

Significant Amendment to the Wichita Housing Authority 2018 Annual Plan and 2015-2019 Five-Year Plan

Rental Assistance Demonstration Pilot Program

The City of Wichita Housing Authority (WHA) is converting all of its 578 Public Housing units to the U.S. Department of Housing and Urban Development's Rental Assistance Demonstration Pilot Program (RAD). The WHA chose to use Project Based Rental Assistance (PBRA).

1. Description of the units to be converted

KS004000001

2 Elderly-only High rise buildings – 176 units

This development will remain Elderly-only after conversion.

167 1BR units

9 2BR units

KS004000002

2 Elderly/disabled apartment communities – 50 units

This development will remain Elderly/disabled after conversion.

50 1BR units

KS004000003

193 Family Scattered site single-family – 193 units

This development will remain family housing after conversion.

1 2BR unit

141 3BR units

44 4BR units

7 5BR units

KS004000004

159 Family Scattered site single-family units – 159 units

This development will remain family housing after conversion.

34 2BR units

25 3BR units

51 4BR units

29 5BR units

20 6BR units

2. There will be no change in the number of units

There will not be any changes to the number of units.

The 35 two-bedroom single-family scattered-site units may be converted to three-bedroom units.

3. Changes in policies at the project after it has been converted.

The WHA proposes to convert all of its public housing units to PBRA.

Tenant Protections Under Notice H 2016-17; PIH 2016-17

No Rescreening of Tenants upon Conversion. Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Projects based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Projects, current households in the Converting Projects will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the Covered Projects is protected pursuant to PBRA requirements regarding continued occupancy unless explicitly modified (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, the first clause of section 8(c)(4) of the Act and 24 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family.

Under-occupied Units. If at the time of conversion, an eligible family assisted under the HAP Contract is occupying a unit that is larger than appropriate because of the family's composition, the family may remain in the unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized within a reasonable period of time. In order to allow the family to remain in the under-occupied unit until an appropriate sized unit becomes available in the Covered Project, HUD is waiving the portion of 24 CFR § 880.605 that assumes the unit has become under-occupied as the result of a change in family size.

Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Projects once rehabilitation or construction is complete. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project's conversion of assistance. The WHA satisfies the RAD right to return to a Covered Project by offering the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident's unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project once it is ready for occupancy in accordance with applicable PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident shall be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;
Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible; and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.
- If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.
- If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.
- In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with the resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the WHA may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the WHA seeks to have the resident exercise the right of return at a future phase, the WHA will secure the resident's consent to such plan as an alternative housing option.
- In implementing the right of return, the WHA shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

Phase-in of Tenant Rent Increases. If a resident's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the WHA will phase the rent increase in over three years. Eligibility for the phase-in is to be determined at the Initial Certification which occurs at the time the household is converted to PBRA. A phase-in must not be applied after the household's Initial Certification. To implement the phase-in, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 880.201 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of

tenant rent increases. The method described below explains the set percentage-based phase-in and the WHA must follow according to the phase-in period established. For purposes of this section “Calculated Multifamily TTP” refers to the TTP calculated in accordance with regulations at 24 CFR § 5.628 (not capped at Gross Rent) and the “most recently paid TTP” refers to the TTP recorded on the family’s most recent HUD Form 50059. If a family in a project converting from Public Housing to PBRA was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated Multifamily TTP.
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in prior to Year 3 AR – 50% of difference between most recently paid TTP and Calculated Multifamily TTP.
- Year 3: Year 3 AR and all subsequent recertifications – Year 3 AR and any IR in Year 3: Full Calculated Multifamily TTP.

Once Calculated Multifamily TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full Calculated Multifamily TTP from that point forward.

Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.

The WHA residents enrolled in the current ROSS-SC grant program will be able to finish out their current ROSS-SC program once their housing is converted under RAD. However, once the properties are converted, they will no longer be eligible to be counted towards the unit count for future ROSS-SC grants nor will the residents be eligible to be served by future ROSS-SC grants, as ROSS-SC, by statute, can serve only public housing residents. At the completion of the ROSS-SC grant, the WHA shall follow the normal closeout procedures outlined in the grant agreement.

Resident Participation and Funding. Residents of Covered Projects with assistance converted to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR part 245 (Tenant Participation in Multifamily Housing Projects). In addition, in accordance with Notice PIH 2012-32 (HA) REV-3, Attachment 1B, residents will be eligible for resident participation funding.

Resident Procedural Rights. The information provided below shall be included as part of the House Rules for the associated projects and the House Rules shall be furnished to HUD as part of the Financing Plan submission. See Notice PIH 2012-32 (HA) REV-3, Attachment 1E for a sample Addendum to the House Rules.

Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR § 880.607 and the Multifamily HUD Model Lease.

Termination of Tenancy and Assistance. The termination procedure for RAD conversions to PBRA will additionally require that The WHA provide adequate written notice of termination of the lease which shall be:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, The WHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction;
- Not less than 14 days in the case of nonpayment of rent; and
- 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.

Termination of Assistance. In all other cases, the requirements at 24 CFR § 880.603, the Multifamily HUD Model Lease, and any other HUD multifamily administrative guidance shall apply.

