



Relocation Requirements, RAD Component 1

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It has now been three years since the Department of Housing and Urban Development (HUD) issued PIH Notice 2012-18, Rental Assistance Demonstration (RAD) – Partial Implementation and Request for Comments. HUD has committed to convert nearly 60,000 units of Public Housing pursuant to Component 1, and commitments for another 125,000 units that are pending, now that Congress increased the number of units authorized. It is important that Public Housing Authorities (PHAs) have proper compliance monitoring and communication with residents who will be required to relocate as a result of planned rehabilitation or new construction.

In recent months, many of the originally approved applicants have received their funding and are ready to proceed with the necessary rehabilitation or new construction. The rules regarding relocation are complicated and tedious - even a simple, inadvertent oversight could expose the PHA and the development team to financial risks. It is in the best interest of all involved parties to assign a point person to monitor compliance with these rules. Many PHAs and developers are hiring consultants to coordinate these efforts.

More importantly, relocation presents a period of upheaval, fear, and uncertainty for the affected residents. Proper communication with the residents is imperative. Many of the HUD required communication contains language that may be confusing to the intended audiences. Both written and verbal communication should be in simple and plain language to ensure residents understand the key information. Further, the messenger is often as important as the message. Persons tasked with communicating with residents regarding relocation should be compassionate and should display a high level of trustworthiness. Residents want to know and feel that someone is looking out for their best interests.

PIH Notice 2014-14 contains guidance on RAD Component 1 relocation requirements, including:

- ❖ Resident Rights
- ❖ Relocation Planning
- ❖ Relocation Plan Contents
- ❖ Form and Content of Notices
- ❖ Timing of Notices
- ❖ Notice Templates

Prior to submission of the RAD application, the PHA and Development team should determine the potential need for relocation. Meetings should be scheduled with residents to discuss plans, communicate the right to return, and solicit feedback. At this time, residents should be provided a General Information Notice (GIN). Since many RAD applications were submitted before this guidance was issued, it is possible that a GIN has not yet been provided to residents. PHA's and professionals should provide the GIN as soon as possible, in conjunction with the scheduling of resident meetings, to ensure that all residents receive proper communication. The GIN notifies residents that they may be displaced, the benefits they may be entitled to, their rights if displaced, and that they relinquish these rights if they move prior to receiving any notice to vacate from the PHA. Finally, PHA's and professionals should survey residents to determine individual household needs and preferences, prepare a preliminary Relocation Plan, and estimate the associated costs of relocation.

Upon receipt of the Commitment to Enter into a HAP Contract (CHAP) Award, HUD requires that PHA's prepare a Significant Amendment to the PHA Plan, which also serves as a public notice of pending relocation. At this time, housing staff should assess and refine the needs for relocation and develop a Relocation Plan which identifies all of the available options and steps to be taken.

The Financing Plan is to be completed and provided to the RAD Transaction Manager no later than 180 days following receipt of the CHAP Award. The submission must include the PHA's Relocation Budget and the Fair Housing and Equal Opportunity (FHEO) Accessibility & Relocation checklist. Although submission of the relocation plan is optional, PHAs should be prepared to submit it along with the checklist.

Receipt of the RAD Conversion Commitment (RCC) marks the date of "Initiation of Negotiations," which is also the date that families become eligible for relocation assistance. This period of time is typically when residents feel the greatest amount of uncertainty. Relocation assistance will vary depending upon several factors, including whether the relocation will be permanent or temporary and whether the PHA will be able to accommodate the household at a comparable public housing unit. Each resident should be provided with the appropriate notice informing them about the timing of and any associated assistance. Designated persons should plan to meet with residents to describe approved conversion plans and to discuss the required relocation.

Generally, resident relocation should not begin until after the date of closing/conversion of assistance. PHAs must adhere to notification requirements. In most cases, families who will be relocated to other PHA units or those who will be relocated temporarily must receive at least 30 days' notice prior to relocation. Families who will be permanently displaced must receive 90 days' notice prior to relocation. Families cannot be permanently displaced involuntarily. Affirmative written consent is required for permanent displacement and families must be given 30 days to make a decision. Without such consent, each family has the right to return to the site.

PHAs seeking to move residents prior to closing must receive prior approval from HUD. A written request must be submitted to HUD and must include justification of the necessity for early relocation, e.g. *"Early relocation is necessary to meet critical LIHTC deadlines."* Further, evidence of your intent to comply with public housing requirements must be provided, as applicable, such as the resident's right to have an informal hearing for any disputes.

If a resident will be precluded from returning to the site, they must be afforded certain rights. Families must be given the opportunity to review and comment on the relocation plan. They also have the right to be accommodated if they object. No tactics can be used to coerce consent and failure to consent is not grounds for termination.

