



Ten Things to Know about RAD When Advising PHAs

Gregory A. Byrne

RAD Network Partners Workshop

August 28, 2013





TEN THINGS...



1. Contract Rents

- Referred to as “current funding”
- Amounts can be found in:
 - RAD Inventory Assessment Tool (rows 71-74 of the Inventory Overview Tab); and
 - RAD Application (rows 5-7 of the Validation Tab)
- Based on 2012 funding levels:
 - 2012 Tenant Rents (from subsidy worksheet)
 - 2012 Capital Fund Grant Award, by project
 - 2012 Operating Subsidy Eligibility, assuming 95% proration (i.e., restored Operating Fund “Allocation Adjustment”), excluding Asset Repositioning Fee (special fund for demo/dispo projects)
- Current funding may be affected by PBV or PBRA rents caps, which are sensitive to estimated market (reasonable) rents
- Inventory Assessment Tool estimates market rent by using typical voucher rents (93% of FMR)
- RAD rents will be inflated beginning in 2014 using OCAFs (Operating Cost Adjustment Factors)
- OCAFs apply for both PBRA and PBV



TEN THINGS...



1. Contract Rents (cont.)

- RAD contract rents reflect whatever utility arrangements are in effect at the project.
 - Project-paid utilities – RAD rents equal Gross Rents
 - Tenant-paid utilities – RAD rents plus utility allowance equals Gross Rents
- Inventory Assessment Tool uses average utility allowance (data was not available by bedroom size)
- RAD rents reflect any existing Energy Performance Contracts (EPCs)
 - If project has an EPC where HUD has allowed a freezing of the project-paid consumption baseline, or an energy “add-on”, those arrangements will be carried over in RAD
- During the remainder of the initial calendar year of funding, the project receives only what it would have received under the public housing program (i.e., it carries forward all remaining Operating and Capital Funds for that year)
- If PHA changes bedroom distribution, contract rents will be adjusted accordingly. Under public housing funding formulas, operating subsidies increase with each increase in average bedroom size (and decreases in each decrease in average bedroom size)
- For partial conversions, just enter the proposed number of units, and bedroom mix, and both the Tool and Application will show the new contract rents



TEN THINGS...



2. PBVs vs. PBRA

- See accompanying chart of differences between PBV and PBRA
- Election depends on many factors

3. Choice-Mobility

- Applies to all conversions unless project has received an exemption
- Exemption available to:
 - (1) public-housing only PHAs; and
 - (2) PHAs that currently provide a preference in their voucher programs for homeless and vets if such preferences account for more than 33% of voucher turnover.
- Exemptions are granted based on first-come, first-served basis
- Requirements:
 - PBV – first available voucher after one year
 - PBRA – first available voucher after two years; however, PHA may also limit Choice-Mobility to not more than 15% turnover in any year and not more than 33% of voucher turnover in any year
- Assistance always remains with the project. Mobility voucher comes from agency's voucher turnover.



TEN THINGS...

4. Right to Return and Relocation

- All existing residents have right to return to the RAD project, including Transfers of Assistance
- There is no RAD requirement to retain the same bedroom mix or building type; however, PHA must still meet the right to return requirement when making changes in bedroom mixes
- Residents may voluntarily waive their right to return – a PHA may offer, for example, a turnover voucher or a unit in public housing
- To assist with relocation, HUD will make “Rehab Assistance Payments” for units under rehab or construction, equal to current subsidies, for all units receiving subsidy at the time of conversion
- As a result, HUD does not provide Tenant Protection Vouchers (TPVs) for RAD and all other relocation expenses must be addressed in the Development Budget
- If relocation must last for more than one year, the family is considered to be permanently relocated under the Uniform Relocation Act (URA) and the PHA must find the family “comparable assisted housing”, which can include public housing or vouchers. While these resources will satisfy the URA, the family must still be given the right to return to fulfill RAD requirements (if not voluntarily waived).





TEN THINGS...

5. De Minimis Reductions and Transfers of Assistance

- PHA must replace 95% of all units at project converting, with exceptions for units vacant for more than two years, to facilitate social service delivery, or for reconfiguring efficiency apartments.
- PHA can rehab, tear down on site and build new construction on or off-site
- PHA can also acquire/transfer the assistance
- Projects meeting RAD de minimis requirements do not need to seek separate approval from the Special Applications Center (SAC) to demolish or dispose of the project (exempt from so-called "Section 18").
- PHA may, however, apply to the SAC for demo/dispo for a portion of the project
- All conversions must still meet right-to-return requirements





TEN THINGS...



6. Public Housing Mixed-Finance Projects – Projects Developed under 24 CFR Part 941, Subpart F

- To convert to RAD, both the PHA and the mixed-finance ownership entity must agree
- HUD will fund the project at the established RAD contract rent (or some other amount if the PHA is “bundling” projects); however, the PHA and ownership entity can decide how those funds are split (say, a new lease payment), provided the “deal” is considered feasible
- There is no limit to the number of mixed-finance projects (other than HOPE VI projects) that can convert
- The PHA and the ownership entity will need to “unwind” the mixed-finance project – (1) the Declaration of Restrictive Covenants, (2) mixed-finance ACC, and (3) the Regulatory and Operating (R&O) Agreement. HUD recommends that the R&O be replaced by a streamlined regulatory agreement.
- Projects that are currently being developed under “Faircloth” may not be eligible for RAD if those projects are not currently receiving assistance under public housing (however, HUD is looking at the possibility of a “joint closing” process down the road)



TEN THINGS...



