



# RENTAL ASSISTANCE DEMONSTRATION

U.S. Department of Housing and Urban Development

Secretary Julián Castro

## Things that PHAs can do to Facilitate RAD Conversion

### Overview

Many PHAs who have applied for RAD but are on the waiting list have asked what kinds of activities they can undertake now to facilitate conversion in the event the cap is lifted. While HUD cannot guarantee when or to what extent the cap will be lifted, if at all, HUD offers the following suggestions to help PHAs position themselves to be as ready as possible to proceed with the RAD conversion, once authorized to do so. PHAs are reminded that, even if the cap is lifted, RAD conversion is not guaranteed until a project has met all program requirements and satisfied all conditions necessary to close the transaction.

PHAs can review the RAD program milestones so that, if an award is made, they can avoid roadblocks and address any complex issues that might impact closing. Being knowledgeable about the entire RAD conversion process allows you to anticipate requirements with long-lead items (e.g., the Financing Plan) and potential obstacles. The conversion process will vary considerably depending on the complexity of each transaction.

This guidance begins with a discussion of items that affect virtually all transactions, and then adds some advice for transactions that vary according to types of conversion, e.g., tax credit or transfer of assistance.

### Preparation for All RAD Transactions

#### 1. Continue to work with residents and other stakeholders to inform them of your on-going plans.

Prior to submitting a RAD application, PHAs were required to have had two resident meetings and to get Board approval of their applications. Let residents know the status of your application. Circulate the Q&A that was prepared in the resident consultation meetings and submitted as part of your application, and possibly expand it to cover more topics that are specific to your planned transaction(s). You may also want to consider a survey of residents on topics such as relocation options (if you are including rehab, demolition, or acquisition); priority of rehabilitation needs; energy-related issues such as controlling temperature, drafts; crime and safety concerns; recreation facilities; health and wellness; other supportive services desired/needed, etc.

#### 2. Update your Annual Plan.

If you have not already done so, take the time now to prepare the Significant Amendment to your Annual Plan or incorporate RAD into your next Public Housing Agency (PHA) Plan. Instructions for including RAD in the PHA Plan are in Attachment 1D of Notice PIH-2012-32 (HA) REV-1. [http://portal.hud.gov/hudportal/documents/huddoc?id=finalradnotice\\_redline.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=finalradnotice_redline.pdf)

#### 3. Shore-up your financing plan and development budget.

Review your proposed financing plans and adjust them if economic conditions have changed. If you are using public housing funds to fund the conversion work, assess the impact, if any, on your agency's remaining public housing portfolio.

#### 4. Assemble or identify needed development partners.

The RAD application identified potential development partners and team members. Be ready to secure partnering arrangements if award letters are issued. Under RAD, a PHA can select development partners prior to a RAD award; however, if the PHA is expending any *public housing funds* prior to conversion, it must follow all public housing procurement rules. All transactions will need some third-party assistance, whether it is for the RAD Physical Conditions Assessment (RPCA), energy audit, title work, closing agent, structuring of ownership entity, etc. If public housing funds are used to fund these contracts, public housing procurement rules must be followed.

## 5. Begin to secure your RAD Physical Condition Assessment (RPCA) and Energy Audits.

Prepare an RPCA solicitation, so that once an award is made, you can quickly authorize the work to begin. Alternatively, depending on when your first Green Physical Needs Assessment (GPNA) is needed under the public housing program, you may consider proceeding with a GPNA that can be used to produce a RAD Physical Condition Assessment (RPCA) (be explicit about your intent to pursue RAD in your solicitation and obtain cost up front as an add-on to later migrate the GPNA data to the PCA format; note that the RPCA has different standards for sampling, during of the assessment, and third-party performance requirements). In that event, make sure that your GPNA provider has prior experience with RPCAs. If your plan includes new construction or gut-rehab (down to the studs), or transfer of assistance off-site, you will likely not need to submit a RPCA. Become familiar with the RPCA Tool (Excel spreadsheet) so that you have a conceptual framework for it. See separate guidance from HUD on both the GPNA and RPCA requirements, and clarification on when the RPCA is required for RAD transactions. If you do not have a recent energy audit, keep in mind that one will be needed for the RAD financial plan.

