

RESOLUTION NO. _____

**APPROVAL OF REVISIONS TO THE HOUSING CHOICE VOUCHER PROGRAM
ADMINISTRATIVE PLAN**

Item No. 5d

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires that Housing Choice Voucher (HCV) providers adopt an Administrative Plan to set local policies for the administration of the program in accordance with HUD requirements and local priorities; and

WHEREAS, the HCV Program Administrative Plan and any revisions to said document must be formally adopted by the Louisville Metro Housing Authority (LMHA) Board of Commissioners; and

WHEREAS, the LMHA finds it necessary to revise the existing HCV Program Administrative Plan to administer the program in a more effective and efficient manner and to remain in compliance with HUD rules and regulations; and

WHEREAS, the LMHA is proposing revisions to the following sections of the HCV Program Administrative Plan: "Inspection Policies, Housing Quality Standards, and Damage Claims" (Section 13 and 13F); "Rental Assistance Demonstrations" (Section 18A-D); and "Commonly Used Documents" (Appendix 3); and

WHEREAS, the full text of the proposed revisions is given as an attachment to this resolution; and

WHEREAS, these proposed revisions were made available for public comment from June 12, 2020 through July 11, 2020 and a public hearing was held on June 23, 2020.

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NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO HOUSING AUTHORITY BOARD OF COMMISSIONERS that the Housing Choice Voucher Program Administrative Plan revisions are adopted.

RESOLUTION BACKGROUND STATEMENT
APPROVAL OF REVISIONS TO THE HOUSING CHOICE VOUCHER PROGRAM
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I. STATEMENT OF FACTS:

LMHA reviews its HCV Program Administrative Plan to ensure that the admissions and occupancy policies described therein are compliant with the latest rules and regulations issued by HUD and that the HCV Program is operated in a manner that is effective, efficient, and beneficial to residents. To that end, LMHA is now proposing the following changes to its Administrative Plan:

- “Inspection Policies, Housing Quality Standards, and Damage Claims”
 - Introduction – Include footnote regarding the specific chapter of the property maintenance code.
 - Section 13F – Allow for HQS inspections at least every two years for units in an approved exception payment standard area or when a unit was constructed on or after January 1, 1990.
- “Rental Assistance Demonstration (RAD)” – new section
 - Section 18A – Provides a general description of the RAD program.
 - Section 18B – Provides description of resident procedural rights specific to the RAD program including notification of termination and grievance process.
 - Section 18C – Provides description of waiting list provisions specific to RAD program.
 - Section 18D – Describes the choice mobility if lease is terminated.
- “Appendix 3C: Commonly Used Documents: Notice to Applicants/Participants Regarding Their Rights Under the Violence Against Women Act”
 - Update locally revised HUD Form 5380 with current staff numbers and job titles.

II. ALTERNATIVES:

- A. Approve all the revisions to the HCV Program Administrative Plan.
- B. Approve a portion of the revisions to the HC Program Administrative Plan.
- C. Do not approve the revisions to the HCV Program Administrative Plan.

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III. RECOMMENDATION:

Staff recommends Alternative "A".

IV. JUSTIFICATION:

HUD requires that Housing Choice Voucher (HCV) providers adopt a written Administrative Plan that establishes local policies for administration of the program. This document guides staff in administering the HCV Program and informs residents and the general public of the Housing Authority's admissions and occupancy policies.

Submitted by: Heath Rico-Storey
Compliance Manager
July 21, 2020

PROPOSED ADMINISTRATIVE PLAN CHANGES FOR JULY 21.

[...]

13. INSPECTION POLICIES, HOUSING QUALITY STANDARDS, AND DAMAGE CLAIMS¹

The Louisville Metro Housing Authority (LMHA) will inspect all units to ensure that they meet Housing Quality Standards (HQS)². 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 Areas³

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.

¹ 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.

²LMHA 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”.

³ 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)⁴. 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 RIGHTS⁵

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

1. Termination Notification⁶. In addition to the regulations related to Project Owner termination of tenancy and eviction⁷, 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 days⁸:
 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
 - 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.

⁴ FY 2021 MTW Plan, Appendix F. Rental Assistance Demonstration Significant Amendment.

⁵ HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Rev 4, Section 1.6.C. – PBV Resident Rights and Participation.

⁶ 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.

⁷ 24 CFR § 983.257

⁸ 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.

2. **Grievance Process**⁹. For the termination of assistance and several other LMHA determinations, LMHA will provide opportunities for informal hearings¹⁰ in accordance with the PBV program with the following additional requirements¹¹:
 - d. In addition to reasons that require an opportunity for an informal hearing,¹² 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 administrator¹³ 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.
 - e. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
 - f. The Project Owner gives residents notice of their ability to request an informal hearing¹⁴ addressing circumstances that fall outside of the scope outlined with all PBV grievances¹⁵.
 - g. The Project Owner provides opportunity for an informal hearing before an eviction.

C. ESTABLISHMENT OF WAITING LIST¹⁶

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
- 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.

⁹ 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.

¹⁰ 24 CFR § 982.555

¹¹ 24 CFR § 982.555(b)

¹² 24 CFR § 982.555(a)(1)(i)-(v)

¹³ The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).

¹⁴ 24 CFR § 982.555(c)(1)

¹⁵ 24 CFR § 982.555(a)(1)(i)-(v)

¹⁶ 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.

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 list¹⁷. 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 provision¹⁸.

D. CHOICE MOBILITY¹⁹

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.

¹⁷ 24 CFR § 903.7(b)(2)(ii)-(iv)

¹⁸ 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.

¹⁹ HUD PIH Notice 2019-23: RAD (Rental Assistance Demonstration) – Final Implementation, Revision 4, Section 1.6.D.8. – PBV: Other Miscellaneous Provisions; Choice-Mobility

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.²⁰

[...]

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.**

[...]

²⁰ 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.