

# ENVIRONMENTAL REVIEW REQUIREMENTS FOR FIRST COMPONENT RAD CONVERSIONS

## QUICK REFERENCE GUIDE

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## 1. 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. The environmental review process is required for all RAD conversions to ensure that the proposed project does not negatively impact the surrounding environment or have an adverse environmental or health effect on residents. All projects require some type of environmental review, including compliance with a variety of federal and state environmental laws, but the level of review required varies depending on the scope of work and the conditions of the property.

## 2. HOW TO USE THIS GUIDE

This Quick Reference Guide is designed to provide Public Housing Authorities (PHAs) with an understanding of the environmental review requirements for RAD first component transactions, and it replaces the guidance issued on March 3, 2015 titled “Environmental Review Requirements for RAD 1st Component Transactions.” It provides specific guidance on the procedures PHAs should undertake to ensure they are conducting an appropriate environmental review in order to submit the required documentation at the time of the Financing Plan Submission. The Guide is a high-level, program-specific overview and should be used in conjunction with existing HUD guidance on the environmental review process.

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

## 3. TIMING

For all RAD transaction types, PHAs 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), as some items require significant lead-time.

If the PHA financing plan includes any debt financing, the PHA should work through its lender to order any required third-party environmental reports to avoid having to pay for a second report later. Please keep in mind 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.

A PHA will be required to submit environmental review documentation<sup>1</sup> at the time of the Financing Plan Submission. PHAs should keep in mind that HUD cannot issue the RAD Conversion Commitment (RCC) until an environmental review has been completed.

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<sup>1</sup> Depending on the transaction type, this 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. Details on the types of documents required follow in Section 4 of this document.

An environmental review may require mitigation measures. Any required environmental conditions and mitigation measures will be included in the RCC. If during the course of gathering material, a PHA becomes aware that extensive mitigation strategies will likely be required that may delay the transaction, they should alert their Transaction Manager to determine next steps.

### 3.A. ENVIRONMENTAL REVIEWS PRIOR TO FINANCING PLAN SUBMISSION

Pre-conversion spending (e.g., architect) using Public Housing funds (i.e., Capital Fund grant) is also subject to environmental review, but the review will take place outside of the RAD environmental review process described below. Ideally, a PHA would have already included RAD pre-development activities that they plan to undertake using federal funds in an existing environmental review. However, if there isn't an applicable environmental review, the PHA should go to their RE or local Public Housing Field Office to receive environmental clearance for the pre-development activities. Affordable housing pre-development costs, including legal consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact, are listed as a categorical exclusion not subject to §58.5 (see 24 CFR §58.35(b)(6)). However, PHAs still need to secure environmental clearance by having the RE or HUD make this determination.

Under their LIHTC QAP, some states give additional points to PHAs who already have a completed environmental review. The application process generally occurs in the early stages of the transaction and well before the Financing Plan Submission date. Transaction Managers will not review environmental review documentation prior to the Financing Plan Submission, and thus will not complete an environmental review at the time a PHA applies for LIHTC credits. HUD recommends that a PHA work with their RE to complete a review based on the anticipated RAD conversion activities. The documentation gathered for this preliminary review will likely still be applicable to the future final review done for the Financing Plan Submission, and should not require a PHA to complete the entire environmental review process twice. PHAs may also request an early review under Part 50 from their local Public Housing Field Office; however, please be advised that the Public Housing Field Office may not be able to complete this extra review prior to the LIHTC application submission deadline.

## 4. RAD TRANSACTION TYPE

The type of review and procedures for requesting and completing the environmental review are dependent on the RAD transaction type. For the purposes of environmental review only, the three types of RAD transactions are:

1. Transactions using Federal Housing Administration (FHA) insurance,<sup>2</sup>
2. Non-FHA transactions converting to Project-Based Rental Assistance (PBRA), and
3. Non-FHA transactions converting to Project-Based Vouchers (PBV).

