U.S. Department of Housing and Urban Development

Office of Multifamily & Public and Indian Housing

Rental Assistance Demonstration

Welcome Guide for New Awardees: RAD 1st Component

February 27, 2015

(Revised March 13, 2015)

Congratulations on your award under the Rental Assistance Demonstration (RAD) program!

RAD is a hugely important tool for preserving our nation's public and assisted housing. As a result, we look forward to working closely with you to move your project onto the Section 8 platform and to ensure a successful conversion.

About this Document

As indicated from its title, this document is intended to provide a general orientation for new awardees. It does not purport to be an all-inclusive training on RAD. It is expected that, at this stage, all awardees should be fairly familiar with the RAD program and its related requirements. Rather, this document is intended to highlight a few important first steps and also to explain some of the key roles and responsibilities.

Among other documents, you should be familiar with the RAD Notice, which you can access here: PIH Notice 2012-32 REV-1.

The Department is currently working on revisions to the RAD Notice, expected to be released in early Spring 2015. In response to requests from PHAs and their development partners, the start dates for any RAD milestones will not begin until publication of the revised Notice. As soon as the Notice is revised, HUD will issue subsequent materials summarizing the changes.

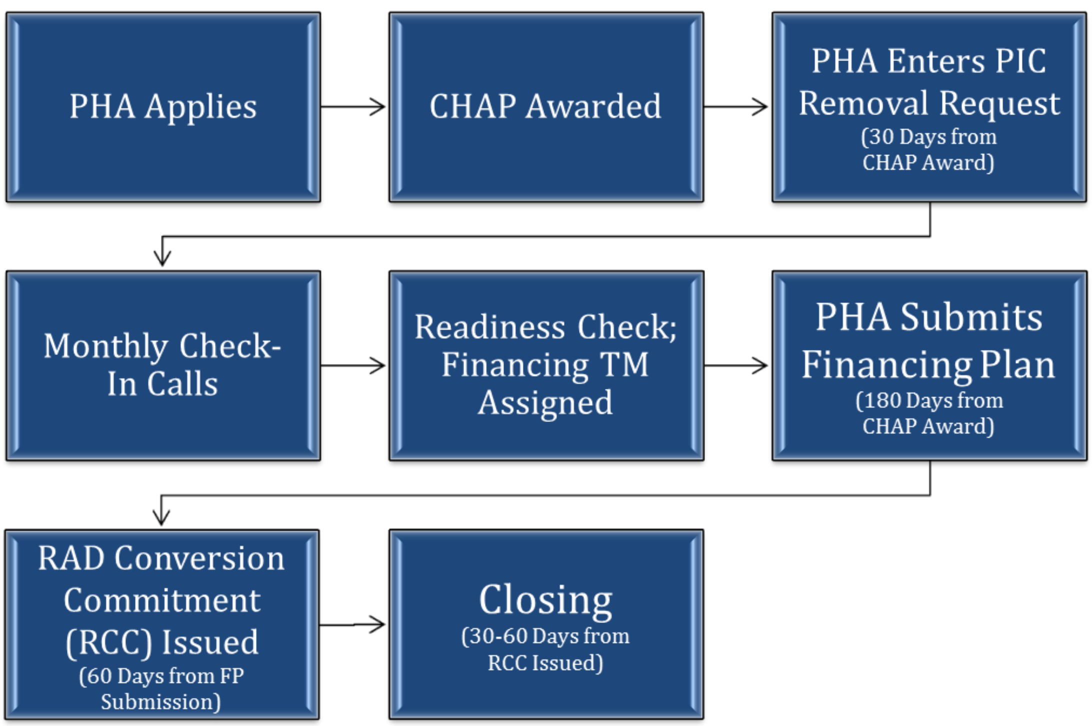
The remainder of this document is divided into three sections: CHAP Processing, General RAD Requirements, and Special Transaction Issues.

CHAP Processing

Your RAD award is communicated by means of a CHAP, which stands for Commitment to Enter into a Housing Assistance Payments Contract. This section reviews the basic steps in processing your CHAP, i.e., in converting your project from public housing to Section 8.

Overview of the Conversion Process

Below is a diagram of the major steps in converting a public housing project to Section 8 rental assistance under RAD. We will review each of these steps in greater detail throughout this document. But you might want to familiarize yourself now with this general flow of events. Depending on the complexity of the transaction, as well as the speed by which you submit the required materials, you could be converting your project within 6-12 months of award.



