

ENVIRONMENTAL REVIEW REQUIREMENTS FOR RAD CONVERSIONS

QUICK REFERENCE GUIDE

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1.0 WHAT ARE ENVIRONMENTAL REVIEWS?

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. It is intended to ensure that the proposed project does not negatively impact the surrounding environment or have an adverse effect on residents' health and safety.

An environmental review is required of all transactions under the Rental Assistance Demonstration ("RAD") program, regardless of whether any repairs are being performed at conversion.¹ However, the level of review required varies depending on the scope of work and the conditions of the property.

Note: The update to this guide to reflect the changes found in the RAD Notice 2012-32, Rev.4, issued on September 5, 2019.

2.0 HOW TO USE THIS GUIDE

This Quick Reference Guide is designed to provide RAD Awardees with an understanding of the environmental review requirements for RAD transactions. It is applicable for all conversions under RAD, including for properties converting from assistance under the public housing, Moderate Rehabilitation (Mod Rehab), McKinney Vento SRO (SRO), and Section 202 Project Rental Assistance Contract (202 PRAC). It replaces the guidance issued on February 29, 2016, titled "Environmental Review Requirements for First Component RAD Transactions."

This Guide provides specific instruction on the procedures that Awardees² should undertake to ensure they are providing timely and accurate information so that an environmental review can be completed. The Guide is a high-level, program-specific overview and should be used in conjunction with existing HUD guidance on the environmental review process.

For more background on HUD's environmental review requirements, as well as helpful reference documents and training aides, Awardees should review <https://www.hudexchange.info/programs/environmental-review/>.

Environmental review procedures for RAD vary depending on (i) the transaction type and (ii) the level of review required. The type of transaction dictates who will perform the environmental review, i.e., HUD or the Responsible Entity ("RE").³ The level of review dictates what documentation the Awardee should submit to the entity conducting the environmental review. Consequently, this Guide focuses on the procedures for conducting environmental reviews as well as the required documentation an Awardee should submit when requesting an environmental review from either HUD or a RE.

RAD is administered by the Office of Recapitalization (Recap). Under RAD, there are two Section 8 conversion options:

¹ See PIH Notice 2012-32, REV-4, September 5, 2019.

² For simplicity purposes, the term "Awardees" will mean both PHAs and Section 8 Owners.

³ The RE is the unit of general local government within which the project is located that exercises land use responsibility unless that entity cannot feasibly act as RE (see 24 CFR 58.2(a)(7)(ii)(B)). If the local government cannot act as RE, then HUD should determine whether the county or state could act as the RE (see 24 CFR 58.2(a)(7)(ii)(B)). Note that PHAs very rarely qualify to act as REs. The environmental review for a non-FHA PBV application or FHA Risk Share PBV will not be conducted by HUD except in accordance with 24 CFR 58.11. If HUD performs the environmental review under Part 50, follow the instructions for PBRA applications.

- **Project-based Rental Assistance, or PBRA** – often referred also as “Multifamily Section 8”, PBRA contracts are overseen by the Office of Housing.
- **Project-based Vouchers, or PBVs** – PBVs are a component of the Section 8 Voucher Program, where a voucher agency administers the voucher contract, overseen by the Office of Public and Indian Housing (PIH).

As noted below, these Section 8 conversion options have implications for who completes the environmental review. For more information on differences between the PBRA and the PBV programs, see “RAD Tools” located here: <https://www.hud.gov/RAD/library/notices>.

3.0 TYPE OF REVIEW

A RAD transaction will either be reviewed under 24 CFR Part 50 (“Part 50 Reviews”) or 24 CFR Part 58 (“Part 58 Reviews”). Part 50 applies when HUD conducts the environmental review, and Part 58 applies when the RE conducts the environmental review. The following table shows which review protocol a transaction will follow, along with who will conduct the review:

Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ⁴	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	RE
PBV FHA Risk-Share	Part 58	RE ⁵

Under extraordinary circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV transaction may request HUD to undertake the environmental review under Part 50 if a suitable RE cannot be found, if the local government was not a direct recipient of the funds and refuses to accept responsibility, or when HUD determines the local government does not have capacity to act as an RE.⁶ This request must be made in writing and submitted to Recap, prior to the submission of the Financing Plan or Conversion Plan and no later than at the time of the RAD Concept Call.

4.0 HUD’S ENVIRONMENTAL REVIEW ON-LINE SYSTEM - HEROS

HUD’s Office of Environment and Energy (“OEE”) has developed an online system for developing, documenting, and managing environmental reviews, known as HEROS. It covers all levels of environmental reviews for both Part 50 and Part 58 projects and includes on-screen guidance for completing HUD environmental reviews. RAD Transaction Manager(s), as well as FHA Production staff, are required to use HEROS to complete all Part 50 reviews.

⁴ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

⁵Housing Finance Agencies (HFAs) can act as the RE for Housing’s Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criterion, it must request another department of the state to act as RE. An instrumentality of a city or county government cannot act as a RE for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the RE.

⁶ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

HEROS is also available to consultants, lenders, PHAs, or other Partners to initiate Part 50 reviews on behalf of RAD Awardees. To request partner access, please use the [HEROS Access Request Form](#). Partners will be notified by email when access is granted. Partners should anticipate receiving access within two weeks of submission.

Pursuant to the RAD Notice (Revision 4), it is now **mandatory** for all Part 50 environmental reviews to be submitted in HEROS directly by the consultants, lenders, PHAs, or other Partners that are initiating the Part 50 reviews on behalf of RAD Awardees.

