

# A Guide to Public Housing Repositioning

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Small Public Housing  
Authorities (PHAs)

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Development

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# Section 1: Introduction

This Guide to Public Housing Repositioning reviews the different options, and associated planning considerations, available to Public Housing Agencies (PHAs) with 51- 250 Public Housing units as they consider the long-term future of their portfolios. The focus of this Guide is on converting properties currently assisted under the Public Housing Program platform to the Section 8 Program platform, i.e., to “reposition” their Public Housing. The Section 8 platform, which is more fully described in Section 2, shares many of the same tenant eligibility requirements, resident protections, and rent computations as Public Housing but is generally considered to be a more stable financial platform and, because of this stability, provides a more reliable income stream for operations and maintenance and better attracts private investment for capital needs of the property.

This Guide is not a comprehensive step by step handbook about how to convert properties, nor is it a checklist of required documents and timelines. Rather, the goal of this Guide is to present all the repositioning options specific to the PHA size in an accessible format to PHAs, their staff, residents, and community members.

In addition to this Guide for Small PHAs, the Department has prepared separate Guides for very small PHAs (50 or fewer units) and medium and large

CHOOSING THE RIGHT GUIDE				
 Choose the Guide that matches your agency size.				
The Public Housing Inventory (January 19, 2021)				
PHA Size	Number of PHAs	Number of Units	Share of PHAs	Share of Units
Very Small (1-50 units)	838	26,433	29.44%	2.73%
Small (51-250 units)	1,360	167,821	47.79%	17.30%
Medium/Large (250+ units)	648	775,668	22.77%	79.97%
<b>Totals</b>	<b>2,846</b>	<b>969,922</b>	<b>100.00%</b>	<b>100.00%</b>

PHAs (more than 250 units). Each Guide addresses the unique characteristics and opportunities most appropriate to PHAs of the respective size grouping.

The repositioning options to be addressed in this document include:

- Rental Assistance Demonstration (RAD) Program;
- Section 18 Demolition/Disposition;
- Streamlined Voluntary Conversion; and
- Section 32 Homeownership Program.

PHAs can use these options alone or in combinations to achieve varied repositioning objectives.

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## Audience

This Guide is intended primarily for PHA staff and Board members; however, resident groups, local governments, and other stakeholders may also find it a helpful guide on Public Housing repositioning.

## Why Reposition?

Through repositioning, a PHA evaluates what regulatory platform is best suited for the PHA to meet the long-term affordable housing challenges in its specific community, considering the needs of the residents, the condition of the real estate portfolio, and the objectives of the PHA and other community leaders. There are four main reasons PHAs seek to reposition their public housing:

1. **Local Control and Flexibility to Meet Local Needs.** Repositioning leads to more local control over the use of a PHA's Public Housing assets to reconfigure and finance as needed.
2. **Administrative Relief.** Converting Public Housing to a Section 8 Program, e.g., Housing Choice Vouchers, Project-Based Vouchers, or Project-Based Rental Assistance, can offer significant regulatory and administrative relief.<sup>1</sup>
3. **Predictability and Stable Funding Platform.** Historically, Section 8 Programs have offered a more reliable and constant funding stream than the traditional Public Housing Program. In some instances, conversion to Section 8 can also result in higher funding.
4. **Ability to Leverage.** The Section 8 Programs are more conducive to raising debt and equity to help an agency achieve strategic goals, from addressing backlog capital needs and building long-term reserves necessary for preservation-oriented life cycle improvements to constructing or acquiring new housing.

## Changing Platforms – Not Changing Missions

PHAs are local organizations serving the low-income housing needs of their community. Repositioning does not change that core mission. Repositioning simply offers new tools for the PHA to better meet local needs. While differences in program reporting and other requirements may necessitate retraining staff or changing agency software programs, there is no change to the legal structure of the PHA as a result of the change in subsidy platform.

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<sup>1</sup> Among the program requirements that are unique to public housing are: the Public Housing Assessment System (PHAS), Community Service, Annual/Five Year Plans, HUD-Determined Maintenance Wage Rates, and the need to administer two separate subsidy programs (Operating Fund and Capital Fund).

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In most cases, PHAs look to repositioning to preserve long-term, project-based assistance in the community, which could involve recapitalizing the existing structures, building replacement housing on-site, or acquiring/developing off-site replacement housing. However, where eligible and in the best interests of both the agency and its residents, repositioning can also mean a conversion to tenant-based assistance (assistance that follows the tenant) or the sale of units to low-income homebuyers. These decisions are inherently local and should be shaped by the goals and objectives of each agency, informed by the program requirements.

## Repositioning vs. Recapitalization

To reposition a Public Housing project means to convert its assistance under HUD's Public Housing Program to HUD's Section 8 Programs. In most cases, this conversion is intended to preserve the assets as long-term affordable housing although, in some instances, repositioning can also mean the conversion to tenant-based assistance or the sale of Public Housing units to low-income homebuyers and the award of replacement vouchers. To recapitalize a Public Housing project means to complete the physical improvements necessary for long-term viability, whether through agency funds or third-party sources, including debt or equity. Recapitalization could also include the acquisition or new construction of buildings. In both cases, the PHA can decide whether to retain control of the property (in some cases directly, in others through an affiliated organization) or whether to joint venture with non-PHA actors.

### REPOSITIONING VS. RECAPITALIZATION

**Repositioning** is the removal of a property from the Public Housing Program and replacing it with Section 8 assistance.

**Recapitalization** is the use of current agency funds or third-party sources to complete necessary physical improvements to a Public Housing property, often by leveraging the Section 8 rental assistance.

As will be discussed in this Guide, some repositioning options do not require the full recapitalization of the project at time of conversion. In those cases, the PHA can implement the recapitalization at a later time.

## Why a Small PHA Guide

Small PHAs account for nearly 50% of PHAs nationwide. They are located in urban, suburban and rural communities. Within the classification of small PHA, 28% have less than 100 units, for a total of over 47,000 units, and 72% have between 101 and 250 units, for total of over 120,000 units. Generally, those small PHAs with less than 100 units have only one site. Small PHAs with more than 100 units tend to

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have multiple sites (although they tend to group all sites into one “Asset Management Project”, or AMP).<sup>2</sup>

In terms of asset repositioning, small PHAs occupy a special landscape. Small PHAs are too large to qualify for the options available for very small PHAs but have greater flexibilities than medium and large PHAs. Additionally, most small PHAs can reposition their entire inventory with just one or a few transactions.

Creating a Guide specifically for small PHAs makes it easier to call out those special rules/options for small PHAs. As such, this Guide explains the approaches available for transitioning a small PHA to Section 8 and offers guidance to help these PHAs navigate the decision-making process.

## PHA Examples

To better illustrate the varied repositioning tools and strategies, the Guide contains examples of different PHA repositioning efforts from around the country, with a focus on small PHAs.

## Additional Information

The Guide provides a general overview of the different program requirements under repositioning. For more detailed information on Public Housing repositioning, please visit the repositioning website at [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/repositioning](https://www.hud.gov/program_offices/public_indian_housing/repositioning) or email [repositioning@hud.gov](mailto:repositioning@hud.gov). At the end of the Guide, in Appendix III, readers can find a list of Key Terms and Acronyms that will be a helpful reference throughout the different sections.

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<sup>2</sup> Under the Public Housing Program, the term “AMP” is essentially synonymous with the term “project”, representing the aggregation of units and sites for purposes of program funding and reporting. See PIH Notice 2006-10, Identification of Projects for Asset Management, February 3, 2006.

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## Section 2: Background

This section provides background on the Public Housing and Section 8 Programs, focusing specifically on how the funding structures affect the ability to leverage private debt and equity. The key difference is that, under a long-term, project-based Section 8 subsidy contract, the rents are predictable and adjust annually for inflation. This predictability, which is absent in the Public Housing Program, is invaluable for securing financing.

### Public Housing

The Public Housing Program was established by the *United States Housing Act of 1937*. Its purpose was to enable local PHAs created pursuant to state law to provide decent, safe, and sanitary housing for low-income families. Today, there are about 1 million Public Housing units across the country, administered by approximately 2,850 local PHAs.

Each PHA enters into an Annual Contributions Contract (ACC) with HUD. The ACC requires the PHA to abide by all HUD-established program requirements in exchange for HUD assistance. PHAs also enter into a Cooperation Agreement with local government, establishing a Payment in Lieu of Taxes (PILOT) where, in exchange for the federal government agreeing to pay for the construction of the public housing, the local government agrees to a substantial reduction in traditional property taxes. PHAs also execute a Declaration of Trust (DOT) that restricts the use of any property to low-income housing (for 40 years after the last subsidy has been received for development purposes; 20 years after the last subsidy used for modernization purposes; and 10 years after the last receipt of Operating Funds ) and prohibits the PHA from placing any lien or security interest on the property without HUD approval.<sup>3</sup>

Initially, Congress authorized the federal government to issue bonds to finance the development of new Public Housing and PHAs were required to set rents at levels necessary to meet basic operating costs, i.e., no federal subsidies were provided for operations or capital improvements. By the 1950s and 1960s, as properties were aging and as the predominant incomes of new residents were lower, PHAs were no longer able to meet operating needs solely based on the rents that residents could afford. To protect these families from high rent burdens, the “*Brooke Amendment*” to *The Housing and Urban Development Act of 1968* capped tenant rents at 25% of a family’s adjusted income. The cap has subsequently gone up to 30% of the family’s adjusted income. Although essential to reducing tenant rent burdens, the *Brooke Amendment* accelerated the financial strain on

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<sup>3</sup> The DOT is also sometimes referred to as a Declaration of Restrictive Covenant, or DORC in the case of mixed financed ownership.

Public Housing by reducing revenues.<sup>4</sup> To offset the impact of these reduced rental incomes, Congress, over the next several decades, incrementally introduced a series of programs to provide operating and capital subsidies. Today, as these efforts have evolved, PHAs receive funding to operate and improve Public Housing through two separate funding formulas - the Operating Fund and the Capital Fund – which takes the funding appropriated by Congress in any given year and divides it by a regulatory formula across eligible Public Housing properties. The ratio between what HUD believes is necessary to operating Public Housing and the amount Congress appropriates is called the “Operating Fund Pro-Ration.” Over the past several years, it has fluctuated between 82% and 112% of the nationwide portfolio’s needs. The Capital Fund, intended for repairs and modernization of the buildings themselves, has also fluctuated, as can be seen in Figure 1.

One consequence of this funding and regulatory system is that it is difficult for PHAs to engage in long-term planning, given the uncertainty of future funding levels. However, even more importantly, it is difficult under the Public Housing funding structure to seek long-term mortgage capital, which is essential to the construction and preservation of multifamily housing. In fact, the Public Housing Program, as enacted, was not conceived to rely on private financing. It was not until the mid- 1990s, in fact, that PHAs were even permitted to develop Public Housing using other forms of financing (including low-income housing tax credits).<sup>5</sup>

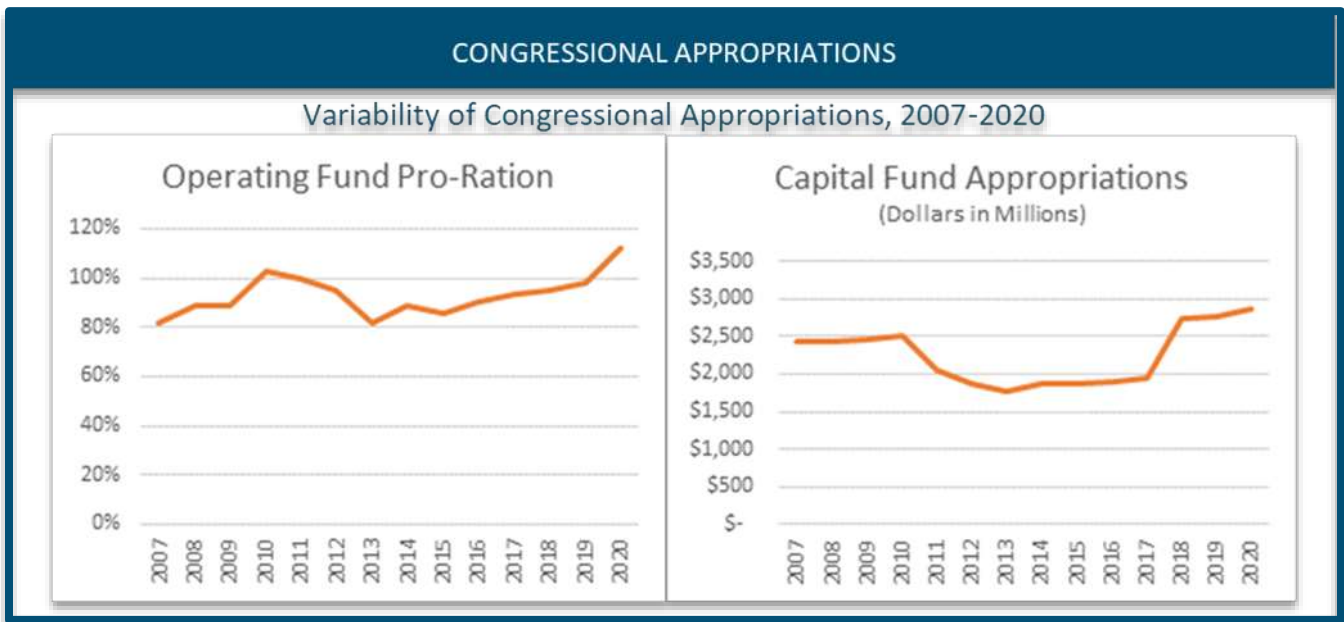


Figure 1: Congressional Appropriations

<sup>4</sup> McCarty, Maggie. 2014. Introduction to Public Housing, Congressional Research Service, January 3.

<sup>5</sup> Diaz, Nelson. 1994. Use of Public Housing Funds to Leverage Private Financing. Internal memorandum, U.S. Department of Housing and Urban Development, April 8.



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## The Section 8 Project-Based Rental Assistance (PBRA) Program

In 1974, the Congress introduced the Section 8 Project-Based Rental Assistance (PBRA) Program as the first truly “deep-subsidy” private rental assistance program. Like Public Housing, the Federal Government would make up the difference between the rent that low-income households could afford to pay and the rental revenue the property needed to operate. Because the Federal Government was dealing with private owners in the PBRA context, Congress knew that the Public Housing appropriations model would not work and agreed to a contract rent for each unit.

The Section 8 Program is similarly authorized under the *United States Housing Act of 1937* and shares many of the same tenant eligibility requirements, resident protections, and tenant-paid rent computations as Public Housing. However, it differs dramatically in the structure of the subsidy contract, called the Housing Assistance Payment (HAP) contract. As compared with the Public Housing ACC, the Section 8 HAP contract:

- Specifies a “contract rent” for each unit type;
- Is long-term (generally, 15-40 years), with renewal provisions; and
- Includes a mechanism to make annual adjustments to the contract rents to account for inflation.

These three conditions were at the heart of the PBRA Section 8 Program. Only with this predictability could Congress get private real estate developers and their lenders to finance, build, and operate low-income housing. In contrast, in the Public Housing Program, there is no equivalent to a contract rent and the revenue a PHA receives is based on the Operating Fund Pro-Ration and the Capital Fund Appropriation. In Public Housing, there is no long-term subsidy contract and there are no guaranteed or automatic annual adjustments for inflation. The Public Housing Program was never designed to rely on private financing. The expectation was that PHAs would look exclusively to the Federal Government for needed funding beyond tenant rents. Today, about 1.2 million affordable housing units are subsidized through the PBRA Section 8 Program.

### PBV VS. PBRA

One of the biggest conversion decisions for any PHA that wishes to preserve a former Public Housing property as affordable housing is the choice over which form of project-based Section 8 assistance to use. Under RAD, PHAs have two options – Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA). Under Section 18 or SVC conversions, a PHA can only convert to PBVs.

For more information about the two options, see [“Guide To Choosing Between Project-Based Vouchers \(PBVs\) And Project-Based Rental Assistance \(PBRA\) For Public Housing Conversions” on the RAD website.](#)

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## The Section 8 Project-Based Voucher (PBV) Program

When Congress enacted the Section 8 Program in 1974, it created both the PBRA program (above) and a Section 8 tenant-based assistance program, known today as the Housing Choice Voucher Program (HCVP or vouchers). This voucher program provides subsidies on behalf of low-income households in rental housing they choose in the rental market. Today, there are about 2.2 million vouchers in circulation nationally.

In 1998, the Congress amended the voucher program to allow PHAs to use a percentage (originally 20%) of their voucher budget authority for project-based vouchers (PBVs).

When Section 8 PBVs are used, the property owner agrees to reserve some or all of the units in a building for occupancy by PBV-eligible families. In other words, the PHA and the owner sign a Housing Assistance Payment (HAP) contract to attach PBV rental assistance to the structure. During the term of the HAP contract, the PHA makes housing assistance payments to the owner for units leased and occupied by eligible families. Projects are typically selected for PBVs through a competitive process managed by the PHA, although in certain cases projects may be selected non-competitively.