Grievance Process. Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act. In addition to program rules that require that tenants are given notice of covered actions under 24 CFR part 245 (including increases in rent, conversions of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant paid utility allowances), HUD requires that:

- Residents be provided with notice of the specific grounds of the WHA's proposed adverse action, as well as their right to an informal hearing with the WHA;
- Residents have an opportunity for an informal hearing with an impartial member of the WHA's staff within a reasonable period of time;
- Residents have the opportunity to be represented by another person of their choice, to ask questions of witnesses, have others make statements at the hearing, and to examine any regulations and any evidence relied upon by the WHA as the basis for the adverse action. With reasonable notice to the WHA, prior to hearing and at the residents' own cost, residents may copy any documents or records related to the proposed adverse action; and
- The WHA will provide the resident with a written decision within a reasonable period of time stating the grounds for the adverse action and the evidence the WHA relied on as the basis for the adverse action.

The WHA will be bound by decisions from these hearings, except if the hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing, or the decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law. If the WHA determines that it is not bound by a hearing decision, the WHA will promptly notify the resident of this determination, and of the reasons for the determination.

Earned Income Disregard (EID). Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID exclusion after conversion, in accordance with regulations at 24 CFR § 960.255. After conversion, no other tenants will be eligible to receive the EID. If a tenant receiving the EID exclusion undergoes a break in employment, ceases to use the EID exclusion, or the EID exclusion expires in

accordance with 24 CFR § 960.255, the tenant will no longer receive the EID exclusion and the Owner will no longer be subject to the provisions of 24 CFR § 960.255. Furthermore, tenants whose EID ceases or expires after conversion shall not be subject to the rent phase-in provision, as described in Section 1.7.B.3; instead, the rent will automatically be adjusted to the appropriate rent level based upon tenant income at that time.

Jobs Plus. The WHA does not have a Jobs Plus program at this time.

When Total Tenant Payment Exceeds Gross Rent. Under the PBRA program, assisted families typically pay 30% of adjusted gross income toward rent and utilities, referred to as TTP. Under normal PBRA rules, a Project Owner must process a termination of assistance pursuant to section 8-5 C. of Housing Handbook 4350.3, REV-1 when the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)). In addition, section 8-6 A.1 provides that, when terminating a tenant's assistance, the owner is to increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy).

For residents living in the Converting Projects on the date of conversion and all new admissions to the Covered Project thereafter, when TTP equals or exceeds the contract rent plus any utility allowance, the WHA must charge a tenant rent equal to the lesser of (a) TTP (which is not capped at gross rent), less the utility allowance in the contract, or (b) any applicable maximum rent allowable under LIHTC regulations. To this end, HUD is waiving sections 8-5 C. and 8-6 A. 1. of Housing Handbook 4350.3, REV-1. In such cases, the tenant will still be considered a Section 8 tenant and will still have the rights and be subject to the requirements of Section 8 tenants. Tenants will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those provided through this Notice, and tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning reexamination of family income and composition found in 24 CFR §§ 5.657 and 880.603(c). When TTP equals or exceeds Gross Rent, the excess rent collected by the owner is considered project funds and must be used for project purposes. Assistance may subsequently be reinstated if the Tenant becomes eligible for assistance. In the event that the tenant moves out, the Project Owner must select an applicant from the waiting list who meets the applicable income limits for the project.

The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS) but may be required to do so in the future when a future revision of the TRACS can accept such certifications. All normal actions for the contract rent shall continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract—since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental assistance.

- **Waiting List Preferences** – The WHA will not adopt any preferences on its waiting list for the Covered Properties. Applicants will be selected from the waiting list according to the time and date of their applications. A single waiting list for all Covered Projects will be used.

- **Choice Mobility.** The WHA will provide all residents of Covered Projects with viable Choice-Mobility options in accordance with the following:

Resident Eligibility. Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 24 months from date of execution of the HAP or (b) 24 months after the move-in date.

Voucher Inventory Turnover Cap. Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers 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 the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

Project Turnover Cap. Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the property, in any year, a PHA may limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the PHA could limit the number of families exercising Choice-Mobility to 15 in any year, but not to less than 15.) While a voucher agency is not required to establish a project turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

4. Transfer of Assistance

- a. Number of units to be transferred: All 578 units will be transferred to Project Based Rental Assistance.
- b. The bedroom distribution of the units in new buildings: No new residential buildings will be constructed as part of this conversion.
- c. The type of units, if changed: The elderly-only; elderly/disabled; and family designated units will keep their same designation.
- d. Reduction or change in the number of units and what reduction category they fall under: No changes will be made.
- e. How the waiting list will be transferred and how households will be selected for the transfer: The WHA's complete Public Housing portfolio is changing to RAD. The waiting list will transfer at the time of conversion.

5. The WHA is in compliance with all Fair Housing laws.

6. The WHA certifies that the RAD conversion complies with all applicable site selection and neighborhood review standards and all appropriate procedures are being followed.

7. Capital Fund Program

RAD was designed by HUD to assist in addressing the capital needs of Public Housing by providing the WHA with access to private sources of capital to repair and preserve its affordable housing assets. Upon conversion the WHA's Capital Fund Budget will be reduced by the pro

rata share of Public Housing Developments converted as part of the Demonstration, and that the WHA may also borrow funds to address its capital needs.

Original 2015-2019 Five Year Plan
Section 7.0 Disposition

If the WHA Board approves, Section 7.0 Disposition will be removed from the 2015-2019 Five-Year Plan as it was written. Originally the WHA considered disposing of some or all of the units in Asset Management Project KS004000004 (AMP 4) due to its high maintenance costs. Converting AMP 4 to RAD will allow the dwelling units to be significantly rehabilitated. All of the 159 single family scattered site units will remain in the WHA's portfolio of RAD units.