As described further in the document below, a RAD transaction will either be reviewed under 24 CFR Part 50 or 24 CFR Part 58 (i.e., Part 50 Reviews and Part 58 Reviews). Part 50 Reviews apply when HUD conducts the environmental review, and Part 58 Reviews apply when an RE conducts the environmental review. All PBRA and FHA transactions will require Part 50 Reviews. Non-FHA PBV transactions require Part 58 Reviews. Environmental

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<sup>2</sup> These procedures apply to all RAD transactions using FHA insurance, regardless of whether they are converting to PBRA or PBV.

reviews for non-FHA PBV transactions will not be conducted by HUD under Part 50 except in accordance with 24 CFR 58.11 or if a suitable RE cannot be found.

**Special note regarding transactions with HOME or Community Development Block Grant (CDBG) funds:**

Transactions receiving funding from other HUD programs, including HOME and CDBG, in addition to RAD may trigger additional environmental review requirements. Under HUD's regulations, a single project associated with both a Part 50 program – like RAD PBRA – and Part 58 program – like HOME or CDBG – 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. 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. When one review is used for both programs, the Approving Officials for both programs should certify the review.<sup>3</sup>

## 4.A. RAD TRANSACTIONS USING FHA INSURANCE

### 4.A.1. PHA'S RESPONSIBILITIES

For any RAD transaction using FHA insurance, the PHA's FHA Lender will follow the guidelines in Chapter 9 of the Multifamily Accelerated Processing (MAP) Guide when making its report and documentation submissions to HUD 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, namely site contamination review under 24 CFR 50.3(i) and review under the related federal laws and authorities listed at 24 CFR 50.4.

Environmental reports and documentation must be submitted with pre-application or Firm application, as applicable, as discussed in Chapter 9 of the MAP Guide.

### 4.A.2. HUD'S RESPONSIBILITIES

HUD will complete the environmental review for FHA transactions following the procedures in 24 CFR 50 utilizing the documentation submitted by the FHA Lender with its FHA application. The environmental review will be conducted by a Multifamily environmental reviewer, who will document the environmental review in HEROS for concurrence by a HUD Approving Official. A Field Environmental Officer must review and comment on the environmental review if the project has more than 200 units and requires an Environmental Assessment (EA) (see Section 5 on Level of Review for when an EA is required). Consequently, there is no separate environmental review submission for RAD, i.e., the PHA 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.

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<sup>3</sup> The Approving Official for HOME and CDBG is the CPD Director of the local field office. 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.

## 4.B. NON-FHA RAD TRANSACTIONS CONVERTING TO PBRA

### 4.B.1. PHA'S RESPONSIBILITIES

For non-FHA transactions converting to PBRA, PHAs are responsible for submitting reports and documentation to assist HUD in their environmental review.

The PHA will submit to the Transaction Manager (TM) an environmental report by uploading it as an attachment in the Financing Plan (see screenshot in section 4.B.2. on Timing). This report will follow the guidelines of Chapter 9 of the MAP Guide, meaning that it will be consistent with the requirements for FHA transactions, except as follows:

- Applicants are not required to follow the radon testing requirements of HN 2013-03, but HUD strongly recommends testing for all projects and mitigation of any structures with elevated radon (4 pCi/L or above).
- In lieu of a Phase I Environmental Site Assessment (ESA) in accordance with ASTM E 1527-13 (or the most recent edition),<sup>4</sup> except for conversions involving substantial rehabilitation or new construction activities,<sup>5</sup> PHAs may submit a more limited report on potential sources of contamination. In these cases, the PHA can submit a “transaction screen” in accordance with ASTM E 1528-14 (or the most recent edition). 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 concerns*<sup>6</sup> are identified, an ASTM Phase ESA in accordance with ASTM E 1527-13 (or the most recent edition) must be provided;

With the exception of the above procedures regarding radon testing and contamination analysis, the PHA will submit all materials required by Chapter 9 of the MAP Guide, including contents of the Environmental Report outlined in Section 9.5.

