

Project-Based Rental Assistance (PBRA) Overview in RAD

AAHRA

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**Project-Based Rental Assistance
(PBRA) Overview in RAD**


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Experience - Leadership - Collaboration


**Rental Assistance Demonstration
Program (RAD)**

- About \$26 billion needed to repair PH, but budget for fell by over 6% between 2010-2012
- In 2012 HUD launched RAD to assess effectiveness of converting
 - Public housing, mod rehab properties, and units under rent sup and rental assistance payments programs to long-term project-based Section 8
 - May select RAD PBRA (Multifamily) or
 - RAD PBV (PIH)



What is PBRA?

- Rental assistance is project-based and stays with the unit, not the tenant
- Under regular PBRA, rental assistance provided to owners through Housing Assistance Payment (HAP) contracts
 - HAP contracts were generally for 20-40 years
 - After the initial term of the HAP contract, owners can renew or "opt out"
 - Renewal is typically in 5 year increments

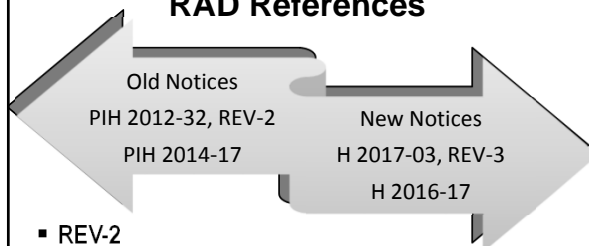


What is RAD PBRA?

- Under RAD PBRA, assistance provided to PHAs through HAP contracts
 - Initial term of 20 years
 - Mandatory contract renewals
- Some rules for “regular” PBRA are different or don’t apply to RAD PBRA
 - Existing in-place tenants at time of conversion vs. new admissions
 - Develop a way to identify existing households

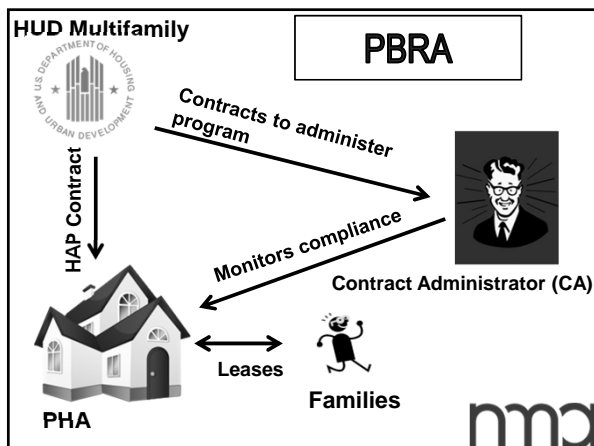


RAD References




- REV-2
 - Projects closing prior to 1/19/17 under REV-2
- REV-3
 - Projects closing on or after 1/19/17 under REV-3






Initial Rent Setting & Rent Adjustments

- HUD calculates initial rents
 - Based on each project's public housing subsidy
 - No additional funding
- Annually at HAP contract anniversary, rents are adjusted by HUD's Operating Cost Adjustment Factor (OCAF)




Rent Comp Study

- Must be conducted prior to conversion
 - To determine rents in unsubsidized units in the area
- Must be conducted every 5 years
 - In intervening years, rents adjusted by Operating Cost Adjustment Factor (OCAF)



Utility Allowance Analysis

- UA analysis must be submitted with annual rent adjustment every 3 years, in the intervening years, the Utility Allowance Factor (UAF) is used
- Determines if the property's current UA needs to be adjusted and if so, by how much
- Check with HUD /CA for processing guide and applicable worksheets for your state
 - Notice H 2015-04 issued June 22, 2015 provides methodology for completing a utility allowance analysis



HAP and Tenant Rent

- Monthly, the O/A sends a voucher to HUD with the tenant rent for each unit
- Voucher is Form 52670, different than HCV
 - 30% adjusted monthly income
 - Or 10% of gross monthly income
 - Or \$25
 - Whichever is greater
- Monthly, HUD pays O/A the difference between the tenant rent and the contract rent.