The Role of the Local Public and Indian Housing (PIH) Field Office

The local PIH Field Office can assist you to think strategically about your RAD asset (and your other public housing assets). Additionally, there are various approvals, including the Annual Plan/Significant Amendment or drawdowns of Capital Funds, to be obtained from the local PIH Field Office prior to conversion. Consequently, it is essential to maintain good communication. To better ensure this communication throughout the conversion process, the local PIH Field

Office will arrange the initial Kick-off Call with the Transaction Manager but also be invited to all monthly Check-in Calls.

It is important to remember that, unless otherwise exempted by the RAD Notice, the project remains public housing until the day it converts. You remain subject to all applicable public housing requirements for operating and maintaining the public housing units approved under the CHAP award (including occupancy, reporting, and maintenance/repairs) until the units convert.

The Role of the Transaction Manager

Upon award, each PHA will be assigned a Transaction Manager. The Transaction Manager is a multifamily housing real estate specialist who is your primary liaison under the RAD program until issuance of the RAD Conversion Commitment (RCC), at which point you will then be assigned a Closing Coordinator (more later). The Transaction Manager will process all changes in the CHAP as well as any milestone extension requests. The Transaction Manager will also review and approve your Financing Plan.[1] Prior to submission of that Financing Plan, one of the major roles of the Transaction Manager is to assess the general readiness of the transaction and assist with general program information.

Kick-Off Calls

A Kick-off Call will be scheduled within 30-60 days of award. In addition to introducing one another, the main purpose of the call is to understand the nature of the conversion plans for the project and to determine general readiness.

- **Project Plans**. What are you planning to do with the property? What is the level of anticipated rehabilitation? Are you planning on any demolition and new construction? Are you intending to acquire new property and transfer the assistance? What sources of financing are proposed? Are you contemplating tax credits? Will the project require any resident relocation? And,

- **Readiness**. How far along are you in the process? Have you already assembled your financing? Have you completed your Significant Amendment? Have you already received tax credits? Have you identified and assembled your development team? And, have you already undertaken a physical condition assessment of the property? For purposes of the Kick-off Call, it is not that you need to have completed any of the above. Rather, we just want to know where you are in the process.

If a PHA has multiple CHAPs, and also has a portfolio or multi-phase award, it will be helpful for the PHA to discuss the timing and sequencing of the different conversions on the Kick-Off Call.

[1] At the time of submission of the Financing Plan, HUD may reassign Transaction Managers to better manage workloads.

At the end of the Kick-Off Call, and for every monthly call thereafter, the Transactional Manager will send you notes of the call and a general indicator of how far along you are in the process of conversion.

Monthly Check-in Calls

The Transaction Manager will schedule monthly Check-in Calls. As with the Kick-Off Call, we expect a RAD liaison from PIH to participate on these monthly calls, most likely from the local field office. These calls are intended primarily to indicate how much progress you have made, but also to discuss whether any plans have changed. For example, you may have planned for a no-debt conversion because you believed the property to be in good physical shape. However, once you complete your RAD physical condition assessment (RPCA), you find that the property has much greater needs, requiring you to secure third-party financing. In this situation (which happens a lot!), you just need to be ready to adjust your plans accordingly and the Transaction Manager will want to be kept informed.

Again, the RAD Transactional Manager will prepare notes of these calls and **share them with you**. These notes will also help us better gauge when to expect the submission of Financing Plans (which, obviously, are a major resource commitment).

Depending on the circumstances, it could also be helpful to have the PHA's development partners on these calls.

PIC

The Public Housing Information Center (PIC) is, as you know, the Department's database on public housing development groupings, including information on unit counts, acreage, non-dwelling structures, etc. When you get a CHAP, you don't actually sign and send it back to HUD. Instead, within 30 days of award, you will submit a PIC application for the project to be "Removed from Inventory/RAD", along with any associated land and other non-dwelling buildings to be converted. This PIC entry is our way of knowing that you have decided to accept the CHAP. But more importantly, the PIC removal application does a few other things:

- It exempts the project from the Public Housing Assessment System (PHAS) for the duration of conversion[2];
- It allows the Department to readily identify all projects converting (affecting Operating and Capital Fund formula funding matters); and
- It allows the PHA to also propose the amount of real property that it is requesting to be removed from public housing restrictions as part of the RAD conversion (since the CHAP

[2] Although the CHAP exempts the project from scoring under PHAS, the project will continue to receive REAC UPCS inspections according to normal inspection frequencies until conversion.

only addresses units). See the "Non-Dwelling Assets" section in this Guide for more instructions.

Your PIC removal request will remain "under review" until you actually close, at which point it will be approved by the Special Applications Center (SAC) and the project officially leaves the public housing program.

The RAD Resource Desk

The RAD Resource Desk (www.radresource.net) is where you will upload all important program documents, including the Financing Plan. It will also contain the notes and information associated with the Kick-off Calls and the Monthly Check-in Calls. Consequently, one of the first tasks upon award is to register for the Resource Desk. Although the public has access to the Resource Desk for general program information, only users that you authorize will have access to specific information on your transaction.