- Prior to Concept Call, for **public housing conversions** the Partner should assign the HEROS submission to Kara Williams-Kief at Kara.S.Williams-Kief@hud.gov via the HEROS system. Once a Concept Call is scheduled, the Part 50 will be assigned to designated Transaction Manager.
- For conversions of **Mod Rehab or 202 PRAC**, the Partner should assign the HEROS submission to John Ardovini at John.P.Ardovini@hud.gov.

The Awardee must also submit a PDF copy of the HEROS submission with their Financing Plan or Conversion Plan.

It is optional, **but strongly encouraged**, for Part 58s to be submitted in HEROS by the RE.

4.1 Transactions Receiving Funding from Other HUD Programs

Transactions receiving funding from other HUD programs, including HOME, Community Development Block Grants (“CDBG”), and non-RAD Project-Based Vouchers (“PBV”), will trigger environmental review requirements for those programs. Under HUD’s regulations, a single project associated with both a Part 50 program – like RAD PBRA – and Part 58 program – like HOME, CDBG, and non-RAD PBVs – would generally require two separate environmental reviews under each part. However, under 24 CFR 58.11(c), HUD may determine that it will perform one Part 50 environmental review for both programs if performing an additional Part 58 environmental review is not feasible in the time allotted. In this situation, HUD must ensure that the Part 50 review considers the full scope of all activities associated with all programs. This may require reevaluating the Part 50 review if it has already been completed.

PHAs or owners should communicate with HUD early in the transaction process if they wish for the Part 50 environmental review that HUD will perform to obviate the need for a separate Part 58 review to be performed for another program. When one review is used for two programs, **the HUD Approving Officials for both programs need to certify the Environmental Review Record (“ERR”).**⁷ After the RAD Approving Official (or FHA Production Approving Official for FHA Transactions) certifies the review in HEROS they must assign the ERR to the appropriate Approving Official for the applicable other HUD program. The program Approving Official will then also certify the review in HEROS by uploading a completed “Environmental Review Signature

⁷ The Approving Official for HOME and CDBG is the CPD Director of the applicable field office. The Approving Official for non-RAD PBVs is the PIH Director of the applicable field office. The approving official for FHA is the Regional Director for Multifamily Production. Note that HEROS does not allow for multiple Approving Officials to electronically certify a review, so the second signature will need to be done on paper and uploaded into HEROS.

Page” to HEROS. A copy of this signature page is included as Attachment A.



5.0 LEVEL OF REVIEW

Under RAD, there are three potential levels of environmental review. They are:

- **CEST Reviews**, which stands for “Categorical Exclusions Subject To the Federal Laws and Authorities cited in 24 CFR 50.4 or 24 CFR 58.5-58.6;”
- **EA Reviews**, which stands for “Environmental Assessments;” and
- **EIS Reviews**, which stands for “Environmental Impact Statements.”

A RAD transaction can **NEVER** be initially exempt from an environmental review (all RAD transactions require an environmental review). Therefore, RAD transactions are **NEVER** eligible for a “CENST Review⁸” under 24 CFR Part 50 or 58 (Categorically Excluded Not Subject To Related Laws and Authorities).

5.1 CEST Reviews

The lowest possible initial level of review for a RAD transaction is CEST. Projects at this level of review are categorically excluded from the National Environmental Policy Act (“NEPA”) but must comply with the related environmental laws and authorities listed in 24 CFR 50.4, 58.5, and 58.6, including the National Historic Preservation Act, Executive Orders 11990 and 11988 on Floodplain Management and Wetland Protection, and HUD’s toxics and contamination standards⁹. A Phase 1 Environmental Site Assessment (or Transaction Screen – see Section 8.2, below) is required to be submitted for all CEST Reviews.

To qualify as CEST the RAD transaction must meet a categorical exclusion listed in 24 CFR 50.20(a) or 58.35(a). Rehabilitation associated with the RAD transaction must meet the requirements set in 24 CFR 50.20(a)(2)(ii) or 58.35(a)(3)(ii):

- Unit density is not changed more than 20 percent;
- The project does not involve changes in land use from non-residential to residential; and
- The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

In all other cases, the review will initially be an EA or, in extremely rare cases, an EIS.

⁸ Although a RAD transaction can never be initially exempt or categorically excluded not subject to 50.4/58.5 (CENST), a transaction may convert to exempt after the review under 24 CFR Part 58 is completed by an RE.

⁹ Non-FHA PBRA conversions with no reasonably foreseeable repairs or other physical activity beyond maintenance can follow a streamlined ‘tiered review.’ See Section 8.2 for details.

Although the environmental submission (as produced by a third-party vendor) will make a recommended determination of the level of review, only HUD or the RE, as applicable, may make the final determination of the appropriate level of review.

5.2 Environmental Assessments (EAs)

Because the scope of EA-level projects is greater than CEST projects (for example: new construction and/or 9% LIHTCs with substantial rehabilitation), more analysis and documentation is required to assess the potential environmental impacts. EAs must consider a broader range of potential risks and impacts and conclude with a finding of whether the project will have a significant impact on the human environment.

Typically, new construction transactions, and transactions financed with 9% LIHTCs that are doing substantial rehabilitation, fall into EA environmental determinations, but only HUD or the RE can make the determination.

5.3 Environmental Impact Statements (EISs)

EIS is the highest level of environmental review for HUD projects, and RAD transactions will require an EIS only in very rare circumstances. EISs are required when:

- The project affects 2,500 or more units or beds,
- An EA concludes in a Finding of Significant Impact, or
- Extraordinary circumstances (defined in HUD's regulations at 24 CFR 58.2(a)(3)) elevate the level of review.

6.0 REVIEW DOCUMENTATION

In the broadest sense, all environmental reviews (CESTs or EAs) include the following two items, at a minimum:

- Project description, and
- Assessment of compliance with the 16 related laws and authorities, including a Phase I Environmental Site Assessment, as necessary.

