

A Novel Approach

HUD Ramps Up RAD Program to Test the New Preservation Tool

The U.S. Department of Housing and Urban Development is moving quickly to implement its new Rental Assistance Demonstration (RAD) program, which offers new opportunities to public housing authorities and multifamily housing owners and developers to preserve affordable rental units.

"This is a groundbreaking strategy of the Obama Administration to preserve tens of thousands of much-needed public housing units using this preservation tool, and assisted housing units as well," Sandra B. Henriquez, HUD Assistant Secretary for Public and Indian Housing, said in an interview on August 14.

Authorized by the FY 2012 consolidated appropriations act, RAD is designed to test new ways to put public housing projects and certain HUD-assisted multifamily properties on a sound fiscal footing and make it easier to attract private debt and equity to pay for renovations.

On July 26, HUD published a final implementation notice in the *Federal Register* and issued a companion 182-page notice (PIH-2012-32) spelling out details and procedures for the two-part program.

Two Components

Under the first, competitive component, PHAs can apply to HUD to convert the existing subsidies for public housing properties to either project-based Section 8 rental assistance or project-based vouchers under new contracts of up to 20 years. The same conversion choice is available to owners of Section 8 Moderate Rehabilitation (Mod Rehab) projects. The initial application period starts September 24. HUD can approve conversions for up to about 58,000 public housing units and up to about 1,700 Mod Rehab units.

Under the second component, non-competitive and now open for applications, owners of multifamily properties assisted under three HUD "orphan" rental subsidy programs – Mod Rehab, Rent Supplement (Rent Supp), and the Section 236 Rental Assistance Program (RAP) – can apply to HUD to convert funding allocated for

tenant protection vouchers to project-based vouchers under new contracts of up to 15 or 20 years. The number of units that can be converted isn't capped though subject to available HUD budget funding for tenant protection vouchers.



Sandra B. Henriquez

To be eligible under either component, Mod Rehab, Rent Supp, and RAP properties must have current rental assistance contracts expiring or terminating after October 1, 2006 and before October 1, 2013.

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HUD View of RAD

In the interview, HUD officials said the RAD program offers plenty of long-term preservation opportunities for PHAs and multifamily owners and developers.

Henriquez said the program provides a way for PHAs, especially smaller ones, to put public housing properties on the same "real estate platform" as affordable rental housing properties in the private-sector world, to utilize untapped equity and leverage private debt and equity to help pay for needed renovations.

Similarly, Patrick Costigan, Senior Advisor in the Office of the Secretary, indicated that RAD will enable owners of Mod Rehab, Rent Supp, and RAP properties to obtain a more reliable, long-term source of rent subsidies for their properties, making them financially sounder and better able to secure debt and equity to fund improvements. Currently, HUD project-based rental assistance contracts for these orphan program properties terminate without the ability to renew or can only be renewed for a year at a time. Also, some tenants in these properties have vouchers that can move with them.

HUD officials said there are now about 23,000 Mod Rehab, 12,500 RAP, and 10,000 Rent Supp units nationwide.

Henriquez believes that many conversion transac-

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Project-Based Vouchers Grow in Stature With Rental Demonstration

Project-based vouchers are already a crucial preservation tool for affordable housing, but their role has gained importance with the start of HUD's Rental Assistance Demonstration (RAD) program.

At the National Housing & Rehabilitation Association's recent 2012 Summer Institute conference, preservation experts discussed how project-based vouchers (PBVs) can be used with RAD in a preservation deal. The focus was on Section 236 projects where Rental Assistance Payment (RAP) or Rent Supplement contracts terminate when the subsidized mortgage expires or is prepaid.

One positive feature of RAD, said Boston attorney David Abromowitz of Goulston & Storrs P.C., is the ability to project-base more units than in the regular PBV program: up to 50% of a project's rental units rather than 25% can receive PBVs. In addition, 100% of the units may be project-based if 50% of the tenants qualify under applicable existing program exceptions for the elderly, disabled, or families receiving supportive services.

Maturing Mortgage

Abromowitz described a 33-unit Section 236 project in Boston with a subsidized mortgage maturing in November 2012 that RAD could preserve. About 20% of its tenants have assistance through a Rent Supp contract. The mortgage termination doesn't create an event that generates enhanced vouchers for tenants, but Abromowitz said the combination of tenant-protection vouchers for eligible

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tions under both components of RAD will utilize low-income housing tax credits as a funding source. In the case of public housing conversions, she said, "We think that they will use 4 percent credits more [than 9 percent credits] because they're more plentiful and less competitive and will fund the level of rehab that's required for those units."

Costigan felt that some RAD transactions may pair tax credits and HUD Section 223(f) mortgages originated under HUD's new FHA tax credit pilot program. Under the pilot, 223(f) mortgages can fund a higher level of rehab than usual (up to \$40,000 per unit) and processing is faster.

The HUD officials said the Department already has about 12-15 proposed RAD conversion transactions under the non-competitive component being processed; the first approved deal is expected to be announced shortly. HUD is also holding or co-sponsoring various upcoming events on RAD, including a "RAD Capital Marketplace" in early September.

Stakeholder Reaction

Nixon Peabody LLP partners Monica Sussman, Michael Reardon, and Stephen Wallace concurred that the RAD program offers attractive opportunities for PHAs and owners of HUD orphan program properties.

Sussman suggested that getting long-term rental assistance for, say, Mod Rehab properties will make LIHTC investors more comfortable about participating in new tax credit deals involving these properties.

Reardon said when RAP and Rent Supp contracts expire, there is no rental assistance available for residents living there. "So this provides an opportunity for owners to be active in terms of getting project-based assistance, project-based vouchers, for those units that might lose the subsidy."

Wallace said RAP and Rent Supp projects with contracts not expiring until after FY 2013 could still get into the RAD program – now authorized only for FY 2012 and FY 2013 – if the current HUD mortgage is prepaid, such as an underlying Section 221(d)(3) mortgage.

Michael Bodaken, president of the National Housing Trust, said, "We're cautiously optimistic that [the RAD program] will help developers, owners, and others preserve housing that would otherwise not be preserved."

In fact, he noted that the National Housing Trust/Enterprise Preservation Corporation, a joint preservation developer formed by NHT and Enterprise Community Partners, is considering a possible RAD transaction for one of its Mod Rehab properties in Washington, D.C. "It's a very competitive property, fully occupied," said Bodaken, noting the property was refinanced three years ago with tax credits. However, he said a RAD transaction "would give ourselves the option of refinancing in the future, with predictable income that will allow us to secure more capital for rehabilitation. That's the attraction: to level out the income stream so that lenders will feel like project-basing is something they can count on and underwrite." **TCA**

(RAD program notices and event information: <http://tinyurl.com/738vry7>)