The Resource Desk also has a helpful Frequently Asked Questions (FAQ) query function along with a database of FAQs.

Election of PBV or PBRA

Under RAD, a PHA may convert assistance under the public housing program to long-term, project-based Section 8 assistance. A PHA must choose between two forms of project-based Section 8 assistance: Project-Based Vouchers (PBVs) and Project-Based Rental Assistance (PBRA). In your RAD application, you identified your selection preference. If you are going to change that election, you will want to make that determination as early as possible in the conversion process in that it could have an impact on the RAD contract rents and other planning efforts. To assist PHAs in making this decision, the Department has prepared a guide comparing these options, which can be accessed here. Please keep your Transaction Manager informed of any change in election.

Milestones

For awards made pursuant to the initial cap of 60,000 units, we had a series of intermediate milestones, leading up to the submission of the Financing Plan, which is due in 180 days (more in the case of tax credits or FHA-insured financing, below). These intermediate milestones are shown below.

Milestone	Item(s) Required
30 Days	Accepted lender engagement or commitment letter and statement of development team capacity.
60 Days	Significant amendment to annual/5 year plan and a decision to convert to PBRA or PBV subsidy.

90 Days	PHA certification that all lender/financing source due diligence has been completed including the RAD PCA.
150 Days	PHA certification that all firm commitments for financing have been submitted.

Beginning with new awardees, we are eliminating these intermediate milestones. Through focus groups, PHAs indicated they would like to manage the process more themselves. Consequently, the only formal submission that is now required is the Financing Plan, which is due with 180 days for all transactions except tax credit and projects with FHA-insured financing.

For projects that will utilize FHA-insured financing (without tax credits), the Application for FHA Firm Commitment is due 180 days following CHAP issuance. For projects that will utilize 4% tax credits, PHAs must apply for the tax credits no later than 150 days following CHAP issuance date. HUD may provide additional time for projects in states without rolling 4% tax credit rounds. Then, the Financing Plan or Application for FHA Firm Commitment is due 60 days following the notification of tax credit award. For projects utilizing 9% tax credits, PHAs must apply for the first available 9% tax credit round in their state beginning 90 days after the CHAP issuance date. Then, the Financing Plan or Application for FHA Firm Commitment is then due 60 days following the notification of tax credit award.

Although we are eliminating the intermediate milestones, we highly recommend that you use them as a guide to ensure that you meet the 180 day Financing Plan submission deadline.

Readiness Check

About 60 days before your Financing Plan submission, the Transaction Manager will conduct a "Readiness Check." The intent is to determine how close you are to submitting your Financing Plan, which will help us in better managing the resources necessary to process Financing Plans.

Changes in the CHAP

If any of the following changes occur in your plans, you will need to request a CHAP amendment:

- When you modify the unit configuration (from what is established in the CHAP),
- When there is an error in the unit count/distribution or rents,
- When you decide to convert a smaller number of units than established in your CHAP (say, you decide only to convert one portion of the project),
- When you decide to break up, or combine, CHAPs; or
- When you decide to rent-bundle.

In all of these instances, you should discuss these changes with your Transaction Manager, who will assist in processing these changes as an Amended CHAP will be required to be approved and issued.

(Additionally, if you happen to change the AMP or project grouping in PIC affecting your RAD project, you will need to amend the CHAP so that the CHAP properly reflects what is in PIC.)

The Financing Plan

Although the Financing Plan is due within the latter of 180 days of award or publication of the revised RAD Notice, you should begin compiling the various required documents as soon as your CHAP is awarded, since many of the requirements are complex and have long lead times (for example, procuring an RPCA contractor).

The Financing Plan includes not just the Development Budget (Sources/Uses) and the Operating Pro-Forma (Revenues/Expenses) but all other required materials necessary for HUD to approve your transaction, including:

- The RPCA,
- Environmental Reviews,
- Annual Plan or Significant Amendment,
- Accessibility and Relocation Checklist, etc.

Once you have completed your upload, the Transaction Manager will have five days to determine if a Financing Plan submission is substantially complete. *If HUD determines your submission is incomplete or materially inconsistent, you will receive an email notifying you of the missing documents and you must submit the missing items within (5) business days or your CHAP is at risk of being revoked*. Failure to submit a complete Financing Plan according to the timelines could also delay your closing and jeopardize outside financing.

