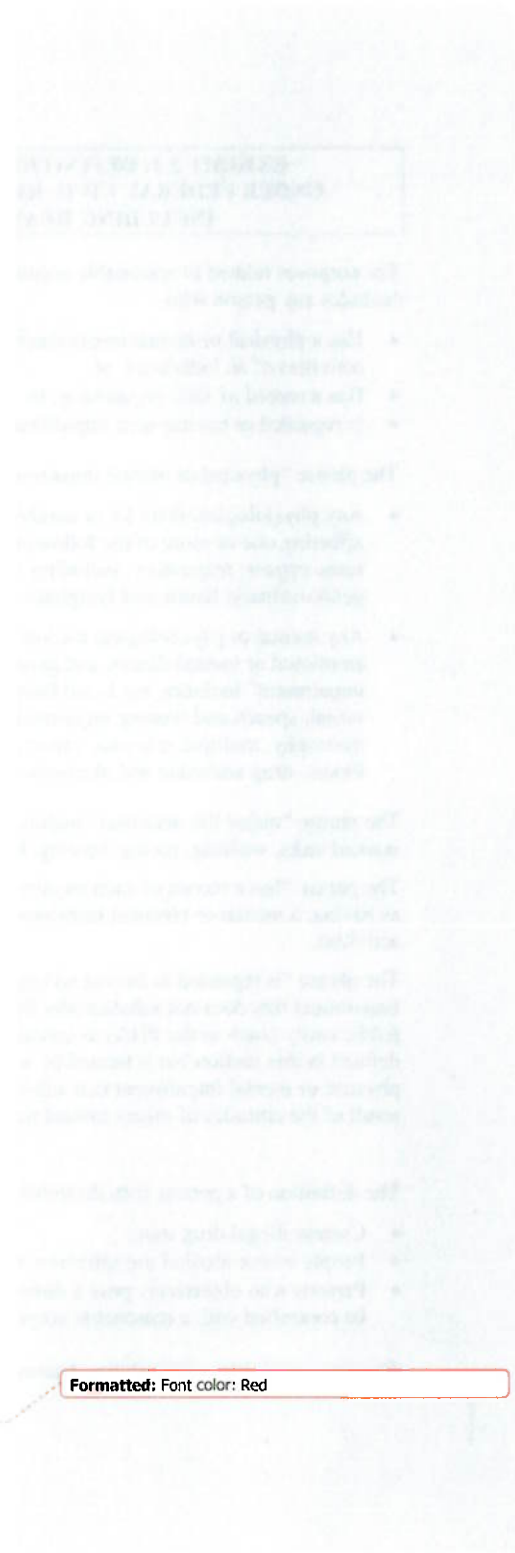
- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to

any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.



## Chapter 3

### ELIGIBILITY

#### INTRODUCTION

OHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed for OHA to confirm eligibility.

To be eligible for the public housing program, the applicant family must:

- Qualify as a family as defined by HUD and OHA.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for household members as required.
- Consent to OHA's collection and use of family information as provided for in OHA's consent forms.
- Not currently be receiving a duplicative subsidy.
- Meet net asset and property ownership restriction requirements.

In addition, OHA's eligibility determination considers certain current or past conduct, such as criminal activity, relevant to an applicant's ability to comply with lease and program requirements.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains definitions of family and household members, and related persons such as live-in aides and guests.

This part also explains initial and ongoing eligibility issues related to these members, for example, how to handle family break-up or family members absent from the household.

Part II: Basic Eligibility Criteria. This part discusses rules regarding income eligibility, citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct including criminal activity that can result in denial of admission as well as the asset limitation for public housing.

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## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and explains HUD's eligibility rules.

### 3-I.B. FAMILY & HOUSEHOLD

[24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, ~~and~~ Notice PIH 2014-20, [Notice PIH 2023-17](#) and [FR Notice 2/14/23](#)]

The terms *family* and *household* have different meanings in the public housing program.

#### Family

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, [displaced person](#), disabled person, near-elderly person, or any other single person: [an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care or will leave foster care within 90 days, in accordance with transition plan described in section 475\(5\)\(H\) of the Social Security Act \(42 U.S.C. 675\(5\)\(h\), and is homeless or is at risk of becoming homeless at age 16 or older](#); or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, ~~under~~ the remaining member of a tenant family. OHA has the discretion to determine if any other group of persons qualifies as a family.

- Gender Identity means actual or perceived gender characteristics.
- Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Each family must identify all individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

#### Household

*Household* is a broader term that includes additional people who, with OHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

### 3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

#### Family Breakup

Except under the following conditions, OHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking OHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking see section 16-VII.D ACOP.)
- If a court determines the disposition of property between members of the assisted family, OHA is bound by the court's determination of which family members continue to receive assistance.

If an applicant family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members must be removed from the original application. They may submit a new application with a new application date if the waiting list is open.

If a tenant family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit. Other former family members must be removed from the lease and may submit a new application, if the waiting list is open, in order to obtain their own unit.

If a court determines the disposition of property between members of an applicant or resident family, OHA will abide by the court's determination.

In most cases, a family breakup is resolved by agreement among the family members. OHA will honor the agreement of the family.

In the absence of a judicial decision or an agreement among the original family members, OHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, OHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

#### **Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which includes one or more members of a resident family who remain in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

### **3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

*Head of household* means the adult member of the family who is considered the head of household for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

At the time of application, the family must designate a family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

### **3-I.E. SPOUSE, COHEAD, AND OTHER ADULT**

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

*Spouse* means the marriage partner of the head of household. A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead. Minors who are emancipated under state law may be designated as a cohead.

*Other adult* means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

### **3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]**

A minor is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student. Per HUD rules, the following persons can never be dependents: the head of household, spouse, cohead, foster children, foster adults, and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

#### **Joint Custody of Dependents**

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OHA will make the determination based on available documents such as court orders, school records, receipt of state benefits, IRS income tax returns showing which family has claimed the child for income tax purposes, or other credible documentation.

### **3-I.G. FULL-TIME STUDENT [24 CFR 5.603]**

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. OHA's determination of whether a program of study or training constitutes a "full-time" program will be governed by the educational institution's definition of "full-time" enrollment.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

### **3-I.H. ELDERLY & NEAR-ELDERLY PERSONS & FAMILIES**

[24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

#### **Elderly Person**

An *elderly person* is a person who is at least 62 years of age.

#### **Near-Elderly Person**

A *near-elderly person* is a person who is 50-61 years of age.

#### **Elderly Family**

An *elderly family* is a family in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6. In addition, a family's status as an "elderly family" may qualify the family for housing designated for elderly and near-elderly families, as noted in Chapter 4.

#### **Near-Elderly Family**

A *near-elderly family* is a family in which the head, spouse, cohead, or sole member is a near-elderly person. A family's status as a "near-elderly family" may qualify the family for housing designated for elderly and near-elderly families, as noted in Chapter 4.

### **3-I.I. PERSONS WITH DISABILITIES & DISABLED FAMILY**

[24 CFR 5.403, FR Notice 02/03/12]

#### **Note on Definitions of Persons with Disabilities**

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, OHA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or OHA's services.

### **Disabled Family**

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent OHA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

### **3-I.J. GUESTS [24 CFR 5.100]**

A *guest* is defined as a person temporarily visiting or staying in the unit or on the premises with the consent of a tenant or a member of the tenant's household who has express or implied authority to so consent on behalf of the tenant.

The lease provides that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near OHA premises [24 CFR 966.4(f)].

A resident family must notify OHA when guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to these time limits for valid reasons (such as care of a relative recovering from a medical procedure). OHA may require documentation in order to approve the presence of guests beyond the time limits.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above. Former residents who have been evicted are not permitted as overnight guests.

Guests who remain in the unit beyond the allowable time limits will be considered to be unauthorized occupants, and their presence constitutes violation of the lease. In addition, persons who represent the public housing unit address as their residence address or address of record may be considered to be unauthorized occupants rather than guests.

### **3-I.K. FOSTER CHILDREN & FOSTER ADULTS [24 CFR 5.603]**

A ~~Foster adult~~ is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgement, decree, or other order of any court of competent jurisdiction ~~are usually persons with disabilities, who are unrelated to the tenant family and who are unable to live alone [24 CFR 5.609(e)(2)].~~

The term ~~foster child~~ is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgement, decree, or other order of any court of competent jurisdiction, not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or resident family are considered household members but not family members. The income of foster children or foster adults is not counted in family annual income. Foster children and foster adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

A ~~foster child~~ a child who is in the legal guardianship or custody of a state, county, private adoption, or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency. Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

### **3-I.L. ABSENT FAMILY MEMBERS**

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

#### **Definitions of Temporarily and Permanently Absent**

Generally, an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **Absent Students**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member, unless the family declares that the student has established a separate household. OHA may require documentation demonstrating whether or not the student has established a separate household.

#### **Absences Due to Placement in Foster Care [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, OHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless

the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

#### **Absent Head, Spouse, or Cohead**

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

#### **Individuals Confined for Medical Reasons**

If a family member is confined to a nursing home, hospice, or hospital on a permanent basis, the family may request that the family member be removed from the family.

If there is a question about the status of a family member, OHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

#### **Return of Permanently Absent Family Members**

The family must request OHA approval for the return of any adult family members determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

### **3-I.M. LIVE-IN AIDE**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

A family may request to add a live-in aide to their household in accord with OHA's procedures for accommodation of disabilities.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not have lease rights or be considered a remaining member of a tenant family.

A family's request for a live-in aide may be made either orally or in writing. OHA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request—subject to OHA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

Live-in aides are subject to OHA screening and criminal background checks. OHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to OHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

In a reasonable amount of time of receiving a request for a live-in aide, including all required documentation related to the request, OHA will notify the family of its decision in writing.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

#### Definitions [24 CFR 5.603(b)]

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

#### Using Income Limits for Eligibility [24 CFR 960.201 and Notice PHH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible ~~for the public housing program~~, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

#### Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted from the OHA waiting list to the public housing program during a PHA fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement."

