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Affordable Housing Alert

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HUD issues supplemental RAD notice

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The notice provides rent boosts for RAD for PRAC, flexibility for Housing Quality Standards (HQS) inspections, expansion of the RAD/Section 18 "high cost areas," additional resident engagement requirements, and more!



What's the Impact?

- / More Section 202 PRAC transactions may become feasible
- / Increased flexibility for HQS inspections for non-RAD units
- / Transactions in more high cost areas qualify for more Section 18 TPVs

On July 27, 2023, HUD published a long-awaited notice ([Supplemental Notice 4B, H-2023-08 / PIH-2023-19\(HA\)](#)) supplementing the current revision of the RAD Notice (H-2019-09 / PIH-2019-07). While this supplemental notice does not make sweeping changes (implementation of the RAD authority for the Section 811 program will wait for a full revision of the RAD Notice, for example), there are many important updates and revisions in this notice.

RAD for PRAC rent boosts

To make use of the up to \$12 million of additional funding for RAD for PRAC deals provided in the Consolidated Appropriations Acts of 2022 and 2023, this notice provides ways to boost RAD for PRAC rents. First, approved PRAC rents can now exceed the 120% FMR cap if funds are needed to enhance climate resilience or energy and water efficiency or enhance design elements allowing elderly residents to age in place. Second, the notice allows HUD to supplement approved PRAC rents prior to RAD conversion for new construction or substantial rehabilitation projects meeting these climate resiliency or age-in-place design goals. These rent supplements remain subject to the 120% FMR cap, but can be up to \$250 per unit per month for transactions undertaking rehabilitation or new construction in excess of 60% of the applicable HUD-determined annual Housing Construction Cost Limit (HCC) and up to \$100 per unit for transactions undertaking rehabilitation in excess of 30% of HCC.

HQS inspection flexibility

Under standard HUD guidance, any unit intended to be placed on a HAP contract must be inspected for compliance with HQS before assistance can be paid on behalf of a household. When rehabilitation work is occurring under RAD, HUD requires that all units undergo inspection for HQS no later than the date of completion of the work. However, this exemption does not cover units converting under Section 18, and with RAD/Section 18 blends being utilized in many public housing repositioning transactions this presents a real challenge. In this guidance HUD is providing additional flexibility; to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. However, the guidance also specifies that during the period of the work, HQS requirements will apply. The PHA may conduct inspections when needed, for example in response to tenant complaints or other information coming to its attention, and the owner must correct any deficiencies in accordance with HQS requirements.

Additional "high-cost areas" for RAD/Section 18 blends

In 2021 HUD issued updated guidance for RAD/Section 18 blends, permitting a certain percentage of units in a RAD project to qualify for Section 18 and generate Tenant Protection Vouchers (TPVs) without proving obsolescence, depending on the costs of construction undertaken. For projects in HUD-designated "high-cost areas" with hard construction costs exceeding 90% of the HCC, up to 80% of the units could qualify for Section 18 treatment. This notice expands the list of high-cost areas to any area where the applicable HCC exceeds 120% of the national average or the amount of work exceeds 200% of the national average HCC.

And more!

In addition to these updates, the RAD Notice also:

/ Expands **resident engagement** requirements, requiring more resident meetings and more

detailed documentation of resident meetings, and reminds PHAs, as they make their engagement plans, to provide access to persons with Limited English Proficiency.;

- / Streamlines the application for **Faircloth-to-RAD** conversions, and allows PHAs to use HAP reserve funds to boost Faircloth-to-RAD rents;
- / Provides new policies for **over-income** tenants, and other tenants (referred to as "Zero-HAP Families") whose total tenant payment would exceed the RAD Gross Rent;
- / Raises energy efficiency standards, and incorporates climate resiliency requirements and Federal Flood Risk Management Standard requirements for RAD conversions;
- / Allows TPVs to be project based in RAD/Section 18 projects without the need to follow **competitive selection regulations**, even where the PHA does not have a voucher program or would otherwise not qualify for another exemption of the competition requirements; and
- / Requires **radon testing** for all RAD transactions, eliminating previous loopholes.

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