Significant changes to the program were enacted in 2000, by the Fiscal Year 2001 Appropriations Act, and, in 2008, by the Housing

### PBVS AND REPOSITIONING

The Section 8 Project-Based Voucher (PBV) program has become an increasingly important tool for PHAs who are attempting to convert their Public Housing to Section 8 for long-term preservation purposes.

In response to this increased interest in the PBV program as a repositioning tool among PHAs and other stakeholders, the Office of Public and Indian Housing (PIH) recently issued the following FAQs -- [PBVs and Public Housing Repositioning](#) (September 2020) and [TPVs for Public Housing Actions](#) (June 2020). These FAQs address a number of important questions, including

- Under what conditions does the PHA need an Independent Entity (IE) to perform rent reasonableness determinations and Housing Quality Standards (HQS) inspections?
- What if the PHA wants to convert to PBVs and does not operate a voucher program today? How does the PHA find a voucher administrator partner?
- How is the voucher funding calculated and what if the projected costs (under the PBV program) are higher than the PHA's per-unit-costs (PUC) under the regular voucher program? When the PHA receives its increment of new budget authority, will it be based on the PUC or on projected costs?
- When does the new funding begin?

In addition to these valuable FAQs, the Department also expects to publish a Section 8 PBV guidebook.

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and Economic Recovery Act of 2008. The latest statutory changes to the PBV program were enacted by the Housing Opportunity Through Modernization Act of 2016 (HOTMA).<sup>6</sup>

As currently in effect, some of the key features of the PBV program are:

1. PBVs can be used for existing, rehabilitated, or newly constructed housing, with different requirements and procedures being applicable in different contexts.
2. While generally no more than the greater of 25 units or 25% of the units in any project can be assisted with PBVs, projects recently repositioned from the Public Housing Program are often exempt from this requirement; and
3. After one year, all PBV households have a right to move with the next available voucher for tenant-based assistance, or what has become known more commonly as ‘Choice-Mobility.’

Today, there are about 250,000 PBV units, or around 11% of the voucher program.

## Summary

The Public Housing Program is the oldest Federal housing program. It was designed to enable local independent public bodies to own and manage housing for low-income households that would be constructed with Federal funds and operated, initially, with tenant rents. Over time, this basic financial model broke down. As Congress attempted to remedy these problems it was also developing new forms of Federal housing assistance that would better leverage private capital, eventually leading to Section 8. While the design of the Public Housing financial model has been modified to permit some forms of debt, the Section 8 Program is much more aligned with the full range of available types of long-term mortgage financing. As a result, HUD’s focus on providing the information in this Guide represents its continued effort to assist PHAs to convert from the Public Housing platform to Section 8 platform to be able to leverage their assets in ways enjoyed by other operators of federally assisted housing.

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<sup>6</sup> A detailed account of the HOTMA changes, and further guidance, is provided under [PIH Notice 2017-21](#), *Implementation Guidance: Housing Opportunity Through Modernization Act of 2016 – Housing Choice Voucher and Project-Based Voucher Provisions*, published October 30, 2017.

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## LEVERAGING SECTION 8 CONTRACT RENTS

How does converting the Public Housing funding to a Section 8 contract rent allow a PHA to leverage private debt?

A property under a Section 8 contract approaches the repair and replacement of capital needs in fundamentally different ways from a property under Public Housing. In the Public Housing program, PHAs rely on direct federal grants through the Public Housing Capital Fund and allocate that pot of funds across their Public Housing stock through capital planning across a portfolio.

An owner of property under a Section 8 contract analyzes the capital needs of the property, establishes and funds a capital replacement reserve from project revenue, and draws down from these funds for routine repairs and replacements. Periodically, the owner also accesses debt, equity, and other conventionally available capital sources to make more significant improvements to the property, modernizing it for the next 10-20 years. Debt is tied to the specific property and repayment of the debt is supported by the property's revenue.

The HAP contract establishes a "contract rent" that is the revenue the owner will receive through a combination of tenant rents and housing assistance payments. The contract rent remains constant: If tenant rents go down in any year, the HAP subsidy goes up. If tenant rents rise, the HAP subsidy goes down. The Section 8 contract provides a reliable, consistent source of revenue for the property to support its expenses, replacement reserve deposits, and debt service.

These contract rents form a reliable and steady source of revenue that affordable housing lenders and investors can underwrite when financing capital investments. Combined with significantly fewer restrictions on third party liens than in the Public Housing Program, properties under a Section 8 contract have readily and safely accessed commonly available debt and equity products for decades.

The fundamental question for any PHA assessing repositioning options and attempting to preserve or redevelop a property is whether the Section 8 contract rents are enough for the property to cover operating expenses, make deposits to a replacement reserve and support any upfront financing needed to bring the property into good physical condition.

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## Section 3: Repositioning options

The four main options for converting Public Housing to Section 8, which can often be used in combination, are:

- The Rental Assistance Demonstration Program (RAD);
- The Section 18 Demolition or Disposition;
- The Streamlined Voluntary Conversion Program (SVC); and
- The Section 32 Homeownership Program.

This section reviews the main elements and requirements of each program.<sup>7</sup>

### PROGRAM BASICS

**Rental Assistance Demonstration (RAD)** allows PHAs to convert Public Housing to Section 8 PBV or PBRA at contract rent levels based on the property’s public housing funding. As a preservation program, RAD requires one-for-one replacement of the public housing units, with certain limited (“de minimis”) exceptions. All residents have an absolute right to return (no re-screening). To convert, a PHA must submit a financing plan that demonstrates long-term feasibility.

**Section 18 Demolition or Disposition** allows PHAs to demolish or dispose of Public Housing units under certain criteria and entitles the PHA to request Section 8 Tenant Protection Vouchers (TPVs) for any vacant unit occupied by an assisted household within the past 24 months. The PHA can elect to project-base these TPVs, provided the assisted units are offered to the impacted families. In many communities (but not all) the TPVs result in rents that are higher than the RAD rents. In the case of disposition, the units must actually be disposed of, which can be accomplished by transferring the asset to a PHA-related entity for nominal value in order to support affordable housing. Section 18 also qualifies the PHA for certain phase-out funding under the Public Housing operating and capital programs.

**Streamlined Voluntary Conversion (SVC)** allows a PHA to convert Public Housing assistance to Section 8 vouchers (TPVs), which a PHA must offer to residents as tenant-based vouchers. The TPVs can only be project-based with tenant consent. As with Section 18, TPVs may be requested to protect assisted households and for all units occupied by an assisted household within the past 24 months. To be eligible, the PHA must be down to its last 250 Public Housing units and it must agree to closeout its Public Housing Program.

**The Section 32 Homeownership Program** allows PHAs to dispose of Public Housing to create homeownership opportunities for low-income households. As with Section 18 and SVC, a PHA may request Section 8 vouchers (TPVs) to protect assisted households and for all vacant units occupied by an assisted household within the past 24 months. A PHA must develop a HUD-approved Homeownership Plan.

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<sup>7</sup> For very distressed public housing projects that are also in struggling neighborhoods, PHAs should also consider the Choice Neighborhoods Initiative (CNI) Program. Although, based on recent appropriations, generally only about four implementation awards are made annually, the CNI Program helps communities revitalize severely distressed public and/or assisted housing and catalyzing improvements in the neighborhood. Choice requires hard replacement units, but the replacement units can be RAD (PBV or PBRA) or non-RAD PBV units (in addition to ACC units), so can be used in conjunction with RAD, Section 18 and Section 22 repositioning tools. Depending on the repositioning tool and replacement units proposed, Choice can also authorize a new award of TPVs. For more on CNI, [click here](#).

## RAD

In 2011, Congress authorized the RAD program, which allows PHAs to convert their Public Housing to Section 8 assistance. With subsequent Congressional authorizations, HUD now has the authority to convert 455,000 Public Housing units to Section 8 under RAD. To-date (March 2021), 142,688 units have already converted.

Under RAD, a PHA has the option of converting to two forms of long-term project-based Section 8 assistance:

- Project-Based Rental Assistance (PBRA).** This program is administered by HUD’s Office of Multifamily Housing. As mentioned earlier, it was the first Section 8 project-based program created by the Congress. It is also by far the largest.
- Project-Based Vouchers (PBVs).** This form of project-based Section 8 is administered by a local voucher agency. HUD’s Office of Public and Indian Housing (PIH) oversees the voucher agency but is not a direct administrator of the PBV contract. If a PHA does not operate a voucher program but wants to participate in the PBV program, it will need to partner with a current voucher agency to administer the PBVs.

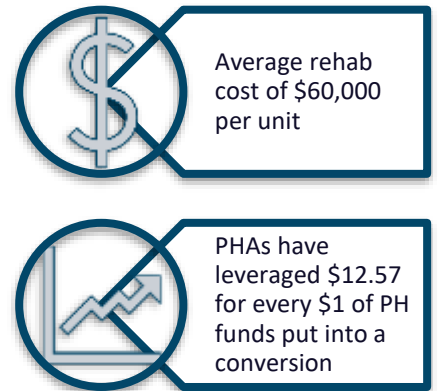


Figure 2: RAD at a Glance (January 2021)

Congress did not appropriate any additional funds for RAD in order to set initial contract rents according to standard PBRA or PBV approaches. Instead, HUD combines the amounts it receives under

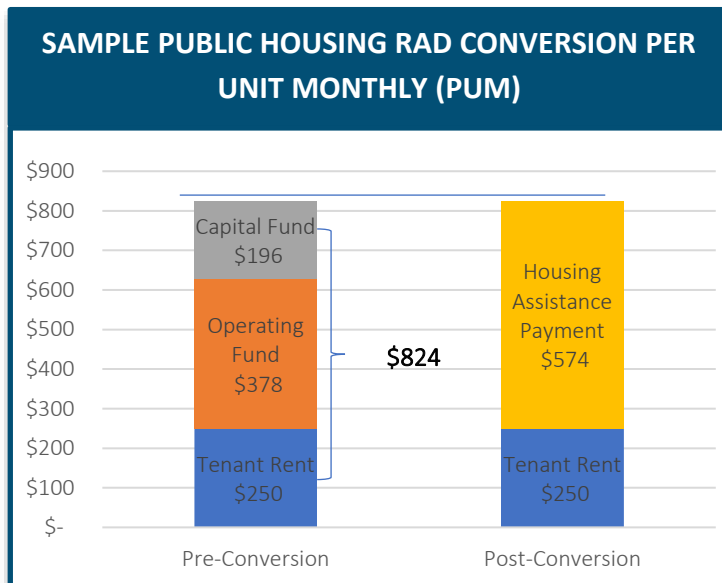


Figure 2: Sample Public Housing RAD Conversion

the Operating and Capital Fund programs (by project) and adds this combined subsidy (Housing Assistance Payment) to the tenant rents to create the Section 8 Contract Rent.

For example, as shown in Figure 3, assume that a Public Housing project has tenant rents of \$250 per unit monthly (PUM). Also assume that it receives Operating Subsidies of \$378 PUM and Capital Funds of \$196 PUM. Combined, these amounts add up to \$824. Under RAD, the project will leave (or be removed from) the Public

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Housing Program and will have an initial Section 8 contract rent of the same amount, \$824 PUM. The Operating Fund and Capital Fund are replaced with Section 8 Housing Assistance Payments. The project will be subject to a long-term HAP contract, which provides annual rent adjustments, and the PHA will execute a “RAD Use Agreement”, which ensures that the property is maintained as low-income housing.

In addition to RAD being a “revenue neutral” program with no new funding, there are five features underpinning the program.

1. **Preservation.** RAD is a “preservation” program, meaning that the intent is to preserve as many “hard” units (physical units with project-based rental assistance) as possible. Consequently, under RAD, a PHA must retain or replace units on a one-for-one basis, with limited exceptions.<sup>8</sup>
2. **Resident Rights and Protections.** If the conversion results in no relocation, residents have a right to remain at the property without rescreening. If there is need for relocation due to construction, they have a right to return, again with no rescreening. Residents are also entitled to other rights and protections, including consultation, enhanced relocation protections, lease and grievance protections, and the right to organize.
3. **Public or Non-Profit Stewardship.** To ensure long-term, mission-based oversight of the property as affordable housing, all RAD transactions must be owned or controlled by a public or non-profit body. The majority of RAD-converted properties remain owned by the PHA. A PHA can create a joint-venture with a private entity provided this mission-based oversight is in place. For example, the PHA can choose to transfer ownership to a partnership accessing federal low-income housing tax credits if the PHA has an interest in the project (often satisfied by entering into a long-term ground lease or by the PHA or a non-profit holding a majority percentage of the general partnership entity).
4. **Long-term Affordability.** All RAD conversions are subject to long-term contracts and use agreements. While documented as 20-year contracts, both HUD and the owners of the property (for example, the PHA or its joint venture partnership) contractually agree to renew the contract over and over again, essentially creating a contract in perpetuity.

### 2020 RAD Rents

This file contains the RAD contract rents for all Public Housing properties. It also includes information on local fair market rents (FMRs) so that PHAs can compare the rent levels under different repositioning options.

[http://www.hud.gov/sites/dfiles/Housing/documents/2020\\_RAD\\_Rents\\_web.xlsx](http://www.hud.gov/sites/dfiles/Housing/documents/2020_RAD_Rents_web.xlsx)

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<sup>8</sup> These “de minimis” exceptions include: (1) an allowance for a reduction in units equal to the greater of 5% or 5 units, (2) when combining efficiencies into larger units, and (3) for units vacant longer than 24 months at time of application.

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5. **Resident Mobility Options.** Residents of converted projects can request (after 1 year for RAD PBV conversions and 2 years for conversion to RAD PBRA) a tenant-based voucher – a provision known as Choice-Mobility. The voucher administering agency will place them at the top of the waiting list for the next available HCV. Limited waivers are available for PHAs that do not have a voucher program and have converted to RAD PBRA, among other limited exceptions.
  
  6. **Statutory Flexibility, Including Use of Public Housing Funds.** To facilitate the preservation of Public Housing properties, Congress gave HUD broad authority to waive or modify statute for properties converting under RAD. The RAD Notice details the flexibilities HUD has adopted including provisions that permit PHAs to contribute or bring over Public Housing funds to the Section 8 property as part of the conversion.

Because RAD is a preservation program, a PHA must demonstrate, through submission of a financing plan, that the project is financially viable for the next 20 years.<sup>9</sup>

This test of viability essentially requires the PHA to show that the project can both be operated at the RAD contract rents and that there are sufficient funds to meet all immediate and projected capital needs over the next 20 years, as identified by an independent assessor. The PHA can propose any number of ways of meeting these identified capital needs, which can include an up-front investment of current Public Housing funds (Operating, Capital, disposition proceeds, etc.), private mortgage proceeds, tax credit equity, and state or local grants, or annual deposits from operating revenue into a replacement reserve account. HUD is largely indifferent as to the source of funds, except that, when it comes to first mortgage proceeds, the RAD program prohibits adjustable-rate mortgages, loans of greater than 40 years, or debt-coverage ratios of less than 1:11.

RAD also allows for a Transfer of Assistance (TOA) to another site or property if such transfer is in the best interests of the PHA and residents. Any transfer site must also meet the same project feasibility requirements. Additionally, RAD allows a PHA to bundle rents across properties to facilitate conversion. For example, a PHA could reduce rents at a project with lower needs to increase rents at a project with higher needs if overall, these actions are revenue neutral.

Within these key requirements, there are three standard conversion models:

- **No-debt Transactions.** These are transactions that do not rely on any outside debt to facilitate conversion. Sometimes these no-debt transactions include projects where no repairs are required at conversion – say, a Public Housing project that was recently constructed/rehabilitated or simply

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<sup>9</sup> See Section 1.15 of the RAD Notice, [H-2019-09/PIH-2019-23](#), published September 5, 2019.



kept in great repair. Other no-debt transactions can involve projects with significant repairs, but where the PHA has chosen to use Public Housing funds (e.g., operating reserves, Capital Funds, or disposition proceeds) or state/local grants to fund the repairs rather than rely on traditional mortgage financing. In some cases, a PHA implements a no-debt transaction knowing that they will recapitalize the property through a more extensive effort within a few years after the RAD closing.

- **Debt-Only Transactions.** In these transactions, the PHA takes out a loan, secured by a first-lien-position mortgage on the property subordinate to the RAD Use Agreement, with loan repayment supported by the project's net operating income. Debt-supported projects are typically projects requiring modest to significant rehab. (Projects involving new construction or substantial rehab will typically require the use of low-income housing tax credits, described below.) In some RAD transactions, the mortgage loan proceeds may exceed

## A NO DEBT RAD DEAL IN MEDINA, OH

The Medina Metropolitan Housing Authority (MMHA) was established in 1953 and serves residents across Medina County and is located about 30 miles southwest of Cleveland, Ohio. MMHA manages approximately 550 housing units across the county and administers a wide variety of local, state, emergency and Federal affordable housing programs including to tax credit units. The MMHA does not have any Section 9 public housing units in its portfolio anymore as its one unit has been converted.