Rent Phase-In

- In-place tenants at the time of conversion eligible to have rents phased-in
- If monthly tenant rent increases by more than the greater of 10% or \$25 as a result of conversion
- Rent increase phased in over 3 years
 - PHA may extend to 5 years
- Must have policy in place at conversion, may not be modified after conversion
- See Notice PIH 2012-32, REV-2 or H 2017-03, REV-3



Management & Occupancy Reviews (MORs)

- Conducted by Contract Administrators (CAs) for most Multifamily property types
- Real Estate Assessment Center (MF-REAC) conducts property inspections
- Full MOR should be conducted by HUD within 6 months of conversion (not happening)
- Multifamily HUD Field Offices from 53 to 10



MOR

- Consists of two parts
- Part I: Desk Review
 - Completed prior to the on-site review using project files and HUD databases
- Part II: On-Site Review
 - Completed on-site with the property representative



On-Site Review

- A. General Appearance and Security
- B. Follow-up Monitoring of Project Inspections
- C. Maintenance and Standard Operating Procedures
- D. Financial Management/Procurement
- E. *Leasing and Occupancy*
- F. Tenant/Management Relations
- G. General Management Practices



Noncompliance

- Could result in default of HAP contract
- Additional measures by HUD
 - Monthly voucher reduction until errors are corrected
 - Suspending HAP
 - Terminating HAP
 - Taking possession of project



Reference for MOR

- Form HUD 9834, questionnaire, 48 pages (updated form must be used, new exp. date is 4/30/18, other changes mostly minor edits for typos)
- Form HUD 9834 Addendum A, file review worksheet, 5 pages



Handbooks, Notices, Forms, Guides, Docs and Resources

- HUD Handbook 4350.3, REV-1, Change 4
- For all PBRA resources and references
 - NMAReferences.com
 - Click on "Multifamily"
 - *Also includes an entire section of links to RAD resources and references



Important - References

- Not all requirements apply to all properties or residents
- Some properties assisted under multiple programs
- May be subject to federal, state, or local laws
 - May conflict with HUD requirements
- Read all contracts and loan agreements
 - Changes in requirements that conflict with RAD PBRA HAP contract will not apply to RAD property
- Seek guidance from HUD AE or CA/PBCA



PBCAs/CAs

- O/As typically do not work directly with the HUD Account Executive (AE)
 - Performance-Based Contract Administrator (PBCA)
 - Traditional Contract Administrator (CA)
- Provide direct oversight in many cases
 - Usually statewide, only California has 2
 - PBCAs have strict performance and reporting requirements
 - Paid by HUD, *based on performance*



Affirmative Fair Housing Marketing Plan (AFHMP)

- Determines the population that is least likely to apply
- Describes how property will be marketed to those least likely to apply
- Must be approved by HUD (FHEO)
- Reviewed during MOR for accuracy, consistency, and follow-through



HUD Form 9887&9887-A

- Consent to the release of information
 - Income information with government agencies (SSA, HHS)
 - New hire employment (W4), and
 - Unemployment information
- HUD/CA and PHA/owner information must be present before applicant/tenant signs
- 9887-A must be signed by owner
- Signed copy of both 9887/9887-A must be provided to applicant/tenant
- EIV reports may not be used without a current, signed 9887/9887-A on file for all adult HH members



HUD Form 50059

- Owners must begin submitting 50059s and 50059-As starting on the HAP contract effective date
 - HUD recommends starting to create 59s and 59-As in the time between the RAD Conversion Commitment (RCC) and HAP contract effective date to work through discrepancies early



HUD Form 50059

- Certification form showing household information, income, assets, rent, utility allowance, etc.
- Is a lease addendum verifying rent change
- Provides information to HUD/CA for voucher billing
- Shows correct tenant rent and monthly HAP for each tenant
- Enable HUD/CA to monitor owner/PHA performance



What is TRACS?

