

**District of Columbia Housing Authority
amendment to the agency's FY2017
Moving to Work (MTW) Plan**

**Public Comment Draft
May 26-June 26, 2017**

The District of Columbia Housing Authority (DCHA) is proposing the following amendment to the agency's FY2017 Moving to Work (MTW) plan.

**Appendix D: Rental Assistance Demonstration (RAD) Significant Amendments
*Fairlawn Marshall and Matthews Memorial***

The District of Columbia Housing Authority (DCHA) applied under the Rental Assistance Demonstration (RAD) Program of the U.S. Department of Housing and Urban Development (HUD) to convert 65 units of public housing to project-based vouchers. The 65 units are based within two properties; Fairlawn Marshall (30 units) and Matthews Memorial Terrace (35 units). The application for conversion was approved by HUD through a Commitment to enter into a Housing Assistance Payments Contract (CHAP).

DCHA intends to convert 65 units of public housing within Fairlawn Marshall and Matthews Memorial to Project Based Vouchers (PBV) under the guidelines of PIH Notice 2012-32, REV-3 and any successor Notices. Upon conversion to PBV, DCHA will adopt the resident rights, participation, waiting lists and grievance procedures listed in Section 1.6.C and 1.6.D of PIH Notice 2012-32, REV-3. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, DCHA is currently compliant with all fair housing and civil rights requirements and is under two Voluntary Compliance Agreements and a consent decree.

RAD was designated by HUD to assist in addressing the capital needs of public housing by providing DCHA with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, DCHA's Capital Fund Budget will be reduced by the pro rata share of Public Housing Developments converted to RAD. Through RAD, public housing agencies and owners may access private debt and equity to address the capital needs. The capital needs are informed by a Physical Conditions Assessment (PCA). A PCA was completed for Matthews Memorial and Fairlawn Marshall. , minimal improvements are required for the sites, consequently, additional debt or equity is not contemplated for these conversions. However, the conversion will help stabilize future operating subsidy for the properties. Regardless of any funding changes that may occur as a result of conversion under RAD, DCHA certifies that it will maintain its continued service level for the Public Housing and Housing Choice Voucher programs.

The required information for this significant amendment is as follows:

Description of Public Housing Developments selected for RAD

DCHA has received approval from HUD for Fairlawn Marshall and Matthews Memorial.

Name of Public Housing Development	PIC Development ID	Conversion Type (i.e. PBV or PBRA)	Transfer of Assistance
Fairlawn Marshall	DC001005280	PBV	Yes
Total Units	Pre-RAD Unit Type (i.e. Family, Senior, etc.)	Post-RAD Unit Type if Different (i.e. Family, Senior, etc.)	Capital Fund Allocation of Development
30	Family	Family	\$24,054
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfiguration, etc.)
One Bedroom	20	20	N/A
Two Bedroom	10	10	N/A

Name of Public Housing Development	PIC Development ID	Conversion Type (i.e. PBV or PBRA)	Transfer of Assistance
Matthews Memorial Terrace	DC001005320	PBV	Yes
Total Units	Pre-RAD Unit Type (i.e. Family, Senior, etc.)	Post-RAD Unit Type if Different (i.e. Family, Senior, etc.)	Capital Fund Allocation of Development
35	Family	Family	\$31,304
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfiguration, etc.)
One Bedroom	3	3	N/A
Two Bedroom	27	27	N/A
Three Bedroom	5	5	N/A

Any change in the number of units that is proposed as part of the conversion, including:

a. De minimis unit reductions

DCHA does not anticipate any changes to unit composition at Fairlawn Marshall or Matthews Memorial Terrace.

b. Unit reductions that are exempt from the de minimis cap

Not applicable at either Fairlawn Marshall or Matthews Memorial Terrace.

Any change in the bedroom distribution units that is proposed as part of the conversion

DCHA does not anticipate any changes to unit composition or bedroom distribution at Fairlawn Marshall or Matthews Memorial Terrace.

Changes in the policies that govern eligibility, admission, selection, and occupancy of units at the project sites after they have been converted, including any waiting list preferences that will be adopted for the converted projects

Fairlawn Marshall—DCHA does not anticipate any changes to its current policies governing eligibility, admissions, selection and occupancy.