EAs, because of the larger scope of work, require additional documentation. The table in Attachment B captures the different documentation requirements between CEST reviews and EAs.

Awardees must remember to either follow the instructions in Chapter 9 of the Multifamily Accelerated Processing Guide for PBRA or non-Risk Share FHA transactions or the instructions of the applicable RE for non-FHA PBV transactions or FHA Risk-Share transactions.

7.0 TIMING

Awardees should keep in mind that HUD cannot issue the RAD Conversion Commitment ("RCC") or approval letter until an environmental review has been completed and approved.

Depending on the transaction type, the documentation submitted may either be reports and documents that HUD needs to complete its Part 50 environmental review or documentation showing that a RE has already completed a Part 58 environmental review:

- For Part 50 transactions, the Awardee must, at the time of the RAD Concept Call (for public housing conversions) or Conversion Plan (for Mod Rehab or PRAC conversions), submit the requisite Environmental Report, with all supporting materials. The RAD Transaction Manager (“TM”) (or the FHA Production Team, as applicable) will then review the documentation to complete the environmental assessment.
- For Part 58 transactions, the Awardee must, at the time of the Financing Plan or Conversion Plan submission, submit either (1) a letter from the RE, indicating that the project qualifies as “CEST” and that the RE has determined that under 24 CFR part 58 the project or activity is exempt under 24 CFR 58.34(a)(12) because the project or activity is categorically excluded under 24 CFR 58.35(a) and none of the related environmental laws are triggered or (2) a copy of the HUD Form 7015.16, Authority to Use Grant Funds, signifying approval of the environmental review. A sample RE CEST letter is included as Attachment C to this guide.

For all RAD transaction types, Awardees should begin assembling environmental reports and documentation and considering their project’s environmental impacts early in the planning process, but no later than issuance of the Commitment to enter into a Housing Assistance Payment (“CHAP”) (or Submission of Interest for Mod Rehab or PRAC conversions), as some items require significant lead-time.

Awardees should also remember that, in the case of transactions utilizing FHA insurance, an FHA Firm Approval Letter cannot be issued that is conditioned on subsequent completion of an environmental review; any interim approvals must be conditioned on successful completion of an environmental review.

If the determination of an environmental review requires mitigation measures that can be completed post-closing, such mitigation measures will be included in the RCC. Any conditions or mitigation measures that cannot be satisfied before Closing will survive Closing.

7.1 Choice Limiting Actions

Awardees must be aware of choice limiting actions and the implications on completing a RAD conversion. A choice limiting action means an action that may have an adverse impact on the environment or limit the choice of reasonable alternatives. A choice limiting action may include, but is not limited to, real property acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation or clearance, ground disturbance, and leasing¹⁰.

Any site studies and assessments that will not have an environmental impact, planning activities such as rezoning, Phase I and Phase II Environmental Site Assessments, minimal associated soil boring for environmental studies, and wetlands delineations, are not choice limiting actions.

For the RAD program, HUD’s restrictions on choice limiting actions only apply at time of the RAD application associated with a specific project. If an Awardee is concerned that it has triggered or may trigger a choice limiting action, it should reach out to the respective TM or local environmental officer.

Conditional contracts and options to acquire real property are not choice limiting if they include language that states that the purchaser has no obligation to purchase the property and that no transfer of title to the purchaser may occur unless and until an Environmental Review has been successfully completed.

¹⁰ Normal operations, including leasing and maintaining individual units, are not choice-limiting and may continue pending environmental review.

Between the receipt of the application and completion of the Environmental Review, an Awardee may only enter into an option or conditional contract conditioned on the completion of a satisfactory Environmental Review. Where the environmental review is conducted under Part 58, the conditional contract must include specific language that states:

“Notwithstanding any other provision of the Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to Purchaser may occur, unless and until [Responsible Entity] has provided Purchaser and/or Seller with a written notification that: 1) the [Responsible Entity] has completed a Federally required environmental review and its request for release of Federal funds has been approved and, subject to any other Contingencies in this Contract, (a) the purchase may proceed, or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or 2) the [Responsible Entity] has determined that the purchase is exempt from Federal environmental review and a request for release of funds is not required. [Responsible Entity] shall use its best efforts to conclude the environmental review of the property expeditiously.”

Where the environmental review is conducted under Part 50, the conditional contract must include specific language that states:

“Notwithstanding any other provision of the Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to Purchaser may occur, unless and until HUD has provided Purchaser and/or Seller with a written notification that HUD has completed a Federally required environmental review and, subject to any other Contingencies in this Contract, (a) the purchase may proceed, or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property. HUD shall use its best efforts to conclude the environmental review of the property expeditiously.”

8.0 SUBMISSION MATERIALS – AWARDEE’S RESPONSIBILITIES

8.1 RAD Transactions Using FHA Insurance, Non-Risk Share

For any transaction using non-Risk Share FHA insurance, the Awardee’s FHA Lender will follow the guidelines in Chapter 9 of the Multifamily Accelerated Processing (“MAP”) Guide to make its environmental report and documentation submissions to FHA Production to assist HUD in its environmental review.

Chapter 9 of the MAP Guide provides guidance on implementing the environmental review requirements of 24 CFR Part 50. Environmental reports and documentation must be submitted with pre-application or Firm application, as applicable, as discussed in Chapter 9 of the MAP Guide. HEROS is open to FHA partners and HUD strongly encourages Multifamily FHA Production partners to use the system to expedite and streamline the environmental review process and HUD approval.

FHA Production will then complete in HEROS the environmental review utilizing the documentation submitted by the FHA Lender with its FHA application. Consequently, there is no separate environmental review submission for RAD, i.e., the Awardee or lender submits the necessary materials as part of the Application for Firm Commitment and the FHA Production office will complete the environmental review prior to issuing the Firm Commitment.

