

PROPOSED CHANGES TO ACOP FOR JULY 21, 2020

8.0 ELIGIBILITY FOR ADMISSION

[...]

~~8.2—SUITABILITY~~

~~THIS SECTION TO BE REPLACED WITH BELOW:~~

8.2 STANDARDS FOR PHA TENANT SELECTION CRITERIA

- A. The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member.¹ This policy takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who adhere to lease responsibilities².
- B. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in compliance with the public housing lease. LMHA will not deny admission to individuals because of one or more prior arrests (without any conviction) as prior arrests cannot satisfy the burden of showing such use is necessary to achieve a substantial, legitimate, nondiscriminatory interest. An arrest is not a reliable basis upon which to assess the potential risk to resident safety or property posed by a particular individual³. LMHA will utilize a policy that accurately distinguishes between criminal conduct because of prior convictions that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not. While certain convictions and criminal actions require denial as per HUD regulation outlined in Section 8.3, LMHA will take into account the nature, severity, and recency of criminal conduct of an individual's conviction record⁴. Individualized assessment of relevant mitigating information beyond that contained in an individual's criminal record is likely to have a less discriminatory effect. Relevant individualized evidence may include facts or circumstances surrounding the criminal conduct, the age of the individual at the time of the conduct, evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct; and evidence of rehabilitation efforts.⁵
- C. In selection of families for admission to its public housing program, or to occupy a public housing development or unit, LMHA is responsible for screening family behavior and suitability for tenancy. LMHA adheres to HUD regulations and considers all relevant information, which may include, but is not limited to⁶:

¹ 24 CFR §960.203(a)

² 24 CFR §960.203(b)

³ April 4, 2016. "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions," Section III.B.1.

⁴ Ibid, Section III.B.2.

⁵ Ibid, Section III.C.

⁶ 24 CFR §960.203(c)

1. An applicant's past performance in meeting financial obligations, especially rent⁷;
 - a. LMHA will not accept applicants who currently owe rent or other amounts to any housing authority in connection with the public housing or Section 8/Housing Choice Voucher programs⁸;
 - b. LMHA will verify debts owed through EIV⁹.
2. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants and¹⁰;
3. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants¹¹. With respect to criminal activity described in Section 8.3 of this plan:
 - a. LMHA may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in Section 8.3 that warrants denial¹².
 - b. LMHA reserves the authority to conduct a background check on all adult household members who are 18 years of age and older, including live-in aides at no cost to the applicant¹³. This check will be made through State or local law enforcement or court records for the last *three* years¹⁴. This background check will proceed after each adult household member has signed a consent form designed by LMHA. LMHA will take under consideration a household member's history of convictions for a period of *three years from the date of the conviction*.¹⁵
 - c. The information received as a result of the background check shall be used solely for screening, lease enforcement, and eviction purposes. The information derived from the background check shall be shared only with employees of LMHA who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the Housing Authority's action has expired without a challenge or final disposition of any litigation has occurred¹⁶;
 - d. In most cases, LMHA will consider self-certification of criminal conduct as verification of initial screening. As per 18 U.S. Code §1001, intentional misrepresentation of information will result in committing fraud against LMHA and will result in denial of admission.
4. The LMHA tenant selection criteria are subject to VAWA protection.¹⁷ In cases of

⁷ 24 CFR §960.203(c)(1)

⁸ HUD Notice PIH 2018-18, "Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System".

⁹ As per 24 CFR §5.233, LMHA will verify debts owed through EIV.

¹⁰ 24 CFR §960.203(c)(2)

¹¹ 24 CFR §960.203(c)(3)

¹² 24 CFR §960.203(c)(3)(i)

¹³ 24 CFR §5.903(a)

¹⁴ 24 CFR §5.903(a)-(c) and 24 CFR §960.204

¹⁵ 24 CFR §960.203(c)(3) and PIH 2015-19. Guidelines for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions.

¹⁶ 24 CFR §5.903(e)

¹⁷ 24 CFR part 5, subpart L

requests for emergency transfers under VAWA, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, LMHA may accept and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information, including form HUD 50058 (Family Report).

a. LMHA requires verification in all cases where an applicant claims VAWA protection. See Section 23.2 of this ACOP for detail.