If admissions of extremely low-income families to OHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against OHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the PHA fiscal year
- Ten percent of waiting list admission to OHA's housing choice voucher program during the PHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

### **3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with OHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

#### **Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether they are a citizen, a national, or an eligible noncitizen. Alternately, a person may elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals, and eligible noncitizens, the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

#### **U.S. Citizens and Nationals**

In general, citizens and nationals are required to submit only a signed declaration that claims their status. OHA will not require additional documentation unless OHA receives information indicating that an individual's declaration may not be accurate.

#### **Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and must cooperate with OHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

#### **Ineligible Noncitizens**

Persons who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. OHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

#### **Mixed Families**

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

#### **Ineligible Families [24 CFR 5.514(d), (e), and (f)]**

OHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. If OHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, OHA will send the family written notice of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an OHA grievance hearing. The grievance hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process. Grievance hearing procedures are contained in Chapter 14.

#### **Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]**

OHA will verify the status of applicant family and household members at the time of application or otherwise at the time other eligibility factors are determined. Each family member is required to submit evidence of eligible status only one time, generally at the time of the person's application or admission to the program.

For new occupants joining a resident family, OHA must verify citizenship status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

### **3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN.

If a child under age six is added to a family, and the family must provide documentation of the child's SSN within 90 days. Verification and documentation requirements are provided in Chapter 7.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. (Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.)

OHA will deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232~~0~~]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

OHA will deny admission to the program if any member of the applicant family fails to sign and submit these required consent forms which authorize OHA to obtain information necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this doesn't not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232c].

OHA has established a policy that the family's revocation of consent to allow OHA to access records from financial institutions will result in denial of admission.

**3-II.E. EIV SYSTEM SEARCHES [Notice PHH 2018-18; EIV FAQs; EIV System Training 9/30/20; and Notice PHH 2023-27]**

**Existing Tenant Search**

Prior to admission to the program, OHA must search for all household members using the EIV Existing Tenant Search module. OHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. OHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to OHA, and a match is identified at a multifamily property, OHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

OHA will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. OHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

**Debts Owed to PHAs and Terminations**

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

OHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, OHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

**Income and Income Validation Tool (IVT) Reports**

For each new admission, OHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. OHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

## PART III: DENIAL OF ADMISSION

### 3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II must be denied admission.

In addition, applicants must satisfy OHA's policies for applicant background checks and screening to determine eligibility for admission, described in this Part III. OHA's authority in this area is limited by the Violence against Women Act (VAWA), which prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking [24 CFR 5.2005(b)].

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission. When considering any denial of admission, OHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. [HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.](#)

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

- [Required denial of admission](#)
- [The asset limitation in public housing](#)
- Other permitted reasons for denial of admission

- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Notice of eligibility or denial

### 3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires OHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require OHA to admit an otherwise-eligible family if the household member has completed a OHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

OHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if OHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by OHA, or the person who committed the crime is no longer living in the household.

- OHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)]. *Currently engaged in* is defined as any use of illegal drugs during the previous three months.
- OHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining reasonable cause, OHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal

activity. OHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state lifetime sex offender registration program.

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24CFR 5.618]**

**There are two circumstances under which a family is ineligible for the program based on asset ownership.**

**First, assistance may not be provided to any family if the family's net assets exceed \$100,00 (adjusted annually by HUD).**

**Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:**

- **A present ownership interest in the real property;**
- **A legal right to reside in the real property; and**
- **The effective legal authority to sell (based on state of local laws of the jurisdiction where the property is located) the real property.**

**However, the real property restriction does not apply in the following circumstances:**

- **Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;**
- **Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property.**
- **Any family that is offering the property for sale; or**
- **Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.**

**When a family asks for an exception because a family member is a victim of Domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self certification from the family member, and the restrictions on requesting documentation under VAWA apply.**

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A property is considered suitable for occupancy unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;  
*OHA defines not sufficient for the size of the family as being overcrowded based on the PHA's occupancy standards in Chapter 5.*
- Is geographically located so as to be a hardship for the family (e.g.; the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

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### **3-III.DC. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

HUD permits OHA to establish additional policies for denial of admission, discussed in this section. **Criminal Activity [24 CFR 960.203(c)]**

OHA is responsible for screening family behavior and suitability for tenancy. In doing so, OHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three years, the family will be denied admission.

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.

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- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three years. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, OHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, OHA may, on a case-by-case basis, decide not to deny assistance.

**Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]**

HUD authorizes OHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy. In the event of the receipt of unfavorable information with respect to an applicant, OHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, OHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

OHA will deny admission to an applicant family in the following cases:

- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program, including Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being approved.
  - When denying admission due to family debts as shown in HUD's EIV system, OHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report or other agency records.
  - If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. OHA will consider the information provided by the family prior to issuing a notice of denial.
- Applicants that include a family member who has been evicted from OHA public housing for criminal activity within the past 3 years.
- Applicants that include a family member who has been evicted from OHA public housing within the past 2 years for nonpayment of rent or other lease violations.
- Applicants that include a family member who is currently banned and barred from OHA property.
- Applicants that engage in fraud or deceitful manipulation of the application process. Any lie or intentional misrepresentation or deceitful manipulation of the application process will result in a denial of admission.
- Applicants that include a family member who has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

- Applicants who have engaged in or threatened violent or abusive behavior on OHA property toward a resident, a member of the public, or OHA staff.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, OHA will consider the factors discussed in Sections 3-III.FE and 3-III.GF. Upon consideration of such factors, OHA may, on a case-by-case basis, decide not to deny admission. OHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

### 3-III.EP. SCREENING

#### Criminal Background Screening for Eligibility

HUD has authorized OHA to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. In order to obtain access to the records, OHA requires every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903]. OHA will conduct criminal background checks of all adult household members. OHA does not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

OHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

In accord with HUD requirements, OHA's criminal background questionnaire will ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28]. OHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

OHA has established written procedures for evaluating criminal background checks. OHA's procedures specify the time period for which prior crimes will be considered in OHA's evaluation, with longer time periods for more serious crimes. OHA's procedures also assign points based on the seriousness of the offense.

OHA's Criminal Background Procedures are attached as Exhibit 3-2 at the end of this chapter.

Additionally, OHA must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28]. If OHA intends to deny admission based on a criminal record or on lifetime sex offender registration information, OHA must notify the household of the proposed action, and must provide the subject of the record and the applicant a copy of the record and an opportunity

to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

### **3-III.FE. CRITERIA FOR DECIDING TO DENY ADMISSION**

#### **Evidence**

OHA will use the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

#### **Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]**

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event OHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, OHA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

OHA will consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The extent of culpability of individual family members, including whether the culpable family member is a minor, or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family's participation in social service or other appropriate counseling service programs
- Whether the culpable household member is participating in or has successfully completed a supervised substance rehabilitation program or has otherwise been rehabilitated successfully

#### **Removal of a Family Member from the Application**

Should OHA's screening process determine that an applicant's household includes an individual subject to state lifetime registered sex offender registration, OHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling

to remove that individual from the household, OHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, OHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)]. OHA will not approve applications that depend upon removal of household members who are the head of household or a spouse or domestic partner of the head of household. For removal of other household members, OHA will require documentation demonstrating to OHA's satisfaction that the household member resides elsewhere and will not be residing in OHA's unit.

**Reasonable Accommodation [PH Occ GB, pp. 58-60]**

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, OHA will determine whether the behavior is related to the disability. If so, upon the family's request, OHA will consider whether alternative measures are appropriate as a reasonable accommodation. OHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission.

**3-III.G.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Although 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.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

**Notification**

VAWA requires PHA's to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

OHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PHA's policies.

While OHA is not required to identify whether adverse factors that resulted in the applicant's

denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking the applicant may inform OHA that their status as a victim is directly related to the grounds for the denial. OHA will request that the applicant provide enough information to OHA to allow OHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

OHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. OHA will request in writing that an applicant wishing to claim this protection notify OHA within 14 business days.

#### **Documentation**

##### ***Victim Documentation [24 CFR 5.2007]***

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, OHA will request in writing that the applicant provide documentation supporting the claim, in accordance with section 16-VII.D.

##### ***Perpetrator Documentation***

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- Documenting authorizing OHA to remove the perpetrator from the family, in accord with OHA policies for family breakup in Section 3-I.C.
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **3-III.HG. NOTICE OF ELIGIBILITY OR DENIAL**

OHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

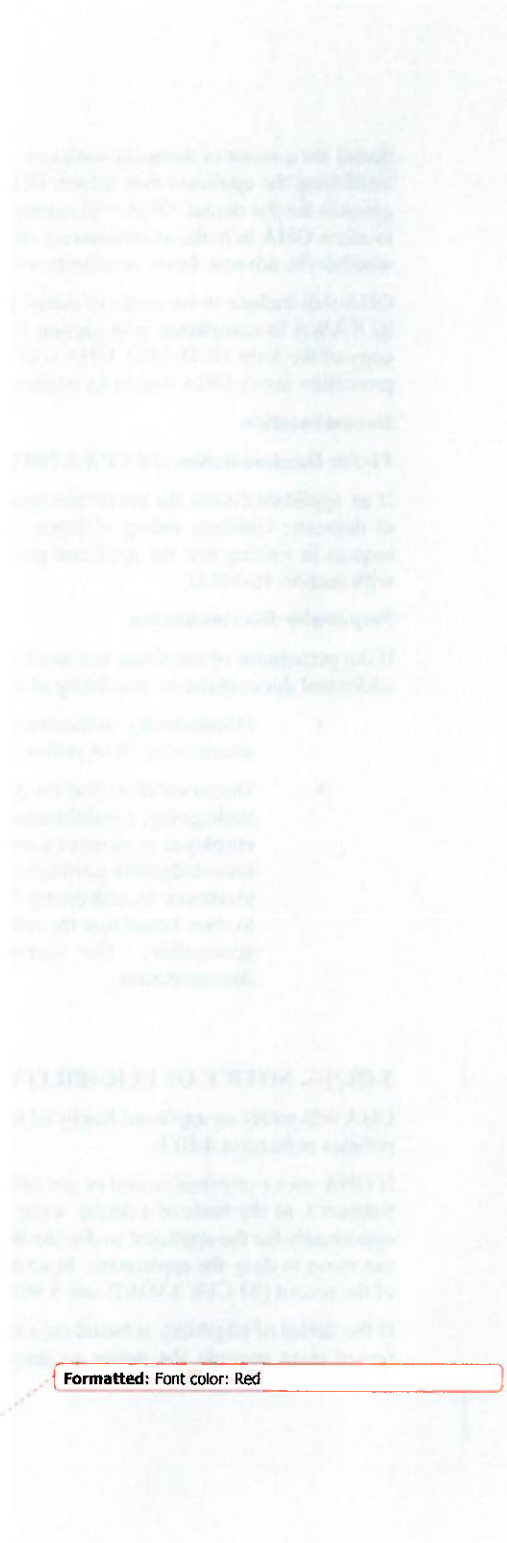
If OHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before OHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

If the denial of eligibility is based on a criminal record or sex offender registration, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the

accuracy and relevance of the information before OHA can deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking or human trafficking are contained in Section 3-III.F.



### EXHIBIT 3-1: HUD PROGRAM DEFINITION OF PERSONS WITH DISABILITIES

#### Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

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**Individual with Handicaps [24 CFR 8.3]**

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine
  - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
  - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
  - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
  - (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

### EXHIBIT 3-2: OHA CRIMINAL BACKGROUND CHECK PROCEDURES

The Omaha Housing Authority (OHA) conducts criminal background checks according to the following procedures in order to ensure that every applicant is treated fairly and equally. OHA will provide a copy of these Criminal Background Check Procedures to every applicant at the time of application.

1. OHA will conduct a criminal background check of every adult in an applicant's household. The criminal background check is used by OHA to determine if an applicant is eligible to apply to an OHA program and maintain a position on the waiting list.
2. Each adult in an applicant's household is required to complete a background questionnaire and to sign a release form giving OHA the authority to review information concerning the individual's criminal background with local, state, and federal law enforcement agencies, including sex offender data and information from jurisdictions other than Nebraska.
3. An application will be denied if an adult member of the household fails to sign the release form consenting to a criminal background check.
4. OHA may conduct its criminal background checks at any time after an application is submitted. OHA will review criminal records according to their status on the date the criminal background check is conducted by OHA. OHA may conduct additional background checks at any time prior to an applicant's lease-up.
5. If an applicant anticipates that its household may not pass the criminal background check, the applicant may withdraw the application without penalty at any time prior to the date of OHA's written notice of denial.

Otherwise, applicants denied due to the criminal background check are subject to a waiting period before they may submit a new application.

6. OHA will consider only convictions, and will not consider arrests, acquittals, or charges dismissed - except as described in these procedures, which permit the following exceptions:
  - a. Persons found not guilty by reason of insanity (paragraph #7),
  - b. Persons currently banned and barred from OHA premises (paragraph #8.c), and
  - c. Persons with outstanding warrants for serious criminal offenses (paragraph #14).
7. OHA reserves the right to consider any verdicts where the household member is found not guilty by reason of insanity. OHA has a compelling interest to provide safe housing for its tenants, and it may be necessary for OHA to consider this exception in order to ensure a secure environment.

8. OHA will deny the following applications:
- a. An application in which any adult household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally-assisted housing.
  - b. An application in which any adult household member is subject to a lifetime registration requirement under a State sex offender registration program.
  - c. An application in which any adult member of the household is currently banned and barred from OHA property.
9. OHA will review other criminal convictions that occurred within the past five, three, or two years, depending on the severity of the offense. The evaluation period begins from the date of conviction. The date the offense actually occurred, or the date a person was arrested or charged, may be outside the evaluation period.
10. An application will receive 4 points and be denied if any adult member of the household has been convicted of the following crimes within the past FIVE YEARS:
- a. Homicide
  - b. Burglary or robbery
  - c. Rape, sexual assault, sexual molestation, debauchery of a minor, or related offenses
  - d. Assault with a deadly weapon
11. An application will receive 4 points and be denied if any adult member of the household has been convicted of the following crimes within the past THREE YEARS:
- a. Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage
  - b. Illegal use of a firearm or threat to use an illegal firearm
  - c. Illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug
  - d. Other Criminal activity that may threaten the health, safety, or welfare of other tenants, OHA staff, contractors, subcontractors, or agents.
12. OHA will consider all other convictions and infractions during the past TWO YEARS. These offenses will be assigned points and scored as follows:
- |  |   |
|--|---|
| Felony of any degree   | 3 |
| 1 <sup>st</sup> degree misdemeanor: injury to persons or property, threats or weapons- related | 3 |
| 1 <sup>st</sup> degree misdemeanor: all other offenses   | 2 |
| 2 <sup>nd</sup> degree misdemeanor: injury to persons or property, threats, or weapons-related | 2 |
| 2 <sup>nd</sup> degree misdemeanor: all other offenses   | 1 |
| Other misdemeanors: class 3, 4, or non-class   | 1 |
| Other infractions  | 1 |
| Minor traffic offenses - except DUI, vehicular homicide, and reckless driving                  | 0 |

DUI, vehicular homicide, and reckless driving will be scored according to how the offense is categorized.

13. An individual scoring four (4) or more points on a criminal background check will be denied and OHA will withdraw the application.
14. OHA will deny an application if any adult household member has an outstanding warrant for criminal activity listed in paragraphs #8, 10, and 11 above.

However, OHA will offer the applicant the opportunity to resolve the outstanding warrant. OHA will provide written notice to the applicant of OHA's intent to deny eligibility. This notice will give the family 14 calendar days to provide OHA with documentation demonstrating that the warrant has been satisfied. If OHA has not received satisfactory documentation within the specified timeframe, the applicant will be denied and removed from the waiting list, and the applicant will receive written notice (including opportunity for a grievance hearing) as provided below and in OHA's ACOP and Administrative Plan policies.

OHA will not consider outstanding warrants for other offenses reviewed per paragraph #12. OHA will consider only outstanding warrants for criminal activity specified in paragraphs #8, 10, and 11.

15. OHA will deny an application if any household member fails the criminal background check.

However, as part of the informal hearing process, the applicant will be given the opportunity to remove the household member whose criminal history failed, and the application will be re-considered for approval. OHA will not approve applications that depend upon removal of household members who are the head of household or a spouse or domestic partner of the head of household. For removal of other household members, OHA will require documentation demonstrating to OHA's satisfaction that the household member resides elsewhere and will not be residing in the OHA-assisted unit.

16. If an applicant or any adult member of the household fails a criminal background check, OHA's hearing officer may consider evidence of rehabilitation. For example, for a drug possession or alcohol-related offense, completion of substance use treatment and rehabilitation may be considered. OHA's hearing officers will not re-examine the prior judgment of a court. Instead, the hearing may offer the applicant an opportunity to demonstrate that a prior conviction does not represent a person's current or future behavior. The hearing officer may deduct any points associated with the relevant charges, at the discretion of the hearing officer and in accord with evidence provided in the hearing.
17. If an application will be denied due to the criminal background of a member of the applicant's household, OHA will provide written notice to the applicant head of household and to the adult household member who is the subject of the criminal record, in accord with OHA's policies. This denial and withdrawal notice will inform the applicants of their rights to appeal OHA's determination.

## Chapter 4

### APPLICATIONS, WAITING LIST AND TENANT SELECTION

#### INTRODUCTION

This chapter describes OHA policies for accepting applications, managing the waiting list, and selecting families from the waiting list. OHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise OHA's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

**Part I: The Application Process.** This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how OHA will handle the applications it receives.

**Part II: Managing the Waiting List.** This part presents the policies that govern how OHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process that OHA will use to keep the waiting list current.

**Part III: Tenant Selection.** This part describes the policies that guide OHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that OHA has the information needed to make a final eligibility determination.

## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

This part describes the policies that guide OHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes OHA's obligation to ensure the accessibility of the application process.

### **4-I.B. APPLYING FOR ASSISTANCE**

Any family that wishes to reside in public housing must apply for admission to the program OHA uses a two-step application process. Under the two-step application process, OHA initially requires families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Applications for OHA's public housing program are available online via OHA's website. Families may obtain assistance or access to computers to complete application forms from the OHA's office during normal business hours. Applications must be filled out completely in order to be accepted by OHA for processing. If an application is incomplete, OHA will notify the family. OHA may deny eligibility to a person who fails to provide required information.

### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

OHA takes a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard application process.

#### **Disabled Populations [24 CFR 8; PH Occ GB, p. 68]**

OHA will provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process is fully accessible. Chapter 2 provides a full discussion of OHA's policies related to providing reasonable accommodations for people with disabilities.

#### **Limited English Proficiency**

OHA will take reasonable steps to ensure meaningful access to programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

#### 4-ID. PLACEMENT ON THE WAITING LIST

OHA will review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open are placed on the waiting list unless OHA determines the family to be ineligible. Where the family is determined to be ineligible, the OHA will notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Placement on the waiting list does not guarantee that the family is eligible for admission. No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list. Applicants may check the status of their application in person at OHA's main office or on the website.