One of the public housing properties, North View Manor, was an early and successful candidate for a no-debt RAD conversion. The four-story building was constructed in 1971 and is home to elderly and disabled residents. All 84 of the units are one-bedrooms and only required minor routine repairs and refrigerator upgrades as part of the conversion. All 84 units were all converted to PBRA and the transaction closed on June 29, 2016. "The RAD conversion was pretty painless; we still own the property, and we have all the benefits of additional revenue by getting PBRA subsidy instead of traditional public housing," said Skip Sipos, MMHA's Executive Director. At this point, MMHA does not foresee the need to refinance the property as the cash flow is stable and PHA ownership of the property allows maximum flexibility to do long-term planning.

"RAD made so much sense for North View Manor. The units were in great condition and we were able to convert without taking on any debt," Sipos said. MMHA maintenance staff were able to complete all the routine maintenance tasks for about \$500 per unit. All the residents were able to stay in their units throughout the process and MMHA has maintained ownership of the property. Since 2016, MMHA has been able to fully rehab close to 30 units as they become vacant. "Because the units are PBRA now, we can draw against the 20-year replacement reserves and make these updates to the units in a way that minimizes disruption for our residents. We are able to turn around the fully rehabbed units in about 30 days given the network of contractors we have at the ready," said Skip Sipos.

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the repairs needed at the property. In that case, the PHA can use the excess loan proceeds to support (cross-subsidize) other affordable housing efforts, including other RAD transactions. Indeed, there are some RAD transactions where no repairs were needed, and the entire goal was to raise debt to preserve other assets.

- **Tax Credit Transactions.** There are two types of Low-Income Housing Tax Credits – 4% credits and 9% credits. The 4% credits are available “as of right” with tax-exempt bonds; the latter are awarded on a competitive basis by each state’s tax credit agency. When a property is awarded tax credits, the owner can joint venture with an investor willing to make an equity investment in the property for the primary benefit of the resulting tax treatment. The tax benefit is large enough that the equity investor does not expect the return of its up-front cash investment. About 29% of all RAD transactions have involved 4% credits and another 9% have involved 9% credits. The 4% credits have generally allowed PHAs to undertake a higher level of rehab than could be supported by debt. The 9% credit transactions have mostly involved new construction or substantial rehabilitation. Most tax credit transactions also involve a first-lien-position mortgage loan subordinate to the RAD Use Agreement.

The above categories define transactions by the type of financing, any one of which could include rehab, new-construction, or transfer of assistance. As the RAD program has evolved, additional incentives have been added to help supplement the RAD contract rents for certain priority conversions, including the following:

- **RAD/Section 18 Blends.** To encourage more preservation conversions, the Department offers two forms of blended RAD/Section 18 transactions, where a certain percentage of the Public Housing units in the RAD transaction can be removed from the public housing portfolio via Section 18, which allows the PHA to receive Section 8 Tenant Protection Vouchers (TPVs).<sup>10</sup> The rents for these TPVs are often higher than the RAD ‘contract rents’, and when project-based, this increases the project’s net operating income and increases the amount of debt that the project can support. This also increases the tax credit leverage, assuming it is also a leveraged transaction. The two RAD/Section 18 blends are described below:
  - **RAD/Section 18 Construction Blend.** To be eligible for the construction blend, the proposed transaction may not use 9% tax credits. If the project has construction costs equal to at least 90% of HUD’s Housing Construction Cost (HCC) standards (80% in high-cost areas), 60% of the units in the transaction are eligible for Section 18; if construction costs are equal to at

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<sup>10</sup> See [PIH Notice 2021-07](#), published January 19, 2021, “Blending Section 18 Disposition Approvals with Rental Assistance Demonstration (RAD) Conversion. This Notice replaces the previous “RAD/Section 18 75-25 Blend”, which allowed PHAs to remove 25% of the units in a RAD transaction through Section 18 as long as construction costs were at least 60% of HCC.

least 60% of HCC, 40% of the units are eligible for Section 18; and if construction costs are equal to at least 30% of HCC, 20% of the units are eligible for Section 18.

- **RAD/Section 18 Small PHA Blend.** For any PHA with 250 or fewer Public Housing units, up to eighty percent (80%) of the units in a Converting Project may be disposed of under Section 18. To be eligible, the PHA must submit a feasible repositioning plan approved by the PHA’s Board of Commissioners and acceptable to HUD that removes all of a PHA’s Public Housing units, reflects that the PHA will not develop additional Public Housing units, and will result in the closeout of the PHA’s Section 9 Public Housing Program and termination of its Section 9 ACC. Additionally, any PBV contract created under this Section 3(a)(3)(c) must be administered by an HCV contract administrator with at least 250 HCV units under its HCV ACC prior to creation of such PBV contract.

- **RAD Rent Boost for PBRA Conversions in Opportunity Zones. RAD PBRA transactions in Opportunity Zones are eligible to receive a rent boost of up to \$100 Per Units Per Month (PUM).** To be eligible, the project must undertake repairs of not less than 60% of HCC. This incentive can be combined with other incentives, e.g., the RAD/Section 18 Construction Blend.

RAD is administered by the Office of Recapitalization.

<b>BASIC RAD PROGRAM RESOURCES</b>
<b>Program Guidance</b> <a href="#">PIH Notice 2019-23, REV-4, issued 09/05/2019</a>
<b>Helpful Links</b> <a href="#">RADresource.net</a> <a href="mailto:RADApplications@HUD.gov">RADApplications@HUD.gov</a> <a href="http://www.hud.gov/rad">www.hud.gov/rad</a>

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## **RAD/Section 18 Construction Blend in Ocean City, NJ**

### **RAD/Section 18 Construction Blend in Ocean City, NJ**

The Ocean City (NJ) Housing Authority (OCHA) has operated 121 public housing units, consisting of 81 senior units (across two sites) and 40 family units. Although OCHA had received funding from both the State of New Jersey and the City of Ocean City to help finance the conversion of the senior units, the RAD rents were still not adequate to ensure financial feasibility.

“We had considered applying for 4% tax credits, but we were concerned both with volume caps but also the complexity of the tax credit program (particularly for a small PHA),” said Jacqueline Jones, HACOC’s Executive Director. “Then, HUD came out with the RAD/Section 18 75/25 Blend, where we could replace 25% of the RAD units with Section 18; receive Tenant Protection Vouchers (TPVs); and then project-base those TPVs. The rents for the TPVs were substantially higher, suddenly making the deal possible.”

The transaction included two sites – Bayview Manor (61 units) and Pecks Beach Senior (20 units), separated by one city block. Pecks Beach Senior was damaged beyond repair as a result of Hurricane Sandy. Additionally, the first floor of Bayview Manor, containing 12 residential units, is at 7-foot flood elevation and OCHA wanted to eliminate the risk of flooding to these ground-floor units. The plan, then, was to demolish Pecks Senior; build a new 32-unit building, called Speitel Commons; and then transfer the 12 units from the first floor of Bayview Manor into Speitel Commons. Altogether, the new project would consist of the same 81 units, but, under the RAD/Section 18 75/25 Blend, 61 units would be RAD and 20 units would be Section 18/PBVs. The new Speitel Commons is being built adjacent to Bayview on property currently controlled by the OCHA. Because of the level of rehab at Bayview Manor and the new construction at Speitel Commons, OCHA was easily able to meet the standard of construction costs exceeding 60% of HUD’s HCC threshold to qualify for the blend.

The new project is called “Speitel Commons at Bayview Manor.” It closed in 2020 with construction expected to be completed in June 2021. “One of the great things about this RAD/Section 18 Blend was that we were able to work essentially directly with the RAD Office to make it happen. It was very

## The Section 18 Demolition/Disposition

The Section 18 program refers to [Section 18 of the United States Housing Act of 1937](#), which governs HUD approvals for demolition and disposition of public housing. Prior to 1998, a PHA had to replace every public housing unit that was demolished or disposed with another “hard” (physical) Public Housing unit. The one-for-one replacement requirement proved challenging for PHAs, particularly given the limited funding that has been available for new Public Housing.<sup>11</sup> As a result, many severely distressed



Figure 3: Section 18 Demolition/Disposition Criteria

properties were frozen in a state of limbo, with no funds to adequately restore or replace the project but without permission to remove the project from HUD’s inventory. The 1998 Quality Housing and Work Responsibility Act (QHWRA) amended Section 18 to eliminate the one-for-one requirement, provided that a project meets certain criteria.

Approval under Section 18 makes the PHA eligible to receive Section 8 TPVs to protect HUD-assisted families and for all vacant units in the project that were occupied by an assisted family within 24 months prior to approval.<sup>12</sup> These TPVs are intended to make the PHA “whole” in terms of the number of households who can be assisted (replacing the Public Housing units with TPVs/vouchers). A PHA has the option, under Section 18, of either issuing these TPVs to affected households so that they can find housing on the private market or project-basing those TPVs back on the project to preserve the project as long-term affordable housing. Hence, Section 18 is a way to change the form of HUD assistance to Section 8, which can result in either project-based Section 8 or tenant-based Section 8.

<sup>11</sup> In 1999, Congress also enacted the Faircloth Limit, which placed constraints on new and replacement public housing units with Federal funds. See [Faircloth Limit FAQs](#), issued June 2020.

<sup>12</sup> In this Guide, the standards referenced are for replacement TPVs, which are awarded when the Public Housing units will not be replaced. Alternately, “Relocation TPVs” are provided in cases where the PHA is replacing the Public Housing units removed through the repositioning action with other Public Housing units. Relocation TPVs are subject to different requirements not covered here.

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In some cases, PHAs may be able to preserve a property approved under Section 18 by project-basing the TPVs (and securing other outside funding, including tax credits). In some situations, PBV rents may be higher than what the PHA was receiving under the Public Housing Program because the rents are based on what the PHA would pay the owner under the voucher program.<sup>13</sup>

[PIH Notice 2021-07](#), describes seven separate ways that a Public Housing project can qualify for disposition under Section 18.<sup>14</sup>

1. **Obsolescence.** To meet the obsolescence test for either Demolition or Disposition, a property must have existing capital needs (including those projected over the next three years) equal to or greater than 57.14% of HUD’s Total Development Costs (TDCs) for non-elevator structures and 62.5% for elevator structures.<sup>15</sup> In other words, the PHA must be able to demonstrate that the property is either in pretty poor physical condition, or have building components and systems that are obsolete, or a combination of both. Note that there is a difference between “obsolescence” and “habitability”. Some properties that meet the test of obsolescence are still perfectly habitable, while other properties that are no longer habitable may not meet the test for obsolescence.
2. **Health and Safety.** A project can qualify for Section 18 if the location presents clear health and safety risks to tenants that cannot reasonably be abated, such as a property located adjacent to a large electrical transformer station that emits loud noise disturbances, or is built on land with contaminated soils.
3. **Infeasible Operation.** A project can also qualify if the PHA demonstrates a lack of demand for the units. Supporting documentation includes evidence the units have long-term vacancy issues, notwithstanding due diligence in marketing (e.g., census tract data on declining population in the jurisdiction; units located in an isolated area with limited access to transportation and infrastructure; high turnover rates). On a case-by-case basis, HUD may require a PHA to submit a market analysis or HUD may perform one.
4. **Scattered Sites.** A PHA can remove from the Public Housing Program any scattered site units that are operationally unsustainable. Indeed, for most PHAs, scattered sites have proven hard to maintain effectively, especially at Public Housing funding levels. For the purposes of Section 18, a scattered site is defined as any property with units in non-contiguous buildings with 4 or fewer total units.

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<sup>13</sup> See 24 CFR 983.301

<sup>14</sup> [PIH Notice 2021-07](#), *Demolition and/or disposition of Public Housing property, eligibility for tenant-protection vouchers, and associated requirements*, January 19, 2021

<sup>15</sup> TDCs are regionally set and adjusted annually for changes in costs.

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5. **50 or Fewer Public Housing Units.** When a PHA has only 50 or fewer units, or when a larger PHA gets down to its last 50 remaining Public Housing units, it is automatically eligible to remove those last 50 units via Section 18 without having to demonstrate obsolescence.
  6. **RAD/Section 18 Blends.** As noted in the RAD program summary, above, HUD also allows PHAs to substitute a certain percentage of the units in a RAD transaction for Section 18, with accompanying TPVs. There are two forms of blends – the RAD/Section 18 Small PHA Blend and the RAD/Section 18 Construction Blend.
  7. **More Efficient/Effective Housing.** The final criterion for Section 18 disposition is when a PHA can demonstrate that removal of the units results in the creation of more efficient and effective housing. Under this criterion, there is no test of obsolescence; however, partly because there is no demonstration of obsolescence, HUD caps a PHA’s TPV eligibility at 25% of TPV-eligible units in the project being disposed. The actual number of units that the PHA will create, i.e., the more “efficient and effective units”, is negotiated between the PHA and HUD on a case-by-case basis. For example, assume that a PHA has an undesirable 100-unit project but the project’s capital needs do not meet the obsolescence test. The PHA would like to tear it down and build 50 new units, all of which would be supported by Section 8 PBVs. The PHA could remove the units through More Efficient/Effective Housing but because the project does not meet obsolescence, HUD will only provide 25 vouchers (25% of the total project). The PHA will then need to contribute the remaining PBVs from its own voucher program. Not many PHAs, understandably, have pursued this option. It is usually saved for assets that, while undesirable, do not meet the obsolescence test and the PHA is willing to remove them from their inventory, understanding that HUD will only provide TPVs for 25% of the units.

A key feature of the Section 18 program is the eligibility for phase-out funding under the Operating Fund and Capital Fund programs, called, respectively, Asset Repositioning Fees (ARF) and Demolition Disposition Transitional Funds (DDTF). ARF funds provide for a declining phase-out of operating subsidies over two years (if disposition) or three years (if demolition). Under DDTF, the Capital Fund Grant is continued for 5 years without any phase down. RAD and SVC are not eligible for ARF or DDTF funding.

The PHA also retains its [“Faircloth Authority”](#) for all units removed through Section 18 and Section 22. In 1999, Congress added a provision to the *United States Housing Act of 1937* that prohibits a PHA from using Public Housing funds to maintain or operate Public Housing units in excess of then-current levels, named after the legislation’s sponsor, Senator Lauch Faircloth of North Carolina. When a PHA removes units from Public Housing through Section 18, it retains that Faircloth Authority, meaning that it has the authority to return those units to the Public Housing Program if it finds a way to acquire or build

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replacement units. A PHA does not keep the Faircloth Authority corresponding to any unit converted under RAD based on the reasoning that these units have already been replaced within the Section 8 Program. If a PHA uses the “50 or Fewer” option under Section 18 to convert its last remaining units, although the PHA retains its Faircloth Authority, it is required to close out its Public Housing Program and therefore must transfer the Faircloth Authority to another PHA or relinquish that authority. This option is not applicable to small PHAs until the portfolio has been reduced to 50 or fewer units.

Another key aspect of the Section 18 program relates to PHAs that do not have their own Housing Choice Voucher (HCV) program. PHAs that do not have their own HCV program will need to partner with a PHA that does have an HCV program to administer the TPVs, since HUD does not authorize PHAs without an existing HCV program to establish one.

Section 18 is a “disposition” program, meaning that the property, in addition to being removed from the Public Housing Program, must actually be disposed of to a separate legal entity under State law, which can be (and most often is) a non-profit related to the PHA. Sometimes it is in the best interests of the PHA simply to sell the property at Fair Market Value (FMV), in which case the proceeds must be used to support the provision of low-income housing as defined by the *United States Housing Act of 1937*. However, a PHA can also dispose of the property for less than FMV if the disposition results in “commensurate public benefit”, such as affordable housing (housing for families at or below 80% of Area Median Income, or AMI). In these less-than-FMV transactions, it is common for a PHA to sell the property for \$1 to a non-profit arm of the PHA and then to redevelop the property as affordable housing.

Section 18 differs from the RAD program in a few important ways. Unlike RAD, a PHA cannot transfer any Public Housing Program funds – including Public Housing operating reserves – to a project that has been disposed of under Section 18. Public Housing funds can only be used for Public Housing purposes. Under certain circumstances, Public Housing funds can be used at a project that is planned for Section 18 or SVC, prior to the disposition.

Similarly, under Section 18 there is no provision to protect, as a legacy recipient of rental assistance, current tenants who might be over-income or otherwise ineligible as a new admission to the Section 8 Program. For Section 18, all existing Public Housing tenants must be rescreened for Section 8 eligibility in order to receive a TPV or benefit from a PBV. If a PHA has a household that is over-income, the PHA must find a way other than Section 8 to provide comparable

#### **BASIC SECTION 18 PROGRAM RESOURCES**

**Program Guidance**  
[PIH Notice 2021-07](#)

**Helpful Links**  
[Section 18 Landing Page](#)



assisted housing. Typically, PHAs will allow such households to remain in the unit, if the project is to be preserved as rental housing, at a rental rate comparable to that paid by the family under the Public Housing Program.<sup>16</sup>

There is also no required Capital Needs Assessment (CNA) or submission of a ‘financing plan’ to HUD for the future use of the property disposed of under Section 18. Once a property is approved for Section 18, HUD’s primary interest is in making sure that:

1. Eligible tenants continue to be assisted and appropriately relocated, if applicable; and
2. The property is disposed of in accordance with program procedures (either for FMV or for less than FMV with a commensurate public benefit).