8.2 Non-FHA RAD Transactions Converting to PBRA

For any non-FHA transaction converting to PBRA, the Awardee will also follow the guidelines in Chapter 9 of the MAP Guide. Awardees shall upload all applicable supporting documentation to the RAD Resource Desk and Partners shall submit their findings directly into HEROS prior to the RAD Concept Call (for public housing conversions) or Conversion Plan (for Mod Rehab and PRAC conversions). The following exceptions to the MAP Guide apply:

- In lieu of a Phase I Environmental Site Assessment (“ESA”) in accordance with ASTM E 1527-13 (or the most recent edition),¹¹ except for conversions involving substantial rehabilitation or new construction activities,¹² Awardees may submit a more limited report on potential sources of contamination. Where a Phase I ESA is not required (i.e., projects without any associated substantial rehabilitation or new construction), the Awardees can submit a “transaction screen” in accordance with ASTM E 1528-14 (or the most recent edition)¹³. A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not meet this requirement, the professional must have either (a) a science degree and at least one year of practical environmental assessment experience in the field, or (b) three years of practical environmental assessment experience in the field performing site assessments for site contamination. If any potential environmental concerns¹⁴ are identified, an ASTM Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided.
- Awardees may submit a Phase I ESA that is up to 5 years old upon submission; however, it must be updated by a Transaction Screen that is up to 1 year old upon submission.

Except for the above procedures regarding contamination analysis, the Awardee will submit all materials required by Chapter 9 of the MAP Guide, including contents of the Environmental Report outlined in Section 9.5. The Awardee must also submit a PDF copy of the HEROS submission with their Financing Plan or Conversion Plan.

The RAD TM will then evaluate the environmental review in HEROS, utilizing the reports and documentation submitted by the Awardee, to make final determinations. HUD staff retain the right to ask the Awardee for further information, particularly if the environmental reports and documentation do not fully address the requirements at 24 CFR Part 50. A Field Environmental Officer must review and comment on the environmental review if the project has more than 200 units **and** requires an EA (see section 5 on Level of Review for when an EA is required).

As noted earlier, it is mandatory for partners to submit environmental reviews directly into HEROS.

Streamlined “Tiered” Reviews

¹¹ Environmental reviews covering substantial rehabilitation or new construction require a full Phase I ESA.

¹² For purposes of making this determination, consider the full range of activities that are geographically or logically related to the project, regardless of timing, as required by 24 CFR 50.21. For example, a Phase I ESA is required for a project where substantial rehabilitation is reasonably foreseeable, even if renovation plans are not immediate. “Substantial rehabilitation” refers to rehabilitation activities that do not qualify for a Categorical Exclusion (see Section 5.0, Level of Review, above).

¹³ Note: the Transaction Screen does not meet the standard for ‘All Appropriate Inquiries’ for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

¹⁴ As defined in ASTM 1528-14 §3.2.35.

For PBRA conversions (or where HUD has determined to conduct the PBV environmental review under Part 50) without FHA insurance and that **do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance**¹⁵, HUD has conducted a broad-level tiered review, in which HUD has made program-wide compliance determinations for most of the applicable environmental laws and authorities. As such, HUD will complete only a site-specific compliance review of the following:

- Historic Preservation [National Historic Preservation Act of 1966, particularly Section 106 & 110; 36 CFR Part 800];
- Coastal Barrier Resources Act [Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]];
- Flood Insurance and Floodplain Management [Flood Disaster Protection Act of 1973; National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]; Executive Order 11988, particularly section 2(a); 24 CFR Part 55]; and
- Contamination [24 CFR 50.3(i) (HUD Standard)].

In the above circumstances, Awardees will be required to submit documentation to facilitate HUD's site-specific review, as defined in Attachment 1A, 2A, or 4A (as applicable) of the RAD Notice, and complete a separate form located at <https://www.hudexchange.info/resource/5799/site-specific-environmental-review-form-for-part-50-rad-conversions/>.

8.3 Non-FHA RAD Transactions Converting to PBV

For non-FHA RAD transactions converting to PBV, the environmental review is conducted under 24 CFR Part 58 by an RE. HUD's responsibilities under Part 58 are limited. REs assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under the National Environmental Policy Act (NEPA) and the related laws and authorities. Per PIH Notice 2013-07, HUD recommends that Awardees enter into a Memorandum of Understanding to outline the roles and responsibilities of the Awardees and RE, including timing considerations, required documentation, and payment for expenses.

REs are encouraged to use HEROS to prepare their environmental reviews. Awardees should work with their voucher administrators and their REs to determine what submissions are needed for the RE to perform the environmental review. Awardees will most likely need to submit the same detailed information to their RE as they would have needed to submit to HUD. HUD recommends that awardees without HEROS access use the Partner Worksheets at <https://www.hudexchange.info/resource/5119/environmental-review-record-related-federal-laws-and-authorities-partner-worksheets/> to prepare their submissions to the RE.

Typically, under Part 58, REs are required to provide public notice of the project and submit form 7015.15, Request for Release of Funds (RROF), to HUD for all EA-level reviews and for CEST reviews that do not convert to exempt. The RE will issue to the PHA an executed form HUD-7015.15 with Parts 1 and 2 completed. The PHA is to complete Part 3 of that form and forward to the local PIH Field Office. The environmental review is complete only after HUD replies with form HUD-7015.16, Authority to Use Grant Funds (AUGF). For RAD transactions, the local PIH Field Office will prepare the AUGF. If there are multiple sources of HUD funds under 24 CFR Part 58, the AUGF must be signed by all appropriate parties.