If your submission is determined to be complete, your Transaction Manager will review each document and send you an email with a list of questions or concerns including requests to upload revised documents. Responses must be received within 5 business days or else the transaction will be flagged for a potential rejection or hold. If the transaction remains in a preliminary rejection/hold for more than 30 calendar days, the CHAP will be at risk of revocation. Once all outstanding issues have been resolved, your Transaction Manager will notify you that the financing plan has been accepted and that a RAD Conversion Commitment (RCC) will be issued shortly.

The Department is currently updating a guide to the Financing Plan Guide submission requirements, expected to be posted shortly.

Issuance of the RAD Conversion Commitment (RCC)

Once the Financing Plan is approved, the Department will issue the RCC. The RCC, essentially, memorializes the key terms of the Financing Plan and gives instructions and associated requirements for closing. The PHA must execute the RCC within 30 days of issuance. Although the RCC expires in 90 days, HUD generally expects closings to occur within 45-60 days after RCC issuance.

Closing

Once you are issued the RCC, the RAD Team will assign you a Closing Coordinator. The closing is the official step when a project is removed from the public housing program, assistance is transferred, and the project is placed under a Section 8 Housing Assistance Payments (HAP) contract, with a RAD Use Agreement. All financing associated with the project is also closed at this time. The Closing Coordinator is responsible for keeping all parties on track towards closing.

A reasonable amount of time to allow for the closing process, the time from RCC issuance to closing, is 45 days. During this time, you will need to submit draft documents which will be reviewed by HUD's RAD program staff and field counsel. All documents must be approved before the closing can take place. The list and description of required documents is available on the RAD Resource Desk. It is a good idea to allow time to become familiar with the closing document requirements prior to the issuance of the RCC.

When you convert a public housing project to Section 8 project-based assistance under RAD, the public housing project and underlying land and property or grounds and parking lot and green space that is necessary to support the project is removed from the public housing program and the Annual Contributions Contract (ACC) by means of release from the public housing Declaration of Trust, or DOT. The DOT is a special form of use agreement (unique to the public housing program) that encumbers the title to the property. At closing, because you will no longer be under the public housing program, the asset is transferred to the Section 8 program and a RAD Use Agreement must be fully executed and entered into the land records. The template for the Use Agreement is one of the closing documents which can be found on the RAD Resource Desk.

The public housing DOT described above should have been executed when the project was first developed, and should have been renewed and kept current over the life of the project. However, we have found that the documentation has not always been properly maintained for all public housing developments. Consequently, we encourage you to take the time now to begin the legal work to locate the DOT (or record a new one) for the project because without it, you cannot close.

Additionally, in order to meet the requirements for conversion under the RAD program, HUD will want to make sure that there is clear legal title to the project and that legal descriptions can be matched up between survey documents and DOTs. This is a task you should also begin early. We have found that this can be more complex than expected, so it is advisable to consult with your local attorney.

Depending on the type and complexity of the financing, an attorney often takes the lead on structuring compliance with the HUD program and a local attorney who is responsible for the state law opinion, local title work, etc. Many PHAs who are self-financing their RAD conversion have not anticipated the importance of the role of the attorney in a smooth RAD conversion. A RAD conversion is not simply a switch in HUD funding streams--it is a formal real estate closing with a number of critical legal requirements. Once the RCC is issued, the PHA's attorney will typically drive the closing process, ensuring that legal documents are completed correctly for HUD review, distributed for signature when ready for closing, recorded and copies returned to HUD. Employing an attorney (particularly one with RAD experience) well in advance of the issuance of the RCC can speed the process and eliminate costly errors.

Funding in the Year of Conversion

Please remember that, in the initial year of conversion, through the end of the calendar year, the project will receive only the funding that is obligated to it under the public housing Operating and Capital Fund programs for the balance of that calendar year. It is in the second year of conversion when the project is funded through the PBRA or PBV account, as applicable, based on the contract rents in the HAP. PHAs must also remember that, once converted, they cannot use public housing funds to support the project. It is important, therefore, for PHAs who are converting their entire public housing program to transfer any unobligated Operating or Capital Fund balances to the projects at conversion or face a recapture of those funds.

If you are among the awardees under the 60,000 cap, your RAD contract rents were set according to 2012 funding levels and will receive an Operating Cost Adjustment Factor (OCAF) each year beginning in 2014. If you are among the awardees as part of the expansion of the RAD cap to 185,000 units, your RAD contract rents were set according to 2014 funding levels and will receive an OCAF each year beginning in 2015.

Post-Closing

Although it might seem like a long way off, it is actually not too soon to begin to plan for the various changes in operating procedures, including subsidy billing, after you convert. In particular, you should read the following Quick Reference Guides, as applicable:

- The PBV Quick Reference Guide
- The PBRA Quick Reference Guide

Additionally, the Department will soon prepare a public housing close-out guide, which will review such topics as submission of financial statements in FASS-PH for projects that have converted in a fiscal year.