Finally, Section 18 does not itself contain a mechanism

## **RAD/SECTION 18 SMALL PHA BLEND IN SOMERSWORTH, NH**

The Somersworth Housing Authority (SHA) was founded in 1961 and is currently transitioning its full portfolio to project-based vouchers using the RAD/Section 18 Small PHA Blend. A total of 169 units at three properties will be converted: Charpentier Apartments was built as a school in 1880 and converted to apartments in 1983 with 49 senior units in one building; Filion Terrace was constructed in 1965 and has 64 senior units in 16 buildings; and Nadeau Homes was built in 1965 with 56 family units across 17 buildings. In addition to the 169 public housing units, SHA serves the town of 10,000 people with 183 Housing Choice Vouchers and manages four other tax credit and PBRA developments. The tight-knit community is home to many long-time residents and SHA plays an important role by providing housing for many elderly residents.

“Because of the age of the properties, we have substantial improvements that are needed at all three sites,” said Deborah Evans, Executive Director. “Our plan was to convert via RAD to PBVs with 4% tax credits, with bonds issued by the New Hampshire Housing Finance Agency; local CDBG funds; public housing operating reserves; however, we were still short. By using the RAD/Section 18 Small PHA Blend, we were able to increase our rental income, allowing us to service the additional first mortgage proceeds to make the deal work.” Because the conversion involves the last of the SHA public housing inventory, 20% of the units will convert via RAD and the remaining 80% will be removed through Section 18. SHA will then project-base the TPVs associated with the Section 18 approval, preserving all 169 “hard” units.

SHA first submitted the RAD application in June 2019 and the transaction is scheduled to close in February 2021. What made this transaction successful was the planning done upfront and SHA was able to iron out many of the details during the initial concept call with HUD staff. Deborah Evans said, “We learned so much from our sister agency, Dover, NH, who went through a RAD conversion. Our project is ambitious – with three different properties all within a mile of each other. The Blend allows us to undertake significant rehab at all three properties, including adding washers and dryers at the senior buildings. This will make the space really feel like home for many of our seniors.”

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<sup>16</sup> See [PIH Notice 2020-19](#), *Rent Reasonableness – Defining Assisted Units for the Housing Choice Voucher and Project-Based Voucher Programs*, Issued August 21, 2020

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for the units to become PBV the way RAD does. If a PHA wishes to project-base former Public Housing units following a Section 18 action, the PHA must follow the standard PBV rules and procedures to do so. RAD created exceptions to standard PBV rules to facilitate project-basing because RAD is a preservation program. Provided the PHA satisfies the basic requirements, any redevelopment of the project, including any project-basing of vouchers, is determined by the PHA. The PHA sets the terms for what the project will be used for, the number of units to be assisted, or income-mixing.

The Section 18 program is operated by HUD's [Special Application Center](#) (SAC), based in Chicago, with expeditors in HUD Field Offices. SAC staff will review each application to make sure it meets the statutory and regulatory requirements.

## **REPOSITIONING UNITS VIA SECTION 18 OBSOLESCENCE IN CASS COUNTY, ND**

The Housing Authority of Cass County (HACC), North Dakota, utilized Section 18 Obsolescence to reposition and preserve 24 public housing units at Southdale Manor, which was built in 1966 and consists of four two-story and one single-story residential buildings. In 2019, a local architecture firm completed a physical needs assessment and determined that the total hard costs to renovate the 24 units would be over \$3 million, which exceeded 57.14% of TDC (the standard for obsolescence for non-elevator structures under Section 18). Additionally, the condition of the units, lacking air conditioning, poor insulation, drafty windows and doors, outdated heating system, and plumbing issues, made them difficult to lease.

“Although the units were in pretty bad shape, and were becoming more and more difficult to lease up, we didn’t want to reduce the number of affordable housing units in our community,” said Blake Strehlow, Executive Director. “Our goal, in fact, was to increase affordable housing.”

HACC applied for and was successful in receiving a 9% tax credit allocation for all 24 units, plus an additional 12 units. All 38 units will be PBVs. HACC will tear down the existing structure and build back on the same land. Because the construction would take more than 12 months, all residents were relocated using TPVs and have the choice to remain where they relocated to or move back into the new development following construction (subject only to confirmation of Section 8 eligibility). Essentially, HACC repurposed the TPVs that they were awarded for this project and project-based them, preserving 24 “hard” units.

“The RAD rents wouldn’t support this type of new construction project. The higher rents allowed by project-basing the TPVs was key to making this deal work and to providing quality affordable housing for another 30 to 50 years,” said Mr. Strehlow.

Under Section 18, a PHA needs to “dispose” of the property. HACC will transfer the property to its non-profit, Sierra Townhomes, LLLP, for \$1, which will then be the controlling general partner in the tax credit partnership. Leasing is expected to begin in July 2021.

## Streamlined Voluntary Conversion (SVC)

The third major repositioning option is Streamlined Voluntary Conversion (SVC), which is also administered by HUD's Special Application Center (SAC) based in Chicago. In 1998, Congress added [Section 22 of the United States Housing Act of 1937](#), allowing any PHA to replace Public Housing with vouchers whenever it can demonstrate that it is no more expensive to the government to provide each family with a voucher, i.e., Voluntary Conversion. However, the associated methodology and cost test has proven extremely challenging for PHAs to execute, especially for small PHAs. Therefore, in early 2019, PIH issued [PIH Notice 2019-05](#) providing for a streamlined approval for Voluntary Conversion, applicable to PHAs with 250 or fewer units, which waived the cost test.<sup>17</sup>

As with Section 18, under SVC a PHA may request a TPV to protect HUD-assisted families and for each vacant unit occupied by an assisted family during the 24 months prior to HUD's approval of a PHA's Section 22 application. The vouchers must be offered to the residents in the form of tenant-based assistance. If the subject property, following conversion, will continue as rental housing, the PHA must give the residents the choice to move with tenant-based assistance (with the PHA paying for the moving expenses), to stay in their units using tenant-based assistance, or to provide their voluntary written consent to stay in their units using PBV assistance.

Similar to Section 18, if a property is sold for less than FMV, use restrictions must be placed on the property and there are limitations on the use of the disposition (sales) proceeds.

Other key features of SVC include:

- PHAs without their own HCV program must partner with a voucher agency that can administer the TPVs, as HUD will not establish new HCV programs based on the TPV award.
- SVC requires a commitment of the PHA to close out its Public Housing Program, following the guidance in [PIH Notice 2019-13](#).<sup>18</sup>

Since a PHA may only spend Public Housing funds to support Public Housing units that are under a DOT/DORC, PHAs may not spend Public Housing funds to rehabilitate, maintain or operate any units that have been removed from the Public Housing inventory, including through SVC.<sup>19</sup> Therefore, a PHA should either plan to use those funds on any eligible Public Housing activity prior to conversion or the PHA should consider transferring such funds to another PHA prior to closeout.<sup>20</sup> Unlike Section 18, a PHA is not eligible for either Asset Repositioning Fees (ARF) or Demolition/Disposition Transition Funding (DDTF) funds under SVC.

### BASIC SVC PROGRAM RESOURCES

[Program Guidance  
Notice PIH-2019-05](#)

[Helpful Links  
SVC Landing Page](#)

<sup>17</sup> See [PIH Notice 2019-05](#), *Streamlined Voluntary Conversions of Last Remaining Projects of Small Public Housing Agencies*, Issued March 21, 2019.

<sup>18</sup> [PIH Notice 2019-13](#), *Public Housing ACC Termination and PHA Closeout*, Issued May 24, 2019.

<sup>19</sup> See FAQ: [Public Housing Funds and Repositioning](#), Issued February 2021.

<sup>20</sup> See PIH [Notice 2014-24](#), *Process for Public Housing Agency Voluntary Transfers and Consolidations of the Public Housing Program*, published September 23, 2014.

## SVC AS A PRESERVATION TOOL IN LACONIA, NH

The Laconia Housing and Redevelopment Authority (LHRA) in central New Hampshire utilized Streamlined Voluntary Conversion, or SVC, to convert Sunrise Towers, a seven-story building for seniors and disabled residents with 98 units on 1.50 acres in late 2020. The goal of LHRA was to preserve the units as long-term project-based vouchers (PBVs). SVC was attractive to the agency because the Housing Choice Voucher rents were significantly higher than the public housing funding, enabling LHRA to capitalize a new reserve account for future replacement of building systems.

LHRA was also able to work with the with the state's energy utility savings program - New Hampshire Saves - to install, at no cost to LHRA, new air conditioners, windows, balcony doors, and upgraded lighting. As a result, LHRA needed only to make modest improvements at the time of conversion; however, LHRA is still looking at the possibility of refinancing the property in the near future to accelerate the timing of repairs, and possibly to expand the scope of work, which will be made easier with the higher Section 8 rents.

"We had multiple meetings with residents explaining the condition of the building and how project-basing the TPVs would allow us to preserve this asset for 20 or more years for the enhanced quality of life amenities for all tenants," said Tom Cochran, Executive Director. "All households were given three options: receive a voucher and rent-in place; receive a voucher and relocate elsewhere, with appropriate relocation assistance; or voluntary waive the right to the voucher to enable the agency to project-base the voucher. Of the 96 occupied households, 91 of them chose voluntarily to waive their right to a TPV which allowed us to project-base the assistance. The other 5 residents who opted to receive a tenant-based voucher had plans to move to find a new place to live, which better met their current needs. Really, the residents are happy where they live and are happy to see the continued enhancements to the property for their improved quality of life." For the five units where the residents chose to move with their TPV, LHRA is "backfilling" these units with local PBVs.

LHRA also administers a voucher program and, therefore, will be the PBV contract administrator. However, it arranged with the US Housing Consultants to perform the duties of the independent entity including conducting initial inspections, performing rent reasonableness, and conducting HQS inspections.

As part of the SVC program, LHRA agreed to close out its Public Housing Program as Sunrise Towers was its only public housing asset. The conversion was approved on November 1, 2020 and the units were removed from public housing. Although not required under the SVC program, LHRA transferred the units for \$1 to a non-profit, SRT LLC, for 'commensurate public benefit', i.e., for the provision of affordable housing, with a 30-year use agreement.

Reflecting on the SVC process after conversion, Tom Cochran commented, "It has been an extremely satisfying process to be involved with our HUD partners throughout not only because of the new opportunities provided to our agency to enhance the quality of life for our residents, but also to work with a team who has provided the energy, enthusiasm and effort to see us succeed."

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## Section 32 Homeownership

The fourth main repositioning option for PHAs is the Section 32 *Public Housing Homeownership Program*, which refers to [Section 32 of the United States Housing Act of 1937](#). As with Section 18 and SVC, Section 32 is administered by HUD’s Special Applications Center (SAC). This option allows a PHA to sell Public Housing units to low-income households, based on a PHA-adopted, and HUD-approved Homeownership Plan. This program was established by the Quality Housing and Work

Responsibility Act of 1998 (QHWRA) and replaces the Public Housing homeownership program that was previously authorized by Section 5(h) of the *United States Housing Act of 1937*. Units sold under a Section 32 homeownership plan are not subject to the disposition requirements of Section 18. It is an alternative disposition program to allow for affordable homeownership.

### BASIC SECTION 32 PROGRAM RESOURCES

#### Program Guidance

[PIH Notice 2019-05](#)

#### Helpful Links

[Section 32 Landing Page](#)

Section 32 offers PHAs a flexible way to sell Public Housing units to low-income families, with preference given to current residents of the unit(s) being sold. PHA can choose to sell directly to a purchaser or through a third-party Purchase and Resale Entity (PRE). The basic program requirements are that the purchasers must be low-income (80% or below AMI) and have received HUD approved homeownership training, and that all units be at a standard that meets local code or if there is no code, meet HQS. Any other requirements and program eligibility are largely determined by the local PHA. Any sales proceeds generated must be used for Public Housing, Section 8 or other low-income housing needs, which could include buying and selling more units under the approved Section 32 homeownership plan. Also, the PHA may request Section 8 TPVs to protect HUD-assisted families and for all vacant units in the project that were occupied by an assisted family in the 24 months prior to Section 32 approval.

Of course, not all Public Housing properties make good homeownership projects. A PHA, for example, is not likely to convert a mid-rise family project to homeownership. Scattered sites, on the other hand, are worth considering if a PHA has interest in a homeownership program.

Although Section 32 is a path to Section 8 TPVs, it is not a path to project-base the current Public Housing units because the units have been sold to low-income families for homeownership. However, where a PHA receives TPVs following a Section 32 action, the PHA may be able to project-base other units using the TPVs under certain conditions, such as when TPVs were awarded for vacant units. A PHA is eligible for ARF but not DDTF under Section 32; however, a PHA does still retain its Faircloth Authority.

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## CONVERSION OPTIONS SUMMARY TABLE

Each of the four main repositioning tools described in this section come with its own requirements, owing largely to different legislative and programmatic histories. A summary of these key program characteristics, from the ability to use of Public Housing Program funds to support conversion to eligibility for ARF or DDTF funds, can be found on the Public Housing Repositioning website at:

[https://www.hud.gov/sites/dfiles/PIH/documents/Asset\\_Repositioning\\_Overview%283-21%29.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/Asset_Repositioning_Overview%283-21%29.pdf)

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### HOW TO APPLY

**RAD.** You can access, and submit, the RAD electronic application through the RAD Resource Desk at [www.radresource.net](http://www.radresource.net). In addition to the on-line two-page application form, the PHA will need to submit: a summary of resident comments at meetings and PHA's responses; the PIC profile of the project; documentation of the PHA's capacity to administer PBV (if applicable); a Mixed Finance Affidavit (if applicable); and a Portfolio Application and/or Many to One Request (if applicable). The same application and requirements apply to RAD/Section 18 blends. Applications are generally reviewed within 60 days. As of February 2021, there are about 125,000 unreserved units, which means that there is no waiting list and applications are processed on a first-come, first-served basis. Upon award, a PHA is issued a Commitment to Enter into a Housing Assistance Payments, or "CHAP." The PHA then has 9 months to submit a financing plan, with extensions for good cause. HUD provides technical assistance to all PHAs during the first 4 months of award to assist with the initial launch of the project, and thereafter as requested. PHAs can apply for individual projects or they can also submit a "portfolio application." Under a portfolio application, the PHA can reserve authority under the RAD statutory cap for future projects if they are undertaking several conversions over a period of time. As long as the PHA has a threshold level of conversions underway, the PHA need only provide the total number of units they wish to convert to secure the portfolio reservation.

**Section 18, SVC, or Section 32 Homeownership.** All Section 18, SVC, and Section 32 applications are processed by the Special Applications Center (SAC) through its Chicago Office and are initiated by an electronic "removal application" in the Public Housing Information Center/Inventory Management System (PIC/IMS). Unlike RAD, where the application gets you "in the door" (and requires submission of a financing plan within 9 months), there is no two-stage SAC application and removal process. The application must meet all the requirements, and provide all the justifications requested, for HUD to make its determination. As with RAD, there are certain resident and public notification requirements prior to submitting an application. For a full list of the required submissions, see the SAC's landing page at [this link](#). SAC applications are generally processed within 60 days. Note: all RAD/Section 18 Blend applications begin with a RAD application.

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# Section 4: Choosing the Right Options for Your Community

Converting projects from Public Housing to Section 8 can offer many advantages – more stable funding, program simplification, greater ability to leverage private debt and equity, and, at times, even higher funding. However, advantages can differ between communities, and choosing the best option is up to each PHA. Although these decisions are inherently local, this section provides a framework in which to undertake that analysis.

For the vast majority of small PHAs, the primary conversion goal is likely simply to preserve each asset as long-term subsidized housing, in which case one of the major considerations will involve rent levels. But secondary considerations, in terms of choosing the most appropriate conversion option, could include streamlining operations, whether a change is required in ownership, and the impact of conversion on households who may now be over-income, among other factors. Still, there will be some agencies that will want to convert to homeownership or to tenant-based assistance. The key is that these decisions should really flow from the goals and mission of the PHA, which will vary from one community to the next.

