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NP

RAD provisions in President Biden's FY 22 Budget Proposal

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President Biden's FY 22 budget proposal contains several provisions which would impact the RAD program. The FY 22 budget covers the federal fiscal year starting October 1, 2021–September 30, 2022; however, in recent years Congress and the president have failed to adopt a budget by September 30, so the new budget may not take effect until later this year or even early next year. These are proposals at this point; the final budget will be negotiated between the administration and Congress.

The budget proposal would eliminate the RAD application deadline date, which is currently set to expire on September 30, 2024.

HUD has made several policy changes in recent years to facilitate the combination of the use of Section 18 "Disposition and Demolition" authority with RAD conversion authority. The advantage of this combination is that vouchers provided through the Section 18 process have rents set at regular Section 8 voucher payment standards while RAD rents are capped at the current public housing funding levels, which are often well below FMR. Combining these Section 18 vouchers with RAD HAP contracts can help to increase the overall revenue available to a project and therefore support more rehabilitation. However, because the funding for vouchers triggered by Section 18 comes from a different account in HUD's budget, currently the two Section 8 contracts must be separately issued and different rules apply to each.

The president's budget proposal would allow for conversion of budget authority associated with Section 18 vouchers into the RAD public housing HAP contracts. Thus one project-based voucher contract could be issued for a project, rather than two or more. In addition, the budget proposal would allow Section 18 funding to be used for project-based rental assistance ("PBRA") contracts—under today's rules, Section 18 monies can only fund project-based voucher ("PBV" contacts) or portable vouchers.

Under the RAD for Section 202 PRAC program, which was made available in 2019, the rents on a new project-based Section 8 HAP contract was limited to 110% of FMR for PBV contracts and 120% of FMR for PBRA contracts. This has created a disincentive for projects whose existing PRAC rents are higher than those levels to participate in the program. The president's budget proposal would permit rents over 120% of FMR in PRAC conversions where necessary to permit continuation of services or avoid a reduction in subsidy.

Finally, the president's budget would open up the RAD program to Section 811 PRAC properties. These properties, which serve low-income persons with disabilities, were not included when the program expanded to cover Section 202 PRAC (housing for low-income seniors).

We will continue to track these provisions as the FY 22 budget is negotiated. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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