When you solicit your RPCA, please consider the experience of the contractor in preparing RAD or RAD-like physical condition assessments. The RPCA has specific protocols, especially around capturing 20-year needs and determining the size of the replacement reserve deposits, which are not part of the scope of work in public housing PNAs.

## 6. Update PIC Data to Current Conditions.

If the pre-populated PIC unit data (total counts, and by bedroom size) in your RAD application was not correct, and you have not yet made those changes in PIC, or if you have made other changes since and they are not reflected yet in PIC, make sure these changes are changed in PIC.

## 7. Review of Non-dwelling Assets.

Where you have non-residential structures or parcels that are co-located with your residential properties, these properties will convey at closing. If there are stand-alone properties or parcels that are not part of or contiguous with your residential properties, the conveyance of these properties or parcels will be more complex and they may be separated from your RAD conversion. Be prepared to discuss the details of these assets HUD at your Kick-Off Call after award.

## 8. Work on PILOT/Local Cooperation Agreement/Legal Opinion if needed.

Public housing operates under your Cooperation Agreement, which provides for a Payment in Lieu of Taxes (PILOT). If you are intending to maintain this status after conversion, work with local counsel and your local jurisdiction to verify that the PILOT arrangement or other similar agreement will be in place going forward. Evidence of this will be needed for the RAD conversion. It will be necessary for your counsel to prepare a legal opinion on this as part of the documentation submitted with the Financing Plan.

## 9. Study RAD Notice (2012-32, Rev 1), RAD Resource Desk, Training Materials, FAQs, Talk with Peers.

There is a wealth of information and training materials available including:

- The RAD website: [www.hud.gov/rad](http://www.hud.gov/rad). This is divided into four sections and in addition to the RAD Notice itself, there are PowerPoint presentations, case studies, newsletters and guidance memos on a range of topics. Reference Guides for PBV and PBRA Conversions have been added recently to the “Closing Documents” section. The new Notice on Relocation that was issued July 2014 is in the “Want More Information” section on the main RAD page.
- RADresource.net: The Frequently-Asked-Questions (FAQs) section is particularly helpful. It can be word-searched for topics that have already been addressed and, if you do not see the answer there, you can submit your own question.

Familiarize yourself with these materials, and submit new Questions to RADresource.net as needed.

Also, over 350 transactions are in varying stages of the process (80+ have closed thus far), and therefore many of your peers have experience with the conversion process. The RAD website provides a listing of all PHAs with approved CHAPs that are going through the process.

The RAD Notice provides a list of Milestones that serves as a checklist of materials that you will need to prepare and submit throughout the process. Familiarize yourself with the required submissions to better understand the conversion process. Through such study, you will discover many practical nuances of the RAD conversion.

For example, under PBV conversions, the PHA does not receive Admin Fees in the first year post conversion. Other examples include:

- If your rehab will require off-site relocation, residents can only be off-site for 12 months—any longer and you will be required to pay permanent URA benefits;
- All residents will need to sign new RAD leases as part of the conversion;
- The PHA will have to use its existing public housing funds as the RAD rents for the balance of the calendar year during the year of conversion until January 1st of the following year.

#### 10. Review impact of RAD Conversion on households currently paying flat rents.

Under the public housing program, PHAs are required to establish “flat rents” (i.e., ceiling rents), which are supposed to reflect the market or reasonable rent for the unit. If a PHA has flat rent households, and if the PHA has not been updating its flat rents, some of these households may experience an increase in rent when the project converts. The RAD Notice provides procedures for phasing in rent increases over a three- or five-year period. You may want to meet with those residents separately to help them understand this.

#### 11. Review plans to add or increase “green” upgrades.

You may want to have your advisors review your plans to identify any (additional) green upgrades that you may want to add to your plans, to conserve energy and improve the project’s economic viability. Water-related and envelope upgrades have the shortest payback periods. Some states provide separate tax credits in support of alternative energy improvements (solar, geo-thermal, fuel cells).

#### 12. Explore additional funding sources.

If your current plans and financing strategies do not provide all of the upgrades or amenities you and your residents would like to see at your properties, you may want to explore additional funding sources, which might include CDBG, Federal Home Loan Bank Affordable Housing Program, state and Historic tax credits, energy subsidies, tax increment financing, or various philanthropic sources. Also, to increase your supportive services, you could begin lining up (additional) service provider agreements. This is also important if your RAD conversion projects will not have access to additional funding from the public housing FSS or ROSS service provider funding after conversion.

