

Summary of Key Features of RAD Supplement 4B

National Low Income Housing Coalition, Ed Gramlich, August 8 2023

HUD issued [Notice H-2023-08/PIH-2023-19](#), “Rental Assistance Demonstration – Supplemental Notice 4B”, dated July 27. Supplement 4B contains improved resident engagement provisions, new climate resiliency requirements, changes to RAD/Section 18 Blends provisions, Faircloth-to-RAD features, as well as other changes. Supplement 4B amends the basic RAD implementation [Notice H-2019-09/PIH-2019-23](#), “Rental Assistance Demonstration – Final Implementation, Revision 4”. NLIHC has updated its RAD “[Key Features for Public Housing Residents](#)” outline to incorporate many of the changes introduced by Supplement 4B.

Congress created the Rental Assistance Demonstration (RAD) in FY12 as a demonstration to test whether public housing agencies (PHAs) could leverage Section 8 rental assistance contracts to raise private debt and equity in order to make public housing capital improvements and thereby preserve low-income housing. RAD Component One, which applies to public housing, initially allowed up to 60,000 public housing units to be converted from public housing capital and operating assistance to Section 8 project-based vouchers (PBVs) or to Section 8 project-based rental assistance (PBRA). Congress has increased the unit cap three times despite the absence of an evaluation of the impact of this “demonstration” on residents. The cap was raised in FY18 to 455,000 units. RAD is administered by HUD’s Office of Recapitalization (Recap).

Resident Engagement (starting on page 6 of the Notice)

Supplement 4B intends to improve information provided to residents and to increase resident engagement throughout the RAD conversion process. It also increases the minimum number of required resident meetings from four to five and provides clearer guidance regarding the potential need for additional resident meetings as the conversion process proceeds and development plans change.

Instead of a PHA simply notifying a “legitimate resident organization” of its intent to apply to HUD to convert a public housing property under RAD, Supplement 4B explicitly states the notification is to go to a “duly elected resident organization” as formally specified in 24 CFR part 964 of the public housing regulations. NLIHC is concerned that this language has the potential to narrow a PHA’s resident notification obligation – some resident organizations may be “legitimate” yet not meet the strict part 964 definition of “duly elected.” In addition, not all public housing developments have a resident organization of any sort; Supplement 4B does not address this potential problem. Supplement 4B encourages PHAs to partner with “resident leaders” to inform all residents of a public housing property planned for conversion.

The existing RAD Notice requires a PHA to provide residents with a RAD Information Notice (RIN) before applying to Recap for RAD approval. Supplement 4B adds text already required by the RAD Relocation Notice ([Notice H-2016-17/PIH-2016-17](#)), reducing the need for residents and advocates to juggle the two documents. The additional text requires the RIN to include a description of the conversion plans that will be discussed at upcoming resident meetings and a means for contacting HUD. A footnote directs readers to the Relocation Notice and a link to a

sample RIN. RINs must be delivered to each unit or by U.S. mail to each head of household. RINs must also be posted in a conspicuous place at the converting project and must be available at the management office during normal business hours for residents and the general public to read and copy.

After a RIN is provided to residents, the existing RAD Notice requires a PHA to conduct at least two meetings with residents of a project slated for RAD conversion. Supplement 4B specifies the timing of these meetings: No less than one week after a RIN is issued and within the six months before a PHA submits a RAD application to Recap. Supplement 4B adds eight specific information items that must be presented to residents at the two meetings.

Supplement 4B adds a list of nine items that a PHA must submit to Recap along with its RAD application, such as: a summary of residents' questions and comments made at the meetings and submitted in writing, along with the PHA's responses; a summary of who attended meetings, as shown on sign-in sheets or lists of registrants or participants on calls or online meetings; and, a description of the PHA's efforts to promote resident participation at meetings.

The existing RAD Notice requires a PHA to request a "Concept Call" with Recap before submitting a Financing Plan to show Recap that the RAD conversion plan is far enough along for Recap to review. Supplement 4B requires a PHA to have two additional meetings with residents before it has a Concept Call with Recap. While the existing RAD Notice only required one such meeting, it also required one meeting before a PHA submitted its RAD Financing Plan; therefore, there is no net increase in the number of required resident meetings at this stage.

Supplement 4B adds text stating that these two meetings should be spaced to provide meaningful updates to residents regarding the RAD application progress, and that residents should be able to provide input and raise questions or concerns at these meetings. Supplement 4B encourages PHAs to have these meetings every three months, and to provide written progress descriptions to residents before each meeting. A summary of residents' questions and comments from these meetings, and the PHA's responses provided to residents, must be submitted in the RAD Financing Plan. Additional resident meetings might be required by Recap after the Concept Call if HUD determines more meetings are needed to provide residents with up-to-date information.