## Thinking Strategically

Which repositioning option (or options) make the most sense for your community? Repositioning planning is really an exercise of balancing the goals and vision of the agency against both the available options and the resources available to make that happen. For any repositioning effort, there are three possible outcomes: convert to homeownership, convert to tenant-based assistance, or convert to long-term project-based assistance (whether on the original site or on an alternative site). For each outcome, there are different repositioning options. For each repositioning option there are various financial and non-financial considerations, e.g., contract rent levels, eligibility for DDTF or ARF, use of Public Housing funds to support conversion, or treatment of over-income households. For

### AGENCY GOALS

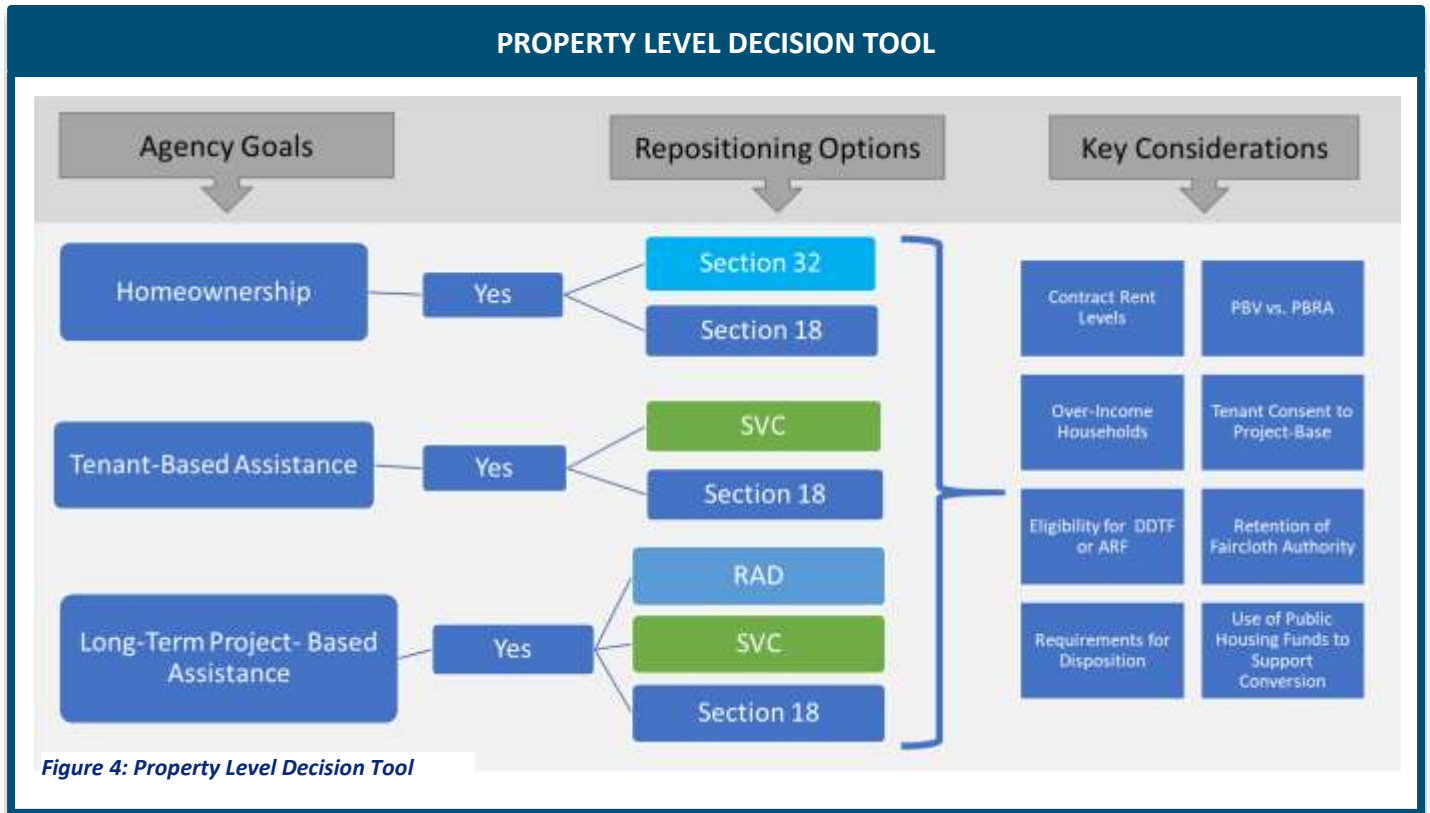
The decision about which repositioning option or strategy to choose for each project should flow from the overall vision of the PHA and its Board with respect to:

- the quality of housing desired;
- the preferred mix of incomes;
- the location of housing and the de-concentration of poverty or race;
- the distribution of hard vs soft units (project-based vs tenant-based);
- the need for rental vs homeownership;
- the impact on neighborhood redevelopment; and
- the goals for resident mobility or self-sufficiency.

For most projects, PHAs are simply looking to find the repositioning option that best preserves the asset as long-term assisted housing. But for projects that might be more physically distressed or socially impacted, plans and decisions will be shaped not only by resources (financial feasibility) but by larger issues such as mobility, neighborhood revitalization, and other factors. Moreover, different communities are likely to come to different decisions about what constitutes the best outcome, i.e., that these are inherently local decisions.

any asset, a PHA must weigh the financial and non-financial considerations alongside the goals and mission of the PHA.

Figure 5 illustrates this property-level decision process.



- **If the goal is to make the units available for homeownership to low-income families (families earning 80% and below AMI),** a PHA should generally apply through Section 32. Under Section 32, there is a structure in place for a flexible homeownership program, with protections and requirements for both the PHA and the purchasing family. Under Section 32, a PHA is eligible to receive TPVs for units that were occupied by an assisted family in the previous 24 months (including for units where families choose to purchase the unit for homeownership), provided the impacted families is offered the TPV. It is possible that units sold under Section 18 (i.e., based on the Scattered Site justification) could be purchased by low-income families as homeownership units, but this would generally not be through a homeownership program, but the family just purchasing the unit on the open market at fair market value.
- **If the goal is to convert to tenant-based assistance,** a small PHA can (1) convert via SVC or (2) convert via Section 18 (assuming it is eligible for one of the Section 18 criteria). In both cases the PHA would receive TPVs (for all units occupied by an assisted family over the past 24 months), which would be issued to each household to find housing on the private market. The main differences



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between these two options is that, under SVC, the PHA is not required to dispose of the asset but it is also not eligible for ARF or DDTF or retain Faircloth Authority. Additionally, under SVC, if a property continues to operate as rental housing, the PHA (or subsequent owner) must allow the families to remain in their units.

- **If the goal is to convert to long-term project-based assistance and maintain “hard” assistance on-site or off-site**, which is likely to be the case for the overwhelming majority of PHAs, a PHA can (1) convert under RAD; (2) convert under Section 18 and project-base the Section 8 TPVs; or (3) convert under SVC and project-base the TPVs, but with tenant consent. Within these options, a PHA would generally:
  - **Choose RAD** if the RAD rents are higher than, or substantially equivalent to, the non-RAD rents; if the project had over-income tenants that the PHA wanted to extend the right to return; the PHA had significant Public Housing funds that it wanted to contribute to the project at conversion; or the PHA wanted to convert to PBRA which allows for a contract directly with HUD rather than with a PHA voucher program. (RAD is the only conversion option available if the PHA wants to end up on the PBRA platform).
  - **Choose Section 18** if the rents are higher than under RAD; the PHA does not have concerns about over-income households; the PHA is not interested in converting to PBRA and either the PHA administers a voucher program or is readily able to identify a voucher administrator; and the PHA is comfortable with the requirement to dispose of the asset (such as to a related non-profit). The PHA would generate DDTF or ARF funds, as well as Faircloth Authority, but the PHA would not only be able to transfer those funds/authority at conversion. Also, the PHA would not be permitted to use any Public Housing funds to support a Section 18 conversion.
  - **Choose SVC** if the rents are higher than under RAD; the PHA does not have concerns about over-income households; the PHA is not interested in converting to PBRA and either the PHA administers a voucher program or is readily able to identify a voucher administrator; and the PHA is not comfortable with the requirement to dispose of the asset (such as to a related non-profit). The PHA would not, though, generate DDTF or ARF funds, and would lose its Faircloth Authority for the number of units converted, and the PHA would not be permitted to use any Public Housing funds to support a SVC conversion.

Some small PHAs, particularly those with multiple sites that want to convert their entire portfolio, may also want to consider combining options. Some of the most common combinations include:

- **The RAD/Section 18 Construction Blend.** A PHA can replace between 20% and 80% of units in the RAD transaction with Section 18 depending on the level of construction.<sup>21</sup>
- **The RAD/Section 18 Small PHA Blend.** A PHA can, as part of a RAD transaction, remove 80% of the units in the PHA via Section 18. For example, assume the PHA has 100 units, all in one elevator building. The PHA wants to convert to Section 8. Of course, it is eligible for SVC but the PHA does not want to go through the process of obtaining tenant consent to project-base the TPVs. For this agency, the non-RAD PBV rents would be modestly higher than the RAD rents. Under the RAD/Section 18 Small PHA Blend, the PHA could convert 20 units via RAD and the final 80 units via Section 18, all part of one transaction. The PHA would then benefit from the higher rents on 80 of the units. The PHA would of course have to dispose of the property, which could include, say, sale for \$1 to a related nonprofit of the PHA under ‘commensurate public benefit’.
- **Convert some units via Section 18 and then remove the rest through RAD or SVC, including the RAD/Section 18 Small PHA Blend.** For example, assume that a small PHA has 200 units, but 80 of them qualify as Scattered Sites and another 20 would qualify as obsolescence. The PHA could first remove the units that qualify as Scattered Sites and Obsolescence, leaving it with 100 units. At that point, the PHA could remove the remaining units through the RAD/Section 18 Small PHA Blend, essentially enabling the agency to remove a total of 180 units via Section 18.
- **Convert some units via RAD and then remove the rest through SVC.** If a PHA has 240 units on two sites – a general occupancy site with 100 units and a senior high-rise of 140 units. The non-RAD PBV rents are modestly higher than the RAD rents, the PHA decides to convert the 100-unit general occupancy site to RAD and then convert the 140-unit high-rise under SVC (which become the remaining units in the agency). The agency might choose to adopt this strategy

#### ASSESSING THE CONTRACT RENTS UNDER DIFFERENT CONVERSION OPTIONS

Under RAD, maximum rents are generally set based on the property’s public housing funding levels. In contrast, if a PHA project-bases the TPVs associated with either a Section 18 or SVC action, the rents are based on standard PBV rules, which is based on the FMR. (In both cases, there are standard program caps. For example, PBV rents set under any of these mechanisms cannot exceed the lowest of the rent requested by the owner, the reasonable rent, or 110% of the FMR).

For many Public Housing projects, the non-RAD PBV rents will be higher, and sometimes substantially higher, than the RAD rents. Non-RAD conversions tend to result in the highest rents, but not always, so it is important to check the numbers for each property.

<sup>21</sup> See [PIH Notice 2021-07](#), *Blending Section 18 Disposition Approvals with Rental Assistance Demonstration (RAD) Conversion*, published January 19, 2021.

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because it feels that it will be easier to obtain tenant-consent to project-base the TPVs at the senior building.

## Where to Begin

Small PHAs have a unique opportunity in that, one, they have a number of conversion options and, two, the size of their Public Housing inventory is such that conversion can be accomplished over a relatively short period of time. Indeed, most small PHAs have just one property.

For small PHAs with more than one property, where should they begin? What sequence should the conversions occur? Small PHAs with multiple sites have taken different approaches when choosing where to begin the repositioning of projects.

- Some have chosen first to reposition the most challenging projects. Often this is the result of the desire to get these projects out of the way and to make the remainder easier to solve – or just that the PHA has limited energies, the needs are urgent, and these more challenging projects will take up a good percentage of administrative energy.
- Others have chosen to convert the easiest projects first – say, projects that require no debt or that were recently modernized, i.e., the ‘low-hanging fruit’ – or projects that can generate excess proceeds to be used on later projects.
- Another approach includes the “all-at-once” approach, where they have chosen to convert everything (or just about everything) at one time or over a short period of time as a way of “getting it over with.”
- Typically, if a PHA has scattered site units to reposition and the PBV contract rents will be greater than RAD, it makes sense for this to be the first transaction. DDTF, ARF, and possible sale proceeds can be used on future projects and this conversion would bring the project closer to a 50-unit threshold for several conversion options.

## Timing of Recapitalization

Repositioning is, most simply, the conversion to Section 8. It is often also combined with a recapitalization of the property. For example, a PHA might have a scattered site property that is eligible for Section 18 Scattered Sites disposition. While these scattered sites might be challenging to operate, they may still be physically sound and readily meet Section 8 Housing Quality Standards (HQS). The PHA could choose to seek financing to upgrade the property immediately following disposition, but there is no requirement to do so. The PHA, in fact, might decide to wait a few years to refinance the property, possibly as part of a consolidated refinancing of several other agency-owned, non- public-housing properties. Similarly, a PHA may have a property that has modest capital needs and can readily meet those needs through a no-debt RAD conversion, but the PHA would like

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to leverage the equity in that project to meet needs elsewhere in its inventory, or to provide seed capital for development of additional affordable housing. Here, the PHA could choose to convert to Section 8 now and later (on its own schedule) refinance the property and generate the desired proceeds to support other objectives.

## COMMON SMALL PHA QUESTIONS

Although by no means an exhaustive list, the following are six of the more common repositioning questions/issues of very small PHAs:

- 1. What can the PHA do with its current public housing operating reserves?** RAD is the only conversion option that allows a PHA to use public housing funds (Operating Reserves, Capital Funds, and other program income) to support a conversion. Therefore, any PHA that converts via Section 18 or SVC will need to spend down those funds prior to the release of the units from the DOT/DORC or units that are in Removed From Inventory (RMI) status in IMS/PIC say, to make roof repairs or to upgrade kitchens. (A PHA could transfer those funds to another PHA prior to close-out, but that is not a very practical option for most PHAs.) In cases where the rents, post-conversion, will increase, the PHA may have the opportunity to build back those reserves quickly. Or, the PHA might consider refinancing the property to capitalize a new reserve account. Small PHAs with multiple conversion options may want to include a RAD conversion, even if rents are nearly equal to a contract rent based on PBV rules to make use of current public housing reserves.
- 2. What can the PHA do with its Faircloth Authority?** If a PHA converts via Section 18 “50 or Fewer” or SVC, the PHA must close out its public housing program, meaning that it cannot use its Faircloth Authority. However, it could choose to transfer that authority to another PHA prior to closeout. RAD conversions do not generate Faircloth Authority.
- 3. What happens with ARF or DDTF Funds?** If a PHA converts any units via Section 18 (but not via RAD or SVC), these units will be eligible for ARF and DDTF. However, if the PHA utilizes the RAD/Section 18 Blends, the PHA will need to close out its public housing program and will not be able to utilize these phase-down funds following closeout. As with Faircloth Authority, a PHA could choose to transfer that DDTF or ARF authority to another PHA prior to closeout.
- 4. What happens to the PHA’s board?** Conversion has no direct impact on a PHA’s board. Even when a PHA closes-out its public housing program (RAD, Section 18, or SVC), the legal status of the PHA remains. The PHA just will not administer a public housing program anymore. It may simply administer a housing voucher program (if applicable) or it may simply own real estate that now has PBV units attached to it but another agency administers those vouchers (see Section 6, *Changing Roles*, for more discussion on this topic).
- 5. What happens to the PHA’s staff?** Repositioning, per-se, has no impact on staffing. There is no direct impact on staffing as a result of converting to Section 8. Conversion simply changes the nature of the subsidy received. Changes in staffing would only occur if the PHA, independent of repositioning, chooses to make changes in the organization or, if changes in staffing are undertaken as part of recapitalizing the project. Also, if there is a recapitalization and associated substantial rehabilitation or development of replacement housing, there would be appreciably less maintenance activity, especially in the early years post conversion.
- 6. What if the PHA does not operate a voucher program and wants to convert to PBV?** If the PHA does not operate a voucher program – and about 80% of very small PHAs do not operate a voucher program – it will need to find a voucher agency that will administer the vouchers. Usually, there will be multiple agencies willing to perform this function (and who will receive a new administrative fee for these units). But from time to time a small PHA may be in such a remote area where it might be difficult to find a local voucher agency willing to administer the voucher. In those situations, contact your local Field Office of Public Housing, which can help in identifying other potential voucher administrators.

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## Section 5: Resident Engagement

Regardless of each repositioning program's requirements for resident engagement, ongoing and meaningful communication with residents during the planning and implementation phase of any repositioning project is important to its success. From a project management perspective, involving residents early in the process can lead to greater participation in the process, and help identify important considerations to include in a recapitalization plan. Frequent and regular consultation with residents is key to the success of any repositioning plan.

Communication with residents early is also needed to ensure that residents understand the impact on their daily life and their rights related to repositioning.

Under all repositioning options, the PHA must discuss the activity in the PHA Annual Plan or Moving to Work (MTW) Plan. As such, the regular requirements for resident consultation and public hearings during the annual plan process should be considered when designing the overall resident engagement strategy.

The specific program requirements for resident engagement under each repositioning option are summarized below.

