RAD – Results Not Rules

WAHA Conference

September 17, 2013

Presented by:
C. Ray Baker & Associates

Is RAD for You?

· My objective is to:
  · Be honest with you
  · Give you the information to decide:
    · About RAD
    · Which Site
  · Give you the tools to succeed
  · Help you avoid mistakes

Is RAD for You?

· Be honest with yourself
· Do your homework
· Consider pooled procurements and transactions
· Assemble the best possible team
· Stay involved – follow the program
**RAD vs. HOPE VI**

- In nine months there are more Public Housing Authorities and Public Housing Units committed to RAD than there were in the first two years of the HOPE VI program.
- The RAD program has not required any additional funding from Congress.
- Over 20 years Congress has spent $5.6 Billion on HOPE VI.

**RAD Basics**

- **What is RAD?** HUD demonstration program that combines public housing operating and capital subsidy into payments under a Section 8 HAP contract
- **What kinds of developments are being done with RAD?** Minor rehab; major rehab; new construction; mixed income; off-site replacement housing
- **How do I determine if I have a project/portfolio that would be a good candidate for RAD conversion?** Use the RAD Inventory Assessment Tool in the Resources section of www.hud.gov/rad
- **How would RAD affect:**
  - Residents: No change; 30% of income for rent
  - PHA Functions: Dependent on cash flow, fees, strong management, puts them on the more secure Section 8 funding platform; Gives them the affordable housing tools of other nonprofit developers

**RAD Basics**

- **Contract Rents:**
  - Operating Fund (with Operating Fund Allocation Adjustment)
  - Capital Fund
  - Tenant Rents
  - RAD Contract Rent
- **Can convert Public Housing to:**
  - Project-Based Rental Assistance (PBRA) or
  - Project-Based Vouchers (PBV)
- **Can only convert at current funding levels**
- **WHY IS THE SECTION 8 FUNDING MODEL MORE SECURE FOR A PHA?**
  - Tenant Protections:
    - Tenants have the absolute right to return
    - Choice-Mobility with limited exemptions
  - Extensive waiver authority available to facilitate conversion
**Public Housing Conversion Rent Levels**

Sample Public Housing Conversion
Per Unit Monthly (PUM)

<table>
<thead>
<tr>
<th></th>
<th>Pre-Conversion</th>
<th>Post-Conversion</th>
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<tbody>
<tr>
<td>Capital Fund</td>
<td>$144</td>
<td>$144</td>
</tr>
<tr>
<td>Tenant Payment</td>
<td>$318</td>
<td>$318</td>
</tr>
<tr>
<td>Operating Fund</td>
<td>$330</td>
<td>$330</td>
</tr>
<tr>
<td>Housing Assistance Payment</td>
<td>$474</td>
<td>$474</td>
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</tbody>
</table>

**Where’s the Money?**

- The RAD options:
  - Modest rehab with debt only
  - Moderate rehab with debt and 4% LIHTCs
  - Major rehab or replacement with debt and 9% LIHTCs
- These are funding sources that are not conveniently available to small PHAs
- A conversion of all LIPH units eliminates the HUD requirements for:
  - Procurement
  - Annual and Five-Year Plans
  - PHAS
  - REAC (if...)
- You Get to Keep the Money

**The RAD Details**

- Ownership – Public or non-profit, except to facilitate tax credits
- The authority leases the land to the LIHTC Partnership
- A Physical Condition Assessment (PCA) must be performed on RAD sites to determine the improvements required
- The authority must comply with the Uniform Relocation Act
- An existing PILOT agreement must be renewed when ownership changes
- Davis-Bacon wages must be paid during rehabilitation
KEY CHANGES IN THE RAD NOTICE

- Mixed Finance projects
  - Removes unit cap for Mixed Finance projects
  - Allows financially distressed HOPE VI projects to apply
- Exempts awarded projects from the Public Housing Assessment System (PHAS)
- Extends Capital Fund obligation and expenditure deadlines
- Clarifies conditions for “rehab assistance payments”

Notes:
- HUD will honor the FY 2012 RAD contract rents for all applications received before end of CY 2013 (applies to individual applications, portfolio awards, and multi-phase awards)
- PHA may adjust Contract Rents across multiple projects as long as aggregate subsidy does not exceed current funding (“rent bundling”)

KEY CHANGES IN THE RAD NOTICE

- Eliminates caps on units that can convert for:
  - Public housing
  - Mode Rehab
- Creates new awards for:
  - Portfolio conversions
  - PHA defines “portfolio” of projects, either the entire PHA inventory or some subset
  - PHA must submit application for at least half of the projects in portfolio
  - HUD will reserve award for remaining units in portfolio
  - PHA must submit application for remaining projects in portfolio within 365 days
- Multi-phase conversions
  - Allows PHA to reserve conversion authority for projects with multiple development phases with applicable contract rent for all phases
  - PHA has until July 1, 2015 to submit application for final phase
  - PHA required to fulfill all CHAP milestones for each CHAP awarded
  - Upon application acceptance, HUD will issue CHAP for initial phase and multi-phase award letter covering all phases of project
  - Joint RAD/CNI applicants

WHY RAD?

