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**RBD FASTFACTS -  
COMPONENT 1 PH TO  
PBRA RAD – WHEN TTP  
EXCEEDS GROSS RENT -  
ZERO OR NEGATIVE  
ASSISTANCE**

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**FASTFacts**  
**Component 1 PH to PBRA RAD – When TTP Exceeds Gross Rent – Zero or Negative Assistance**

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**Disclaimer**

The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 1/2021.

The reader should understand that these materials are not designed for, nor should be relied upon, as a source of legal guidance or as a final authority with respect to any particular circumstance.

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## FASTFacts

### Component 1 PH to PBRA RAD – When TTP Exceeds Gross Rent – Zero or Negative Assistance

**PLEASE NOTE: THIS INSTRUCTION APPLIES ONLY TO COMPONENT 1 PH TO PBRA RAD CONTRACTS.**

**IT DOES NOT APPLY TO COMPONENT 2 MOD REHAB/RENT SUPP/RAP OR PRAC TO PBRA RAD.**

#### **MARKET RENT AND PBRA RAD**

Usually, in Section 8 communities, when TTP is equal to or greater than Gross Rent, then the resident is required to pay Contract Rent. This family is generally categorized as a “Market Renter”.

While this rule applies to Section 8 contracts including Component 2 PBRA RAD, it does not apply to Component 1 PH to PBRA RAD. The only time a family living in a Component 1 PBRA RAD property will pay “market rent” is if the family’s assistance has been terminated for non-compliance with program rules or non-compliance with the lease (including attachments).

We are providing the following explanation as if there are no residents who have been terminated for non-compliance.

#### **WHEN TTP EXCEEDS GROSS RENT**

If a unit is part of a Component 1 PBRA RAD contract, it is always part of the RAD contract and the resident is always considered “assisted” even if the resident is receiving \$0.00 in Assistance Payments (AP). These residents are not “technically” referred to as “market” residents. Under the RAD program, they are referenced as “residents receiving zero or negative AP”.

When determining the rent for these PBRA RAD Residents, the owner/agent must charge the lesser of

- RAD Calculated Total Tenant Payment (TTP) (*Note: RAD Calculated TTP is the greater of 10% of annual income or 30% of adjusted income*) less UA or
- LIHTC Maximum Rent

Currently, HUD’s PBRA Database (TRACS 2.0.2.D) will not accept a 50059 when the AP is zero or negative. So, until the next version of TRACS is released (2.0.3.A), owner/agents have to ensure that residents are charged the correct rent. Often, this function has to be completed manually. Please see the detailed 2.0.2.D example below.

#### **EXAMPLE - WHEN TOTAL TENANT PAYMENT EXCEEDS GROSS RENT**

Under the PBRA program, assisted families typically pay 30% of adjusted gross income toward rent and utilities, referred to as TTP.

Under normal Section 8 rules, a PHA/OA must process a Termination of Assistance pursuant to HH 4350.3, Paragraph 8-5 C when the family’s TTP has risen to a level that is equal to or greater than Gross Rent (Contract Rent plus any Utility Allowance).

HH 4350.3, Paragraph 8-6 A.1 provides that, when terminating a resident’s assistance, the PHA/OA is to increase the Tenant Rent to the Contract Rent (assuming that the resident does not receive the benefit of any other type of subsidy). RAD properties have different rules.

For Component 1 PH to PBRA RAD, when TTP equals or exceeds the Gross Rent, the PHA/OA must charge a Tenant Rent equal to the lesser of

- ◇ TTP (greater of 10% annual income or 30% adjusted income), less the Utility Allowance, or

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✧ Any applicable Maximum Rent allowable under LIHTC regulations.  
To this end, HUD is waiving requirements set forth in HH 4350.3 Paragraphs 3.6, 8-5 and 8-6 A. 1.

In such cases, the resident will still be considered an “assisted Section 8 tenant” and will still have the rights and be subject to the requirements of Section 8 residents including the requirement to meet annually for an income review (Annual Recertification).

Residents will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those rights provided through HSG Notice 2019-09 [Rental Assistance Demonstration-Final Implementation Rev. 4](#). Residents will still be subject to the requirements for Section 8 residents, including the requirements concerning reexamination of family income and composition found in 24 CFR §§ 5.657 and 880.603(c).

When TTP equals or exceeds Gross Rent (Assistance Payment is zero or negative), the excess rent collected by the PHA/OA is considered Project Funds and must be used for project purposes.

All normal actions affecting the Contract Rent shall continue for these units, including application of the OCAF adjustment to the Contract Rent indicated on the Rent Schedule—since the OCAF Adjusted Rent will still be in effect whenever the unit is occupied by an eligible family.

If the resident moves out, the PHA/OA must select an applicant from the Waiting List who meets the applicable Income Limits for the project.

See HH 4350.3 R1, Paragraph 3-6.