However, no RROF or public notice is required if, after reviewing applicability of the related environmental laws and authorities in 24 CFR 58.5 and 58.6, the RE determines that the project converts to exempt under 24 CFR 58.34(a)(12).

¹⁵ Definition of maintenance is found in [Notice CPD-16-02](#)

After working with the RE to complete the environmental review, the Awardee must upload one of the following to the Financing Plan on the RAD Resource Desk at the time of Financing Plan submission:

1. HUD Form 7015.16: If the RE determines that the project cannot convert to exempt, the Awardee must upload the completed form HUD 7015.16 (“AUGF”) and documentation of the public notice.¹⁶

When reviewing the non-FHA PBV RAD Transactions that require HUD 7015.16, the TM must:

- Confirm that the AUGF is signed by the appropriate HUD field office, e.g., PIH for PBVs;
- Compare the description of the project on the AUGF with the RAD project description to ensure that they are consistent; and
- Notify the field office and the Regional Environmental Officer if there are any discrepancies and issues found with the information on the AUGF.

2. Letter of Finding of Exempt Activity from RE: If the RE determines that the project converts to exempt under 24 CFR 58.34(a)(12), no RROF or public notice is required. Instead, the RE should prepare a letter documenting their finding that the review has converted to exempt. See Attachment C for a model letter.

When reviewing non-FHA PBV RAD transactions that convert to exempt, the TM must:

- Confirm that the finding of exempt activity is executed properly by an appropriate RE;
- Compare the description of the project and activities in the finding of exempt activity with the project description and activities in the RAD application and ensure that they are consistent; and
- Notify the field office and the Regional or Field Environmental Officer if there are any discrepancies or issues found with the information represented in the Part 58.

For non-FHA PBV RAD transactions that do not convert to exempt, a RROF (form HUD-7015.15) and public notice documentation will be sent by the PHA (as voucher administrator) to the PIH field office. The PIH field office will review the RROF for compliance with the procedural requirements of Part 58 but will not make substantive determinations regarding the content of the environmental review performed. In accordance with 24 CFR 58.72, the PIH field office will make its determination to approve or disapprove the RROF based on the information contained on form HUD-7015.15 and public notice or other information it may have, but will not review the environmental review itself until scheduled monitoring occurs in accordance with 24 CFR 58.77(d).

If the TM or PIH field staff has concerns about a Part 58 review, they should contact the local Regional or Field Environmental Officer before contacting the Awardee. REO/FEO contact information is available at: <https://www.hudexchange.info/environmental-review/hud-environmental-staff-contacts/>.

8.4 RAD TRANSACTIONS USING FHA INSURANCE RISK SHARE

For PBV transactions using Risk Share FHA insurance, the RE with jurisdiction will complete the environmental review under 24 CFR part 58. For PBRA transactions using Risk Share FHA insurance, HUD will complete the

¹⁶ Documentation should include a copy of the published or posted public notices, including the date that the notice was published or posted in accordance with 24 CFR 58.43, 58.45, and 58.70. All reviews require a Notice of Intent to Request Release of Funds (NOI-RROF). EAs also require a notice of Finding of No Significant Impact (FONSI).

environmental review under 24 CFR part 50. Please work with the State HFA to determine the appropriate RE to conduct the review or to coordinate the Part 50 review with HUD.

9.0 OTHER SPECIAL CONSIDERATIONS FOR ENVIRONMENTAL REVIEWS UNDER PART 50

9.1 Qualifications of Environmental Professionals and Partners

The Awardee will generally select the professionals who prepare the Environmental Report, the Phase I ESA, or any other environmental information required by HUD, but the TM must verify that the professionals used are qualified for their assigned responsibilities. It is recommended that the professionals have prior HUD experience. The Environmental Professional preparing the Phase I ESA must meet all of the qualification and license/certification, education, and experience requirements of Appendix X2 of ASTM E 1527-13. When a Phase II study is conducted, the “Phase II Assessor” must meet all of the qualification requirements of Section 3.1.33 of ASTM E 1903-11. Professionals may be required to evaluate technical areas, such as lead-based paint, asbestos, radon, noise, wetlands, flooding, historic preservation or soil stability conditions and should meet professional standards and/or certifications in their respective fields, e.g., 36 CFR Part 61 standards for historic preservation.

9.2 Contact with State and Tribal Historic Preservation Offices and Federally-Recognized Tribes and Other Interested Consulting Parties

All RAD projects require a State Historic Preservation Officer (SHPO) review. Projects located on tribal lands with a Tribal Historic Preservation Officer (“THPO”) must consult with the THPO in lieu of the SHPO. Any projects with significant ground disturbance and certain other impacts require consultation with federally-recognized Indian tribes and Native Hawaiian Organizations (see <https://www.hudexchange.info/resources/documents/When-to-Consult-with-Tribes-Under-Section-106-Checklist.pdf> for more information). Other parties with a demonstrated interest in a project may also participate in a review. Only HUD staff may contact the SHPO, THPO, or federally recognized tribes to request consultation under Section 106.¹⁷ Owners or third-party consultants may prepare materials for HUD to submit to the SHPOs, THPOs and/or tribes. To avoid delays, TMs are advised to begin consideration of Historic Preservation as soon as possible after the RAD Concept Call. SHPOs, THPOs, and tribes have 30-days to respond to HUD’s consultation request (if applicable). Timeframes for review of projects with significant impacts may be much longer.

HUD SHPO Determination for Limited Maintenance Activities

For RAD non-FHA PBRA projects that upon conversion entail no physical activities or only activities that are limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or other interested parties or the public. This Determination is detailed in the “Determination of ‘No Potential to Cause Effects’ under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50.”¹⁸ A copy of this memorandum in the Environmental Review Record for such a RAD conversion will document compliance with Section 106, 36 CFR Part 800, and 24 CFR Part 50 regarding historic properties.