##### **Ineligible for Placement on the Waiting List**

If OHA determines from the information provided that a family is ineligible, the family will be withdrawn from the waiting list. When a family is determined to be ineligible, OHA will send written notification of the ineligibility determination within a reasonable time period of receipt of the completed pre-application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

##### **Waiting Period Restrictions for Applicants Re-Applying**

If an applicant has been withdrawn from the waiting list, OHA requires a waiting period of six months before the person may submit a new application. This includes applicants who were denied assistance, determined to be ineligible, or otherwise withdrawn from the waiting list as an adverse action by OHA. The waiting period begins on the date of OHA's written notice of the adverse action.

The waiting period requirements do not apply to applicants who voluntarily withdraw an application from OHA's waiting list prior to the date of notice of a unit offer, or prior to the date of notice of any adverse action by OHA. Applicants who are ineligible due to debts owed are able to reapply once a bad debt is paid with no additional waiting period.

##### **Eligible for Placement on the Waiting List**

OHA will send written/electronic notification of the preliminary eligibility determination after receiving a completed application. Applications are placed on OHA's waiting list according to the date and time the application is received by OHA.

OHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to OHA standards and local codes). However, in these cases, the family must agree not to request a transfer for one year after admission, unless they have a change in family size or composition. Within each bedroom size list, an applicant's position on the public housing waiting list will be based on any priorities or preferences for which the family is qualified, and thereafter by the date and time the complete application was received by OHA.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, OHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

## PART II: MANAGING THE WAITING LIST

### 4-II.A. OVERVIEW

This part presents the policies that govern how the type of waiting list OHA will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

### 4-II.B. ORGANIZATION OF THE WAITING LIST

The waiting list will contain the following information for each applicant listed:

- Name of head of household
- Unit size required (number of family members)
- Amount ~~and source~~ of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

OHA maintains ~~one two~~ waiting list for its developments, one for general occupancy and one for senior housing. Within the lists, OHA designates subparts by bedroom size. OHA does not have site-based waiting lists. OHA's public housing waiting list procedures are consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher program that OHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)]. An applicant on OHA's public housing waiting list may also maintain a position on OHA's Section 8 waiting list. An applicant may retain its position on the Section 8 waiting list even if the family is housed in OHA's public housing program. OHA does not merge its public housing waiting list with the Section 8 waiting list. OHA's public housing waiting list does include subsidized units owned or managed by OHA's affiliate, Housing in Omaha, Inc. and units subsidized with low income housing tax credits, which may have different eligibility requirements from public housing units.

### 4-II.C. OPENING AND CLOSING THE WAITING LIST

#### Closing the Waiting List

OHA may close its public housing waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. OHA may close the waiting list completely, or restrict intake by preference, specific housing types, or bedroom sizes of dwelling units, when OHA has determined it has an adequate pool of applicants for those specific bedroom sizes [PH Occ GB, p. 31].

OHA may close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where OHA has particular preferences or other criteria that require a specific category of family, OHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

#### Re-opening the Waiting List

If the waiting list has been closed, it may be reopened at any time. OHA will announce the reopening of the waiting list at least 3-5 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. ~~If the list is only being reopened for certain categories of families, this information will be contained in the notice.~~ The notice will specify on-line portal web address where applicants can submit their application and current preference information is outlined ~~where, when, and how applications are to be received.~~ OHA will give public notice by publishing the relevant information in suitable media outlets to ensure that public notices broadly reach potential applicants in all communities throughout the housing market area. ~~OHA will describe its prioritization system and will clearly state that this system will be used to place applicants on the waiting list.~~

~~To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area.~~ Such notice must comply with HUD fair housing requirements.

#### 4-III.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

OHA will conduct outreach as necessary to ensure that it has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

OHA may conduct special outreach to ensure that an adequate number of extremely low income families apply for public housing. OHA's outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
  - Avoiding outreach efforts that prefer or exclude people who are members of a protected class

OHA's outreach efforts are designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

OHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in OHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

#### 4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform OHA in writing electronic, within 10 business days, of any changes regarding:

- Family size or composition
- Preference status
- Contact information, including current residence, mailing address, email, and phone number
- Any other changes that would affect the applicant's eligibility for OHA housing assistance or placement on OHA's waiting list

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size, housing type, or entitlement to a priority or preference. When an applicant reports any change that affects their placement on the waiting list, the waiting list will be updated accordingly.

The applicant may maintain its placement on the waiting list according to the date and time the original application was received, provided that the change was reported prior to the applicant's selection from the waiting list, as follows:

- When an applicant reports any changes, unless it changes the bedroom size, to OHA prior to the applicant's selection from the waiting list, the applicant will retain its placement on the waiting list according to the date and time the original application was received.
- If an applicant reports changes after the date of OHA's notice of selection from waiting list, but the reported changes would not have affected the applicant's position on the waiting list, or the order of selection from the waiting list (for example, changes in contact information or changes in family composition that would not affect the bedroom size), the applicant will retain its position according to the date and time the original application was received.

After the date of OHA's notice of the applicant's selection from the waiting list, if the applicant family subsequently reports changes that would have affected the applicant's position on the waiting list (e.g. bedroom size), the applicant will not be selected and will instead be placed in the correct order on the waitlist. This includes changes reported by the applicant during the

application interview and final eligibility determination. The applicant will not be removed from the waiting list or be required to wait an applicable waiting period before re-application.

#### **4-IL.F. UPDATING THE WAITING LIST**

##### **Purging the Waiting List**

The waiting list will be updated as needed to ensure that all applicant information is current and timely. This section establishes policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

To update the waiting list, OHA will send an update request to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the contact information that OHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list. The family's response must be in writing via the online portal. If the family fails to timely respond within the specified time period, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice. If the notice is returned by the post office with a forwarding address, a new update request notice will be sent to the address indicated. If the family fails to respond within the specified time frame, the family will be removed from the waiting list without further notice.

When a family is withdrawn from the waiting list during the update process for failure to respond, OHA will give that family a reasonable period of time to respond with their interest so as to not inadvertently remove an applicant who remains interested but may have moved, changed their contact information, or otherwise are difficult to reach. No informal hearing will be offered in such cases. Such failures to act on the part of the applicant prevent OHA from making an eligibility determination; therefore no informal hearing is required.

If a family is withdrawn from the waiting list for failure to respond, OHA will reinstate the family if the lack of response was due to OHA error, to circumstances beyond the family's control, or as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking including an adverse factor resulting from such abuse.

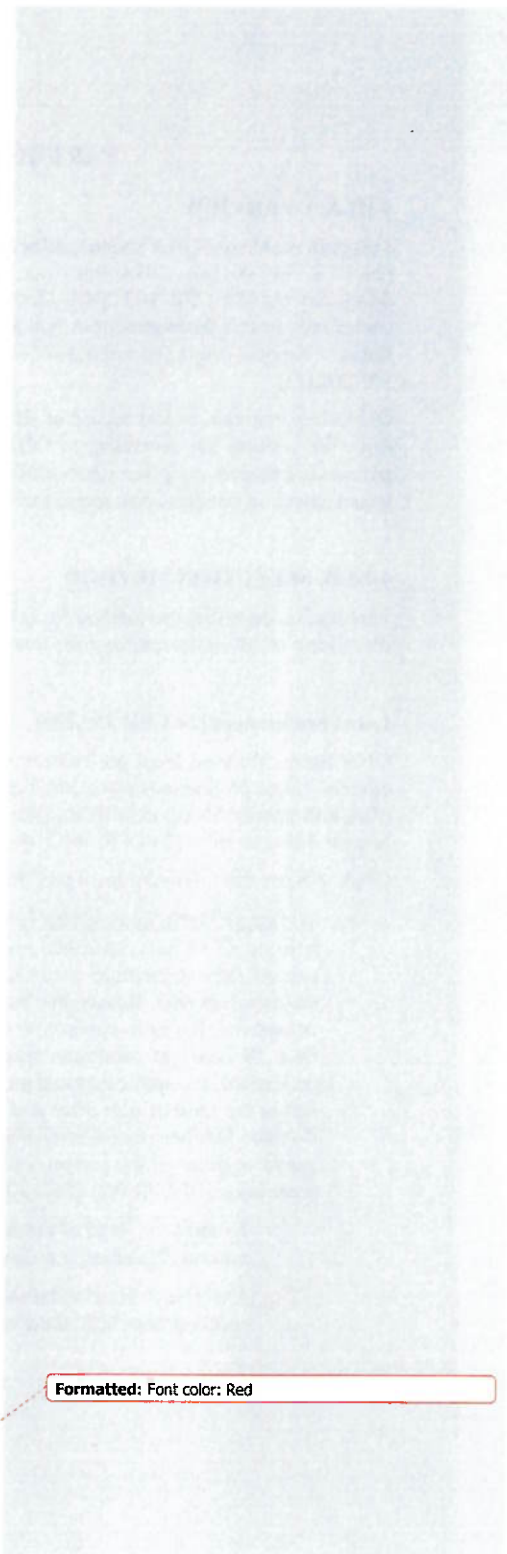
The decision to withdraw any application from the waiting list is subject to reasonable accommodation of disability. If an applicant did not timely respond to OHA's communications for reasons directly related to a family member's disability, OHA will reinstate the applicant family to their former position on the waiting list, upon the family's request and OHA's verification of the requested accommodation of disability [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

##### **Removal from the Waiting List**

OHA will remove an applicant from the waiting list upon request by the applicant family. In such cases, no informal hearing is required. If OHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list, the family will be

removed from the waiting list. If a family is removed from the waiting list because OHA has determined the family is not eligible for admission, a notice will be sent to the families in accordance to Chapter 3.

Applicants whose applications have been withdrawn from OHA's public housing waiting list for any reason may maintain any existing position on OHA's waiting list for Section 8 or any other OHA housing program that is not included in OHA's public housing waiting list.