D. In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense)¹⁸.

1. In a manner consistent with LMHA's policies, procedures and practices, consideration may be given to factors which might indicate a reasonable probability of favorable future conduct¹⁹. For example:

a. Evidence of rehabilitation²⁰; and

b. Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs²¹;

2. Consideration of rehabilitation²².

a. In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, LMHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully²³. For this purpose, LMHA may require the applicant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.²⁴

~~8.3—GROUNDS FOR DENIAL~~

~~THIS SECTION TO BE REPLACED WITH BELOW:~~

8.3 DENIAL OF ADMISSION FOR CRIMINAL ACTIVITY OR DRUG ABUSE BY HOUSEHOLD MEMBERS²⁵

A. Required denial of admission²⁶

1. **Persons evicted for drug-related criminal activity:** LMHA will prohibit admission of an applicant to the public housing program for three years from the date of the eviction if

¹⁸ 24 CFR §960.203(d)

¹⁹ 24 CFR §960.203(d)(1)

²⁰ 24 CFR §960.203(d)(1)(i)

²¹ 24 CFR §960.203(d)(1)(ii)

²² 24 CFR §960.203(d)(2)

²³ 42 U.S.C. 13661

²⁴ 24 CFR §960.203(d)(2)(i)

²⁵ 24 CFR §960.204

²⁶ 24 CFR §960.204(a)

any household member has been evicted from federally assisted housing for drug-related criminal activity²⁷.

However, LMHA may admit the household if:

- a. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by LMHA; or
 - b. The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
 - c. LMHA will consider self-certification and/or background checks for verification. As per 18 U.S. Code §1001, intentional misrepresentation of information will result in committing fraud against LMHA and will result in denial of admission.
2. **Persons engaging in illegal use of a drug:** LMHA must establish standards that prohibit admission of a household to the public housing program²⁸ if:
- a. LMHA determines that any household member is currently engaging in illegal use of a drug (For purposes of this section, a household member is “currently engaged in” the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current)²⁹; or
 - b. LMHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.³⁰
 - d. LMHA will consider self-certification and/or background checks for verification. As per 18 U.S. Code §1001, intentional misrepresentation of information will result in committing fraud against LMHA and will result in denial of admission.
3. **Persons convicted of methamphetamine production:** LMHA must establish standards that permanently prohibit admission to the public housing program if any household member has ever been *convicted* of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing³¹. LMHA will consider self-certification and/or background checks for verification. As per 18 U.S. Code §1001, intentional misrepresentation of information will result in committing fraud against LMHA and will result in denial of admission.
4. **Persons subject to sex offender registration requirement:** LMHA must establish standards that prohibit admission to the public housing program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, LMHA must perform necessary background checks in the State where the housing is located and in other States where household members are known to have resided.³² LMHA will conduct a check of state sex offender registration programs for each adult household member 18 years of age and older, including live-in aides. LMHA will utilize the US Department of Justice’s Dru Sjodin National Sex Offender website to check for sex offender registration in any US state or territory (<https://www.nsopw.gov>). The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which

²⁷ 24 CFR §960.204(a)(1)

²⁸ 24 CFR §960.204(a)(2)

²⁹ 24 CFR §960.204(a)(2)(i)

³⁰ 24 CFR §960.204(a)(2)

³¹ 24 CFR §960.204(a)(3)

³² 24 CFR §5.905 (a) and §960.204(a)(4)

combines the data from individual state sex offender registries. Any sex offender registration entries found in the Dru Sjodin Database will be verified with the jurisdiction that posted the entry data.

5. **Persons that abuse or show a pattern of abuse of alcohol:** LMHA must establish standards that prohibit admission to the public housing program if LMHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.³³ LMHA will consider self-certification and/or background checks for verification. As per 18 U.S. Code §1001, intentional misrepresentation of information will result in committing fraud against LMHA and will result in denial of admission.
- B. **Use of criminal records.** Before LMHA denies admission to the public housing program on the basis of a criminal record, LMHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record³⁴.
- C. **Cost of obtaining criminal record.** LMHA will not pass along to the applicant the costs of a criminal records check.³⁵

~~8.4 DENIAL OF ADMISSIONS FOR ADDITIONAL CRITERIA~~

~~The LMHA is not required or obligated to assist families where applicants or members of the applicant's household:~~