- System used by O/As to submit tenant certification information and monthly voucher billing to HUD/CA
- Takes one full day for files to be seen in TRACS
- TRACS is used to submit:
 - Form HUD-50059 and 50059-A's (MI, IC, AR, IR, UT, GR, MO)
 - Form HUD-52670s (Voucher)



TRACS

- O/A must use TRACS queries to review and monitor transmissions
- Must follow up with HUD or CA to correct errors identified in TRACS
- "Rules of Behavior for TRACS" within last 12 months on file
- Annual TRACS "Security Training Certificate" current, on file, dated within 30 days of above



EIV Access

- Owners of properties converting under RAD must:
- Remove PIH EIV access effective at the contract execution date
 - Contact EIV Coordinator at HUD Regional Center/Program Center
- Obtain access to Multifamily EIV within 90 days from when HAP contract is signed



MF EIV Requirements

- Use of EIV is mandatory
- EIV Coordinator must have an owner approval letter
- EIV must be used *in it's entirety*
- Must use all EIV reports and take appropriate action when there are discrepancies
- Noncompliance may result in a 5% reduction of your voucher



MF EIV Requirements

- EIV requirements for MF properties are more thorough and in-depth than PIH requirements
 - EIV Use and Security Policy
 - Record retention: EIV Master Files: 2 folders or binders for each property
 - Reporting requirements for income discrepancies
- Full description of requirements can be found in HUD Handbook 4350.3, Ch. 9 & Exhibit 9-5



Waiting List Creation

- Waiting list must include:
 - Date/time application submitted
 - Name of head of household
 - Estimated annual income
 - Need for an accessible unit
 - Preference status (if any)
 - Unit size



Waiting List Creation

- Applicants may be:
 - On more than one waiting list
 - Waiting for more than one unit size on a particular waiting list



Establishing the Waiting List

- Use project-specific or community waiting list
- Transition from PH to PBRA waiting list depends on what was used and what owner will operate after conversion
- Creation of list done using existing PIH rules
 - Including posting/notification requirements
- Must be administered under PBRA rules
- RAD Relocation Notice H 2016-17



Tenant Selection Plan (TSP)

- Describes policies and procedures for determining eligibility
- Must be made available to public
 - Should include language on availability in TSP
 - Should post a copy in a common area
 - HUD does not approve, but will review at MOR



Tenant Selection Plan (TSP)

- Required Topics:
 - Project eligibility requirements:
 - Project specific
 - Citizenship
 - SSN
 - Income limits (including income targeting)
- Accepting applications and wait list management
 - Accepting apps/pre-apps
 - Preferences



Tenant Selection Plan (TSP)

- Applicant screening criteria (*Existing Tenant Search, drug related criminal, state lifetime sex off. - nsopw.gov)
- Applicant rejection
- Occupancy standards
- Unit transfer policies (*in-place tenants over waiting list)
- Fair housing and civil rights compliance
- Opening and closing the waiting list
- Student eligibility
- VAWA



Preferences

- Most owner-adopted preferences must be approved by HUD
 - Must detail preferences in TSP
- May remove owner-adopted preferences at any time without HUD approval
 - Must detail changes in TSP
 - Must notify all applicants on waiting list



Occupancy Standards

- O/A develops standards in TSP
- HUD doesn't specify number of persons per bedroom, *generally minimum 1, maximum 2*
- If a family qualifies for more than one unit size, must be allowed to choose unit size they prefer
- Must not dictate sleeping arrangements
- Must not prohibit families with children
- Must make reasonable accommodations



Occupancy Standards

- Over/under-occupied at conversion: Must give 30 days notice to move when an appropriately sized unit becomes available
- If family refuses to move to a unit of appropriate size after the 30 days expires, may stay in current unit and pay market rent
 - May not evict family for refusing to move
 - May evict family for failure to pay market rent