## PART III: TENANT SELECTION

### 4-III.A. OVERVIEW

This part establishes OHA's tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. OHA does not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. OHA does not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

OHA shall maintain a clear record of all information required to verify that the family is selected from the waiting list according to OHA's selection policies [24 CFR 960.206(e)(2)]. OHA's policies are posted any place where OHA receives applications. OHA shall provide a copy of its tenant selection policies upon request to any applicant or tenant.

### 4-III.B. SELECTION METHOD

This section describes the method for selecting applicant families from the waiting list, including the system of admission preferences that OHA uses.

#### Local Preferences [24 CFR 960.206]

OHA has established local preferences which gives priority to serving families that meet those criteria. Local preferences established are consistent with the agency plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

OHA will use the following local preferences:

- Working/Elderly/Disabled Preference: In order to bring higher income families into public housing, OHA has established a preference for "working" families, where the head, spouse, cohead, or sole member is currently working at least 28 hours per week during the prior six-month period. Reasonable breaks in employment during the last six months will be considered. For individuals who are self-employed, total income must be equal to or more than 28 hours at minimum wage as evidenced by tax records. To benefit from this preference, the applicant must meet the requirements at the time they claim the preference and at the time of unit offer and lease signing as required by HUD, elderly families and disabled families (families where the head and spouse, co-head or sole member is a person age 62 or older, or is a person with disabilities) will also be given the benefit of the working preference [24 CFR 960.206(b)(2)].
  - Example 1: Head of household is elderly, but does not work. There is no spouse or cohead. This family receives benefit of the working preference.
  - Example 2: Head of household is 64, spouse is disabled. Neither work. This family receives benefit of the working preference.

- Displacement Due to Disaster, Condemnation or Other Government Action: This ~~preference~~ ~~priority~~ is available to applicants who have been displaced because their housing has been deemed uninhabitable by a city agency or other appropriate authority due to a disaster such as flood or fire or other cause that is not due to the fault of the applicant, the applicant's family members, household members, or guests. This priority is also available to applicants whose housing has been declared unfit for habitation by an agency of government, though no fault of the applicant, or when the household is required to permanently move from its residence by a federal, state, or local governmental actions such as code enforcement, public improvements, or a development program.
- Seniors. (families where the head, spouse, co-head or sole member is a person 62 or older) is used for selecting out of order on the 1 and 2 bedroom wait lists in order to fill vacancies in the designated senior towers.
- CNI Relocation for Split Families: this preference is available for families at Southside Terrace Homes (CNI) Choice Neighborhood Improvement grant relocation when there is a need to split household and family members to meet Public Housing Occupancy standards.
- Section 8 tenant-based and project-based Housing Choice Voucher families who are displaced due to Housing Quality Standards (NSPIRE) failed inspections where landlords/owners are non-compliant with required repairs. This preference is available to public housing applicants where PHA programs have HCV and PH-owned units.

Local preferences will be aggregated using a system in which each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

- The preference for working/elderly/disabled families will be equal to two points.
- The preference for victims of displacement will be equal to one point.
- The preference for seniors, 62 and over will be equal to zero points
- The preference for CNI Relocation for Split Families will be equal to ten points
- The preference for Section 8 participants displaced due to landlord failed inspection items will be equal to one point.

Applicants qualifying for more than one both preferences (with points applied) will thus be assigned at the total accumulated of three points. Among applicants who qualify for the equal amount of two preferences points, date and time of application will be used to determine placement on the waiting list.

Applicants may inform OHA of their eligibility for a preference at the time of initial application, or at any time while the applicant maintains a position on OHA's waiting list. Applicants will be required to complete a certification and provide documentation of their eligibility or preference. Applicants are required to notify OHA of any change in status that affects their eligibility for preferences, as provided in Section 4-11.E.

An applicant's continued eligibility for any preference will be verified again at the time of selection from the waiting list and final eligibility determination. In order to receive the benefit of

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the preferences, the applicant must maintain eligibility for the preferences to the time the applicant is admitted to the program.

#### **Income Targeting Requirement [24 CFR 960.202(b)]**

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during OHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, OHA may skip non-ELI families on the waiting list in order to select an ELI family.

Admissions of extremely low-income families to OHA's housing choice voucher program during the fiscal year that exceed the 75 percent minimum target requirement for the voucher program, shall be credited against the basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances, the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the fiscal year; (2) ten percent of waiting list admissions to the housing choice voucher program during the fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family. **Units Designated for Elderly or Disabled Families [24 CFR 945]**

Some public housing developments were originally developed for elderly residents and have retained this occupancy requirement. OHA's public housing portfolio includes 4 towers designated for elderly families:

- Evans Tower
- Crown Tower
- Kay Jay Tower
- Underwood Tower

Eligibility is restricted to families whose head of household, spouse, or co-head is 62 years of age or older. **Applicants with Senior preference will be selected off wait list out of order as needed to fill vacancies.** If there are not enough elderly families to occupy the units in an elderly development, OHA may admit near-elderly families, which are families whose head of household, spouse, or cohead is at least 50 years old [24 CFR 945.303(c)(1); 24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, OHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any elderly family not to occupy or accept occupancy in elderly-designated housing shall not have an adverse effect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

### **Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]**

OHA's admission policies provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. The deconcentration policies also comply with the obligation to meet income-targeting requirements [24 CFR 903.2(c)(5)]. A statement of the deconcentration policies is included in OHA's annual plan [24 CFR 903.7(b)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments designated specifically for elderly or disabled families; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

#### ***Steps for Implementation [24 CFR 903.2(c)(1)]***

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, OHA complies with the following steps:

Step 1. OHA will determine the average income of all families in all covered developments on an annual basis. OHA may use the median income, instead of average income, provided that the OHA includes a written explanation in its annual plan justifying the use of median income.

Step 2. OHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis. OHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, OHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

Step 3. OHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low-income family (federal poverty level or 30 percent of median income, whichever number is higher).

Step 4. OHA will determine whether or not covered developments having average incomes outside the EIR are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, OHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

For developments outside the EIR OHA will take one or more of the following actions to provide for deconcentration of poverty and income mixing:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments

- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the deconcentration policy. OHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

**Order of Selection [24 CFR 960.206(e)]**

When OHA prepares to fill vacant units, OHA will select applicants from the waiting list for the bedroom size of the vacant units. OHA estimates the number of applicants needed to fill the vacancies. OHA will select this number of families from the public housing waiting list based on the applicant’s preference points. Among applicants with the same number of preference points, families will be selected ~~on a first-come, first-served basis according~~ according to the original date and time their complete application was received by OHA.

When selecting applicants from the waiting list, OHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. Seniors who qualify and select the senior preference will be selected off the wait list out of order when needed to fill designated senior housing units. OHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

**4-III.C. NOTIFICATION OF SELECTION [24 CFR 960.208]**

When a family has been selected from the waiting list, OHA will notify the family in writing electronic [24 CFR 960.208]. The notice will inform the family of the following:

- Processes and timeline for completing the intake certification and eligibility verification process
- Documents that must be provided to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided to document eligibility for a preference, if applicable
- Other documents and information needed.

**4-III.D. THE ELIGIBILITY VERIFICATION PROCESS**

OHA will obtain the information and documentation needed to make an eligibility determination through an online verification process. Requesting this information does not constitute admission to the program. Reasonable accommodation will be made for persons with disabilities who need

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assistance completing verification processes due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

All families selected from the waiting list are required to participate in an eligibility verification process. The family must provide the information necessary to establish the family's eligibility to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation.

Verification of information pertaining to adult members of the household will not begin until signed release forms are returned. Documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity) is required.

Assistance cannot be provided to the family until all SSN documentation requirements are met. Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for a period of 90 days [Notice PIH 2018-24]. If not all household members have disclosed their SSNs at the next time a unit becomes available, OHA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for the preference (see Chapter 7). If OHA determines the family is not eligible for the preference, the family will be placed back on the waiting list according to the date and time of their application.

Any required documents or information that the family is unable to provide must be provided within 10 business days of the request or other time period specified by OHA (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial based on the family's failure to supply information needed to determine eligibility. ~~Such failure to act on the part of the applicant prevents OHA from making an eligibility determination, therefore OHA will not offer an informal hearing.~~

#### **4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]**

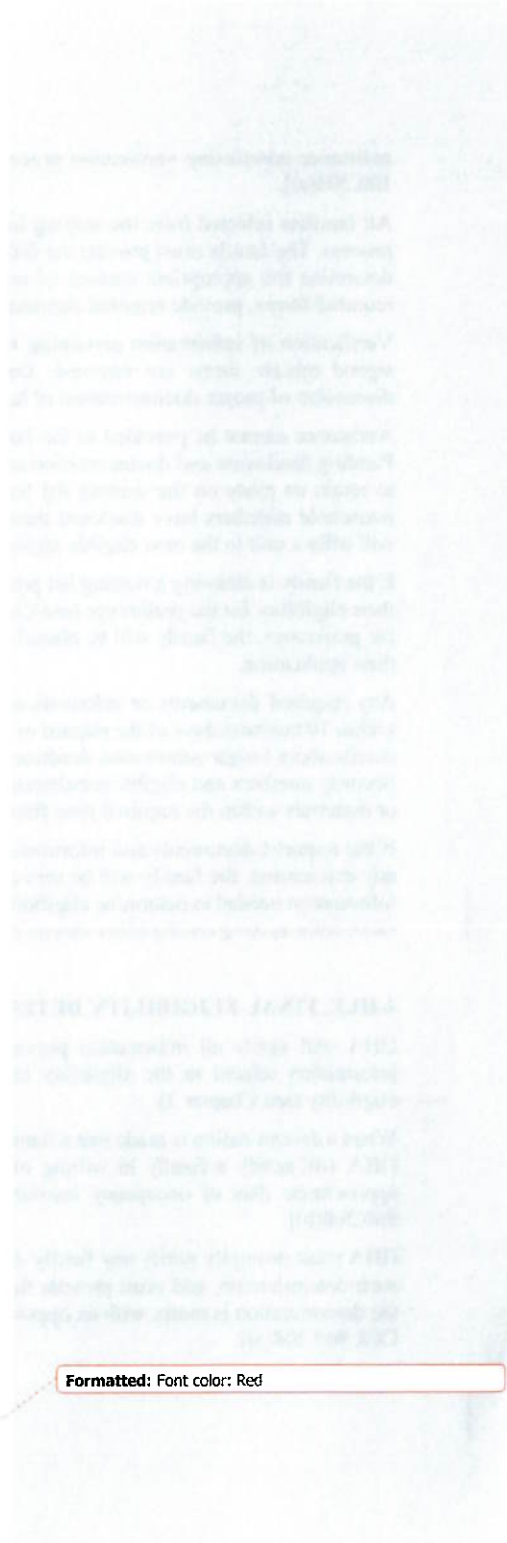
OHA will verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, OHA will make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, OHA will notify a family in writing of their eligibility. The applicant will be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

OHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

If OHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. See Section 3-III.G for OHA's policy regarding such circumstances.

OHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.



**RESOLUTION NO. 2024 – 90**  
**REVISIONS TO THE PUBLIC HOUSING ACOP**

**WHEREAS**, staff of the Housing Authority of the City of Omaha (OHA) seeks to make revisions to specific policies in the Admissions and Continued Occupancy Policies (ACOP) for the public housing program;

**WHEREAS**, the revisions proposed in this Resolution include Chapter 0 (Introduction); Chapter 1 (Overview of the Program and Plan); Chapter 2 (Fair Housing and Equal Opportunity); Chapter 3 (Eligibility); and Chapter 4 (Applications, Waiting List and Tenant Selection);

**WHEREAS**, certain policy revisions proposed in this Resolution cannot be implemented until HUD announces the new effective date for implementation;

**WHEREAS**, OHA staff recommends that the Board of Commissioners adopt the revised Chapters 0-4 of the Admissions and Continued Occupancy Policies;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners hereby adopts the revised Chapters 0-4 of the Admissions and Continued Occupancy Policies.

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David Levy, Chair  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Assistant Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

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Joanie Poore, Secretary  
Housing Authority of the City of Omaha

4.2.2. Resolution 2024-93 Move Dec 2024, Cancel Jan 2025, Move Feb 2025  
Board Meeting

**RESOLUTION NO. 2024 – 93**  
**RESOLUTION TO CHANGE BOARD MEETING DATES FOR**  
**DECEMBER 2024, JANUARY 2025, AND FEBRUARY 2025**

**WHEREAS**, the OHA Bylaws require that the Board of Commissioners meet for a regular monthly meeting on the first Thursday of the month, unless a majority of the Commissioners determine that the meeting be moved to a different date and/or time;

**WHEREAS**, the regular December 2024 meeting is scheduled to occur on December 5, 2024, and, by a vote of the majority of the Commissioners, it has been determined that such meeting shall be held on December 19, 2024 at 8:30 a.m.;

**WHEREAS**, the regular January 2025 meeting is scheduled to occur on January 2, 2025, and, by a vote of the majority of the Commissioners, it has been determined that such meeting shall be cancelled; and

**WHEREAS**, the regular February 2025 meeting is scheduled to occur on February 6, 2025, and, by a vote of the majority of the Commissioners, it has been determined that such meeting shall be held on January 30, 2025 at 8:30 a.m.;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Commissioners of the Housing Authority of the City of Omaha hereby determines that the December 2024 meeting of the Board of Commissioners shall be held on December 19, 2024 at 8:30 a.m.; the January 2025 meeting of the Board of Commissioners shall be cancelled; and the February 2025 meeting of the Board of Commissioners shall be held on January 30, 2025 at 8:30 a.m.

---

David Levy, Chair  
OHA Board of Commissioners

ATTEST

I, Joanie Poore, Secretary of the Housing Authority of the City of Omaha, do hereby certify that this resolution was properly adopted at the meeting of the Board of Commissioners of the Housing Authority of the City of Omaha held October 9, 2024.

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Joanie Poore, Secretary  
Housing Authority of the City of Omaha

4.2.3. Resolution 2024-94 Bond Inducement for Southside Terrace Phase 3

RESOLUTION NO. 24-\_\_

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE OMAHA HOUSING AUTHORITY, EXPRESSING AN INTENT TO ISSUE BONDS AND REIMBURSE CERTAIN QUALIFIED EXPENDITURES WITH PROCEEDS OF ONE OR MORE ISSUES OF SUCH BONDS TO BE ISSUED IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$18,000,000 TO FINANCE THE ACQUISITION AND CONSTRUCTION OF A MULTIFAMILY HOUSING APARTMENT AND TOWNHOME APARTMENT DEVELOPMENT; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

WHEREAS, the Omaha Housing Authority (“OHA”) has been created as a public body, corporate and politic, designated a political subdivision of the State of Nebraska (the “State”) pursuant to Nebraska Revised Statutes Section 71-1572, et seq. (the “Act”), exercising necessary and essential governmental functions for the purposes stated in the Act; and

WHEREAS, OHA is authorized and empowered by the constitution and laws of the State, including the Act to issue bonds and other debt instruments to finance the development and operation of decent, safe and sanitary rental housing that is affordable to persons of low and moderate income; and

WHEREAS, OHA desires to issue bonds and reimburse Brinshore Development LLC or an affiliate thereof (the “Borrower”) with proceeds of one or more issues of such bonds issued by OHA (the “Bonds”) in an amount not to exceed \$18,000,000, for the purpose of financing the acquisition and construction of a multifamily rental housing development expected to be known as the Southside Terrace, a 114-unit rental housing project to be located at or near 5529 S. 30<sup>th</sup> Street, Omaha, Douglas County, Nebraska (the “Project”) consisting of 88-units to be occupied by persons of low and/or moderate income in compliance with the Act, the rules of OHA and applicable provisions of the Internal Revenue Code of 1986, as amended; and

WHEREAS, OHA has determined that it is appropriate and necessary that OHA express its intention to issue the Bonds and to reimburse certain qualified expenditures incurred by the Borrower with respect to the acquisition and construction of the Project with the proceeds of the Bonds; and

WHEREAS, except for certain preliminary expenditures for which the Borrower may be reimbursed in accordance with Treasury Regulation Section 1.150-2(f)(2), no costs of the Project to be reimbursed have been paid more than 60 days prior to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF OMAHA HOUSING AUTHORITY THAT:

1. In order to finance the acquisition and construction of the Project, OHA hereby expresses its intent to issue the Bonds and reimburse certain qualified expenditures incurred by the Borrower with respect to the acquisition and construction of the Project with proceeds of the Bonds, in an amount not to exceed \$18,000,000. Qualified costs to be reimbursed shall be determined in accordance with the provisions of Treasury Regulation Section 1.150-2. The exact amounts, maturities, interest rates, redemption terms and other terms and provisions of the Bonds will be determined by a future resolution of OHA.

2. Subject to final approval by OHA, OHA will loan the proceeds of the Bonds to the Borrower for purposes of owning and operating the Project or otherwise financing the Project to or for the Borrower, pursuant to the terms of an agreement to be approved by OHA upon the adoption of a future resolution of OHA.

3. The provisions of this resolution are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

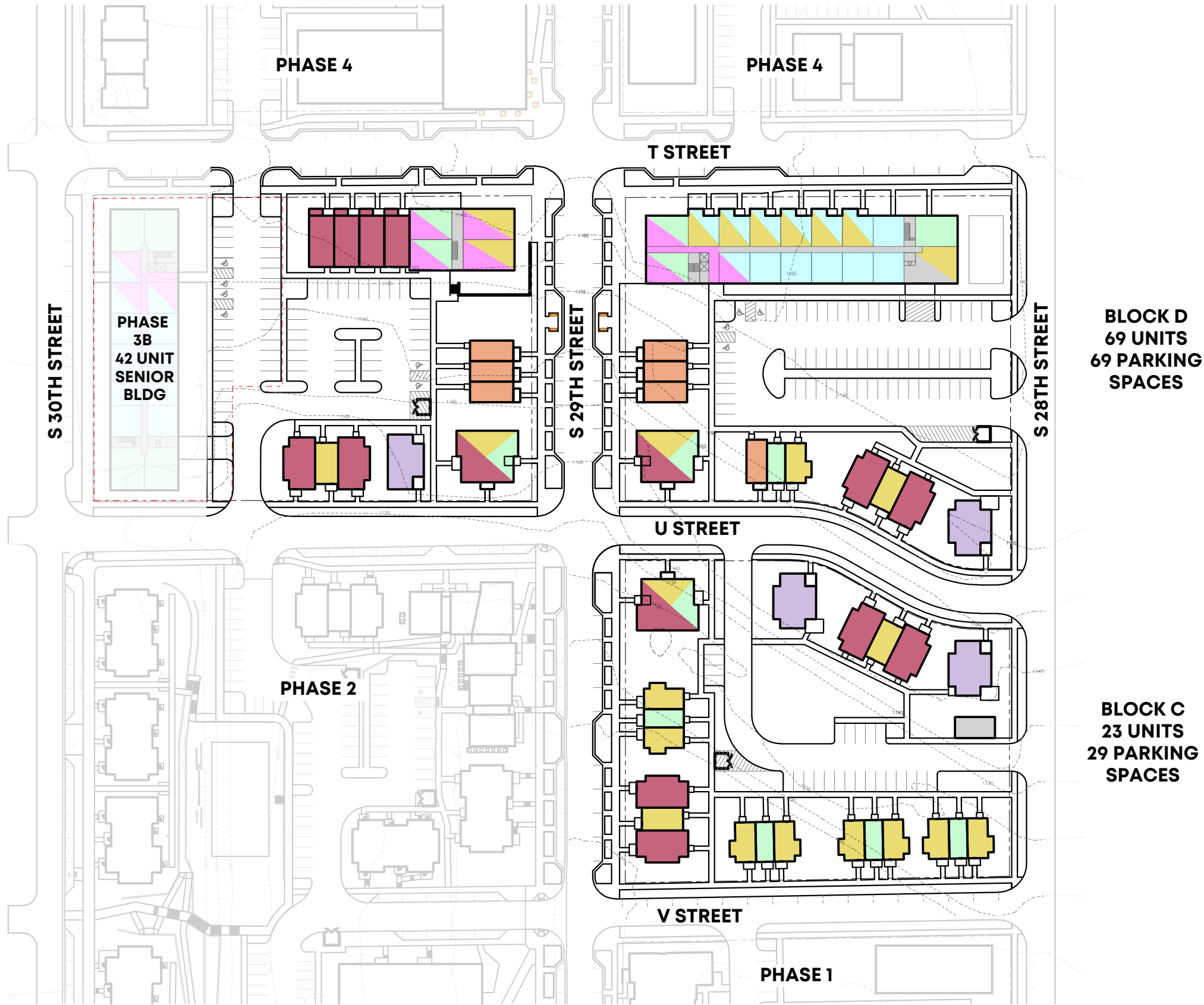
4. That this Resolution shall become effective immediately upon its passage and approval.