- ~~A. Have net assets that are the over income limit of 100,000 or who have ownership interest and legal rights in real property suitable for occupancy. This limitation does not apply to
 1. Victims of domestic violence covered under VAWA; OR
 2. Families offering the real property for sale;~~
- ~~B. LMHA will also deny admission for evictions from federally assisted housing within the past three years for cause.~~
- ~~C. Do not supply information or documentation required by the application process³⁶;~~
- ~~D. Have failed to respond to a written request for information or a request to declare their continued interest in the program;~~
- ~~E. Currently owe rent or other amounts to any housing authority in connection with their public housing or Section 8/Housing Choice Voucher programs³⁷;~~
- ~~F. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from³⁸;~~
- ~~G. Have engaged in or threatened abusive or violent behavior towards any LMHA staff member or resident;~~

³³ 24 CFR §960.204(b)

³⁴ 24 CFR §960.204(c)

³⁵ 24 CFR §960.204(d)

³⁶ 24 CFR §960.259(a)

³⁷ HUD Notice PIH 2018-18, "Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System". As per 24 CFR §5.233, LMHA will verify debts owed through EIV.

³⁸ 18 U.S. Code §1001

- H. ~~Fugitive felons, parole violators, persons on home incarceration, persons under supervised probation, and persons fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees.~~

8.4 *INFORMAL REVIEW*³⁹

- A. Applicant denials will be reviewed by the Executive Director. Should LMHA deny admission to the Public Housing Program on the basis of a criminal record, LMHA must provide the applicant with notification and an opportunity to dispute the accuracy and relevance of a criminal record before admission is denied on the basis of such record⁴⁰. Applicants are also afforded the right to request an informal hearing or review after an application for housing assistance is denied⁴¹. The applicant will have thirty calendar days to dispute the accuracy and relevance of the record in writing. If the Housing Authority does not receive the dispute within the allotted time, the applicant will be denied.
- B. If the LMHA determines that an applicant does not meet the criteria for receiving public housing assistance, the Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request in writing an informal review of the decision within thirty calendar days of the denial. The LMHA will describe how to obtain the informal review.
- C. The informal review may be conducted by any person designated by the LMHA, other than a person who made or approved the decision under review or a subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the Housing Authority's decision. The LMHA must notify the applicant of the final decision within fourteen calendar days after the informal review, including a brief statement of the reasons for the final decision.
- D. The applicant may request that the LMHA provide for an Informal Hearing after the family has notification of an Immigration and Naturalization Service (INS) decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. The applicant must make this request within thirty calendar days of receipt of the Notice of Denial or Termination of Assistance, or within thirty calendar days of receipt of the INS appeal decision

³⁹ 24 CFR §966 Part B.

⁴⁰ 24 CFR §5.903(f), §5.905(d), §960.204(c), §960.208(a)

⁴¹ HUD Notice PIH 2015-19, "Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions"

15.0 RECERTIFICATIONS⁴²

[...]

15.5 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL AND BIENNIAL REEXAMINATIONS

The new rent will generally be effective upon the anniversary date with thirty calendar days' notice of any rent increase to the family. The thirty-calendar day notice will begin from the postmark date of the notification letter. **Should the household experience an increase or decrease in the household income that was reported at the time of the initial recertification appointment but prior to receiving their thirty-calendar day notice, this change must be reported. Any increase in income occurring after the postmark date of the thirty-day notification letter will not be considered until the next scheduled reexamination.**

[...]

19.0 REPAYMENT AGREEMENTS⁴³⁴⁴

When a resident owes the LMHA retroactive rent or back charges and is unable to pay the balance by the due date, the resident may request that the Housing Authority allow them to enter into a Repayment Agreement. The LMHA has the sole discretion of whether to accept such an agreement. All Repayment Agreements must assure that the full payment is made within a period not to exceed twenty-four months. **If payments—retroactive rent payments plus current rent payment—within 24 months would exceed 40% of adjusted income, the repayment agreement may be extended.** All Repayment Agreements must be in writing and signed by both parties. They must include the following elements:

- A. Reference to the paragraphs in the Public Housing lease whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- B. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the Housing Authority.
- C. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- D. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

Refusal to enter into a Repayment Agreement for monies owed **may will** subject the family to eviction procedures.

[...]

⁴² PIH 2020-05, "COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher..." temporarily alters the administration and policies of this section. See Page 1 of this plan.

⁴³ The CARES Act of 2020 temporarily alters the administration and policies of this section. See Page 1 of this plan.

⁴⁴ HUD Notice PIH 2018-18, "Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System," Item 16.

APPENDIX C: POLICY AGAINST TRESPASSING

[...]