What Makes RAD So Special?

- One simple application, not four long ones.
- Not competitive, just get it right.
- Rapid turnaround by HUD.
- Less procurement, fewer specialized consultants.
- High probability of approval. How high?
- RAD brings in new money.
THE RAD PROCESS

What Makes RAD So Special?

- Board Approval
- Site Selection
- Tenant Meetings
- Non-binding letters from lenders and LIHTC investors
- Submit the application
- Can the Authority stop the RAD process?

CONVERSION STEPS – PUBLIC HOUSING

THE APPLICATION

- Simple, start with basic pro forma [www.hud.gov/rad](http://www.hud.gov/rad)
- Application
  - Two resident meetings
  - Board meeting and approval
  - Financing letters
    - Lender
    - Investor
  - If 9% credit, letter from HFA or self-scoring
  - Choice Mobility: Letter for PBRA; ability to administer for PBV
  - If converting a project that is currently mixed-finance, need signatures of all parties
  - Fix "Fatal Error" issues
  - CHAP Award
**Closing Process - Milestones**

- **Post CHAP**
  - DAY 1: CHAP Issued; Transaction Manager assigned
  - DAY 30: Information on Development Team
  - ("One Round" allowance for LIHTC; schedule subject to oversight by TM)
  - DAY 60: Firm Financing Letters
  - DAY 180: Submit Financing Plan
  - DAY 360: Closing and Conversion; Section 8 begins to fund

**Post Conversion**
- Temporary Relocation (if necessary)
- Demolition (as necessary; no Section 18 approval required)
- Rehabilitation or New Construction
- Re-occupancy

**Your Authority**

**What are your key decision points?**

- Which sites:
  - Least rehab
  - Most rehab
- Debt Only?
- LIHTCs:
  - 4%
  - 9%
- PBRA or PBV?

**Which Site First?**

- Do you select the site that:
  - Needs the most work
  - Can be converted with modest improvements
  - Can be converted with no improvements
- If you do your RADomatic sites first what about PHAS
- Please consider a Portfolio Application
- Please consider Pooled Procurements
- Lobby WHEDA
### 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., we restored the Operating Fund “Allocation Adjustment”), excluding Asset Repositioning Fee (a 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

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#### 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
- In all cases, assistance remains with the project. The mobility voucher comes from the agency’s voucher turnover
4. Right to Return and Relocation
- All existing residents have a 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, a 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).

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 (except 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.

6. Public Housing Mixed-Finance Projects (i.e., 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 "banding" 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 is 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 PB RA, 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
- Remember to include 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)
- Remember to have one meeting with residents after RAD award (and prior to submission of Financing Plan)
- The PHA will also be 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)
### Various Considerations in Choosing PBRA vs. PBV

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<thead>
<tr>
<th>Item</th>
<th>PBRA</th>
<th>PBV</th>
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<tbody>
<tr>
<td>1. Baseline Funding Levels</td>
<td>Based on 2012 levels, with Operating Fund Allocation Adjustment restored</td>
<td>Same</td>
</tr>
<tr>
<td>2. Initial Contract Term</td>
<td>20 years</td>
<td>15 years (up to 20 at option of voucher agency); voucher agency may also automatically extend for another 15 years</td>
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<tr>
<td>3. Contract Renewals</td>
<td>At end of contract term, Secretary must offer, and PHA must, accept renewal</td>
<td>Same</td>
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<tr>
<td>4. Rent Caps</td>
<td>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.</td>
<td>Current funding cannot exceed the lower of (1) reasonable rent or (2) 110% of FMR.</td>
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<tr>
<td>5. Annual Inflation Adjustment</td>
<td>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).</td>
<td>Same</td>
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<tr>
<td>6. Choice Mobility</td>
<td>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.</td>
<td>Resident may request next available voucher after one year, with no limitations.</td>
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<tr>
<td>7. Voucher Admin Fee</td>
<td>N/A</td>
<td>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 determinations, leading to substantial deregulation for the converting agency.</td>
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### Resident Provisions

**No Re-Screening of Residents at Conversion**
- One-for-One Replacement
  - Must convert all or substantially all units in covered project

**Family Self-Sufficiency**
- Current FSS participants continue in program

**Resident Participation & Funding**
- PHA must recognize legitimate tenant organizations
- PHA must provide $25 per occupied unit annually for resident participation ($15 per occupied unit > legitimate tenant organization

**Resident Procedural Rights**
- Consistent with Section 6 of the 1937 Housing Act
- Resident Relocation
  - Consistent with Uniform Relocation Act

**PUBLIC HOUSING CONVERSIONS**
YOUR AUTHORITY

Development Breakdown Report

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WIS00008020 OPfund Antigo Housing Authority $106,801

2002 OP $106,801
2002 CF $106,801
Decrease $ 0.000

30% Capital Fund

Langlade County FMR

IS YOUR SITE IN A QCT?