After Recap has issued a RAD Conversion Commitment (RCC) and before project "closing", Supplement 4B requires a PHA to hold an additional resident meeting. This is the fifth required resident meeting – a net addition of one meeting. Supplement 4B also adds a requirement for the PHA to provide residents access to or copies of the new lease form and any house rules.

Supplement 4B explicitly states that there are "required meetings" at which a PHA must discuss any "substantial change" to RAD conversion plans compared to key elements of the conversion plan from previous meetings. The required meetings are: the two meetings after a RIN is issued, the two meetings after a PHA receives a "CHAP" (preliminary Recap approval of a RAD application) and before the Concept Call, and the one meeting after Recap issues an RCC.

Supplement 4B adds a number of practices that a PHA must carry out to improve resident participation at meetings, such as: provide adequate notice of meetings (“adequate” is not defined – Consolidated Plan regulations call for at least two weeks advance notice); conduct meetings in places that foster participation; consider timing of meetings (e.g., times of day, days of the week, including weekends) to encourage participation by residents who have a variety of schedules; and, offer meetings in person, electronically (e.g., Zoom), and/or a hybrid of both. Supplement 4B explicitly states that PHAs may not restrict attendance at the meetings; some residents have reported that their PHAs denied access to non-residents capable of providing RAD technical assistance to residents.

Supplement 4B also has some resident engagement changes for Faircloth-to-RAD projects (see next section). These resident engagement requirements follow those of regular RAD conversions, except some technical terms used in the Faircloth-to-RAD process are substituted. In addition, if tenants are admitted to a property after an RCC is issued and before Closing, a PHA must, before executing a lease: give residents a RIN so that they know the PHA intends a RAD conversion and so that they are aware of their rights under RAD; give residents a written explanation of leasing and occupancy changes that come with conversion to PBV or PBRA; and, meet with each household to discuss the conversion, explain the written materials, and enable residents to ask questions. The main RAD Notice REV4 includes Attachment 1A, “Financial Plan Requirements”. Existing paragraph R required a PHA to submit dates of meetings held with residents after a CHAP was issued. It also required a PHA to include its responses to comments made by residents at the meetings. Supplement 4B expands paragraph R to require a PHA to also provide the information listed on page 6 of this outline.

Faircloth-to-RAD (starting on page 22 of the Notice)

The “Faircloth limit” prohibits using public housing Capital or Operating funds to build or operate new public housing units if that would result in an increase in the number of public housing units a PHA owned, assisted, or operated as of October 1, 1999. In April 2021, HUD announced a new “Faircloth-to-RAD” option for PHAs to create deeply affordable homes. Many PHAs operate fewer public housing units than their Faircloth limit. As of December 31, 2022, HUD reports 235,700 units of public housing could be developed.

One reason PHAs with available Faircloth units have been unable to construct new public housing units is because there is no new federal funding for their initial construction. The new option is intended to enable PHAs with Faircloth unit availability to develop public housing units on a temporary basis using HUD’s public housing mixed-finance program with pre-approval to convert the property under RAD to a long-term Section 8 contract once construction is complete. By providing early-stage RAD conversion approvals, specifically the revenue certainty and the market-familiarity of a Section 8 contract that these RAD approvals represent, HUD gives lenders and investors the information they need to underwrite the construction of new public housing.

Supplement 4B allows a PHA to use its existing HAP reserve funds to set initial RAD contract rents higher than the contract rent that is set forth in the “Notice of Anticipated RAD Rents” (NARR) if a project meets both of the following:

1. Faircloth-to-RAD units do not exceed 25% of the units in the project (or 40% of the units if the project is in a census tract where the poverty rate is 20% or less), excluding projects only housing elderly people, people eligible for supportive services, or Family Unification Program (FUP) youth.
2. The Faircloth-to-RAD project is in a Metropolitan Statistical Area (MSA), Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4%, or in a ZIP code where 90% of the Small Area FMR is greater than 110% of the Fair Market Rent (FMR).

HUD will evaluate this provision based on data as of Sept 30, 2024, and will not accept applications seeking this enhanced rent provision until HUD’s analysis is complete.

RAD/Section 18 Blends (starting on page 25 of the Notice)

In 2018, HUD created the RAD/Section 18 Blend option. It allows a public housing property to undergo RAD conversion for one portion of a property’s units while the remaining units use the Section 18 Disposition program’s Tenant Protection Vouchers (TPVs) that are converted to Project-Based Vouchers (PBVs). The primary reason for using the RAD/Section 18 Blend is to improve a project’s financing – PBVs generally provide greater rent revenue than RAD formula rent amounts.

In addition to making clarifying edits, Supplement 4B added a clause to the provision determining how many units in a property may be disposed of through Section 18 in a high-cost area. The previous provision for a high-cost area allowed up to 80% of a property’s units to go through Section 18 if Housing Construction Costs (HHC) exceeded 120% of the national average HHC. Supplement 4B adds to that, “or where the amount of construction necessary would cost more than 200% of the national average HCC”.