All other persons without legitimate purpose to enter LMHA public housing property are subject to being barred from LMHA public housing property, including, but not limited to:

[...]

Note: Anyone named on the Trespass/Ban list will remain so for a (1) year period, unless he or she, through the appeals process, is removed by the Supervisor of Safety and Investigations and with the agreement of the Director of Property Management and affected Property Managers.

4.0 ENFORCEMENT

As determined by the LMHA's authorized staff or agent, a person who has engaged in Trespass of LMHA public housing property, shall be banned for a period of one year from entering LMHA property.

[...]

6.0 REMOVAL FROM BAN LIST

Persons listed on the Trespass/Ban List may only be removed by the Supervisor of Safety and Investigations and with the agreement of the Director of Property Management and affected Property Managers.

[...]

APPENDIX F: PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING POLICY

[...]

For Additional Information

- You may view a copy of HUD's final VAWA rule at <https://www.hud.gov/sites/documents/5720-F-03VAWAFINRULE.PDF>. Additionally, **LMHA** must make a copy of HUD's VAWA regulations available to you if you ask to see them.

- For questions regarding VAWA, please contact **Assistant Director of Leased Housing (Section 8) at 502-569-4901 or Director of Property Management (Public Housing) at 502-569-3400.**

[...]

PROPOSED ADMINISTRATIVE PLAN CHANGES FOR JULY 21.

[...]

13. INSPECTION POLICIES, HOUSING QUALITY STANDARDS, AND DAMAGE CLAIMS⁴⁵

The Louisville Metro Housing Authority (LMHA) will inspect all units to ensure that they meet Housing Quality Standards (HQS)⁴⁶. No unit will be initially placed on the Housing Choice Voucher Existing Program unless the HQS is met. Units will be inspected at least annually and at other times as needed, to determine if the units meet HQS.

LMHA must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled inspection appointment, the family must call and reschedule the inspection or make arrangements to enable the Housing Authority to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, LMHA will only schedule one more inspection. If the family misses two inspections, the Housing Authority will consider the family to have violated a Family Obligation and their assistance will be terminated.

[...]

F. TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS

[...]

E. Units in Exception Payment Standard Areas⁴⁷

When a unit is located in an approved exception payment standard area or when a unit was constructed on or after January 1, 1990, LMHA may conduct HQS inspections at least biennially – upon authorization by LMHA.

⁴⁵ PIH 2020-05 “COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher...” temporarily alters the administration and policies of this section. See page 1 of this plan.

⁴⁶LMHA has been authorized by HUD to use Louisville Metro Government Property Maintenance Codes in lieu of HQS. LMHA has an intergovernmental agreement with the LMG Department of Codes and Regulations to inspect Housing Choice Voucher units utilizing Code Chapter 156: “Property Maintenance Code”.

⁴⁷ MTW Activity 2018-2: HCV Owner Leasing Incentives in conjunction with PIH 2016-05 (HA) Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies. Attachment K: Biennial Inspections and the Use of Alternative Inspection Methods and Inspection Timeframes.

[...]

18. RENTAL ASSISTANCE DEMONSTRATION (RAD)

A. AN OVERVIEW OF THE RENTAL ASSISTANCE DEMONSTRATION PROGRAM

LMHA shall incorporate a Rental Assistance Demonstration (RAD) Significant Amendment into its Fiscal Year 2021 Moving to Work (MTW) Annual Plan as required by the US Department of Housing and Urban Development (HUD)⁴⁸. Upon conversion to the Rental Assistance Demonstration (RAD) Program, former public housing units will become subject to the rules and regulations pertaining to the Project-based Voucher (PBV) program as outlined in Chapter 17 of this Administrative Plan. HUD rules and regulations pertaining to the public housing program (Section 9) will no longer apply to RAD converted properties. HUD has modified the PBV program rules and regulations to incorporate additional provisions that apply solely to units converted under RAD. These additional provisions include resident rights, resident participation, waiting lists, leases, grievance processes and other areas.

B. RESIDENT PROCEDURAL RIGHTS⁴⁹

The following items are specific to the RAD program regarding resident procedural rights:

1. Termination Notification⁵⁰. In addition to the regulations related to Project Owner termination of tenancy and eviction⁵¹, the termination procedure for RAD conversions to PBV will require that LMHA provide adequate written notice of termination of the lease which include:
 - a. A reasonable period of time not to exceed 30 days⁵²:
 1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened;
or
 2. In the event of any drug-related or violent criminal activity or any felony conviction;
 - b. Not less than 14 days in the case of nonpayment of rent; and

⁴⁸ FY 2021 MTW Plan, Appendix F. Rental Assistance Demonstration Significant Amendment.

