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HUD Issues FAQ on Combination of RAD and Standard PBV Units

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HUD recently issued a [set of answers to frequently asked questions](#) to provide further guidance on a new method of disposing of public housing in conjunction with a RAD conversion (the “FAQ”). Earlier this year, HUD issued Notice PIH 2018-04 (HA) (the “PIH Notice”) addressing a number of public housing demolition and disposition issues. In particular, Section 3.A.3.c of the PIH Notice permits a housing authority implementing a Rental Assistance Demonstration (“RAD”) project that involves new construction or substantial rehabilitation (defined as involving hard construction costs inclusive of general requirements, overhead and profit, and payment and performance bonds exceeding 60% of the HUD-published Housing Construction Costs) without the benefit of a 9% low-income housing tax credit financing.

For such projects, HUD will allow up to 25% of the units within the RAD project to be disposed under Section 18 of the U.S. Housing Act of 1937 (the “Housing Act”) and eligible for Section 8 tenant-protection vouchers with a means of project-basing the vouchers to be administered pursuant to 24 CFR Part 983 (the “PBV”). At least 75% of the units within the project are to convert in accordance with RAD. The PIH Notice relies on the RAD definition of “project” (defined as “a structure or group of structures that in HUD’s determination are appropriately managed as a single asset. In determining whether a combination of structures constitute a project, HUD will take into account types of buildings, occupancy, location, market influences, management organization, financing structure or other factors as appropriate. For a RAD PBV conversion, the definition of ‘project’ in 24 CFR § 983.3 continues to apply for all references to the term in 24 CFR § 983.”) The total number of replacement units created through the combination of the RAD and Section 18 disposition processes must also satisfy RAD’s “substantial conversion of assistance” standards, meaning that conversions may not result in a reduction of the number of assisted units, except by a de minimis amount.

The FAQ offers examples and explanations of opportunities that could further enhance the viability of a RAD conversion, including the following:

- The “substantial conversion of assistance” requirements, for example, could be applied in a manner that would designate more than 25% of the units within a project as regular PBV units under 24 CFR part 983 by placing both the TPVs realized under the Section 18 disposition process, together with the 5 units or 5% RAD de minimis allowance under the regular PBV HAP (FAQ 5).
- A RAD/Section 18 project would utilize two HAPs – the RAD form of HAP (using the CHAP rents to be adjusted annually pursuant to the Operating Cost Adjustment Factor or OCAF) and the standard Part 983 AHAP/HAP (with rents determined based on the lesser of reasonable rent and up to 110% of the fair market rent subject to annual adjustment) (FAQ # and Initial Processing Instructions).
- TPVs issued for the public housing units removed pursuant to Section 18 of the Housing Act can be directly project-based when the property “substantially meets Housing Quality Standards” (FAQ 3).
- The application of relocation protections for all residents across a project regardless of the type of unit occupied by the resident (FAQ 6).
- While conversion of public housing under RAD does not trigger eligibility for the housing authority to receive Demolition Disposition Transition Funding (i.e., formerly known as Replacement Housing Factor funding) or

Ballard Spahr
LLP

Article By [Ballard Spahr LLP](#)
[Amy M. McClainHousing Plus](#)

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Asset Repositioning Fee, the housing authority would have access to such funds for the portion of the units removed through Section 18 (FAQ 7).

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