¹⁷ Please review the HUD Exchange: <https://www.hudexchange.info/environmental-review/historic-preservation/tribal-consultation/>

¹⁸ <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>

It is important to remember that this Determination **does not apply** to RAD conversions where the required scope of work upon conversion exceeds maintenance, or for RAD conversions where there is a reasonably foreseeable and well-defined activity involving rehabilitation, new construction, or demolition.

All RAD conversions that meet this Determination will have a special condition added the Project’s RCC, which survives a RAD conversion closing, that will state:

This RAD conversion is exempted from the Section 106 process as described in the “Determination of ‘No Potential to Cause Effects’ under Section 106 of the National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance Activities and Carried Out Under 24 CFR Part 50” memo. However, the Project will require HUD approval of all future actions that change the content and character of the property such as demolition, new construction, substantial rehabilitation, significant ground disturbance, and abandonment. Such future activities will constitute a separate undertaking and will require a separate Section 106 review regardless of whether additional federal funding or financing is involved in the undertaking. This requirement avoids the potential adverse effect of the transfer per 36 CFR §800.5(a)(2)(vii).

9.3 MAP Guidance for Lead-Based Paint and Asbestos Containing Materials

Lead-based paint requirements are applicable to RAD conversions that were constructed prior to 1978 in accordance with 24 CFR Part 35. Detailed information can be found in Section 9.5A of the January 2016 MAP Guide. Additionally, an Awardee may consult the [Lead Rule Compliance Advisor Tool](#) for additional information and resources. The only exceptions allowed include:

- The project is proposed for demolition provided the property will remain unoccupied until demolition;
- The housing is designated exclusively for the elderly or persons with disabilities, unless a child of less than 6 years of age resides or is expected to reside there; and
- Zero-bedroom dwelling units, unless a child of less than six years of age resides or is expected to reside in the unit.

Year Constructed	Rehab	LBP Testing	LBP Work ¹⁹	LBP O&M Plan
Pre-1960	No Major Rehab, <\$5,000/unit	Paint testing, LBP Risk Assessment	Interim Controls	Required
Pre-1960	No Major Rehab, >\$5,000/unit	LBP Inspection, LBP Risk Assessment	Interim Controls	Required
Pre-1960	Major Rehab	LBP Inspection	LBP Abatement	Generally, Not Required ²⁰
1960-1977	No Major Rehab, <\$5,000/unit	Paint testing, Risk Assessment	Paint Stabilization or Interim Controls	Required

¹⁹ If abatement is indicated, the MAP Guide allows for an Awardee to demonstrate that paint removal or component replacement is not practicable because the substrate material is architecturally significant and would be damaged by so doing. HUD may therefore approve permanent encapsulation or enclosure and incorporation of ongoing lead-based paint maintenance into regular building operations maintenance activities.

²⁰ When the LBP abatement method is, as usual, removal, no LBP O&M Plan is required. When HUD has approved permanent encapsulation or enclosure, such a Plan is required.

1960-1977	No Major Rehab, >\$5,000/unit	LBP Inspection, LBP Risk Assessment	Interim Controls	Required
1960-1977	Major Rehab	LBP Inspection	LBP Abatement	Generally, Not Required ²¹

Asbestos Containing Materials (ACM) studies and information must be included in the environmental review, in accordance with HUD’s environmental policy articulated at 24 CFR 50.3(i), that properties proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. RAD conversions must follow the ACM guidance found in Chapter 9.5B of the MAP Guide. Generally:

Year Constructed	RAD Action	Required ACM Survey
Pre-1978	Demolition	Pre-construction Survey
Pre-1978	Conversion with or without rehab	Baseline Survey
1978 or later	All Types	Not Required

If ACM or suspect ACM is identified at a facility, HUD requires a response action to address the risk. Response actions may include complete removal, limited removal/repair, encapsulation, enclosure or management of the ACM under an Operation and Maintenance (O&M) Program, or a combination of these, as recommended by an accredited professional. If ACM or suspect ACM remains after the initial identification and, if applicable, response action, an asbestos O&M program shall be implemented. Please see RAD FAQ published April 4, 2018, for more details.

HUD can accept previously conducted LBP and/or ACM testing and reports. HUD will though require an updated LBP risk assessment and/or ACM survey that addresses the current condition of the surfaces in which LBP/ACM were previously identified but didn’t require any action at that time, but now may require an action. The failure to submit applicable supporting documentation may cause delays in the environmental review process.

9.4 Project Description and Scope

A complete and clear project description is the foundation of the environmental review process. The project description should provide location specific information and geographic boundaries, as well as a delineation of all activities included in the overall scope of the project.

The project description should capture the maximum anticipated scope of the RAD transaction. It should include all contemplated actions that are a composite part of the project. Environmental reviews should consider all reasonably foreseeable activities.

The project description in the environmental review may consider activities not financed by HUD. For example, an Awardee may be receiving a grant from a local foundation to install solar panels on the roof as part of the RAD rehabilitation. Even though the activity (installing solar panels) is not funded with federal funds, it is geographically, logically and reasonably related to the RAD transaction and, thus, should be included as part of the ER. Awardees should consider environmental review requirements when doing initial project planning (including decisions on siting, exterior work, etc.) to avoid the need for major changes to the project description and possible delays in completing the environmental review.

9.5 Site Aggregation

A separate environmental review record should be established for each site. For multi-site projects (e.g., one building will be demolished and replaced with a building at another non-contiguous location) or scattered sites, each site should have a distinct environmental review record so that each site's environmental impacts can be evaluated individually. This is still applicable in cases involving Transfers of Assistance, even when the exact use of the 'converting' site cannot yet be contemplated outside of the disposition itself (e.g. the Awardee is unaware of any future use by the purchasers at the time of environmental review).