General RAD Requirements

This section reviews many of the general requirements associated with a RAD conversion. More detail can be found on each of these topics in both the RAD Notice and the Resource Desk.

Working with Residents

Now that you have received an award, you are required, per Section 1.8 of the Notice, to notify the residents of the project. You will also need to conduct individual resident meetings when transitioning their lease (and explaining any changes in rent, if applicable). Although those are the last specific RAD requirements regarding resident participation (unless you still need to amend your Annual Plan or are planning on relocation), we strongly urge you to continue to keep residents informed and actively engaged in your conversion plans. Many PHAs choose to have regularly scheduled meetings with residents to update them on progress. Indeed, one of the keys to successful conversion is effective resident participation.

Annual Plan or Significant Amendment

Your RAD conversion must be included in your Annual Plan or you must complete a Significant Amendment to the plan. Some PHAs may already have completed this task by the time of RAD award. Please be sure to respond to any additional requests for information from PIH or FHEO staff in a timely manner. Missing information in your PHA Plan submission can delay the processing of your transaction.

For information on this subject, see Paragraph 1.5E of the RAD Final Notice, as well as Attachment 1D, which includes a Sample PHA Plan Significant Amendment. The use of the sample amendment is not mandatory, but strongly encouraged.

The RAD Physical Condition Assessment (RPCA)

All projects, with a few noted exceptions, e.g., recently constructed projects, must complete an RPCA. (If you are planning on securing permanent financing, the lender will generally obtain the RPCA.) You can review with your Transaction Manager the categories for exception.[3]

We cannot stress enough the importance of securing an RPCA from an experienced and capable provider. Now that you have an award, do not delay in getting your RPCA underway. It is among the most important tasks that you will undertake. Fortunately, there are a lot of experienced providers. But our advice is to make sure that the provider you procure has experience with

[3] These include recently developed or comprehensively modernized projects and projects undertaking new construction or substantial rehabilitation ("down to the stud").

either the RAD PCA or with PCAs for FHA or multifamily housing, e.g., the Mark-to-Market Program.

PHAs have, for years, been required to complete Capital Needs Assessments – CNAs – under the public housing program. These CNAs are quite different in the actual tool that is used but, more importantly, in their objective. The RPCA actually determines how much rehab you will need to do now and how much money you will need to put into the reserve for replacements for future repairs over the next 20 years. No such analysis is required in CNAs for the public housing program. So, just be prepared. If you have completed a CNA for public housing, it may not be sufficient for RAD.

It will take time to procure an RPCA provider, and then for you to review the draft report and accompanying tool, if necessary. You'll then have to determine if you agree with all of the conclusions. Finally, you will need to determine how any capital repairs (short- and long-term) will be paid.

Environmental Reviews (ERs)

By statute, an ER is required whenever a project first receives Section 8 project-based assistance. Thus, an ER is required for all RAD conversions.

We have developed a helpful FAQ that attempts to explain these ER requirements, which you can access **here.** Also, there are many times when the project may only need a streamlined ER or can use information previously attained by the agency on this project (e.g., if it had a recent ER under the Capital Fund program).

But the other important thing to remember is that HUD does not complete the ER for you. Based on your conversion type, you will always be required to prepare an environmental report; it's just that the reviewing body may be different if it's an FHA transaction, or whether it's a PBV or PBRA transaction. The above-mentioned FAQ contains the necessary instructions.

Ownership or Control

You need to make sure that, in your planning efforts, you properly consider the different allowable ownership structures. Basically, you can continue to own the project under the auspices of the PHA. Or, you can transfer the ownership to any related non-profit affiliate, instrumentality, or other identity-of-interest non-profit of the PHA. You can also transfer the ownership to any other non-profit or public body.

The only time that you may have the project owned, upon conversion, by a for-profit entity is when you're facilitating tax credits (a tax credit entity can only be for-profit; PHAs typically create a wholly-owned subsidiary for this reason). In that case, the partnership must either be controlled by a public or non-profit or the PHA must maintain its interest in the project. Because, by now, HUD has converted over 130 projects, and because a good number of them are tax credits, there's enough history and experience among the PHA community with regard to how to maintain your interest in the project. Most PHAs tend to satisfy that requirement, if they are not the sole or controlling member of the partnership, by maintaining a long-term ground lease. Please consult with your local counsel or experienced HUD mixed-finance counsel to ensure the PHA maintains control as required by the RAD Notice if the project utilizes tax credits.