Determining a PHA’s RAD Rent

- www.hud.gov/rad
- “Resources”
  - PHA Conversion Guide
  - RAD Inventory Assessment Tool
    - Fill in PHA #
    - Populate
    - Fill in basic financing assumptions
    - Top rent in BOLD is RAD rent
- Feasibility with debt only
- Feasibility with 4% LIHTC & 9% LIHTC

THE RAD INVENTORY ASSESSMENT TOOL

THE RAD INVENTORY ASSESSMENT TOOL
THE RAD INVENTORY ASSESSMENT TOOL

Section 223(f)
- Refinance or acquisition
- Minor/moderate repairs ($6,500/unit * high cost factor)
- Permanent debt with repair escrow - up to 35 years

Section 221(d)(4)
- Substantial rehab: 2 major building systems
- Construction/permanent debt all in one - initial/final closing
- 40-year financing

Mortgagee Letter for RAD Transactions issued 10/12
- Eligibility, underwriting criteria, processing & materials

FHA LIHTC PILOT PROGRAM

Streamlined-Enhanced FHA 223(f) & LIHTCs
- Rehab expenditures of up to $40,000/unit
- Tax credit or Bond Cap allocation in hand
- Processed in Multifamily Hubs
- Using MAP lenders approved for the Pilot
- Goal of 3-4 month turnaround on applications
**FEDERAL HOME LOAN BANK AHP**

**Affordable Housing Program (AHP)**
- This program is funded with 10% of the Federal Home Loan Banks' net income each year.
- Most effective when paired with other programs and funding sources, like Low-Income Housing Tax Credits.
- More than 776,000 housing units have been built using AHP funds, including 475,000 units for very low-income residents.
- $4.6 billion in total AHP dollars since 1990. That's 200 million per year.
- AHP loan funding often comes with an equal amount of grant funding.

**RAD & LIHTCs**

**RAD Sweet Spot—Debt Only**
- Abt study—$24k/unit average capital need
- Opex at $4,500 pupy + $300 replacement reserves
- FHA debt at 3.45%; 1.2 DCR
- Feasible with RAD rents above ~$610/month

**RAD Sweet Spot—4% LIHTCs**
- Rehab needs above $24k/unit to ~$40k/unit
- Ease of meeting 50% test with RAD rents
- Available P-A Volume Cap
- Non-competitive
- QAPs favoring preservation, green
- Evolving, accessible short-bond structure
- Historically low borrowing rates
RAD & LIHTCs

RAD Sweet Spot—9% LIHTCs
- Targeted prospects for substantial rehab & replacement housing
- No Section 18 review
- Income mixing
- Split project (AMP)
  - 9% LIHTC used to help cover relo/demo/first phase
  - 4% LIHTC for balance of site
- RAD HAP contract(s) for off-site replacement
  - Acquisition/rehab
  - New construction

RESULTS OF THE COMPETITIVE ROUND

- Initial Public Housing Awards
  - Total applications: 113
  - Total awarded public housing projects: 110
  - Total awarded PHAs: 68
  - Total awarded Public Housing Units: 11,910
- PHA Size*
  - 32% Small (<250 units in inventory)
  - 52% Medium (251-1,249 units in inventory)
  - 16% Large (1,250+ units in inventory)
- *Based on 68 awarded PHAs

RAD ACROSS THE COUNTRY – 1ST COMPONENT

<table>
<thead>
<tr>
<th>PHAs and Mod Rehab Units Awarded</th>
<th>Midwest</th>
<th>South</th>
<th>West</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>PHAs and Mod Rehab Units Awarded</td>
<td>949</td>
<td>1,279</td>
<td>1,652</td>
<td>4,870</td>
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RAD Awards Trend Chart

<table>
<thead>
<tr>
<th>Month</th>
<th>Awards Issued</th>
<th>Awards Expected Based on Application Trends</th>
<th>Awards Expected Based on Current Outreach</th>
<th>Anticipated Future Awards</th>
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<tbody>
<tr>
<td>Jan</td>
<td>20,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td>40,000</td>
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<td>Mar</td>
<td>60,000</td>
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<tr>
<td>Jul</td>
<td>140,000</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Aug</td>
<td>160,000</td>
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RAD Capital Marketplace

www.radcapitalmarketplace.com

RAD Web Page

RAD Notice, application materials, and additional resources can be found at www.hud.gov/rad

Email questions to radresource.net