Supplement 4B clarifies that PBVs in a RAD-converted property (including for example, “regular” RAD PBVs and RAD/Section 18 Blend PBVs) that replace public housing units that existed at the time of RAD conversion do not count against the 20% cap on the number of Housing Choice Vouchers a PHA may project-base. This applies for RAD projects at a new site as well as at the site of the original public housing development.

Climate Resilience (starting on page 13 of the Notice)

Supplement 4B adds new text regarding climate resilience. A PHA must analyze likely hazard risk by entering a RAD property’s address into FEMA’s [National Risk Index \(NRI\)](#) and by identifying which hazards are “relatively high” or “very high” for the census tract. The PHA must provide a narrative detailing how the RAD scope of work addresses or mitigates the identified climate hazard risks. Supplement 4B strongly encourages PHAs to consider strategies to reduce the risk of resident injury and property damage from hazards.

PHAs must also create a property-wide disaster plan that includes: an evacuation plan describing a safe egress route(s), plans for evacuating residents with disabilities and special needs, and clear communication of the evacuation plan and safety resources for residents. For residents with disabilities and special needs, the plan must include a plan for emergency evacuation and relocation, including discussion of facilities with similar capacity that are equipped to provide critical needs-related care and services at a level similar to the facility people are evacuating.

All buildings that will be newly constructed (including buildings undergoing gut rehab, where physically and financially feasible) in a FEMA 500-year floodplain (or 100-year floodplain where FEMA has not mapped the 500-year floodplain), all residential units and all relevant building mechanicals (e.g., HVAC, cogeneration, hot water heating, and other systems) must be designed to be at a height no less than the greater of the 500-year floodplain or two feet above the 100-year floodplain based on FEMA Flood Insurance Rate Maps (FIRMs). Any interior non-residential spaces (such as common areas, community centers, and lobbies) that are not elevated to this level, must at a minimum be floodproofed to at least two feet above the 100-year floodplain.

Housing Quality Standards (page 24 of the Notice)

Supplement 4B adds a “Housing Opportunity Through Modernization Act” (HOTMA) feature regarding Housing Quality Standards (HQS) inspections. To place a RAD unit under a Housing Assistance Payment (HAP) contract and begin making payments to an owner, instead of a PHA conducting an initial inspection of a PBV unit, Supplement 4B allows an owner to certify that there is no reasonable basis for the owner to have knowledge that life-threatening conditions exist. However, a PHA must conduct inspections in response to resident complaints or in response to information otherwise brought to the PHA’s attention. Owners must correct deficiencies in the same timeframe provided by HOTMA, within 24 hours for life-threatening deficiencies and 30 days for most other deficiencies.

RAD for Section 202 PRAC (starting on page 4 of the Notice)

Properties originally developed with a Section 202 Supportive Housing for the Elderly Capital Advance and assisted with a Project Rental Assistance Contract (PRAC) are in need of preservation efforts. Appropriations acts for FY22 and FY23 provide a total of \$12 million to support some of these Section 202 PRAC properties. Supplement 4B implements the funding provisions. To support preservation efforts that will enhance the resilience, energy and water efficiency, and design of housing appropriate for elderly people to age-in-place, HUD may provide an increase to the PRAC rent prior to RAD conversion that will be incorporated in the initial Section 8 contract rent for properties that undertake new construction or rehabilitation with debt financing.

In addition, Supplement 4B indicates that HUD will use waiver authority to ensure the ongoing provision and coordination of services previously provided under or to avoid a reduction in a project’s subsidy.

Zero-HAP Households (starting on page 16 of the Notice)

Supplement 4B amends the treatment of households whose total tenant payment (TTP) is greater than the Gross Rent (contract rent plus any utility allowance) on the RAD HAP contract. It pertains to households present at the time of RAD conversion and households newly admitted to the property after RAD conversion.

Notice H-2023-08/PIH-2023-19, “Rental Assistance Demonstration – Supplemental Notice 4B” is at: <https://tinyurl.com/47mtfhv6>

[Notice H-2019-09/PIH-2019-23](#), “Rental Assistance Demonstration – Final Implementation, Revision 4” is at: <https://tinyurl.com/444jhr5x>

NLIHC’ updated RAD “[Key Features for Public Housing Residents](#)” is on NLIHC’s [public housing webpage](#).

Basic information about RAD that does not yet include changes made by Supplement 4B is on [page 4-46](#) of NLIHC’s *2023 Advocates’ Guide*.

HUD’s RAD website is at: <https://www.hud.gov/RAD>

HUD’s resident-related RAD material is at: <https://www.hud.gov/RAD/residents>