Accepting Applications

- Once application is submitted, must indicate date and time received
- Application must include 92006 and:
 - Applicant signature certifying accurate/complete
 - Ask if any HH member subject to sex offender reg.
 - List all states where all HH members have resided
 - Disclose SSNs for all HH members except:
 - Noncontending persons
 - 62 or older and receiving subsidy as of 1/31/2010



Matching Family Characteristics with Available Units

- Families with disabled members that need accessible features must be offered a unit when they reach top of the list
 - Regardless of whether accessible unit is available
 - Must be offered next available unit
 - Family decides whether unit meets their needs and may reject unit if it does not



Matching Family Characteristics with Available Units

- May accept non-accessible unit
 - Must make physical alterations/modifications as reasonable accommodation if requested
 - Unless it would result in an undue financial burden
- If an accessible becomes available, it must be offered first to applicants who requested an accessible unit
 - Regardless of their position on the list



Screening for Suitability

- Applicants may not be charged for screening costs
- Mandatory screening requirements:
 - Applicant was evicted from federally assisted housing for drug-related criminal activity in last 3 years
 - Any household member currently using illegal drugs
 - Reasonable cause to believe that a HH member's illegal use of drugs or alcohol abuse may interfere with health, safety, or right to peaceful enjoyment of the property by other residents



Mandatory Screening Requirements

- For any of the previous 3, HUD says O/As may consider mitigating circumstances, but:
- Any household member is subject to a state lifetime sex offender registration requirement
 - *no exceptions
 - Adults added to HH must be screened the same as applicants
 - Live-in aides must be screened the same as applicants, except ability to pay



RAD PBRA: No Rescreening

- All in-place tenants at the time of conversion are eligible to remain in the unit and receive assistance
- Not subject to:
 - Rescreening
 - Income eligibility
 - Income targeting
- Move info from current 50058 to an IC 50059



Applicant Rejection

- If an applicant is being rejected, must be promptly notified of rejection in writing, include VAWA Notice of Occupancy Rights
 - State specific reasons for rejection
 - State applicant has right to respond to owner within 14 days to dispute rejection
 - Persons with disabilities have right to request reasonable accommodations to participate in the meeting



Student Rule

- To receive assistance, a student must be:
 - 24 or older, or
 - A U.S. veteran, or
 - Married, or
 - Have a dependent child, or . . .
 - The student and the student's parents are income eligible, or



Student Rule

- The student is independent (Dept of Ed definition) and income eligible, or
- The student lives with their parents, who are receiving Section 8
- Must deny admittance or terminate assistance if any family member fails to meet student eligibility criteria
 - Ongoing eligibility requirement



Equal Access Final Rule

- HUD-assisted housing must be made available without regard to, or inquiries about, actual or perceived sexual orientation, gender identity, or marital status for the purposes of eligibility determination or continued occupancy
- 50059 will no longer ask for sex/gender
- Final Rule published in 2012
- Applies to all HUD-assisted housing

Newest notice H 2015-06




Live-In Aide

- Live-in aide is
 - Essential to care/well being of person
 - Not obligated for support of person
 - Wouldn't be living in unit except to provide necessary supportive services
- May only reside in unit as long as resident remains
- Should create live-in aide lease addendum stating right to evict a live-in aide who violates house rules and live-in aide has no right to the unit after the resident no longer resides there



Verifying Disability Status

- Verification should define disability and ask if person qualifies
- Different programs follow slightly different definitions of disability
 - Very important to know which definition your program follows, for PBRA:
- Receipt of SSI is adequate verification of disability
 - Definition of disability includes SS's definition
- Different definition for 202 and 811 programs!



Whose Income is Counted?