⁴⁹ HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.C. – PBV Resident Rights and Participation.

⁵⁰ As per HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.C.6.a – PBV Resident Rights and Participation; Resident Protocol Rights; Termination Notification, HUD incorporates additional termination notification requirements for conversion assistance under RAD and to non-RAD PBV units located at the Covered Project. 24 CFR §5.858 through §5.861 on eviction for drug and alcohol abuse applies here. 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies here.

⁵¹ 24 CFR § 983.257

⁵² HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.C.6.a.i-iii – PBV Resident Rights and Participation; Resident Protocol Rights; Termination Notification.

- c. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
2. Grievance Process⁵³. For the termination of assistance and several other LMHA determinations, LMHA will provide opportunities for informal hearings⁵⁴ in accordance with the PBV program with the following additional requirements⁵⁵:
- a. In addition to reasons that require an opportunity for an informal hearing,⁵⁶ an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - 1. For any hearing, the contract administrator⁵⁷ will perform the hearing, as is the current standard in the program.
 - 2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
 - b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
 - c. The Project Owner gives residents notice of their ability to request an informal hearing⁵⁸ addressing circumstances that fall outside of the scope outlined with all PBV grievances⁵⁹.
 - d. The Project Owner provides opportunity for an informal hearing before an eviction.

C. ESTABLISHMENT OF WAITING LIST⁶⁰

The provisions of establishing a waiting list shall apply as stated in Chapter 17 of the Administrative Plan unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. LMHA shall consider the best means to transition applicants from the current public housing waiting list, including:

- a. Transferring an existing site-based waiting list to a new site-based waiting list;
- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list;
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list; and

⁵³ As per HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.C.6. – PBV Resident Rights and Participation; Resident Protocol Rights; Grievance Process, HUD incorporates additional termination notification requirements for conversion assistance under RAD and to non-RAD PBV units located at the Covered Project.

⁵⁴ 24 CFR § 982.555

⁵⁵ 24 CFR § 982.555(b)

⁵⁶ 24 CFR § 982.555(a)(1)(i)-(v)

⁵⁷ The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).

⁵⁸ 24 CFR § 982.555(c)(1)

⁵⁹ 24 CFR § 982.555(a)(1)(i)-(v)

⁶⁰ HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.D.4. – PBV: Other Miscellaneous Provisions; Establishment of Waiting List.

d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, LMHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to LMHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If LMHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, LMHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, LMHA shall establish a waiting list to ensure that applicants on LMHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list⁶¹. In all cases, LMHA has the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. LMHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities and with the obligation to provide meaningful access for persons with limited English proficiency (LEP). A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

When using a site-based waiting list, LMHA may consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the LMHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision⁶².

⁶¹ 24 CFR § 903.7(b)(2)(ii)-(iv)

⁶² As per HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.D.4. – PBV: Other Miscellaneous Provisions; Establishment of Waiting List, HUD incorporates additional termination notification requirements for conversion assistance under RAD and to non-RAD PBV units located at the Covered Project.

D. CHOICE MOBILITY⁶³

If a family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, LMHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the LMHA's HCV program becomes PBV assistance, it is possible for most or all of LMHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for LMHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for housing authorities where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by LMHA exceeds 20 percent of its authorized units under the HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, LMHA must create and maintain a waiting list in the order in which the requests from eligible households were received.⁶⁴

[...]

APPENDIX 3: COMMONLY USED DOCUMENTS

[...]

C. NOTICE TO APPLICANTS/PARTICIPANTS REGARDING THEIR RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

[...]

For Additional Information

- You may view a copy of HUD's final VAWA rule at <https://www.hud.gov/sites/documents/5720-F-03VAWAFINRULE.PDF>. Additionally, **LMHA** must make a copy of HUD's VAWA regulations available to you if you ask to see them.
- For questions regarding VAWA, please contact **Assistant Director of Leased Housing (Section 8) at 502-569-4901 or Director of Property Management (Public Housing) at 502-569-3400.**

[...]

⁶³ HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Revision 4, Section 1.6.D.8. – PBV: Other Miscellaneous Provisions; Choice-Mobility

⁶⁴ HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). This alternative requirement does not apply to PBVs entered into outside of the context of RAD.