Adopted and approved this 9<sup>th</sup> day of October, 2024 by the Board of Commissioners of Omaha Housing Authority.

By: \_\_\_\_\_  
David C. Levy  
Chair

ATTEST:

\_\_\_\_\_  
Joel Dougherty  
Vice-Chair



**BLOCK E**  
 22 UNITS PH3  
 42 UNITS PH3B  
 64 PARKING SPACES

**PHASE 3B**  
 42 UNIT SENIOR BLDG

**PHASE 4**

**T STREET**

**BLOCK D**  
 69 UNITS  
 69 PARKING SPACES

**S 28TH STREET**

**U STREET**

**BLOCK C**  
 23 UNITS  
 29 PARKING SPACES

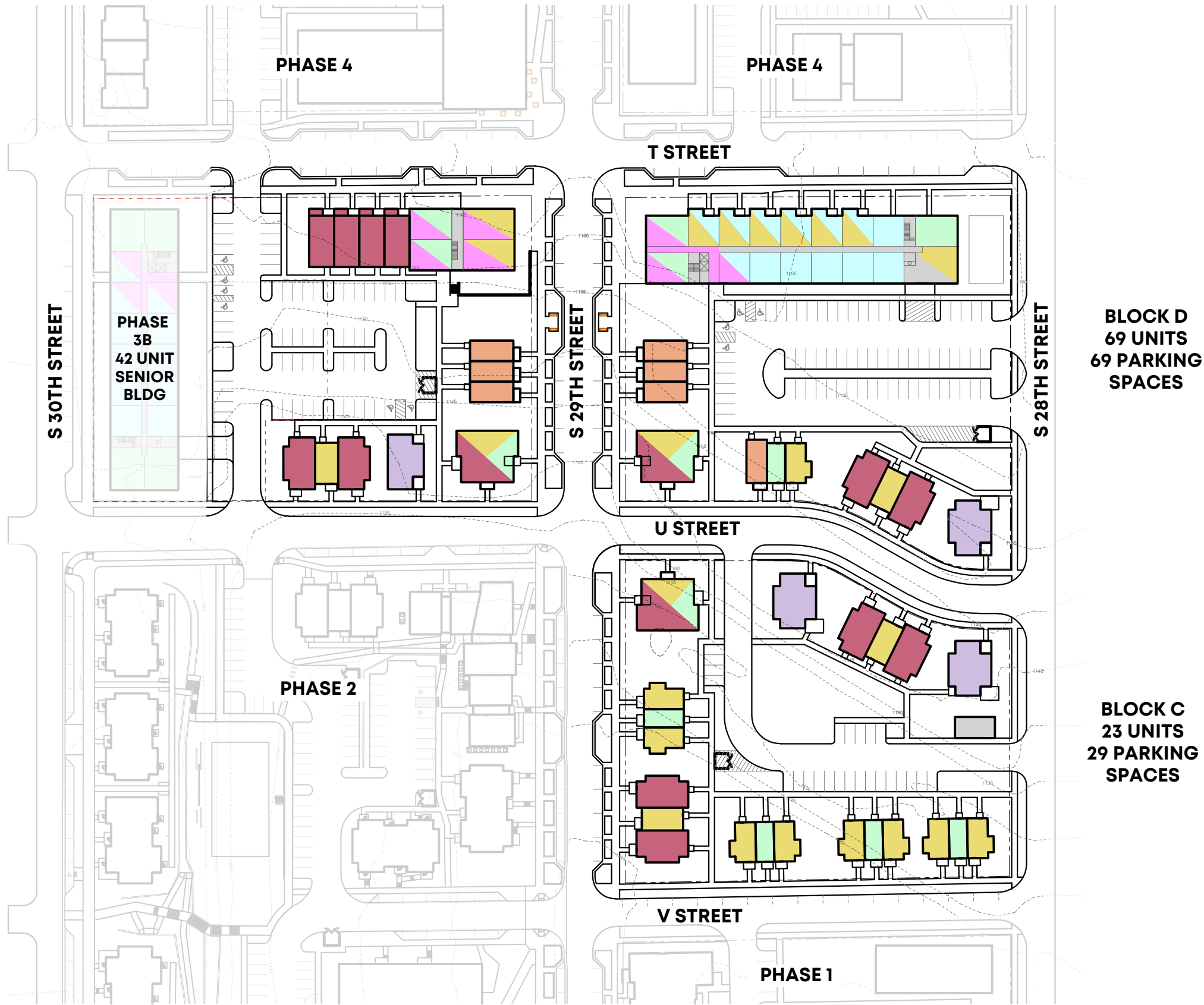
**PHASE 2**

**V STREET**

**PHASE 1**

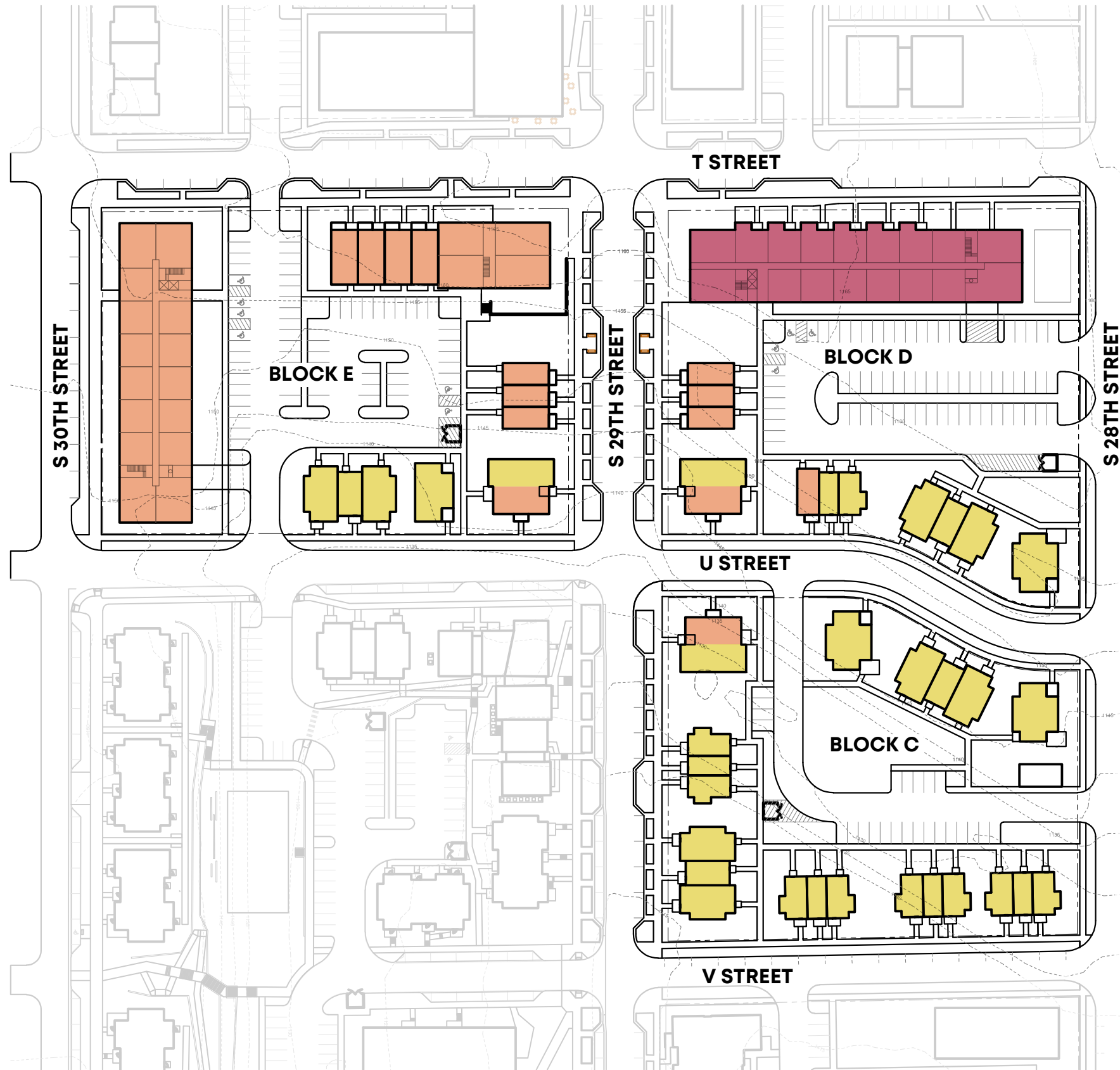
- 1-bed
- 2-bed
- 3-bed
- 4-bed
- 5-bed
- 6/7-bed
- Mgmt. / Amenity
- Storm Shelter / Maint. / Circulation