#### 13. Understand Procurement Requirements related to RAD Conversions.

In conducting any activities in preparation for a RAD conversion, please note that prior to approval of a PHA’s financing plan, the current RAD notice allows a PHA to expend up to \$100,000 per project for pre-development expenses without prior HUD approval. PHAs should remain mindful of public housing requirements as they exercise their discretion for the use of such funds. HUD encourages PHAs to consider the current limited authority for the RAD program (capped at 60,000 units), and the possibility that the cap may not be lifted above the number of units on the waiting list. PHAs should limit spending to items that will help analysis of redevelopment options. On the other hand, if you know you are going to redevelop one way or another, keep your alternative approaches in mind as you carry out predevelopment activities. In using such funds, a PHA must follow all applicable public housing requirements, including federal and state procurement rules. For more information on this subject, see the RAD Resource Desk for previous FAQs (search for “procurement requirements”).

#### 14. Prepare internal systems for changes related to RAD conversion.

You may want to prepare for any changes in computer software and staffing duties that may be necessary after the RAD conversion. You may also want to attend trainings and research what will be the most appropriate systems and procedures for your central office and site offices.

#### 15. Draft any needed new policies, procedures and forms that may be needed post-conversion.

You may want to read the RAD PBV and PBRA Quick Reference Guides to understand HUD’s management requirements. You may need/desire to draft revised House Rules, new lease, and other occupancy policies that will be implemented upon the RAD conversion, consistent with PBV and PBRA, respectively, but also the RAD Notice.

## Preparation for RAD Transactions with Low-Income Housing Tax Credits

#### 16. Track the State Housing Finance Agency’s Qualified Allocation Plan.

If you are not already familiar with the tax credit process, familiarize yourself with your State’s Qualified Allocation Plan (QAP) and application process. If planning on utilizing 9% tax credits, the QAP and other supporting documents (application, tax credit manual) will provide a framework for scoring how competitive your application will be. Begin planning for how to maximize the project’s competitiveness.

## Preparation for RAD Transactions with Energy Performance Contracts (EPCs) or Capital Fund Financing (CFFP) Financing in Place

#### 17. Study CFFP documents for pre-payment penalties or lock-outs.

In nearly all cases, projects with CFFP financing will need to pay off their related debt as part of the RAD conversion. Some CFFP documents require pay-off with Capital Funds only, or other funding as permitted by the lender. Still other financing agreements provide for a lock-out

period where pre-payment is not permitted, or provide for pre-payment penalties. You will definitely want to discuss these possibilities with your Transaction Manager at the RAD Kick-off meeting/call. You will likely need to work with your legal counsel and HUD to find solutions to these obstacles to conversion.

#### 18. Consider your options on projects with EPC financing.

Projects with existing Energy Performance Contracts (EPCs), may, but are not required to, pay off the EPC debt as part of their transaction. Typically, if not paid off, the EPC debt would need to be subordinated to any RAD financing in first position. If paying off the EPC debt, it may be possible to cancel the monitoring contract, which will augment the project's financial performance.

## Preparation for RAD Transactions with Rehabilitation or New Construction

#### 19. Survey Residents on wants, needs and preferences.

If you have not already done so, you may want to survey the residents on their wants and needs for the redeveloped project so that they may be considered in finalizing the scope of work.

#### 20. Shore Up Relocation Planning, as applicable.

Use the time now to begin relocation planning associated with the proposed conversion. See Notice H 2014-09 / PIH 2014-17 dated July 14, 2014, "Relocation Requirements under the Rental Assistance Demonstration (RAD) Program," Public Housing in the First Component, and Attachment 1A of the RAD Notice for more information. PHAs are reminded that they must provide residents with appropriate notices and payments required by RAD and the Uniform Relocation Act (URA), and that residents should not be relocated before closing.

## Preparation for RAD Transactions with Transfer of Assistance

#### 21. Assess proposed transfer site(s) in light of HUD's Site and Neighborhood Standards.

RAD permits transfer of the RAD project-based assistance to other sites either at the outset, or after ten years from the conversion. The sites to which assistance is transferred need to meet HUD's Site and Neighborhood standards, and therefore in developing your detailed plans for transferring assistance, you will need to analyze the extent to which the site(s) meet HUD's standards, working with your HUD Field Office as appropriate.