This documentation must include relevant evidence for each relevant law and authority. For example, for compliance with 24 CFR 50.4(f), Wild and Scenic Rivers, a PHA should submit one of the following:

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<sup>4</sup> Environmental reviews covering substantial rehabilitation or new construction require a full Phase I ESA. Note that there is a common misconception that the Phase I ESA constitutes the entire environmental review, but this is not the case. A Phase I ESA is a report that identifies potential contamination liabilities, and it addresses just one of the many documents that make up an environmental review record. All other documents required according to Chapter 9 of the MAP Guide (e.g., correspondence with the State Historic Preservation Officer and US Fish and Wildlife Service, FEMA Floodplains maps) must be included in the Environmental Report for all RAD transactions, regardless of activity type.

<sup>5</sup> 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 the *Requirements and Formats* section for FHA transactions above).

<sup>6</sup> As defined in ASTM 1528-14 §3.2.35.

- Evidence the proposed action is not within proximity to a designated Wild, Scenic, or Recreation River. A map should show proximity to the nearest NWSR;
- Documented correspondence with a Managing Agency that the proposed action will not affect river designation or is consistent with the management and land use plan for the designated river area; or
- The river’s Management Plan with citation to the applicable sections the RE or HUD will use to make an impact determination.

A PHA cannot simply state that they do not believe any rivers are nearby. For further information on how to document compliance, please visit the [HUD Exchange](#) or contact your [local Field Environmental Officer](#). HUD strongly recommends that PHA use the [Environmental Review Record Worksheets](#) on the HUD Exchange.

**Special note regarding Section 106 of the National Historic Preservation Act:** Only HUD staff should contact the State Historic Preservation Officer (SHPO) to request consultation under Section 106, and SHPOs may refuse to respond to PHAs or consultants. To avoid delays, TMs are advised to make Historic Preservation the first environmental factor they consider and contact the SHPO as soon as possible after receiving the financing plan.

#### 4.B.2. TIMING

For non-FHA PBRA conversions, PHAs should submit the required environmental report at the time they submit the Financing Plan (a Financing Plan that does not include this environmental report will not be considered complete). The TM will then complete the environmental review as part of the review of the Financing Plan.

A screenshot of the Financing Plan submission template is shown below.

180 Days Following CHAP Issuance		Due Date: 01/11/2016		HUD Review	
RAD Financing Plan <a href="#">Financing Plan Guide</a>			Financing Plan Grid: No Debt/Conv		
Item	DESCRIPTION	COMPLIANCE SATISFIED BY EITHER UPLOADING A FILE OR CHECKING THE N/A BOX			
		N/A	FILE UPLOADED	Comments (Save Changes at End of Grid)	FHEO Approval
1	Conversion Overview <a href="#">Download Conversion Overview Template</a>				
2	Current Conversion Type	<b>Current Selection:</b> PBV <b>Choice Mobility Exemption:</b> No	Check here if this is incorrect <input type="checkbox"/>		
3	RAD Physical Condition Assessment & Scope of Work	<input type="checkbox"/>			
4	Completed Environment Review				
5	FHEO Approval				

### 4.B.3. HUD'S RESPONSIBILITIES

HUD staff will conduct the environmental review following the procedures in 24 CFR 50 utilizing the reports and documentation submitted by the PHA. For non-FHA PBRA transactions, the environmental review will be conducted by a RAD TM, who will document the environmental review using HEROS, make a determination, and sign the form. The environmental review must also be reviewed and signed by the TM's supervisor and a HUD Approving Official. 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).

### 4.C. NON-FHA RAD TRANSACTIONS CONVERTING TO PBV

#### 4.C.1. PHA'S RESPONSIBILITIES

For non-FHA RAD Transactions converting to PBV, the environmental review is conducted under 24 CFR Part 58 by an RE.<sup>7</sup> 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 PHAs enter into a Memorandum of Understanding to outline the roles and responsibilities of the PHA and RE, including timing considerations, required documentation, and payment for expenses. A sound working relationship between PHAs and REs substantiates transparent planning for the benefit of residents. In working together, PHAs and REs protect the environment and ensure safe and decent housing for residents within sustainable communities.