Families who must be relocated are entitled to certain benefits. Those families who are being permanently displaced are entitled benefits such as moving expenses (including, but not limited to; the costs to move personal possessions, packing supplies, utility hookup fees, and cost of installing appliances), relocation counseling, payments for the difference between their current rent and the rent of their new dwelling, and a dislocation allowance. Families may also elect to receive a fixed moving allowance based upon schedules published by the Department of Transportation.

Families who are temporarily moved are entitled to benefits such as moving expenses, counseling, and any increased cost in rent while temporarily relocated. However, these families may request that their status be changed to permanent at any time, and must be notified of their eligibility to change their status if the temporary relocation lasts for more than one year. If a family elects to change their status to Permanently Displaced, they become eligible for all of the benefits listed above. Reimbursement of security deposits is not mandatory, because such payments are refundable to the family. However, many low income households lack the resources to pay these deposits - therefore, it is advised that PHAs partner with a local agency that provides this sort of assistance.

Four types of required notices must be provided to residents. HUD's guidance contains templates that contain all of the required information.

1. All residents must receive a *General Information Notice* if there is the possibility of relocation. This notice informs each resident of the following:
 - Residents may be displaced for the project and describes the payment(s) for which they may be eligible;
 - Residents will be given reasonable relocation advisory services;
 - Displaced residents will not be required to move without at least 90 days advance written notice, and until at least one comparable replacement dwelling has been made available;
 - Any person who is an alien not lawfully present in the United States is generally ineligible for relocation benefits;
 - Residents that they have the right appeal the PHA's determination.
2. Once the date of the Initiation of Negotiations is known, residents are issued a *Notice of Relocation* that states the anticipated duration of the resident's relocation:
 - A minimum of 30 days' notice of temporary relocation and 90 days' notice for permanent relocation, (once comparable units have been made available);
 - Residents have at least 30 days to elect temporary or permanent relocation;
 - A description of the available relocation assistance, based on individual circumstances and needs, and how to obtain the assistance. Each notice must be specific to the resident and his or her situation;
 - Explains terms and conditions under which to the resident has the right to return; Affirms that the resident will be reimbursed for all reasonable out-of-pocket moving expenses.

A *Notice of Intent to Acquire* is used in RAD projects involving acquisition.

- It may be issued prior to the Initiation of Negotiations (ION) date with HUD's prior approval;
- It can be issued with the *Notice of Relocation* or separately. RAD relocation notice must be provided in conjunction with or after the Notice of Intent to Acquire;
- Since permanent relocation requires 90 days' notice, it may be necessary to provide sufficient notice of relocation to a resident in instances where there may not be 90 days between the ION date and the anticipated closing date;

- With HUD approval, the early issuance of the notice facilitates the commencement of relocation activities upon closing
3. An additional notice must be provided to temporarily relocated families if the relocation is subsequently determined to last for more than one year.
- The PHA must provide updated information as to when it is anticipated that the resident will be able to return;
 - Residents may choose to remain temporarily relocated based or may choose to accept permanent URA relocation assistance in lieu of exercising the right to return.
 - If the resident chooses to accept permanent relocation assistance and such assistance requires that the resident move, the resident is entitled to 90 days advance written notice which may only begin once the PHA has made available at least one “comparable replacement dwellings”

It is important to comply with all Fair Housing Requirements during the relocation process, including but not limited to:

- ❖ Assisting residents in finding comparable units that meet their disability needs.
- ❖ Effective communication for persons with disabilities or Limited English Proficiency
- ❖ Providing accessible meeting facilities
- ❖ Appropriate translation and counseling services
- ❖ Providing advisory services for persons with disabilities

PIH Notice 2012-18 provides a Relocation Plan Template. Key components of the Relocation Plan should include:

- ❖ General description of the project and the site
- ❖ Specific steps to be taken to minimize the adverse impacts of relocation
- ❖ Information on current occupants (including the number of residents, residential owner-occupants and non-residential occupants) to be permanently or temporarily relocated
- ❖ Information on relocation needs and costs (including the number of residents who plan to relocate with Section 8 assistance)
- ❖ General moving assistance information
- ❖ Number of Temporary and Permanent moves anticipated
- ❖ Relocation Budget
- ❖ Appeals Process

While the Relocation requirements may appear to be burdensome and costly, the risks associated with failing to comply with these requirements can be even greater. Even the best planned relocation can be subject to negative publicity, but a poorly planned relocation can expose a PHA and its developer to greater financial risks including additional legal expenses, and higher payments to residents.