### RAD

RAD requires resident consultation and engagement throughout the RAD conversion process. This consultation is in addition to the consultation required with the public as part of the Annual PHA Plan. Prior to submission of a RAD application, the PHA provides residents with a *RAD Information Notice* (RIN) which serves as the PHA's first RAD communication with the residents and provides an overview of the PHA's plans and a summary of resident rights. At this stage the PHA will typically also issue a *General Information Notice* (GIN) under the Uniform Relocation Act (URA) if there is any possibility of relocation. Two meetings with residents must then be held before the RAD application is submitted. After the CHAP is issued, the PHA must hold at least another meeting with residents prior to holding a Concept Call with HUD. However, if there are delays the PHA will be required to hold an additional resident meeting. Depending on the complexity of the conversion, a PHA may hold a higher frequency of meetings with residents. After the Concept Call but before the Financing Plan, the PHA is required to hold another meeting with resident to discuss the more specific plans of the conversion. The PHA must notify all residents when the Financing Plan is approved by HUD and then will start meeting with residents individually to manage new leases and/or to discuss any relocation if needed.

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## Section 18

Section 18 requires resident involvement prior to submitting the application to HUD. This is in addition to the consultation required with the public as part of the Annual PHA Plan. Under certain circumstances, the PHA may need to offer the property for sale to the resident organization. PHAs must provide the resident notice 90 days prior to the date of the sale of their unit, counseling, relocation expenses, and comparable replacement housing options.

## SVC

SVC requires significant resident involvement in the planning process prior to the application to HUD. This is in addition to the consultation required with the public as part of the Annual PHA Plan. PHAs must provide the resident with relocation notices under the URA, if triggered, or notice 90 days prior to the date of the conversion of their unit.

## Section 32

Section 32 requires resident involvement in the planning process prior to submitting the application to HUD. This is in addition to the consultation required with the public as part of the Annual PHA Plan. The current residents of the Public Housing units have the option of applying to purchase their unit or receiving tenant-based assistance or another comparable unit. PHAs must provide the resident with notice 90 days prior to the date of the sale of their unit, counseling, relocation expenses, and comparable replacement housing options. The right of first refusal does not extend to residents in non-Public Housing units.

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## Section 6: Changing Roles

While repositioning does not change the legal structure of a PHA, the role of a PHA in the direct provision of housing may change, particularly for projects requiring a major recapitalization and, thus, the need for new development partners.

This section looks at how a Section 8 conversion may impact ownership and control of the properties and how PHAs have responded to those changes in roles. A distinction is made between changes that are HUD program-driven and changes that are driven by the need to seek and secure sources of outside funding necessary to recapitalize a property.

Here, again, the diversity among the small PHA universe will likely affect the extent of these changes in roles. Small PHAs with stable, single-site properties are likely to seek a conversion in which there is both no change in ownership, and likely no initial recapitalization, whereas small PHAs with multiple sites, and with greater capital needs, may need to seek outside funding, including Low-Income Housing Tax Credits, which will necessitate new legal arrangements.

### Changes in Ownership and Control that are HUD Program-Driven

While under Section 18 the asset must be disposed to a separate legal entity, under RAD or SVC there is no program requirement for any change in ownership. In fact, RAD has very strong requirements for continued public or non-profit ownership or control.

- **RAD.** For any conversion action, RAD requires public or non-profit control of the asset, except in the case of tax credit projects, where the PHA must maintain an “interest” in the project, often achieved either by the PHA serving as the controlling member of the ownership entity (where the PHA has sufficient prior experience) or by the PHA maintaining a long-term ground lease. Therefore, RAD itself doesn’t require any change in ownership. A PHA can continue to own the converted property, which is typically the case for all RAD no-debt transactions and some debt-only transactions. Changes in ownership come about mostly because of the need or desire to recapitalize the property (see below).
- **Section 18.** Section 18 requires a disposition of the property to a separate legal entity. That disposition can be for FMV or for less than FMV provided there is commensurate public benefit, which generally means the provision of affordable housing (with long-term use restrictions). Hence, Section 18 does not govern the type of organization that will own the asset, only that the asset is appropriately disposed. To whom the asset is sold, and what type of on-going control the PHA will exercise, is entirely up to the PHA. In most cases, PHAs will

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dispose of the asset to a non-profit arm of the PHA for a nominal amount, as the property is repurposed/redeveloped as affordable housing.

- **SVC.** There is no requirement under SVC to dispose of the asset. A PHA can continue to own the asset. But if the PHA chooses to dispose of the asset, or if a change in ownership is required as a result of the recapitalization of the property, then the PHA must follow the same disposition guidelines as in Section 18, i.e., sale for FMV or for less than FMV, with commensurate public benefit.

## Changes in Ownership and Control that are Driven by the Need to Recapitalize the Property

In many debt transactions and all tax credit transactions, a PHA will need to create a legally separate “single-purpose entity” as a condition of attracting private capital.<sup>22</sup> The use of a single-purpose entity is common throughout both the private and non-profit housing community and serves to protect lenders and investors from risk, particularly from lawsuits or claims related to other activities of the owner (the PHA). In many cases, this single purpose entity would be wholly controlled

### TRANSFERRING OWNERSHIP TO A WHOLLY OWNED NON-PROFIT IN KITTITAS, WA

The Housing Authority of Kittitas County (HAKC), in central Washington, converted all 110 of their public housing units to RAD PBVs under a 4% tax credit transaction.

“Our Operating and Capital Improvement funds were continuing to go down every year,” said Jennifer Ellis, Executive Director. “We needed a lot of rehabilitation on both the exteriors and interiors of buildings, including new flooring, cabinets, plumbing, and electrical.”

As a requirement of the 4% tax credit, HAKC created a non-profit entity, Kittitas RAD Affordable Housing Portfolio, LLLP, to be the new owner of the property. HAKC acts as the non-profit’s general partner and its Board of Commissioners oversees the LLLP. Additionally, HAKC holds a 99-year ground lease on the land while another housing authority, Yakima Housing Authority, administers their PBVs.

“I was nervous about the entire conversion process in regard to where it would leave me as an employee,” said Katie Haggin, Operations Supervisor. “But after going through the process and having the support of the consulting team we had, it has really been a great deal. Creating the non-profit might have been one of the easiest parts of the conversion process.”

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<sup>22</sup> Occasionally, a lender may agree to make a loan to the “agency” without requiring the establishment of a separate, single-purpose asset. This situation tends to occur with small agencies who have only one asset and where there is a long-standing relationship between the agency and the lender.



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by the PHA (often owned by the PHA’s related non-profit), resulting in no real impact on the operations and management of the property.

In most debt-only transactions (i.e., not involving tax credits), it is common for the PHA to transfer ownership of the asset to a non-profit arm of the PHA, sometimes called an instrumentality or affiliate of the PHA or to a limited liability company. In the non-profit case, the Boards of the non-profit are often, by definition, the members of the PHA’s Board of Commissioners and thus the work of the PHA and the non-profit are aligned. In the limited liability company structure, the sole member – the sole entity with an ownership interest in the LLC – is the PHA itself so the PHA directs the activities of the LLC.

In tax credit transactions, the PHA, or its related entity, may serve as the controlling member of the ownership entity (typically a limited partnership or limited liability company). Should the PHA not have sufficient development experience and needs to bring in additional development partners (see below), PHAs often seek to maintain ownership or control through one or more of the following methods:<sup>23</sup>

- Leasing the land through a long-term ground lease (typically 70-99 years);
- Holding the option and right of first refusal to purchase the property at the end of tax-credit compliance period;
- Extending seller take-back financing for the building(s);
- Serving as a non-managing general partner or special limited partner in the ownership entity; or;
- Establishing a “control agreement” that exercises certain control rights, e.g., approval of the management agent, control of the waiting list, or approval of operating budgets.

A key consideration in structuring these ownership arrangements is preserving the project’s preferred treatment for real estate taxes.<sup>24</sup> In some states, the fact that a PHA maintains a long-term ground lease may be sufficient to preserve the PILOT (or may otherwise make the project exempt from taxes). In others, the transfer of property to an LLC required by LIHTC financing may void the PILOT. In many states, property held by a nonprofit is exempt from real estate tax. PHAs should seek appropriate legal counsel on the property tax considerations for any conversion.

## Determination of Needed Partners

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<sup>23</sup> In RAD, where there is a requirement for on-going public or non-profit ownership or control, seller take-back financing and right of first refusal are alone not sufficient to satisfy these ownership/control requirements.

<sup>24</sup> Another key consideration is how the ownership structure impacts program administration under the Section 8 PBV/HCV program, execution of the HAP contract, and noncompetitive selection. If PHA-owned (see PIH 2017-21, Attachment A for definition of PHA-owned), the PHA must secure an independent entity to perform certain administrative tasks (inspections, rent reasonableness determinations, etc.). See also questions 14-21, 27, 38, and 35 of PBV Repositioning FAQ.

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Many PHAs may find that they either need to or want to significantly upgrade or redevelop their properties during repositioning. If the current staff of the authority does not have prior experience in assembling financing and implementing major rehabilitation or redevelopment, the PHA may consider engaging third parties to augment the agency's capabilities. The PHA needs to consider the agency's bandwidth, expertise and staffing needs from a short and long-term perspective. Appendix II, *Identifying and Selecting Project Partners*, includes a detailed overview of the various partners a PHA may consider engaging. The appendix discusses the role of developers, when to bring in a developer partner, and the process and timing of procuring developer services. Also reviewed in the appendix are the possible structures for the relationship between the PHA and the developer or co-developer partner, key business terms in a developer agreement, and the typical parties involved in a development team by their area of responsibility. The appendix also covers other possible critical project partners, including experienced attorneys, lenders, investors, HCV contract administrators, HCV independent entities, and technical assistance.

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# Section 7: Key Data Needed for Repositioning Planning

Obviously, there are many factors to consider in planning for the repositioning of any Public Housing project or portfolio of projects, beginning, most importantly, with the question, “What are your goals for the asset?” Inevitably, this exercise will include the development of financial models – also known as Operating Pro-Formas and Development Budgets – to determine the financial feasibility of repositioning under different assumptions and scenarios.

This section looks at twelve data elements that will be particularly essential to any such repositioning planning effort.

- 1. Capital Needs Assessment (CNA)/Physical Needs Assessment (PNA).** Fundamental to planning for the future repositioning of a Public Housing property is knowing the capital needs of that property. Indeed, an independent CNA/PNA is required as part of the Financing Plan submission in most RAD conversion options. Initially, agency estimates are often adequate for initial or preliminary feasibility analyses. However, the further one proceeds in the planning effort, the more important an independent needs assessment will become. For repositioning associated with Section 18, SVC and Section 32 Homeownership, HUD does not require the receipt of a Financing Plan to assess the feasibility of the proposed project post-conversion; however, a CNA/PNA will likely be required by lenders and investors. Also, although Section 18 requires an obsolescence study for Demolition and Disposition applications, no needs assessment is required to support a Section 18 Scattered Sites or a Final 50 application. Please also note that a Section 18 obsolescence review is quite different from a RAD CNA/PNA. Consequently, be sure that the third-party assessor is familiar with the differences.
- 2. Environmental Reviews.** All conversion actions will require an environmental review under either 24 CFR Part 50 (a “Part 50 review”) or under 24 CFR Part 58 (a “Part 58 Review”). Typically, these environmental reviews are undertaken along with the CNA/PNA (and often

## RAD INVENTORY ASSESSMENT TOOL

The [RAD Inventory Assessment Tool](#) was designed to help PHAs and other stakeholders make a first-level assessment of properties in their inventory for potential conversion to Section 8. This tool uses each property’s 2018 RAD rents and other pre-loaded property data to construct an Income and Expense Statement (or Operating Budget) as well as a Development Budget (or Sources and Uses of Funds) for each project in the PHA’s portfolio. The user needs only to enter minimal data to generate initial results for each property. The user can then modify any of the information, or any of the assumptions or formulas used, to perform more “what if” analyses.

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performed by the physical needs assessor or subcontractor). An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets Federal, state, and local environmental standards. It is intended to ensure that the proposed project does not negatively impact the surrounding environment or have an adverse effect on residents' health and safety. Under RAD, the environmental review is required regardless of whether any repairs are being performed at conversion. For SVC and Section 18 actions, the review must contemplate the same future use proposed in the SAC application (disposition, demolition, conversion). With Section 32, the review must be completed prior to any repairs or rehabilitation of the units.<sup>25</sup>

#### ENVIRONMENTAL REVIEW INFORMATION

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it complies with the National Environmental Policy Act (NEPA) and related laws and authorities. All HUD-assisted projects are required to undergo an environmental review to evaluate environmental impacts. Part 58 and Part 50 are the sections of HUD regulations that implement that National Environmental Policy Act (NEPA). Part 50 applies to programs where HUD performs the environmental reviews, and Part 58 applies to programs that allow a responsible entity to perform the environmental reviews. Part 50 applies when program legislation does not delegate the authority to assume responsibility to the local government, such as FHA or HUD Multifamily housing programs. Part 58 applies when legislation for a program allows local governments to assume authority.

For more background on environmental reviews, please see: [Environmental Review Requirements for RAD Conversions - Quick Reference Guide](#) (January 2020) or find it on the [RAD Resource Desk Document Library](#).

The environmental review is a key component of any repositioning tool and HUD will not approve conversion plans or applications until the review has been completed. The level of review required varies depending on the scope of work and the conditions of the property. In addition to the fact that completion of the environmental review is key to the conversion critical path, it is essential, for early planning purposes, to understand if there are any remediation or other concerns that will affect the feasibility of the project – say, the need for sound barriers or insulation if the location of the project makes it subject to certain noise levels.

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<sup>25</sup> PHAs should also be aware of the requirements under 24 CFR Part 35, Lead-Based Paint Poisoning Prevention in Certain Residential Structures, for on-going lead-based paint risk assessments under both the PBRA and PBV program. Conversion is an opportunity to make sure that PHAs and owners are completing the risk assessments to make sure that any remediation and Operations and Maintenance plans are incorporated into the development budget.

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- 3. Analysis of Operating Expenses.** What is it costing today to operate each property and how will that cost change after repositioning? Will the PHA be undertaking capital repairs at the time of the conversion, and, if so, what impact will those repairs make to the operating budget? Will the renovations upgrade the HVAC systems and, as such, will that reduce utility expenses and increase net operating income? Will the PHA be making other organizational changes that will affect costs?

For about the past decade, PHAs have been required to maintain project-level accounting. Hence, they should have a good handle of what it is costing them today. But what will it cost post-conversion? RAD program experience shows that the more extensive the improvements, the greater the potential savings to operating costs, particularly with respect to maintenance costs and utilities. With substantial rehabilitation, along with extensive energy conservation measures, many PHAs are seeing operating cost savings of from 5-15%, primarily in the utilities and maintenance line items. On the other side of the ledger, there may also be increases to the cost of insurance coverage, given the increased replacement values. Real Estate taxes may also be impacted, as noted below.

- 4. Estimates of the “Market” or “Reasonable” Rents.** For all repositioning options, the “market” or “reasonable” rent plays an important consideration in the calculation of contract rents. Hence, for project-planning purposes, it is essential for PHAs to understand the potential market or reasonable rent for each unit type. In the case of RAD, this market rent serves as a cap on “current funding.” But in Section 18 or SVC, where the PHA is planning to project-base the TPVs, rents could be higher than Public Housing funding, but never more than “market” – so, again, understanding the market rent is key. Also, it is important to estimate the rent following whatever repairs are made to the project. In other words, it is not necessarily the market rent today, but the market rent at time of repositioning. (If the PHA is expecting to recapitalize the property with private financing or tax credits, the lender or investor might require a formal market study; however, for initial planning purposes, a more informal means of estimating the market rents, including simply contacting other landlords, is often sufficient).
- 5. Review of Current Legal Documents.** PHAs will want to review the various legal documents impacting the property to ensure a smooth conversion. The current DOT will be released and, in most cases, replaced with an alternative use restriction. The Cooperation Agreement will also likely be terminated when the when the project leaves the Public Housing Program. The PHA should gather any State enabling legislation to ensure that any contemplated repositioning, along with proposed legal entities, are allowable activities and organizations under applicable enabling legislation. Lastly, the PHA By-laws should be reviewed to ensure

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the repositioning plan and any proposed legal entities are allowable activities, or whether amendments to the By-Laws will be needed. For more complex financing structures, the PHA will eventually need to do a title report to review what legal contracts impacting the property are recorded in the local (often the County) land records.