REs are encouraged to use HUD recommended formats to document the environmental review record.<sup>8</sup> PHAs should work with their RE to determine what submissions are needed for the RE to perform the environmental review. PHAs will most likely need to submit the same detailed information to their RE as they would have needed to submit to HUD, as detailed in Section 4.B.1. HUD strongly recommends that PHA use the [Environmental Review Record Worksheets](#) on the HUD Exchange.

After working with the RE to complete the environmental review, the PHA must upload one of the following to the Financing Plan grid on the RAD Resource Desk:

1. **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), the PHA must submit the RE's finding of exemption. A letter from the RE indicating that the project converts to Exempt under 24 CFR 58.34 is sufficient. A model letter is included as Appendix A. A finding of exempt activity is a statement of the result of the RE's environmental review, and is required if when form HUD-7015.15 is not required.

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<sup>7</sup> 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 58.3(a)(7)(ii)(B)). Note that PHAs very rarely qualify to act as REs. The environmental review for a PBV application 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.

<sup>8</sup> See <https://www.hudexchange.info/environmental-review/> for suggested formats.

- HUD Form 7015.16:** Unless the RE determines that the project is exempt under 24 CFR 58.34 (above), the PHA must upload the form HUD 7015.16 with the Financing Plan. This form, also known as the Authority to Use Grant Funds (AUGF), is prepared by the local PIH Field Office upon receipt from the PHA of a form HUD-7015.15, Request for Release of Funds (RROF). Essentially, unless a PHA receives a finding of exemption from the RE, 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. After review of the form HUD-7015.15, the local PIH Field Office then issues to the PHA the form HUD-7015.16, AUGF. Once the AUGF is returned, the environmental review is officially complete.

#### 4.C.2. TIMING

For non-FHA PBV transactions, the PHA must upload either the Letter of Finding of Exempt Activity or the form HUD 7015.16 with the Financing Plan.

A screenshot of the Financing Plan submission template is shown below.

		180 Days Following CHAP Issuance				Due Date: 01/11/2016		HUD Review	
RAD Financing Plan								Financing Plan Grid: No Debt/Conv	
<a href="#">Financing Plan Guide</a>									
Item	DESCRIPTION	COMPLIANCE SATISFIED BY EITHER UPLOADING A FILE OR CHECKING THE N/A BOX						FHEO Approval	
		N/A	FILE UPLOADED	Comments (Save Changes at End of Grid)	HUD Comments				
1	Conversion Overview <a href="#">Download Conversion Overview Template</a>								
2	Current Conversion Type	<b>Current Selection:</b> PBV <b>Choice Mobility Exemption:</b> No	Check here if this is incorrect <input type="checkbox"/>						
3	RAD Physical Condition Assessment & Scope of Work	<input type="checkbox"/>							
4	Completed Environment Review								
5	FHEO Accessibility &								

#### 4.C.3. HUD’S RESPONSIBILITIES FOR RAD TRANSACTIONS THAT CONVERT TO EXEMPT

For non-FHA PBV RAD transactions that convert to exempt, no RROF or public notice is required. Instead, the RE will prepare a finding of exempt activity (see Appendix A), and the PHA will submit the finding as part of the Financing Plan. The RE must still comply with applicable laws and authorities in 24 CFR 58.5 and 58.6 to determine if a project converts to exempt. The TM will review the finding of exempt activity.

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, and
- 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.

If the TM sees any errors in the finding or has reason to believe based on the finding that the environmental review was done incorrectly, they should work with the PHA to address the issues and provide a corrected version.

#### 4.C.4. HUD'S RESPONSIBILITIES FOR RAD TRANSACTIONS THAT DO NOT CONVERT TO EXEMPT

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 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 required attachments<sup>9</sup>) and will not look behind the RROF to review the environmental review itself until scheduled monitoring occurs in accordance with 24 CFR 58.77(d).