*Note: HSG Notice 2019-09 Revision 4 indicates that PBRA RAD owner/agents may move-in a family that is income eligible even if the S8 RAD formula is not less than the Gross Rent (AP is zero or negative). At this time, OAs may process move-ins using this exception. However, understand that this rule may change in the future.*

#### **REPORTING REQUIREMENTS – TRACS 2.0.2.D**

TRACS v 2.0.2.D will not accept a RAD 50059 Tenant File when the Assistance Payment (AP) is \$0 or negative. The accepted workaround is to either:

- Create and send a Termination Transaction (TM) to TRACS when AP is \$0 or negative; or
- Create and send an Annual Recertification (AR) to TRACS knowing it will receive a FATAL error when AP is \$0 or negative

The PHA/OA is required to charge the resident the TTP that is calculated based on the Rent Calculation Rules described above. For example – demonstrating a **Component 1 PH to PBRA RAD** submission:

At conversion (9/1/2019) (TRACS v 2.0.2.D)

- Unit Rent is \$600
- Household Adjusted Income is \$23000
- 30% of AI = \$550 (assuming 30% of adjusted is greater than 10% of annual)
- AP = \$50
- 50059 Conversion IC is created w/ Next Annual Recertification Date of 5/1/2018 (based on most recent cert)
- Initial Certification is sent to TRACS
- Resident TTP \$550/month (taken from the previous 50059)
- HAP Request = \$50.00

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#### On 12/15/2019 Resident Reports for Interim Recertification

- Unit Rent is \$600
- New household Adjusted Income is \$26000
- 30% of AI = \$650 (assuming 30% of adjusted is greater than 10% of annual)
- AP = <\$50>
- Interim Recertification effective 2/1/2020 created and signed by the resident and the PHA/OA will either
- Send a Termination Transaction effective 1/31/2020; or
- Sent the IR knowing it will FATAL in TRACS v 2.0.2D because AP is negative (*Note: This will be fixed when TRACS v 2.0.3.A is released*)
- Resident is charged \$650/month
- TM (effective 1/31/2020) sent to TRACS in v 2.0.2.D on 1/10/20
- 2/2020 Voucher submitted to TRACS
- Resident does not appear on subsequent HAP Vouchers
- Resident's unit is not part of the assisted unit count on the 2.0.2.D voucher – resident is part of the count for “market” units. (*Note: This will be fixed when TRACS v 2.0.3.A is released*)

#### On 3/1/2020 Resident Reports for 5/1 Annual Recertification

- Unit Rent is \$600
- Household Adjusted Income (AI) is \$26000
- 30% of AI = \$650 (assuming 30% of adjusted is greater than 10% of annual)
- AP = <\$50>
- Resident is charged \$650/month
- The AR (effective 5/1/2020) is signed by the resident/PHA/OA but may or may not be sent to TRACS depending on the owner/agent's policy. (*Note: the AR will FATAL in TRACS v 2.0.2D because AP is negative - This will be fixed when TRACS v 2.0.3.A is released*)
- 5/2018 Voucher submitted to TRACS
- Resident Does Not appear on HAP Vouchers
- Resident's unit is not part of the assisted unit count on the 2.0.2.D voucher – resident is part of the count for “market” units. (*Note: This will be fixed when TRACS v 2.0.3.A is released*)

#### On 3/1/2021 Resident Reports for 5/1 Annual Recertification

- Unit Rent is \$610
- Household Adjusted Income is \$29000
- 30% of AI = \$725 (assuming 30% of adjusted is greater than 10% of annual)
- AP = <\$115>
- Resident is charged \$725/month
- The Annual Recertification (effective 5/1/2021) is signed by the resident and the PHA/OA but may or may not be sent to TRACS depending on the owner/agent's policy (*Note: the AR will FATAL in TRACS v 2.0.2D because AP is negative - This will be fixed when TRACS v 2.0.3.A is released*)
- 5/2021 Voucher submitted to TRACS
- Resident Does Not appear on HAP Vouchers
- Resident's unit is not part of the assisted unit count on the 2.0.2.D voucher – resident is part of the count for “market” units. (*Note: This will be fixed when TRACS v 2.0.3.A is released*)

*Note: Noncitizen Rule Proration does not apply to RAD households with zero or negative assistance. These households pay according to the normal RAD rent calculation without Noncitizen Rule Proration*

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**TRACS VERSION 2.0.3.A**

When HUD releases TRACS version 2.0.3.A, owner/agents will be required to create an Initial Certification to re-establish the tenant in TRACS. The IC “Next Recert Date” should correlate to the date the family is required to meet for certification.

In these cases, when AP is negative, this is creating a negative subsidy request on the voucher.

With 2.0.3.A, the owner/agent will include a positive Miscellaneous Accounting Request using the new Miscellaneous Accounting Request Code RADN (for RAD Negative Subsidy) reversing the negative subsidy request on the voucher.

This “excess rent” becomes part of the project funds.