6. **Analysis of Existing Indebtedness.** To inform finance decisions related to repositioning, the PHA should gather and review any current loan agreements (and repayment obligations, e.g., those as a result of program audits) of the properties being considered. This may include outstanding mortgage(s) incurred in connection with previous construction or purchase of property, and any other recorded indebtedness such as a mechanic's lien. The PHA should also review any instances of unrecorded debt. Energy Performance Contracts (EPC) constitute existing indebtedness that is repaid by energy savings on identified properties. Note that any inventory-wide debt, such as Capital Fund or Operating Fund Financing (CFFP and OFFP), will need to be addressed. Because these debt instruments are collateralized at the PHA level, a particular project may be impacted even if the funds generated by the CFFP or OFFP were not used to perform repairs on that particular property. PHAs should contact their lenders to negotiate prepayment to allow partial or full release of specific properties proposed for conversion. All existing debt affecting a particular repositioning must be paid off by the closing of conversion.
7. **Collective Bargaining Agreements.** PHAs may have staff who are covered by collective bargaining agreements or other civil service arrangements. Particularly if the project is recapitalized, there may be changes to the staffing needs or duties required in the short and long term. The PHA should review any relevant collective bargaining agreements and be prepared to make staffing decisions informed by them.
8. **Voucher Administration.** To the extent that a PHA does not operate a voucher agency, it will need to partner with a voucher administrator if it plans to convert to PBVs.<sup>26</sup>
9. **Need for Independent Entity.** A PHA will need to secure an independent entity to perform rent reasonableness and HQS inspections if it will have an ownership interest in the converted project as described in [PIH 2017-21](#).<sup>27</sup>
10. **Mixed-finance Agreements.** For properties that are mixed-finance and are being considered for repositioning, the PHA should gather and review the transaction's associated documents.

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<sup>26</sup> More detail about this partnership may be found in 2018-09, Section 6.C.3 and in the TPV FAQs (Q.16).

<sup>27</sup> The requirement for an independent entity comes into play if the project is PHA-owned under the HOTMA definition as explained in PIH 2017-21, Att A. Also, while HQS and rent reasonableness are the most notable tasks the independent entity would perform, there are others as well (as listed in PIH 2017-21, Att B).

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Public Housing that was developed using the mixed-finance method will include a variety of documents that describe the transaction and establish rights for each partner. These documents may include the Limited Partnership Agreement, loan documents, use restrictions, and a Regulatory and Operating Agreement. The PHA should gather and review these documents to understand any financial obligations and approval rights necessary for each transaction. The approval of the Managing Member/General Partner as well as the Investor will be required.

**11. Eligibility for Leveraging.** The greater the amount of physical work needed, the more likely that the project will need to attract outside funding. Early in the planning process, therefore, it is essential for the PHA to consider the availability of outside funding and the associated requirements of those lenders, investors, or other funders. See an overview of [Common Repositioning Financing Sources](#) for more information.

- **Tax Credits.** If a PHA wants to rebuild an existing property, an award of 9% Federal Low-Income Housing Tax Credits (LIHTC) is often necessary to leverage the high cost of new construction. State Housing Finance Agencies allocate LIHTC according to an Annual Qualified Allocation Plan (QAP), which outlines a scoring system. Good location and neighborhood amenities typically are major scoring items, though some states will also award points if a project will be part of a major area revitalization. Either way, it is critical to understand whether a property can score well on the state's QAP before making major recapitalization decisions. Tax -exempt bonds with 4% LIHTC are more widely available but yield less equity for investment in the property and are therefore generally used for rehabilitation efforts, rather than new construction.
- **Mortgage Financing.** Be aware of rates, terms, and other lender requirements, and also consider eligibility for FHA-insured financing, which are often at highly competitive rates.
- **Gap Financing.** The PHA needs to be aware of other soft mortgage or grant financing available from state and local sources and whether a proposed project is likely to meet the program qualifications.

**12. Amount and Use of Remaining Public Housing Funds.** How much does the PHA have in unspent Public Housing funds (mostly, Operating Reserves and Capital Funds)? Under RAD, these funds can support the conversion. But if the PHA is converting via Section 18 or SVC, the PHA will need to spend down these funds prior the release of the units from the DOT/DORC or units that are in Removed From Inventory (RMI) status in IMS/PIC.<sup>28</sup>

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<sup>28</sup> If PHA submits a Section 18 demolition and/or disposition application that is supported by evidence of the physical obsolescence of the project, the PHA may not modernize the project after submitting the application to the degree that the project is no longer physically obsolete, or is substantially different from the evidence submitted with the Section 18 application.

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# Appendix I: Determining Contract Rents

One of the most important considerations in any repositioning planning effort is to compare the Section 8 contract rents that the project would receive under each repositioning option.

This section examines the specific methods for determining rent under each option.

## Non-RAD PBV Rents

If the PHA plans to project-base the TPVs following Section 18 or SVC approval, the contract rents will be based on the normal PBV rent requirements, which set rents at the lowest of<sup>29</sup>:

- The rent requested by the owner;
- A PHA determined amount, not to exceed 110% of the FMR (or any HUD-approved exception payment standard) less any tenant-paid utility allowance; or
- The Reasonable Rent.

## RAD Contract Rents

Generally speaking, the RAD contract rents are based on the PHA's funding under the Operating and Capital Fund programs. Every two years HUD publishes these contract rents for each Public Housing project, by bedroom size.<sup>30</sup> These rents are then subject to the following rent caps:

- If the project is converting to PBRA and the RAD rents exceed 120% of the FMR (which is very rare), the PHA must provide a Rent Comparability Study to support those rents, up to 150% of FMR.
- If the project is converting to PBV, the RAD rents can never exceed the lower of the reasonable rent or 110% of the FMR less any tenant-paid utility allowance, which are the basic rent rules under the PBV program.

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<sup>29</sup> Gross Rents less any utility allowance for the project equals the Contract Rent. Contract rents are the amount the building owner assumes as revenue for each unit in their HAP contract.

<sup>30</sup> As with non-RAD PBV rents, Gross Rents less Utility Allowances equals the Contract Rent. In the RAD program however, HUD publishes the Contract Rent and the gross rent is achieved by adding the utility allowance. With FMR -based rents, basis for the rent results in the Gross Rent amount which needs to be reduced by the Utility Allowance to achieve the Contract Rent.



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There are, however, numerous methods by which a PHA can boost or augment the RAD rents. Rent caps will still apply, so if any boost or combination of boosts pushes the new rent over the cap, it will be limited to the capped level when HUD issues a CHAP amendment.

Refer to the [Rent Flexibility Guide](#) for more information.

## Illustrative Examples

The hypothetical Patrick Homes is a 100-unit Public Housing project. Current Public Housing funding is \$650 per unit month (PUM). The project pays all utilities and, as such, there is no tenant utility allowance. The Section 8 Fair Market Rent (FMR) is \$700 and the “reasonable rent”, or what someone would pay walking off the street, is \$750 PUM.

- Under a RAD PBRA conversion, the contract rent would be \$650 because it is the lower of the RAD rent or 120% of the FMR.
- Under a RAD PBV conversion, the contract rent would also be \$650 because it is the lower of the RAD rent, 110% of the FMR, or the reasonable rent.
- Under a non-RAD PBV conversion, the contract rent would be \$750, which is the lower of the reasonable rent (\$750) or 110% of the FMR ( $\$700 \times 1.1$ , or \$770).

The RAD contract rents, whether PBRA or PBV, would be \$650 PUM. However, the non-RAD PBV rent (the rent that the project would command if it were approved under Section 18 or SVC and subsequently project-based the TPVs) would be \$750 PUM, which is higher than the current Public Housing funding (\$650) but lower than 110% of the FMR (\$770). (Because the RAD rents are below 120% of the FMR they would not be capped under RAD PBRA; similarly, because they are both less than the reasonable rent and 110% of the FMR, they would not be capped under RAD PBV.)

However, the hypothetical Patricia Homes is also a 100-unit Public Housing project. Current Public Housing funding is \$780 per unit month (PUM). The project pays all utilities and, as such, there is no tenant utility allowance. The Section 8 Fair Market Rent (FMR) is \$700 and the “reasonable rent”, or what someone would pay walking off the street, is \$800 PUM.

- Under a RAD PBRA conversion, the contract rent would be \$780 because it is the lower of the RAD rent or 120% of the FMR.
- Under a RAD PBV conversion, the contract rent would also be \$770 because it is the lower of the RAD rent, 110% of the FMR, or the reasonable rent.
- Under a non-RAD PBV conversion, the contract rent would be \$770, which is the lower of the reasonable rent (\$800) or 110% of the FMR ( $\$700 \times 1.1$ , or \$770).

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The RAD contract rents would be \$780 if the property converts to PBRA or \$770 if the property converts to PBV. The non-RAD PBV rent (the rent that the project would command if it were approved under Section 18 or SVC and subsequently project-based the TPVs) would also be \$770. In this second hypothetical, the choice between RAD and another repositioning option could be influenced by the rent level if the PHA is interested in the PBRA option. If the PHA is only interested in PBV, then the choice would likely turn on other factors such as the ability to invest Public Housing resources in the transaction.

## Differential Impacts

The Public Housing funding programs (Operating, Capital) are formula-determined and are not market-determined. The amounts (when combined) could be higher or lower than the actual market rent for the unit. For roughly half of the Public Housing portfolio nationwide, the Public Housing funding levels –the RAD contract rent levels – are substantially below the rents that would be authorized under the normal PBV program, which means that these PHAs would find it beneficial financially to convert through Section 18 or through RAD/Section 18 Blends where possible, at least until they have less than 250 units and become a small PHA.<sup>31</sup> However, for other projects, the RAD and non-RAD rents are much more comparable, or in some cases the RAD rents are higher. It is critical for a PHA to examine the actual rent levels when weighing repositioning options. And of course, as mentioned previously, rents alone are not the only important consideration in any conversion decision.

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<sup>31</sup> Please see the companion guide for Small PHAs.

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## Appendix II: Identifying and Selecting Project Partners

The type and level of assistance that a PHA may need in order to reposition its properties will vary depending on several factors: internal PHA capacity and existing workloads; the plans for repositioning (e.g., no-debt, debt, or tax-credit); and the repositioning tool the PHA anticipates using (e.g., RAD, Section 18, Section 22). As noted, for most no-debt or debt transactions, while the PHA may need some additional third-party advisors and consultants, most PHAs can perform these conversions in-house. It is when a PHA is seeking to recapitalize a project with tax credits when the PHA will often need to seek additional partners, sometimes including developer (ownership) partners.

- For a no-debt transaction, most mid- to large-sized PHAs will need little third-party technical assistance. For a RAD conversion, typical support services include: a CNA/PNA vendor; an engineer (environmental reviews); legal counsel (title, transaction, recording); possibly a repositioning consultant; potentially an architect in the event some physical improvements are needed or desired at the time of the conversion (e.g., accessibility changes); and possibly a relocation consultant if residents will need to move during construction. If opting for RAD PBRA rather than RAD PBV, the PHA will likely need to change or upgrade its property management software systems as well. For a Section 18 conversion based on obsolescence, with a plan to provide vouchers to residents and dispose of the property, a PNA vendor is needed (to document obsolescence test), legal (transaction, set-up of ownership entity to which property is disposed), and environmental reports are the main areas of assistance usually involved. Some PHAs might also need consulting assistance with preparation of the Section 18 application. If the plan post disposition involves redeveloping the property, a full array of services will likely be needed (discussed below). Section 18 dispositions based on scattered sites, efficient/effective, etc., would not need a PNA. A Section 22 repositioning is simpler than a Section 18 transaction, since no obsolescence study is needed, and no disposition to another entity is required.
- For debt-only transactions, most PHAs already have experience through their capital fund modernization efforts with the primary additional parties that might be needed in addition to those listed above for no-debt transactions, including a general contractor; architect/engineer (design plans and specifications); possibly an Owner's Representative for the construction oversight and a relocation consultant if residents need to move during construction. Through the Capital Fund program, PHAs have experience already with: procuring architectural and engineering services for determining capital needs, preparing scopes of work as well as plans and specifications, completing the project and selecting general contractors or specific trades contractors and negotiating legal agreements, relocating residents if necessary, overseeing

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the contractors, having environmental studies done and reports prepared, approving change orders, and maintaining accounting records.

- Additional partners to be brought in for debt-only transactions, with which the PHA may not already have prior experience, could include a Lender(s) or a Financial Advisor(s). Most debt-only transactions have not necessitated the PHA engaging a developer partner.
- For leveraged transactions that involve debt and tax credits, some PHAs already have prior in-house experience, or have previously engaged a co-developer partner and are thus familiar with these requirements and processes.

The following narrative discusses the role of developers, when to bring in a developer partner, the process and timing of procuring developer services, the possible structures for the relationship between the PHA and the developer or co-developer partner, key business terms in a developer agreement, and the typical parties involved in a development team, and their areas of responsibility. The final part of this Section then discusses other critical project partners, including lenders, investors, HCV contract administrators, HCV independent entities, and technical assistance.

## Developer Services

The additional experience and capacity that PHAs may need for major development work, which usually needs a broad array of sources of funds (including mortgages and tax credits), include the following:

- Experience with the Low-Income Housing Tax Credit Program (LIHTC)—this program was created through the *Tax Reform Act of 1986* and is operated through State Housing Financing Agencies (HFA), with each state tailoring its program operations to local conditions. The States publish their *Qualified Allocation Plan (QAP)* regularly, which outline the priority of that State’s housing needs. The QAPs typically rank prior experience as part of how they evaluate proposals., The more experience, the better the ranking.
- Enough capital on balance sheets to back up guaranties required by tax credit investors, with the main guaranties being construction completion; lease-up operating losses; tax credit delivery; and operating deficit.
- Tax credit compliance monitoring—management needs to thoroughly understand the tax credit program requirements, and failure to comply with these requirements can have substantial financial penalties.
- Experience with property and asset management operations of tax credit projects (e.g., leases, record-keeping, software systems, compliance monitoring).

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## Procuring a Developer or Co-Developer Partner

There are a wide variety of organizations offering development services. Some are for-profit organizations, others are non-profits. Some are locally-based and others are regional or national in their focus. Also, some PHAs that have a lot of development experience have created affiliated entities that serve as developer partners for other organizations. Each potential developer brings its own strengths and weaknesses, its own familiarity with local requirements or national best practices, its own level of financial sophistication and its own approach to resident engagement, partnering with a PHA and implementing the project.

PHA must contract services in accordance with 2 CFR part 200 if they are paying for the services with public housing funds. Most PHAs issue a Request for Qualifications (RFQ) for Developer Services, which RFQ seeks to tease out the characteristics and approach of the responding organizations. The nature of the project or projects for which services are sought is key to the issuance of a developer services RFQ. Typical elements of an RFQ for developer services include: an overview of the PHA, identification of the property or portfolio of properties for which services are sought, the expectations of the role of the developer or co-developer and its team, the services and any funds that the authority is providing (e.g., covering pre-development expenses, contributing capital funds, resident engagement or relocation services), the PHA's expected roles in regard to ownership and/or management, and the process for selection. Some PHAs state their expectations regarding the sharing of developer fee and cash flow.

Some RFQs ask the Offerors to provide their initial thoughts on how they would approach a specific project as part of their response. Others have a two-stage procurement process where a shortlist is developed by initial scoring, and then some demonstration of the Offeror's concepts for the project is requested.

For the RAD program, it is not required that the PHA use a formal procurement process for bringing on a development team, unless the PHAs procurement policy requires it, or state or local law has requirements that apply<sup>32</sup>. In this regard, if the PHA is going to reimburse the developer partner for pre-development expenses, using Capital Funds as the source, the Capital Fund rules do require Part 200 procurement rules to be observed (since 2014, Part 84 and Part 85 rules have been replaced by 2 CFR Part 200).

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<sup>32</sup> Excerpt from a RAD FAQ: PHAs must comply with any state and local requirements as well as any requirements established by the lenders or funders. Otherwise, the RAD program does not impose any federal bidding or procurement requirements in the selection of developer or development partners.

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## **When to Procure a Developer**

The simple answer is: When the PHA has a good idea of what the “project” is or what the “projects” are, and what the PHA’s goals are for the repositioning. Although most developers responding to an RFQ will be experienced with tax credit development, developers with in-depth knowledge of Public Housing operations, funding streams, and especially Public Housing repositioning program options and requirements, are not so common.

To be an informed reviewer of development RFQs, the PHA should educate itself on the options and program nuances in developing project plans and advance its planning as best it can. Many PHAs obtain CNAs/PNAs early on in the process, to help with estimating how much capital is needed over the coming 20 years (for RAD), and to help refine the operating expenses (i.e., determining the potential savings in maintenance expenses and utilities based on the extent of rehab that can be supported). Quite commonly, PHAs engage a financial advisor or consultant with in-depth knowledge of HUD’s programs and requirements in relation to repositioning Public Housing to help formulate the RFQ and to help evaluate the responses. For PHAs without prior experience working with a developer partner, a team including a consultant or financial advisor and a lawyer familiar with tax credit transactions can be very helpful in the negotiations with the developer.

It is common in Public Housing for there to be numerous projects in the PHA’s portfolio, even if they have been rolled up into one or two or three AMPs. Also, over time, HUD has provided many additional options for Public Housing redevelopment or repositioning, including Streamlined Voluntary Conversion, new options for Section 18, such as converting scattered site units to TPVs, blends of Section 18 and RAD, and even the potential for up to \$100 rent boost (per unit per month) for projects in Opportunity Zones. As a result, especially if the PHA is procuring a partner for its entire portfolio, or a large part of it, the planning can be very complicated, to the point to where many PHAs engage a financial advisor or a repositioning advisor, to help shape the master plan.