When reviewing, the HUD staff should follow the RROF Processing Checklist to confirm, among other items, that:

- Confirm that the form HUD-7015.15 is executed by an appropriate RE's Certifying Officer.
- Compare the description of the project and activities in Part 1 of form HUD-7015.15 with the project description and activities in the RAD application and ensure that they are consistent.
- Verify that the documentation of public notice demonstrates that the comment periods identified in Part 2 of form HUD-7015.15 have expired and that the public was given sufficient opportunity to comment. Refer to 24 CFR 58.43 and 58.45 for comment period requirements.

The PIH field office must also review the public notice submitted by the RE to confirm that all required elements are present,<sup>10</sup> including:

- A clear and complete project description,
- Dollar amount with the estimated amount of HUD funds included in the project,
- Names of the RE and the Certifying Officer, and
- An invitation to commenters to submit their comments to both HUD and the RE issuing the notice.

The PIH field office must approve or disapprove the PHA's RROF. The following are the only permissible reasons (in accordance with 24 CFR 58.75) for HUD disapproval of an RROF:

- The certification was not executed by the Certifying Officer of the RE (consult with an Environmental Officer).
- The RE failed to make a Finding of No Significant Impact (for EAs) or final determination in accordance with 24 CFR 58.35 (for Categorical Exclusions reviews), or the RE made a Finding of Significant Impact.

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<sup>9</sup> Documentation should include a copy of the published or posted public notices, including the date that the notice was published or posted. All reviews require a Notice of Intent to Request Release of Funds (NOI-RROF). EAs also require a notice of Finding of Significant Impact (FONSI), which may be combined with the NOI-RROF in a "Combined Notice". If published, the attachment must include a copy of the publication and the affidavit or tear sheet documenting publication. If posted, the attachment must include a copy of the posted notice and a signed statement of distribution.

<sup>10</sup> For sample NOI-RROF, go to <https://www.hudexchange.info/resource/2754/sample-notice-of-intent-to-request-release-of-funds>. For sample combined Notice of FONSI and RROF, go to <https://www.hudexchange.info/resource/2755/sample-fonsi-and-rrof/>.

- The RE omitted one or more of the required steps in preparing its environmental review (examine form HUD-7015.15 for omissions or inconsistencies).
- The RE failed to record the written determination and findings from a reevaluation of a prior environmental review.
- The RE failed to record the written determination and findings on the continued relevance of a prior environmental review being amended as a result of a change in the scope of the project or in the environmental conditions justifying the use of a prior EIS.
- Another Federal agency with environmental expertise or oversight responsibilities finds that the project is environmentally unsatisfactory and notifies HUD.
- HUD has evidence that the PHA or its developer committed funds for activities that had an adverse environmental impact or limited the choice of reasonable alternatives prior to HUD approval of an RROF.

After reviewing the RE's submissions, the PIH field office may not approve the RROF until the objection period has elapsed as prescribed in 24 CFR 58.74. The PIH field office will approve the RROF by providing an executed form HUD-7015.16, AUGF. The PHA must submit that approval as part of their RAD application in accordance with the timelines outlined above.

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 PHA. REO/FEO contact information is available at:

<https://www.hudexchange.info/environmental-review/hud-environmental-staff-contacts/>.

## 5. LEVEL OF REVIEW

All projects require some type of environmental review, including compliance with a variety of federal and state environmental laws, but the level of review required varies depending on the scope of work and the conditions of the property. Depending on the activities involved, most RAD transactions will either be Categorically Excluded Subject to 50.4/58.5 (CEST) or require an EA.<sup>11</sup> A RAD transaction can **NEVER** be initially exempt or categorically excluded not subject to 50.4/58.5 (CENST). Therefore, all RAD transactions will either be Categorically Excluded Subject to 58.5 (CEST), require an Environmental Assessment, or require an Environmental Impact Statement. This means that all RAD transactions require that the development be assessed using the Statutory Checklist. Depending on the results of the Checklist, a CEST transaction may later convert to exempt, but, again, can never be initially exempt.

Environmental reviews for all RAD projects – whether CEST or EA – must comply with the related environmental laws and authorities listed in 24 CFR 50.4 and 58.5-58.6, including the National Historic Preservation Act, Executive Orders on Floodplain and Wetland Management, and HUD's policies on toxics and contamination. Those that require an EA must also comply with NEPA and consider an array of additional potential impacts of the project, including soil suitability, access to water and educational services, and alternatives. For more information on the specific topics that a PHA should supply for CEST and EA reviews, refer to Appendix C.