Member	Include Employment Income	Include Other Income (Including From Assets)
Head	Yes	Yes
Cohead	Yes	Yes
Spouse	Yes	Yes
Other Adult (Including Foster Adult)	Yes	Yes
Child Under 18	No	Yes
Student Over 18	Earned income over \$480 of a dependent who is a student and 18 years of age or older is excluded.	Yes
Foster Child Under 18	No	Yes
Live-In Aide	No	No

**Temporarily Absent Military
Members**

- Temporarily absent individuals on active military duty continue to count as family members and have income included, if:
 - They are the head, spouse or co-head, or
 - The spouse or dependent of the person on active military duty resides in the unit
- Otherwise, they are removed from the family and their income excluded



**Permanently Absent Family
Members**

- Permanently absent individuals who are in a nursing home or similar facility:
 - Family decides if they remain as part of the family
 - Count income and deductions
 - Cannot be Head, Spouse or Cohead
- Otherwise, they are removed from the family and their income excluded




Earned Income Disallowance (EID)

- PBRA: Does not apply
- RAD PBRA: Tenants receiving EID at time of conversion continue to receive exclusion until
 - Break in employment
 - Ceases to use the exclusion
 - Exclusion expires
- Rents are not phased-in for these families, automatically adjusted to appropriate level




Imputed Welfare Income

- PBRA: Does not apply




Account Verification

- Checking accounts - Six month average
- Savings accounts - Current balance
- SS benefits - monthly payment included in income
- Balance on Direct Express Card is an asset
 - Verification: Account balance (current balance)
 - No more than 120 days old
 - ATM, online account service, paper statement
 - Document must identify account and holder



Jointly Owned Assets

- If asset is owned by more than one person
 - Prorate the asset according to the percentage of ownership
- If no percentage is specified
 - Prorate the asset evenly among all owners
- If asset is not effectively owned
 - Do not count it as an asset



Assets Disposed of for Less Than Fair Market Value

- Cash value of the assets disposed of exceeds the gross amount the tenant received by more than \$1,000
- Within two years of the effective date of the tenant's certification/recertification
- Exceptions: Divorce or separation, bankruptcy, or foreclosure/short sale



Income Verification Hierarchy

1. Upfront-income verification
 - Mandatory: EIV
 - Optional: UIV using non-HUD systems such as the work number
2. Written third-party verification from source
 - May be provided by the tenant/applicant
 - May include electronic verification
3. Oral third-party verification
4. Family certification



Lease Requirements

- Must use HUD model lease 90105-A
- Modification of lease not allowed without HUD permission
 - For in-place tenants, effective date must equal HAP contract effective date
 - Must be signed by owner and tenant on or before HAP contract effective date



Lease Requirements

- Initial lease term 1 year (365 days)
- Automatically renews from month to month
- May not refuse to renew a lease
- In place tenants keep their original PH recertification date



House Rules

- Required to include resident rights as listed in PIH 2012-32, REV-2 or H 2017-03, REV-3 as part of house rules
 - Termination notification
 - Grievance procedures
- Owners may develop additional house rules consistent with HUD requirements
 - Attachment to the lease



Move-In Inspection

- Must be completed jointly, by owner and tenant, and signed/dated by both, prior to lease signing
- Tenant has 5 days after move-in to add deficiencies to the inspection report
- Copy of the inspection must be retained in the tenant file
- Must say, "The unit is in decent, safe and sanitary condition."



Pet Rules

- Service, Assistance and Comfort Animals are not pets, are not subject to pet rules or pet deposits or restrictions
- Must allow pets on elderly/disabled properties
- Existing pets must be grandfathered into the property at RAD conversion
- Owners may restrict pets to households that were part of the conversion



Pet Deposit

- Owners may impose a refundable pet deposit
- Current maximum pet deposit amount is \$300 as set by HUD and published in the Federal Register
- Must accept payments – 1st payment \$50, then \$10/mo.
- No fees




Security Deposits

- Owners may continue recognizing security deposits that have been previously provided by in-place tenants
- If in-place tenants were not previously required to provide security deposit, may not require a security deposit
- For move-ins after conversion, owners must collect a security deposit at the time of initial lease signing
- The greater of \$50 or the household's TTP at move-in