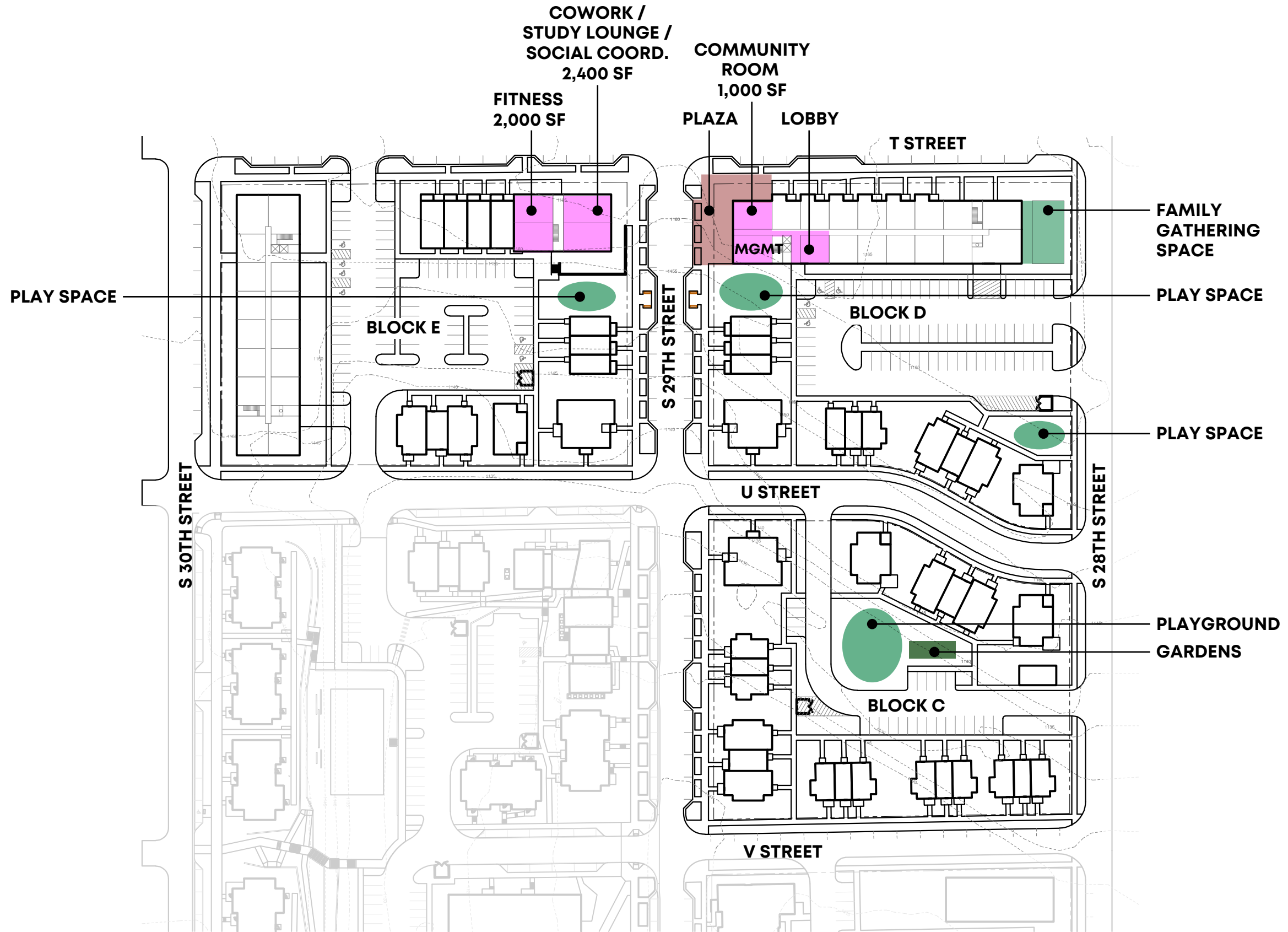




- 1-bed
- 2-bed
- 3-bed
- 4-bed
- 5-bed
- 6/7-bed
- Mgmt. / Amenity
- Storm Shelter /  
Maint. / Circulation



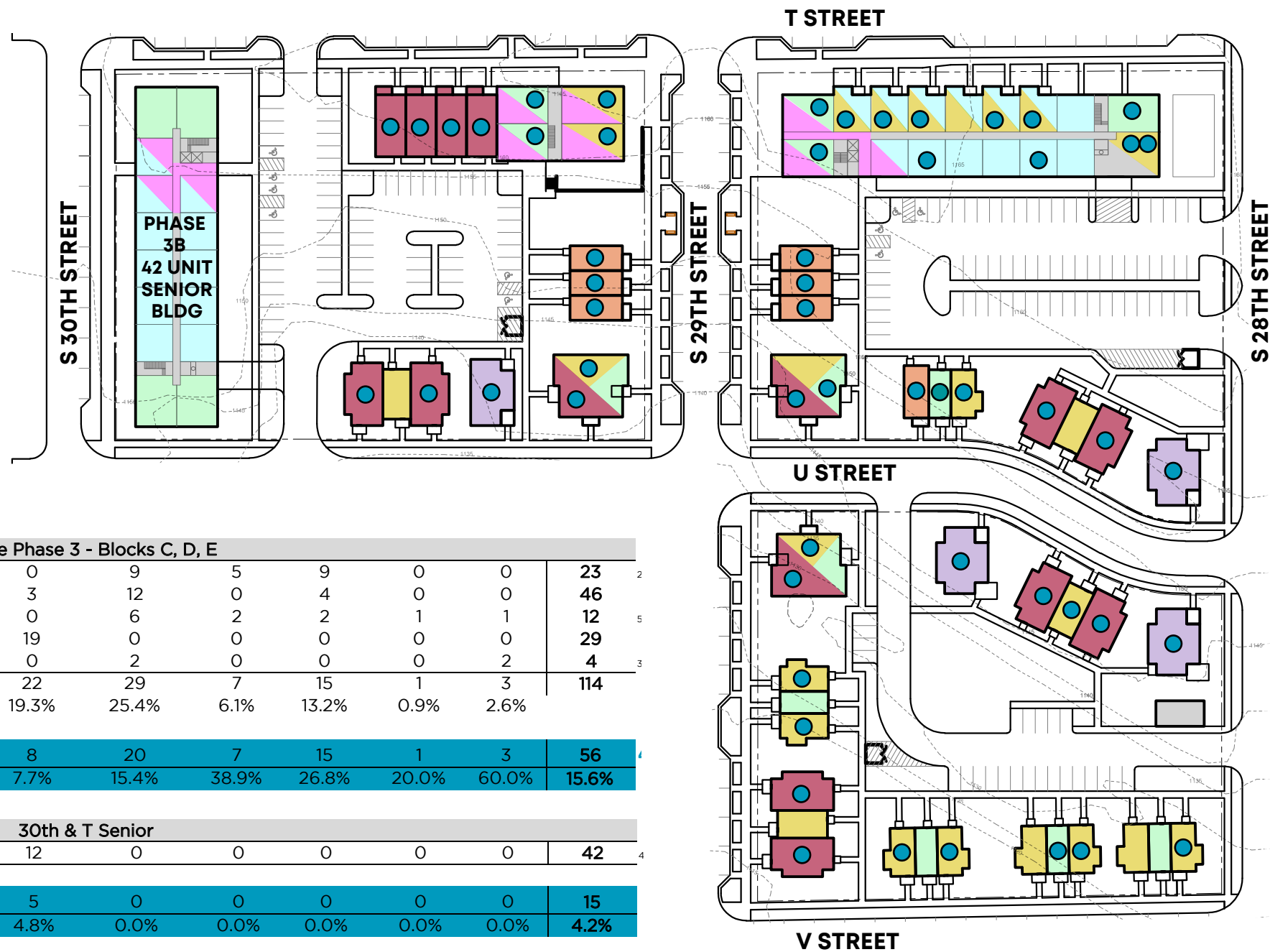




**BLOCK E**  
22 UNITS PH3  
REPLACEMENT = 16  
MR = 6

42 UNITS PH3B  
REPLACEMENT = 15  
MR = 27

**BLOCK E TOTAL**  
REPLACEMENT = 31  
MR = 33



**BLOCK D**  
69 UNITS  
REPLACEMENT = 23  
MR = 46

**BLOCK C**  
23 UNITS  
REPLACEMENT = 16  
MR = 7

On-Site Phase 3 - Blocks C, D, E								
Block C - Townhomes	0	0	9	5	9	0	0	23
Block D - Multi-Family	27	3	12	0	4	0	0	46
Block D - Townhomes	0	0	6	2	2	1	1	12
Block E - Multi-Family	10	19	0	0	0	0	0	29
Block E - Townhomes	0	0	2	0	0	0	2	4
<b>TOTAL</b>	<b>37</b>	<b>22</b>	<b>29</b>	<b>7</b>	<b>15</b>	<b>1</b>	<b>3</b>	<b>114</b>
Unit Ratio within Phase	32.5%	19.3%	25.4%	6.1%	13.2%	0.9%	2.6%	

On-Site Phase 3 Replacement Units	2	8	20	7	15	1	3	56
	5.0%	7.7%	15.4%	38.9%	26.8%	20.0%	60.0%	15.6%

30th & T Senior								
Multi-Family	30	12	0	0	0	0	0	42

St. Anthony's Replacement Units	10	5	0	0	0	0	0	15
	25.0%	4.8%	0.0%	0.0%	0.0%	0.0%	0.0%	4.2%



5. EXECUTIVE SESSION FOR LEGAL, REAL ESTATE AND/OR PERSONNEL MATTERS
6. ADJOURNMENT