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<sup>11</sup> See section 5.B. to determine whether a CEST review or EA is appropriate. A RAD transaction can never be initially exempt or categorically excluded not subject to 50.4/58.5 (CENST), due to the nature of the activities involved in all RAD transactions.

In rare cases, RAD transactions may require an Environmental Impact Statement (EIS). 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.

## 5.A. PROJECT DESCRIPTION AND SCOPE

Environmental reports and documentation must cover all project activities or actions that are logically related to the RAD transaction, regardless of whether the activity is also assisted by HUD. For example, a PHA 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 logically related to the RAD transaction and, thus, should be included as part of the ER.

When requesting an environmental review, the PHA should submit a clear, comprehensive project description that includes the full range of activities that are geographically or logically related to the RAD conversion, regardless of timing or funding source, as required by 24 CFR 50.21/58.32. Environmental reviews should consider all reasonably foreseeable activities.

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), each site should have a distinct environmental review record so that each site's environmental issues can be evaluated individually. Multiple sites may be evaluated within a single environmental review only if they are so near each other that the environmental issues – including potential contamination – will be substantially the same. PHAs working with multi-site conversions should discuss the project with their TM and local environmental staff as soon as possible to establish an environmental review strategy.

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 reasonably foreseeable activities. PHAs 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.

## 5.B. DETERMINING LEVEL OF REVIEW<sup>12</sup>

RAD transactions may be CEST if they conform to the categorical exclusions described at 24 CFR 50.20 and 24 CFR 58.35(a):

- RAD transactions involving repair or rehabilitation work<sup>13</sup> may qualify for a categorical exclusion from NEPA review, providing they meet all three of the following requirements (see 24 CFR 50.20(a)(2)(ii) and 58.35(a)(3)(ii)):
  - Unit density is not changed more than 20 percent;
  - The project does not involve changes in land use from residential to non-residential; and
  - The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

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<sup>12</sup> The following information on level of review is for informational and planning purposes only. Only HUD or an RE may determine the appropriate level of review; a PHA may not make this determination.

<sup>13</sup> Consider the full range of activities that are geographically or logically related to the project, regardless of timing or funding source, as required by 24 CFR 50.21. When determining whether a categorical exemption applies, consider all reasonably foreseeable activities.

- RAD transactions with no repairs, rehabilitation, demolition, or construction may qualify for a categorical exclusion from NEPA review if the transaction is an acquisition of a structure that will be retained for the same use (see 24 CFR 50.20(a)(4)).

If a RAD transaction does not conform to any of the categorical exclusions, either HUD or the RE will perform an EA. This includes RAD transactions involving substantial rehabilitation (meaning rehabilitation that does not conform to the requirements in 24 CFR 50.20(a)(2)(ii) or 58.35(a)(3)(ii)), demolition, or new construction.

When preparing an environmental report, at a minimum, PHAs should be providing relevant information and documentation related to all of the items in the CEST column. The RE or Transaction Manager, after determining the level of review, may request additional information corresponding to the items in the EA column.

	CEST	EA
<b>Project Information</b>		
Project Description	✓	✓
Site Map and Photographs	✓	✓
Estimated Total Project Cost	✓	✓
Repair/Rehab Costs (estimate)	✓	✓
<b>Related Environmental Laws and Authorities</b>		
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	✓	✓
<b>EA Factors and Analysis</b>		
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		✓

	CEST	EA
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		✓

## 6. 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 with questions about RAD processing requirements.

Appendix A: Model Finding of Exempt Activity

*[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]*

The transaction was found to be categorically excluded subject to the laws and authorities listed in 24 CFR 58.5 pursuant to 24 CFR 58.35(a), per the following citation(s): [*XXX*]

As documented in the environmental review record, there are no circumstances that require compliance with any other federal law and authorities cited in CFR 58.5. As a result, the [*City*] 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.