7. Program Funds and “De-federalization”

- There is no restriction on use of cash flow (and no residual receipts account), mortgage proceeds, or developer fees – PHAs are bound only by State and local laws, as applicable
- Unless the project is the remaining project to convert in a PHA’s inventory, there will be a subsidy layering review where the PHA contributes Capital Funds to the Development Budget or where the PHA contributes public housing operating reserves in excess of the three-year average of reserves for the project
- All proceeds from seller-take back financing related to LIHTC transactions are also de-federalized

8. Public Housing-only PHAs

- If convert to PBV, must find a voucher administrator willing to administer the PBV contract (that voucher agency will earn new admin fees)
- If convert to PBRA, will need to request Choice-Mobility exemption (or otherwise find a voucher agency willing to provide Choice-Mobility)



TEN THINGS...



9. Projecting Operating Costs

- If estimating Operating Costs as a percentage of current Formula Expenses (say, 95%), keep in mind that “Formula Expenses”, as defined, within the Inventory Assessment Tool, exclude funding the PHA may receive under Stop-Loss (called “Transition Funding”)
- If estimating Operating Costs based on historical project expenses, remember that HUD’s public housing financial reporting model:
 - (1) has a slightly different chart of accounts than FHA; and
 - (2) has a separate column for Operating Fund and one for Capital Fund. Generally, you will want to include only the Operating Fund column.

10. Resident Participation

- Must have two meetings with residents of the project prior to submitting an application (a PHA can combine more than one project at each meeting, as long as residents are notified accordingly)
- Must have one meeting with residents after RAD award (and prior to submission of Financing Plan)
- PHA also required to submit a Significant Amendment to its Annual Plan, which also has public notice requirements



TEN THINGS...

11. Bonus – RAD Physical Condition Assessment (RPCA)

- Required only after CHAP award
- Exclusions for: new construction, for rehab that is “down to the stud”, and for projects recently built (based on HUD approval)
- HUD shortly to form “user group”

12. Bonus – Ownership Type

- Ownership can include:
 - PHA, directly or through related non-profit
 - Any other public or non-profit owner
 - For-profit owner in the case of tax credits
- No approval required of these alternate ownership arrangements (other than 2530/APPS process)





Considerations in Choosing PBRA vs. PBV



Item	PBRA	PBV
1. Baseline Funding Levels	Based on 2012 levels, with Operating Fund Allocation Adjustment restored	Same
2. Initial Contract Term	20 years	15 years (up to 20 at option of voucher agency); voucher agency may also automatically extend for another 15 years
3. Contract Renewals	At end of contract term, Secretary must offer, and PHA must, accept renewal	Same
4. Rent Caps	Current funding cannot exceed 120% of the FMR, unless the current funding is less than market, in which case the current funding cannot exceed 150% of FMR.	Current funding cannot exceed the lower of (1) reasonable rent or (2) 110% of FMR.
5. Annual Inflation Adjustment	Based on Operating Cost Adjustment Factor (OCAF), i.e., the method used to adjust rents for Multifamily projects renewed under the Multifamily Assisted Housing Reform and Affordability Act (MAHRAA).	Same
6. Choice Mobility	Resident may request next available voucher after two years; however, voucher agency may limit to not more than 15% of project in any year and not more than 33% of voucher turnover due to RAD.	Resident may request next available voucher after one year, with no limitations.
7. Voucher Admin Fee	N/A	PHA earns Section 8 voucher admin fee for all units converted to PBV. Note: for agencies that do not administer a voucher program, and that convert to PBVs, the voucher agency will be responsible for administration of the waiting list, eligibility, reexaminations, leading to substantial deregulation for the converting agency.



Considerations in Choosing PBRA vs. PBV



8. REAC/UPCS Inspections	Yes	No (unless project receives FHA insurance)
9. REAC/FASS-MF Annual Financial Statements	Yes	No (unless project receives FHA insurance)
10. Management and Occupancy Reviews (MORs)	Yes	No (unless project receives FHA insurance)
11. Cash Flow	Unrestricted	Same
12. Appropriations	Annual funding subject to appropriations; however, the Congress has never failed to renew a PBRA contract	An agency's voucher funding is subject to annual appropriations. Because of the RAD Use Agreement, if Congress provides less than full funding for the Voucher program (i.e., proration), the PHA administering the voucher program may will likely need to absorb the cuts from its non-RAD voucher units.
13. Rehab Requirements	There is no required level of rehab under RAD (or requirement to leverage debt). The PHA must simply ensure that identified needs are addressed.	Same
14. FHEO Site/Neighborhood Standards	Standard FHEO requirements not waived under RAD.	Same
15. Income Mixing	N/A	Under normal PBV rules, not more than 25% of units in a project can be assisted, unless the units are elderly or disabled, scattered site, or receiving supportive services. RAD increased the threshold to 50%, with the same exceptions.