Matthews Memorial Terrace—DCHA does not anticipate any changes to its current policies governing eligibility, admissions, selection and occupancy.

Information regarding the transfer of assistance

DCHA does not anticipate transfer of assistance at Fairlawn

Compliance agreements, consent orders/decrees, rulings or decisions

DCHA is currently in compliance with its two voluntary compliance agreements and one consent decree. The agency's compliance will not be negatively impacted by conversion activities.

Required information for submitting amendment

See "Section IV. Administrative" of this Plan.

Information regarding the use of MTW fungibility

As a MTW agency looking to utilize its fungibility to set contract rents as necessary, DCHA will continue to maintain the agency's service level requirements.

Impact on the Capital Fund

Estimate of the amount of the current Capital Fund grant that is associated with the proposed projects and the impact on DCHA's current Five-Year and Five-Year Capital Action Plan

The amount of Capital Fund grant associated with Fairlawn Marshall and Matthews Memorial is \$55,358. DCHA anticipates a reduction in the Capital Fund by the same amount upon RAD conversion of these sites.

IF the RAD conversion will impact an existing CFFP or utilize RHF funds to facilitate conversion, the PHA should also indicate the estimated impact of those activities

There are no CFFP funds associated with units at Fairlawn Marshall and Matthews Memorial.

Impact of RAD conversion on DCHA's Energy Performance Contract (EPC)

There are no EPCs associated with Fairlawn Marshall and Matthews Memorial.

Residents Rights, Participation, Waiting List and Grievance Procedures

Section 1.6 Special Provisions Affecting Conversions to Project Based Vouchers from PIH Notice 2012-32, REV-3

The HUD RAD Notice (PIH-2012-32 (HA) H-2017-03, REV-3 and successor notices) and existing project based voucher policies outlined in the DCHA Administrative Plan and Admissions and Continued Occupancy Policy apply at the time of the conversion of Fairlawn Marshall and Matthews Memorial. DCHA has drafted RAD regulations amending the Administrative Plan and these will apply once adopted as final through the District of Columbia local rulemaking process.

PBV Resident Rights and Participation

- 1. No Re-screening of Tenants upon Conversion.** Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. 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, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.
- 2. Right to Return.** Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved (see Section 1.6.B.7 and Section 1.7.A.8 on conditions warranting a transfer of assistance), residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a DCHA or Owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.
- 3. Renewal of Lease.** Under RAD, DCHA or the owner must renew all leases upon lease expiration, unless cause exists. Consequently, 24 CFR § 983.257(b)(3) will not apply. This provision will be incorporated by the PBV owner into the tenant lease or tenancy addendum, as appropriate.
- 4. Phase-in of Tenant Rent Increases.** If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 5 years. To implement this provision, HUD is waiving Section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) only to the extent necessary to allow

for the phase-in of tenant rent increases. This policy must be in place at conversion and may not be modified after conversion.

The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section “standard TTP” refers to the TTP calculated in accordance with regulations at 24 CFR § 5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058.

All units converted under RAD will follow the five-year phase-in outlined below. For purposes of this section, “standard TTP” refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058.

Five Year Phase in:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP and the standard TTP

Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the standard TTP

Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the standard TTP

Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the standard TTP

Year 5 AR and all subsequent recertifications – Full standard TTP

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

As an MTW agency, DCHA has converted all of its households to biennial or triennial recertification cycles. For purposes of implementing the 5-year phase-in, impacted households will convert to an annual recertification until the calculated income-based TTP is reached. Once these households are on income-based TTP, the households will convert back to biennial or triennial recertifications.

- 5. Public Housing Family Self Sufficiency (PH FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to be eligible for FSS once their housing is converted under RAD. This includes DCHA’s **Achieving Your Best Life (AYBL) program**. As a PH FSS, program, AYBL participants will continue participation in AYBL after conversion. AYBL has specific policies governing participation already established through DCHA’s MTW authority, including policies related to income/rent calculations, escrow accounts, continued occupancy, etc. Public housing residents who already entered into an AYBL contract of participation prior to RAD conversion will remain in AYBL until those households exit the program. The AYBL regulations will continue

to govern those residents' participation in the AYBL program. After conversion, residents living in units funded by project-based voucher assistance will not be eligible for admission into AYBL.