Relocation and Right to Return

RAD has special requirements relating to relocation and residents right to return to a completed RAD project – requirements that are slightly different from other public housing redevelopment programs such as HOPE VI or mixed-finance. We strongly encourage you to read the RAD Relocation Notice, which provides guidance on your relocation obligations, resident engagement in planning and developing a Relocation Plan. It also provides samples of the required resident notices. That Notice can be accessed here: RAD Relocation Notice. Below is a short summary of these RAD relocation requirements:

- All tenants have a right to return. Period. No matter what your plans are for repositioning the property, you must accommodate existing residents in appropriate sized units in the converted project. RAD is an extremely flexible program. PHAs have and can implement many creative plans under RAD. For example, if the PHA would like to demolish a particular part of the site (say, on a floodplain) and build back on another part of the site (not a floodplain), that's perfectly fine. But if there are residents in the section that is to be torn down, those residents must have a unit for them in the new site (and other relocation requirements have to be met), unless they waive their right to return. These requirements more fully explained in the Relocation Notice

- Tenants may not be relocated until after the RAD transaction has closed. There is an exception for transactions using tax credits, where the PHA may request to move tenants, if necessary to meet tax credit deadlines, at the time of issuance of the RCC. Otherwise, early relocation is not permitted.

- No tenants can be re-screened. The conversion process is not a reason to re-screen tenants.

Non-dwelling Assets

Where you have non-dwelling residential structures or parcels that are on the same site as your residential properties, these properties will generally convey at closing and will be covered by the RAD Use Agreement. 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. As part of the conversion process, you will identify all such non-dwelling properties or parcels, which will be reviewed by your local Field Office to determine their disposition treatment under RAD. In order to ensure an efficient closing, you should begin to identify all such non-dwelling facilities early in the conversion process and communicate with your local PIH office regarding their treatment under RAD.

Other Property not Associated with the Subject Project

RAD can only convert property covered by the conversion. Thus, a PHA will not be able to convert under RAD land associated, say, with a former public housing site that was previously demolished and that is not connected with the RAD conversion. HUD will only release surplus land or administrative, non-residential property from a DOT and ACC through the Section 18 or 2 CFR Part 200 311 disposition procedures for real property. There are special considerations if a PHA is converting all (or its last) public housing property, as discussed below. Otherwise, if a PHA has an asset that is not connected with the conversion, it should follow the normal channels for disposing of that asset. For more information, please contact the Special Applications Center (SAC) at sacta@hud.gov.

Utility Allowances

Your CHAP award includes a table of both the Contract Rents and the Gross Rents (including utility allowances) at your project. The Contract Rents represent your "current funding", as defined in the RAD Notice (essentially, an amount equal to the project's combined funding under the 2014 Operating and Capital Fund programs, plus tenant rents). The utility allowance that is provided is our estimate of the project's utility allowance in 2014, based on data from PIC. However, at the time that you convert, you should use the most recent utility allowance for establishing your Gross Rent schedule (updating the Gross Rent with the most recent utility allowance does not affect the subsidy you receive).

Many PHAs also have an interest in either (1) converting from project-paid utilities at the time of conversion to tenant-paid utilities or (2) seeing if there is some way to capture (retain) some of the savings in tenant utility allowances as a result of planned energy improvements undertaken as part of conversion. Further guidance on both of these topics is expected to be issued shortly.

Choice-Mobility

Unless you received an exemption as part of your application/award, all projects will be subject to the respective RAD Choice-Mobility requirements for PBV and PBRA, respectively. However, during the conversion process, there is nothing you need to submit to comply with the Choice-Mobility requirement. The only exception is for agencies that did not receive a Choice-Mobility exemption and t do not administer a voucher program. In these cases, the agencies will need to identify, in their Financing Plan, the PHA that will be administering the Choice-Mobility component.

Special Conversion Issues

This section reviews some special conversion issues not applicable to all conversions. Please look to see whether any of the following special conditions are applicable to your circumstances.

Transfers of Assistance

A transfer of assistance means that you are moving the subsidy for a project (or portion) to another site. For example, you may have a project with extremely high capital needs and you decide that, rather than rehabilitate the property, it would be in the best interests of the agency and residents to replace the units off-site, either through new construction or acquisition.

Transfer of assistance can be an important tool for repositioning troubled or challenged assets. But there are a few things that you should keep in mind:

- HUD may only approve a transfer if the project is economically non-viable, physically obsolete, severely distressed, or uninhabitable due to unforeseen circumstances such as natural disasters, or the transfer is in the best interest of the project's residents.
- All residents have a right to return to the redeveloped project.
- The assistance cannot be transferred prior to closing.
- If RAD makes up 25% or more of the overall property where the assistance is being transferred, then both the RPCA and Financing Plan are required.
- HUD Site and Neighborhood Standards apply.