Security Deposits

- In the case of a unit transfer (UT):
 - Owner may transfer the security deposit to the new unit or;
 - Charge a new deposit and refund the deposit for the old unit.
- For Move-outs:
 - May reimburse O/A for unpaid charges
 - Must be fully refunded within 30 days or
 - Must provide a written disposition of any unpaid charges within 30 days (some states more restrictive)




Late Fees

- May be charged in accordance with lease in certain types of projects
 - May charge \$5 late fee on 6th day of the month and \$1 per day thereafter until that month's rent has been paid
 - May not exceed \$30 per month
 - Higher late fee may be approved by HUD
 - May not evict for failure to pay late fees




Damages

- Owner must properly identify and charge actual cost for damages
 - Caused by carelessness, misuse or neglect by tenant, household member, or visitor
- Resident must reimburse owner within 30 days after billing
- May evict for failure to pay damage charges
- May deduct from security deposit at move-out




Annual Recertification

- Owners must conduct annual recertification by anniversary date
 - First day of the month in which household moved in
 - May establish alternate date with approval from HUD/CA
- Streamlining Final Rule: Only verify fixed sources of income at move-in and every 3 years... see FR Notice 12/12/17 for FAST Act effective 3/12/18 for income and asset verification and URPs




Annual Recertification

- Notice requirements are more stringent than requirements in PIH programs
- Must inform tenants, through written notices, about the tenants' responsibility to provide information about changes in family income or composition
 - Notices must include very specific information on the recertification process, requirements and timelines - details in 4350.3, Chapter 7



Interim Recertifications

- Owners must complete an IR when:
 - There has been a change in family composition
 - An increase in a family's cumulative income of \$200 or more a month
 - An increase in allowances
 - Most decreases in income except where the decrease was caused by a deliberate action of the tenant to avoid paying rent
 - A change in citizenship or eligible immigration status of any family members



RAD PBRA: TTP Exceeds Gross Rent

- When TTP exceeds contract rent plus UA (gross rent)
 - Family's assistance is NOT terminated
 - Must charge tenant 30% of adjusted income minus UA for rent; or
 - Any applicable maximum rent allowable under LIHTC regulations (for properties with tax credits)
 - Excess rent is considered project funds and must be used for project purposes



Unit Transfers

- Must have transfer policies in the TSP, policy should include:
 - When and why a transfer would be required by the owner
 - If resident requested transfers are allowed for reasons other than medical need, reasonable accommodation, or to correct over/under housing
 - If resident is required to move, they must move to next available appropriate size unit, O/A must give them 30 days to move
 - If resident refuses to move after 30 days, may stay in current unit, but must pay market rent




Choice Mobility

- Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of:
 - 24 months from date of execution of the HAP; or
 - 24 months after the move-in date
 - Some exceptions granted by HUD
- May limit moves to 1/3 of turnover vouchers, or to 15% of assisted units in the project
 - If limits are created, must create a waiting list




Termination of Assistance

- Tenant no longer receives assistance
 - May remain in the unit
 - Must pay market rent
 - Failure to comply with program requirements or requirements under the lease
 - Failure to recertify timely
 - Failure to transfer to appropriate size unit




Termination of Tenancy

- Tenant must move out
- Tenant found to be in noncompliance with terms and conditions of lease
- State and local law apply
- Evictions may only be executed by judicial action



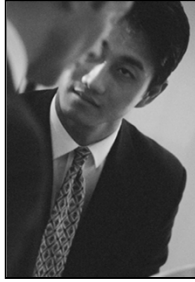
Repayment Agreements

- Tenant and owner must both agree to terms
- Repayment agreements for HAP amounts must be tracked in owner's software and transmitted to HUD/CA through TRACS
- Monthly payment must be affordable
 - RPA plus TTP should not exceed 40% of monthly adjusted income
 - See 4350.3 Chapter 8 for detailed requirements



Special Claims

- Owners can apply for special claims for unpaid rent and damages and/or vacancy loss
 - Work with contract administrator
 - Use HUD's "Special Claim Processing Guide"



Questions??? Contact Me!

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