Multiple sites may be evaluated within a single environmental review if they are located close enough that the environmental issues – including potential contamination – will be substantially the same. Awardees working with multi-site conversions that are adjacent or contiguous to one another should discuss the project with their TM and local environmental staff as soon as possible to establish an environmental review strategy prior to the RAD Concept Call. Awardees are encouraged to produce documentation and reports that clearly delineate each site's adherence to NEPA and the related laws and authorities, where applicable.

If the RAD conversion is part of a multi-phase conversion (e.g., a property contains 10 buildings, five of which will be part of Phase I and be covered under one CHAP and five of which will be part of Phase II and be covered under another CHAP), the environmental review should cover all activities. Awardees working with multi-phase conversions should discuss the project with their TM and local environmental staff as soon as possible to establish an environmental review strategy to avoid delays or duplication of effort as plans are developed.

9.6 RAD and Section 18 Blended Financing Plans

For RAD conversions that will utilize Section 18 for disposing of 25% of the units at a project to allow for a comprehensive rehabilitation or replacement through RAD so that all units can be operated under project-based assistance,²¹ the Special Applications Center ("SAC") will rely on the environmental review completed (Part 50 or Part 58) as part of the Awardee's financing plan for those 25% of units. A separate environmental review for the 25% of disposed units is therefore not necessary.

If local PBVs will be used for the 25% of disposed units, please follow the guidance detailed in Section 4.1.

9.7 Floodways

Floodways (designated as Zone AE hatched) are defined in 24 CFR 55.2 as "that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest." Due to the obvious dangers that floodways present, **no property can convert under RAD that is located in a floodway.** However, in limited circumstances, it might be possible for the Awardee to carve out the floodway, i.e., to remove the floodway from the converting site. The RAD application and the environmental review documentation must be submitted presuming that the portion of the current property containing the floodway will be deeded off, ensuring that the floodway will not be part of the property to be converted under RAD. This section addresses the conditions under which it might be appropriate to carve-out the floodway.

HUD will substantively evaluate the risks associated with the site, including completing the 8- or 5-Step Decision Making Process, as necessary, before approving the conversion. HUD may reject a site even if the floodway is

²¹ See PIH Notice 2018-04, Demolition and/or disposition of public housing property, eligibility for tenant-protection vouchers and associated requirements, March 22, 2018.

being carved off if it determines that the flood risk is not acceptable. HUD will strongly encourage that all structures and aboveground improvements be permanently removed from the floodplain, after environmental approval, and that the future use of the floodway be limited solely to passive open or green space.

The floodway must be deeded off prior to or at the RAD Closing.

PHA Specific Note: The PHA should talk with its local PIH Field Office if it learns that any public housing project is in a floodway. Even if the project does not convert to RAD, the PHA will be prevented from using any Capital Funds on **CEST or EA-level activities within** any public housing project located in a floodway, meaning that the project should either be removed from inventory through Section 18 or the PHA should work to appropriately carve out the floodway, per the above guidance.

9.8 Incomplete Submissions

The TM or RE, after determining the level of review, may request additional information from the Awardee if the submitted materials are not clear or satisfactory. HUD wishes to emphasize to Awardees that submitting only partial information will slow your environmental review process, potentially hindering closing in a timely manner. This includes the submission of maps that do not delineate where the actual project is in relation to the regulatory jurisdiction (such as a wetland, a Sole Source Aquifer, etc.).

10.0 RADON AND MITIGATION

The RAD Notice Revision 4 now requires radon testing for PBRA and PBV RAD conversions. RAD will follow the radon requirements in Section 9.5.C of the FHA MAP Guide with the following differences:

- Part 58 projects, the PHA may submit a statement declaring that the RE considered radon according to local and state requirements. If the RE has not considered radon, the PHA must follow MAP requirements.
- For RAD conversions that consist of single-family dwellings, radon testing must follow the ANSI/AARST Residential Home Measurement (MAH-2019)
- Table 10.A (below) lists two RAD-specific exemptions for radon testing.

Awardees must submit the Radon Report at the time of the RAD Concept Call (for public housing conversions) or the Conversion Plan (for Mod Rehab and PRAC conversions) for a Part 50 review. Awardees may either submit a Radon Report or submit a statement that the RE considered radon, per above, in lieu of the Radon Report at the time of the Financing Plan or Conversion Plan submission for a Part 58 review. The Radon Report shall include the results of any testing performed, the details of any mitigation deemed necessary, and the timing of any such mitigation. The Radon Report must be signed and certified as to its compliance with the requirements of Section 9.5.C of the MAP Guide by a Radon Professional.

For new construction, pre-construction testing is not possible. Accordingly, a report by a radon professional is required only after construction completion but prior to the RAD Post-Conversion Certificate of Completion and initial occupancy. FHA conversions should follow MAP timing requirements.

Radon resistant construction is required for all new construction, and radon mitigation is required for existing construction where testing has revealed that radon levels exceed the threshold for unacceptability.²² For non-

²² Threshold for unacceptability: 4.0 picocuries per liter (4.0 pCi/L) based on initial and any confirmatory testing, if performed.

FHA RAD Conversions of new construction and substantial rehabilitation properties, all mitigation, including follow-up testing, must be completed prior to the RAD Post-Conversion Certifications and initial occupancy, requiring a Certificate of Completion from the Radon professional. FHA conversions should follow MAP timing requirements.