For the above reasons, if you are planning a transfer of assistance, you should make those plans clear to your Transaction Manager early in the process in order to ensure that all applicable requirements are satisfied. HUD will also be issuing subsequent guidance on the criteria by which the Declaration of Trust may be removed from the property where the assistance is being transferred.

Rent Bundling

Rent bundling is a term in RAD used to describe the ability of PHAs to "bundle" rents across two or more projects. Rent bundling helps PHAs cross-subsidize projects (where one project can "donate" subsidy to a project or projects with greater needs), provided the overall subsidy to the projects does not increase.

We have a worksheet that helps you make these calculations that you can access here: RAD Rent Bundling Worksheet. If you are planning on rent-bundling, also keep in mind the following:

- You must submit your request using the RAD Rent Bundling Worksheet.
- HUD approval is required prior to Financing Plan submission (requiring, as applicable, amended CHAPs).
- If you have a donating project, that "donating" project must convert at the same time or prior to the conversion of the "receiving" project.
- All other RAD rents rules apply (for example, RAD rents caps).

CFFP, OFFP, and EPCs

The Capital Fund Financing Program (CFFP), the Operating Fund Financing Program (OFFP), and Energy Performance Contracts (EPCs) are special financing programs for PHAs. Please remember that even if you didn't use the CFFP, OFFP or EPC proceeds on the project you are proposing to convert to RAD, these types of loans create obligations that affect your whole inventory, regardless of where or how you used the funds. As part of the RAD conversion, you must honor these obligations, which could mean paying down (off) the debt or servicing the debt through cash flow of the converted project.[4]

CFFP loans are secured by future capital fund allocations and when you convert to RAD, you will no longer receive Capital Funds for RAD projects. Even if the Capital Funds from your non-converting projects are sufficient to service the existing loan, you will need the approval of the existing lender to pay off or restructure the debt. OFFP loans are secured by public housing operating subsidy and present a similar challenge. It is somewhat easier to address EPC loans because the PHA can continue to make payments from cash flow (following conversion) if the lender approves.

As with so many other aspects of a RAD conversion, you want to allow yourself sufficient time to plan for the resolution of these obligations prior to closing. We have posted an FAQ that provides more guidance on this topic, which can be accessed **here**. Please remember that while the loans can be subordinated, the RAD Use Agreement must always be in 1st position.

Partial Conversions

A PHA may only convert a project that consists of a single manageable, marketable entity. A PHA could convert the entire high-rise, but not, for example, selected units (or floors).

That said, PHAs often decide to develop in phases, with each phase becoming a separate conversion (and each having a separate CHAP). Also, because some public housing projects today can consist of an agglomeration of multiple sites, a PHA may decide to convert a site within a project grouping and not the entire site. Alternatively, if a PHA has two high-rise towers in one project and one of them meets the disposition criteria under Section 18 of the

[4] This obligation also applies to any program repayment agreements as a result, say, of a HUD audit.

1937 Housing Act, the PHA could proposed to convert one tower through RAD and dispose of one tower under Section 18. That's ok. But make sure that, if you are considering a partial conversion, you review those plans with your Transaction Manager so that it meets with program rules.

Converting an Agency's Entire Public Housing Program

If you are converting all of your remaining public housing units, there are additional considerations:

- Following conversion, you will no longer be recognized by HUD as an agency that administers public housing units. For example, you will no longer be scored under PHAS (although you will be required to submit one last, close-out financial statement under FASS-PH).

- You need to consider what assets and other real property, in addition to the property that will be converted under RAD, you have in your public housing program and start working out a plan for that property outside of the public housing program.[5] For example, if you have excess land not associated with the RAD projects, you will generally either need to request to dispose of those parcels through Section 18 or retain them outside of the public housing program pursuant to a request to HUD under 2 CFR Part 200.311 for real property and 2 CFR 200.313 for equipment or non-fixed assets. You should begin working with your local field Office of Public Housing and/or the SAC to begin formulating your plans for all of your remaining public housing property, as HUD will still consider you subject to the public housing ACC until you've received HUD approval to remove all of this property from ACC/DOT.

- Or, if you have unobligated Capital Fund amounts, you want to put these amounts into your RAD Development budget so you can properly close them out. Any funds that are not expended after closing under RAD, will be recaptured as the ACC is terminated and all public housing grants are closed-out under the public housing close-out procedures.

PHAs must retain an adequate amount of funds to complete all required public housing closeout activities and procedures to end the public housing program operation including, closeout of all public housing grant programs (for the operating 24 CFR 990 and capital funds 905.322), removal of all public housing property from a PHA's inventory, termination of a PHA's ACC and preparation and submission of a final audited financial data schedule (FDS).