DCHA is allowed to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, DCHA will follow the normal closeout procedures outlined in the grant agreement. If DCHA continues to run an FSS program that serves PH and/or HCV participants, DCHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV and/or PBRA participants in its FSS program. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

Except for AYBL provisions established under DCHA's MTW authority, DCHA will administer the agency's FSS program in accordance with FSS regulations at 24 CFR part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.¹ Further, upon conversion to PBV, already escrowed funds for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.

If DCHA becomes a ROSS-SC grantees prior to RAD conversion of a site, DCHA will be able to finish out ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants. At the completion of the ROSS-SC grant, DCHA will follow the normal closeout procedures outlined in the grant agreement.

- 6. Resident Participation and Funding.** In accordance with HUD RAD provision, residents of RAD properties converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding in accordance with current DCHA policies and HUD regulations.
- 7. Resident Procedural Rights.** The following items will be incorporated into both the DCHA Administrative Plan and the owner's lease, which including the required tenancy addendum, as appropriate.
 - a. Termination Notification.** As required under RAD, DCHA's termination process will provide adequate written notice of termination of the lease as outlined below:

¹ The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

- i. A reasonable period of time, but not to exceed 30 days:
 - If the health or safety of other tenants, PHA 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;
- ii. 14 days in the case of nonpayment of rent; and
- iii. 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.

a. Grievance Process.

For issues related to tenancy and termination of assistance, DCHA will provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will waive 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, and require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing will be given to residents for any dispute that a resident may have with respect to the owner's 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.
 - For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
 - For any additional hearings required under RAD, the owner will perform the hearing.
- ii. An informal hearing will not be required for class grievances or for disputes between residents not involving the owner or contract administrator. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the owner or contract administrator.
- iii. The owner will give residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)-(vi).
- iv. The owner will provide opportunity for an informal hearing before an eviction.

The DCHA Administrative Plan will include RAD hearing procedures.

- 8. 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 after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4;

instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in Section 5.617(b) limiting EID to only disabled persons is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant (e.g. tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver.

- 9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because 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)) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the RAD property after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. When the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.² In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. DCHA will process these individuals through the Form 50058 submodule in PIC.

Following conversion, 24 CFR § 983.53(d) applies, and any new families referred to the RAD PBV project will be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time. Further, DCHA will remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, DCHA will reinstate the unit after the family has vacated the property. If the project is partially assisted, the DCHA may substitute a different

² For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating” units have been permitted, Section 1.6.B.10 of this Notice.

- 10. Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the RAD property. When an appropriate sized unit becomes available in the RAD property, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the RAD property, 24 CFR § 983.260 is waived. MTW agencies may not modify this requirement.

PBV: Other Miscellaneous Provisions

- 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** DCHA and the Project Owner will cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.
- 2. Additional Monitoring Requirement.** DCHA’s Board must approve the operating budget for the RAD property annually in accordance with HUD requirements.
- 3. Establishment of Waiting List.** DCHA shall utilize the site-based waiting list(s) that exist at the time of conversion. For any applicants on the public housing waiting list that are likely to be ineligible for admission at a RAD property converting to PBV because the household’s TTP is likely to exceed the RAD gross rent, the DCHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the DCHA’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.

For RAD properties where transfer assistance will be utilized, CHA will notify existing waiting list applicants on how to apply they can apply for any new properties with site-based waiting lists.

DCHA will maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

- 4. Mandatory Insurance Coverage.** The RAD property shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
- 5. Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC.

6. **Administrative Fees for Public Housing Conversions.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded with public housing funds.

PHA’s operating HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. DCHA will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

Site Selection and Neighborhood Standards Review

Fairlawn Marshall – Not applicable.

Matthews Memorial Terrace – Not applicable.

Relocation Plan

Relocation will not be required as a result of the conversion. DCHA will complete the Accessibility and Relocation Checklist and submit it with the Financing Plan as provided for the PIH Notice 2012-32 REV-3.

Significant Amendment Definition

As part of RAD, DCHA is redefining the definition of a substantial deviation from the MTW plan to exclude the following RAD-specific items:

- a. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- b. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- c. Changes to the financing structure for each approved RAD Conversion.