Table 10.A

Conversion Type	Scope of Work	Requirements
Part 58 PBV	Rehab and/or Demo	<p>(a) A statement declaring that the RE considered radon according to local or state requirements; or</p> <p>(b) RE had not considered radon as part of its review, either a Radon Report consistent with the requirements of the Section 9.5.C of the MAP Guide (or successor provision) for HUD to review or a statement that the property is exempt from submission of a Radon Report per the MAP Guide.</p>
Part 58 PBV	None or not above Limited Maintenance	Project is encouraged, but not required to submit a Radon Report.
Part 50 Non-FHA	Rehab and/or Demo	Chapter 9.5C of the MAP Guide (or successor provision) for HUD to review or a statement that the property is exempt from submission of a Radon Report per the MAP Guide.
Part 50 Non-FHA	None or not above Limited Maintenance that have a <u>low radon risk</u>	Project is encouraged, but not required, to submit a Radon Report.
Part 50 FHA	223(f) or 221(d)(4)	Chapter 9.5C of the MAP Guide (or successor provision) for HUD to review or a statement that the property is exempt from submission of a Radon Report per the MAP Guide.

11.0 ADDITIONAL GUIDANCE

Guidance on preparing sufficient reports and documentation is available on HUD’s Environmental Review website, <https://www.hudexchange.info/environmental-review/>.

Please contact your local Regional or Field Environmental Officer with questions about the environmental review process.

Please contact a RAD Transaction Manager or a RAD Branch Chief with questions about RAD processing requirements.

ATTACHMENT A: ADDITIONAL APPROVING OFFICIAL SIGNATURE PAGE



U.S. Department of Housing and Urban
Development
451 Seventh Street, SW
Washington, DC 20410
www.hud.gov
espanol.hud.gov

Environmental Review Signature Page for HUD-assisted Projects 24 CFR Part 50

Project Name: Click here to enter text.

Applicant/Grant Recipient: Click here to enter text.

HUD Preparer: Click here to enter text.

HUD Funding Sources: Click here to enter text.

Project Location: Click here to enter text.

Project Description: Click here to enter text.

Determination:

- Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.13] The project will not result in a significant impact on the quality of human environment
- Finding of Significant Impact

Mitigation Measures and Conditions [CFR 1505.2(c)]

Summarized below are measures to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with environmental authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents.

Copy from HEROS Output

Approving Official

- I certify that I have made an independent evaluation of the environmental issues, taken responsibility for the scope and content of the compliance finding, EA, or EIS, and made the environmental finding where applicable, and I:
 - Approve the environmental review
 - Reject the use of HUD assistance for this project
 - Route this review back to the preparer

Comments: Click here to enter text.

Signature of Approving Official: _____

Name of Approving Official: Click here to enter text.

Title: Click here to enter text.

Date: Click here to enter text.

ATTACHMENT B: RELATED LAWS AND AUTHORITIES (NEPA REVIEW) REQUIREMENTS

	CEST	EA
Project Information		
Project Description	✓	✓
Site Map and Photographs	✓	✓
Estimated Total Project Cost	✓	✓
Repair/Rehab Costs (estimate)	✓	✓
Related Environmental Laws and Authorities		
Airport Hazards	✓	✓
Coastal Barrier Resources	✓	✓
Flood Insurance	✓	✓
Clean Air	✓	✓
Coastal Zone Management	✓	✓
Contamination and Toxic Substances	✓	✓
Endangered Species	✓	✓
Explosive and Flammable Hazards	✓	✓
Farmlands Protection	✓	✓
Floodplain Management	✓	✓
Historic Preservation	✓	✓
Noise Abatement and Control	✓	✓
Sole Source Aquifers	✓	✓
Wetlands Protection	✓	✓
Wild and Scenic Rivers	✓	✓
Environmental Justice	✓	✓
EA Factors and Analysis		
Statement of Purpose and Need		✓
Existing Conditions and Trends		✓
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		✓
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		✓
Hazards and Nuisances including Site Safety and Noise		✓
Energy Consumption		✓
Employment and Income Patterns		✓
Demographic Character Changes, Displacement		✓
Educational and Cultural Facilities		✓
Commercial Facilities		✓
Health Care and Social Services		✓
Solid Waste Disposal / Recycling		✓
Waste Water / Sanitary Sewers		✓
Water Supply		✓
List of Sources, Agencies, and Persons Consulted		✓
List of Permits Obtained		✓
Public Outreach		✓
Cumulative Impact Analysis		✓
Alternatives		✓

ATTACHMENT C: LETTER OF FINDING OF EXEMPT ACTIVITY FROM RE

[To be put on Responsible Entity's letterhead and submitted to the Transaction Manager as part of the Financing Plan. Do not attach the environmental review record.]

To Whom It May Concern:

This is to advise you that the activities to be undertaken under the **[Housing Authority of XXX]'s** Rental Assistance Demonstration (RAD) Program, **[Name of Property]**, are exempt from HUD's environmental review approval requirements.

[Provide complete project description as outlined in Section 9.4 of this document]

The transaction was found to be categorically excluded subject to the laws and authorities listed in 24 CFR 58.5 per the following citation(s):

- 24 CFR 58.35(a)(1)** Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- 24 CFR 58.35(a)(2)** Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- 24 CFR 58.35(a)(3)** Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
 - (ii) In the case of multifamily residential buildings:
 - (A) Unit density is not changed more than 20 percent;
 - (B) The project does not involve changes in land use from residential to non-residential; and
 - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
 - (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 24 CFR 58.35(a)(4)**
 - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

- 24 CFR 58.35(a)(5)** Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

As documented in the environmental review record, there are no circumstances that require compliance with any other federal laws and authorities cited in 24 CFR 58.5. As a result, the **[Responsible Entity]** has concluded that a Request for Release of Funds and Certification and approval from HUD are not required, pursuant to 24 CFR 58.34(a)(12).

As the authorized official of the responsible entity, I so certify.

Signature