Changes in Bedroom Distribution or Occupancy Type

[5] Note that "public housing property" includes all real property that has been acquired, developed, maintained or operated with assistance under Section 9 of the 1937 Act and may include property that is not recorded in PIC and/or is not encumbered by a valid DOT.

There is no specific RAD requirement indicating that a PHA must maintain the precise bedroom distribution as part of conversion. Many PHAs, in fact, often make minor changes in their current unit mix to accommodate the over- or under-housing of existing tenants. However, all changes will be reviewed as part of the Accessibility and Relocation Checklist, which must be approved by HUD. You should review any changes in proposed bedroom distribution or occupancy type with your Transaction Manager. Remember also that, regardless of any proposed change in bedroom distribution or occupancy type, all residents have a right to return.

De Minimis Reductions

RAD is a preservation program. Consequently, a PHA must convert as many units to project-based Section 8 as existed at the project prior to conversion, with allowance for a "de minimis" reduction. The de minimis reduction is based on a formula representing the greater of:

- 5% of the total units of the developments to be converted, or
- 5 units

Thus, if a PHA has 100 units, but five of those units were recently severely damaged by a fire, the PHA would not need to convert these fire-damaged units if the PHA did not have the capital to rehabilitate them. The de minimis reduction does not require HUD approval. Reductions above this threshold require HUD approval.

Some other things you should know about the de minimis reduction provision:

- Similar to rent-bundling, you can bundle de minimis reductions across projects. But also like rent-bundling, the donating projects must convert either at the same time as the receiving project(s) or prior. For example, if you have two projects that you are converting that have 20 units and 100 units, respectively, your de minimus threshold would be 6 units (i.e. the greater of 5% or 5 units). However, you could not apply the whole 6 units to the first project unless both projects converted at the same time or the larger project converted first.
- You don't need to use the de minimis reduction provision to create social service units. In fact, you can capture the subsidy associated with those units and spread that funding over all remaining units (rent bump-up). An FAQ is available at www.radresource.net.

Scattered Sites

Scattered site projects can present special conversion challenges. For example:

- A scattered site project will require multiple RPCA tools (as opposed, say, to a high-rise project with a single tower and just one RPCA tool). The RPCA provider, therefore, will need to determine a “reasonable” sampling of buildings.
- The precise collection of scattered sites that constitute the project must represent a “single manageable, marketable property.”
- Lenders and investors may have concerns over sites that are scattered across different neighborhoods.
- In the PBV program, scattered site projects can sometimes require multiple HAP contracts.

For the above reasons, you will want to have explore these special conditions/concerns with your Transaction Manager if you have a scattered site project.

FHA-Insured Loans

There is no requirement under RAD in terms of where you must seek your long-term financing. But an increasing number of PHAs are planning on using an FHA-insured loan for some portion of their “sources.” There are two FHA products, in particular, that may be relevant:

- Section 223(f) insures mortgage loans to facilitate the purchase of existing multifamily rental housing. Also, it is a good tool to refinance a property’s existing debt, if any, and any required or owner-elective repairs. The program is well suited for properties requiring a light to moderate level of repairs. This is particularly true for tax credit transactions. When combined with tax credits, the Section 223(f) program allows up to $40,000 per unit in repair costs, more than double its standard repair limit. Properties requiring substantial rehabilitation are not eligible for mortgage insurance under this program. HUD requires completion of critical repairs before endorsement of the mortgage and permits the completion of non-critical repairs after the endorsement for mortgage insurance. The mortgage term cannot exceed 35 years or 75 percent of the estimated life of the physical improvements, whichever is less. It is a permanent loan with a repair escrow. At the loan closing, a repair escrow is established and administered by the FHA lender. The borrower is required to complete all non-critical repairs within a year.

- Section 221(d)(4) insures mortgage loans to facilitate the new construction or substantial rehabilitation of multifamily rental or cooperative housing for moderate-income families, elderly, and the handicapped. Single Room Occupancy (SRO) projects may also be insured under this section. The program has statutory mortgage limits which vary according to the size of the unit, the type of structure, and the location of the project. It is a construction loan that converts to permanent upon completion.

When you are using an FHA loan, the financing plan for the project will be reviewed as a normal part of HUD’s FHA loan processing. Typically, about 30 days prior to when your lender would submit its loan application, there is a “concept call” with the local FHA production staff, the purpose of which is to discuss things like the number of affordable units, the projected mortgage amount, basic information on the principals and possible risks and mitigating factors.

For FHA loans, however, the primary contact is between the lender and FHA (it’s the lender whose loan is being insured). Consequently, it is the lender who submits the information to FHA. FHA will perform the required underwriting of the loan (not the RAD Transaction Manager). Once that review is completed, FHA will issue a “Firm Commitment”, evidencing approval of the insurance.