## **Compensation of the Developer Partner**

Most real estate owners/managers/developers outside of the affordable housing industry derive their compensation through excess cash flow. In the affordable housing industry, most owners, including PHAs, are doing all they can to keep rents affordable and reduce excess cash flow. In this context, most affordable housing developers and co-developers are typically paid a fee by the project from the initial sources of capital. The main sources are debt and equity. In effect, then, the developer is responsible for raising the funds to compensate the development team, including the developer. If tax credits are involved, the Housing Finance Agency sets limits on the development fee as a percent of the total development costs (sometimes with exclusions for specific items such as the developer fee itself and the project operating reserve). Various HUD programs, such as RAD, Mixed Finance, the Choice Neighborhoods Initiative, and HOPE VI, also have caps which apply even if the State permits a higher developer fee. The public housing mixed finance programs (CNI and HOPE VI)

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have *Cost Control and Safe Harbor Standards* which, although not applicable to the repositioning options discussed in this guide, may be helpful guides as PHAs and developers structure their relationships.

### **Typical Business Terms in a Project Developer Agreement (or Master Developer Agreement)**

There is a spectrum of relationships that can be established, and the business terms will vary depending on the tasks and services each party undertakes. The following illustrate some of the development service structures, although there are many different alternative configurations, involving different levels of ownership, decision-making, and risk.

- **Consultant/Financial Advisor.** The procured developer partner would provide advisory services to the PHA to enable the PHA to identify the projects best suited for repositioning, identify the team members with the greatest capability to bring the selected projects to closing, provide master planning assistance, and provide the financial analyses to enable the PHA to make informed decisions on how best to carry out the development process, particularly with regard to whether it is in the PHA's best interest to move forward with a fee developer or co-developer.
- **Fee Developer without Long-Term Ownership.** The procured developer partner would have direct responsibility, under the supervision of the PHA, for all planning and development functions, including hiring all the necessary project participants, arranging all necessary financing on the most favorable terms, bringing the development to loan closing, supervising the construction, and handling all the Low-Income Housing Tax Credit requirements. The PHA would usually be the sole general partner, although in some cases the Fee Developer is also part of the general partnership during development, after which time the Fee Developer exits the partnership and the PHA would then become the sole general partner. If the PHA wants to provide property management services, the PHA would likely need to demonstrate experience managing tax credit projects or bring on an experienced tax credit private management company for an interim period of 2-3 years. During this interim period, the PHA might share management responsibilities with the experienced private management company while the PHA gained the capabilities and experience to be approved by the Housing Finance Agency and the LIHTC investor to manage tax credit properties by itself. Thereafter the PHA could be sole manager.
- If the PHA wants to provide property management services, the PHA would likely need to demonstrate experience managing tax credit projects or bring on an experienced tax credit private management company for an interim period of 2-3 years. During this interim period, the PHA might share management responsibilities with the experienced private management

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company while the PHA gained the capabilities and experience to be approved by the Housing Finance Agency and the LIHTC investor to manage tax credit properties by itself. Thereafter the PHA could be sole manager.

- **Co-Developer with Long-Term Ownership.** The procured developer partner would undertake all the responsibilities identified above, with approval from the PHA, and additionally would cover all or a portion of the necessary guaranties to the tax credit investor. The procured developer partner would be a co-general partner in each limited partnership during the period when its guarantees remained in place, or perhaps for the full 15-year tax credit compliance period. The developer partner may seek to handle property management itself.

There are several primary “deal points” in the Developer Services Agreement (for a single project), or Master Development Agreement (MDA), where multiple phases or projects are involved, including the following: developer fee split; sharing of pre-development expenses; sharing of cash flow; responsibility for guaranties (construction completion; permanent loan conversion; downward/credit delivery adjusters; operating deficit); property management; oversight of resident engagement and relocation; and the role of the PHA in long-term ownership and control.

### **Determining Fee Splits and Cost Sharing**

There is no standard arrangement for the sharing of development fees of a given project, since there are many factors that contribute to the negotiation. The main contributors to the decision include:

- Risks and rewards;
- Division of labor in carrying out the development; and
- Who is bringing “what” to the table.

The PHA brings the real estate and the opportunity, and often provides funds to cover some of the predevelopment expenses (which are reimbursed at Closing). It may also contribute Capital Funds and/or Operating Fund reserves to the project sources. If the plan involves demolition and new construction, the PHA often brings a “greenfield site” to the project, and carries out demolition and remediation, which costs can be covered by Capital Funds for RAD and Mixed-Finance projects. The PHA also brings its knowledge of and relationship with the residents, and its HUD relationship and knowledge of HUD’s programs and their respective requirements.

The development partner brings its track record with generating the financing, its relationships with lenders, investors, housing finance agencies, local government approval processes, and the like. In most cases this partner also shares in the predevelopment expenses. Depending on the financial strength of the PHA and the extent of the PHA’s non-federal assets, the developer partner provides most or all of the necessary guaranties. Some developers have related companies or divisions that provide construction services, property management, and even lending arms. If the development partner is providing guaranties, it will be part of the ownership’s general partnership interest, and it



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will share in cash flow. In cases where the PHA does not have sufficient experience in managing tax credit properties, especially in regard to compliance with LIHTC requirements, the ownership of the project engages third-party management and/or tax credit compliance monitoring, which may be part of the development partner's company or the team they proposed in responding to the RFQ. In some cases, the development partner's property management division subcontracts back to the PHA for the services of the existing management and maintenance staff, which is helpful in preserving the staff's tenure and benefits as PHA employees. In some cases, the PHA's staff undergoes the necessary training and certification process and after 2-3 years, assumes full management responsibility.

As this brief outline of factors affecting the business terms shows, there are myriad possible arrangements, with different "splits" of responsibility, risk and return resulting from them. That being said, the *HUD Cost Control and Safe Harbor Standards*, which were first developed for the HOPE VI program, provide a good illustration of how some of these factors may be dealt with. It addresses: net developer fee for rental mixed-finance developments (Developer Fee and Overhead); Pay-Out Schedule for Developer Fee/Overhead; Contractor Fee; PHA Administrative/Consultant Costs; Sharing of Third-party Pre-development Costs; Identity of Interest Parties; Property Management Fees; Price for Program Management Services; Legal Fees; and Operating Deficit Reserve and Operating Subsidy Reserve (unique to HOPE VI).

In 2015, HUD's Choice Neighborhood Program office updated and modified the HOPE VI standards.

### **HAP Contract Administration and Independent Entity**

Where the project is using RAD PBV for the Section 8 Program, or where project-based vouchers are being used in connection with Section 18 or Section 22 conversions to Section 8, the PHA will potentially need a partner involved in the administration of the vouchers.

As noted previously in this Guide, if the PHA does not have its own Housing Choice Voucher program, it will need to identify a partner to serve as the HAP Contract Administrator. In cases where the PHA already has a voucher program, but the PHA will have an ownership stake in the project being developed and management, the PHA will need to engage an "Independent Entity" to perform certain tasks under the HAP contract, most notably the determination of reasonable rents, the determination of the annual contract rent increase based on the appropriate Operating Cost Adjustment Factor (OCAF), and the housing quality standards (HQS) inspections. This is a statutory requirement and it is intended to assure that such functions are performed in an unbiased (and un-self-serving) manner.

If the PHA will select an independent entity that is not a unit of general local government, then the PHA must submit the independent entity for HUD approval before the services begin. See Notice PIH

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2017-21, Attachment B, for an explanation of the HUD independent entity approval process. The PHA needs to follow 2 CFR Part 200 procurement rules in selecting an independent entity.

## Appendix III: Acronyms and Key Terms

<b>ACC</b>	<b>Annual Contributions Contract</b> , a grant agreement between the owner and the PHA, which governs the development of PBV units and commits the PHA to execute a PBV HAP contract upon timely completion of such development in accordance with the terms of the Agreement.
<b>ACS</b>	<b>American Community Survey</b> , an annual survey conducted by the U.S. Census Bureau that provides statistical insight into the lives of U.S. citizens.
<b>AHAP</b>	<b>Agreement to Enter a Housing Assistance Payment Contract</b> between the owner and the PHA. The HAP contract was entered into following new construction or rehabilitation of the contract units by the owner pursuant to an Agreement.
<b>AHP</b>	<b>Affordable Housing Program</b> grants are awarded by Federal Home Loan Banks through a competitive application process to bank members working with housing developers or community organizations to create rental or homeownership opportunities for lower-income households.
<b>AMP</b>	<b>Asset Management Project</b> , a group of Public Housing projects designated by a Public Housing authority as an operating affinity group.
<b>ARF</b>	<b>Asset Repositioning Fee</b> is a form of Operation Subsidy paid following triggering event that progressively decreases over a period of two (disposition) to three (demolition) years.
<b>Capital Fund</b>	Program administered by HUD's Office of Public and Indian Housing that provides annual grants via formula to all Public Housing authorities for Public Housing development, financing, modernization, and management improvements. High-performing Public Housing authorities receive a bonus under the formula.
<b>CDBG</b>	<b>Community Development Block Grant</b> program, a flexible program administered by HUD that provides communities with resources to address a wide range of unique community development needs.
<b>CFFP</b>	<b>Capital Fund Financing Program</b> , an initiative of HUD's Office of Public and Indian Housing that allows a Public Housing authority to borrow private capital (through a bond or conventional bank loan) to make improvements to its Public Housing in return for pledging, subject to appropriations, a portion of its future-year annual capital funds for debt-service payments.
<b>CHAP</b>	<b>Commitment to Enter into a Housing Assistance Payment Contract</b> , a document executed by HUD and the Public Housing authority or owner for projects that have been selected during the Rental Assistance Demonstration competition under the first component of the Demonstration. The CHAP describes the terms under which HUD will enter into a housing assistance payment (contract). This could also be understood as HUD's authorization to the Public Housing authority to continue with their plan to convert one or more projects or asset management projects from Public Housing to project-based Section 8 assisted housing.

<b>Closing</b>	The step in the transaction during which any converting units are released from legacy contracts (e.g., the Public Housing Annual Contributions Contract), the new project-based rental assistance (PBRA) or project-based voucher (PBV) contract and RAD Use Agreement are executed, any debt and/or equity financing agreement is entered into, and the terms and conditions are recorded. The closing is the event at which conversion of subsidy takes place; “conversion” has not occurred until the completion of closing.
<b>CNA</b>	<b>Capital Needs Assessment</b> , an instrument that HUD uses to capture data on the physical condition of Public Housing properties to project a project’s future capital investment needs in the short and long terms. Submitting a CNA is required for the Rental Assistance Demonstration, except where new construction is proposed. See PNA. A CNA and PNA are quite similar but vary based on the format and on the requirements of each program.
<b>CNI</b>	<b>Choice Neighborhoods Initiative</b> , a program administered by HUD to fund local collaborative initiatives to transform high-poverty areas into mixed-income neighborhoods.
<b>Contract Rent</b>	The total amount of rent specified in the Housing Assistance Payment contract as payable to the owner for a unit occupied by an eligible family.
<b>Declaration of Trust</b>	The restrictive covenant on projects assisted through a Public Housing Annual Contributions Contract (ACC) that obligates Public Housing authorities to operate public housing projects in accordance with the ACC, the <i>United States Housing Act of 1937</i> , and HUD regulations and requirements.
<b>DDTF</b>	<b>Demolition and Disposition Transitional Funding</b> , a program administered by HUD to replace the RHF program that provides 5 years of funding for units removed from a PHA’s inventory due to demolition or disposition on or after October 1, 2013. This funding is included in the PHA’s annual Capital Fund grant and follows the same obligation and expenditure requirements as that program. Also, see RHF.
<b>DSC</b>	<b>Debt Service Coverage</b> , a measure of the cashflow available to pay current debt obligations, measured as the ratio of net operating income to total debt service.
<b>Environmental Review</b>	An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it complies with the National Environmental Policy Act (NEPA) and related laws and authorities. All HUD-assisted projects are required to undergo an environmental review to evaluate environmental impacts. Part 58 and Part 50 are the sections of HUD regulations that implement that National Environmental Policy Act (NEPA). Part 50 applies to programs where HUD performs the environmental reviews, and Part 58 applies to programs that allow a responsible entity to perform the environmental reviews. Part 50 applies when program legislation does not delegate the authority to assume responsibility to the local government, such as FHA or HUD Multifamily housing programs. Part 58 applies when legislation for a program allows local governments to assume authority.
<b>EPC</b>	<b>Energy Performance Contract</b> , a HUD financing technique that allows Public Housing authorities to contract with performance contractors to fund the installation of energy conservation

	measures in Public Housing in return for future cost-savings from reduced energy consumption, in lieu of the Public Housing authority incurring upfront capital expenses for energy improvements. The savings in future operating costs becomes available to repay the loan.
<b>FASS</b>	<b>Financial Assessment Subsystem</b> , the information management system used by HUD to collect and report data from Public Housing authorities on their performance, including the physical and financing performance of Public Housing projects collected by the Real Estate Assessment Center.
<b>FHA</b>	<b>Federal Housing Administration</b> , a HUD agency that insures single-family, health care, and multifamily mortgage loans originated by FHA-approved lenders. Multifamily loans can be used for construction, rehabilitation, acquisition, and refinancing of non-luxury apartments.
<b>FHEO</b>	<b>Office of Fair Housing and Equal Opportunity</b> , tasked with responding to and eliminating housing discrimination.
<b>FHLB</b>	<b>Federal Home Loan Bank</b> ; the FHLB system consists of 11 FHLBs, which are government-sponsored enterprises involved in housing and community economic development.
<b>FMR</b>	<p><b>Fair Market Rent</b>, the rent, including the cost of utilities (except telephone), as established by HUD, pursuant to this subpart, for units of varying sizes (by number of bedrooms), that must be paid in the market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.</p> <p>The fair market rents (FMRs) for existing housing are determined by HUD and are used in the Section 8 Housing Choice Voucher program (HCV program) (part 982 of this title), Section 8 project-based assistance programs and other programs requiring their use. In the HCV program, the FMRs are used to determine payment standard schedules. In the Section 8 project-based assistance programs, the FMRs are used to determine the maximum initial rent (at the beginning of the term of a housing assistance payments contract).</p>
<b>FONSI</b>	<b>Finding of No Significant Impact</b> is a determination by the Responsible Entity that the project is not an action that will result in a significant impact on the quality of the human environment.
<b>Green Building</b>	An approach to building, rehabilitation, repairs, maintenance, and property operations that is more sustainable than traditional approaches to such activities and results in a project that is more energy efficient, costs less to operate, has better indoor air quality, and reduces its overall impact on the environment.
<b>Gross Rent</b>	The value equal to the Contract Rent plus Utility Allowance. This amount is not paid to the owner, but an amount used to determine the Contract Rent.
<b>HAP</b>	<b>Housing Assistance Payment</b> contract, which is used in the Section 8 voucher program and constitutes the legal agreement between a Section 8 project's ownership entity and either HUD or the Public Housing authority that manages the Section 8 vouchers to provide housing assistance payments on behalf of eligible tenant households. The HAP contract specifies the

	covered units as well as the terms and procedures by which HUD subsidy payments are made to the property.
<b>HOME</b>	<b>Home Investment Partnership Program</b> , administered by HUD’s Office of Community Planning and Development to provide housing funds to units of general local governments and states for new construction, rehabilitation, acquisition of standard housing, assistance to homebuyers, and tenant-based rental assistance.
<b>HFA</b>	<b>Housing Finance Agency</b> , a state or local organization that provides housing assistance through low-interest mortgage loans, financed by the issuance of tax-exempt agency bonds, or Low-Income Housing Tax Credits, based on their allocation by the U.S. Department of the Treasury.
<b>HOPE VI</b>	HUD program administered by the Office of Public and Indian Housing to provide <a href="#">HOPE VI Revitalization grants</a> to Public Housing authorities to fund capital costs of major rehabilitation, new construction, and other physical improvements; demolition of severely distressed Public Housing; acquisition of sites for offsite construction; and community and supportive-service programs for residents, including those relocated as a result of revitalization efforts. The Office of Public and Indian Housing is no longer providing new HOPE VI grants.
<b>HCC</b>	<b>Housing Construction Cost</b> is the sum of the following HUD-approved costs related to the development of a Public Housing project: dwelling unit hard costs (including construction and equipment), builder's overhead and profit, the cost of extending utilities from the street to the Public Housing project, finish landscaping, and the payment of Davis-Bacon wage rates. HCC is used as an eligibility threshold in determining RAD rents.
<b>HCV</b>	<b>Housing Choice Voucher</b> , a program of the Office of Public and Indian Housing through which Public Housing authorities (PHAs) receive Federal funds from HUD to administer HCVs locally. A family that is issued a housing voucher is responsible for finding a suitable housing unit of the family’s choice where the owner agrees to rent under the program. This unit may include the family’s present residence. Subsidy in the HCV program is based on local payment standards that reflects the cost to lease a unit in the local housing market. If the rent is less than the payment standard, the family generally pays 30 percent of adjusted income for rent.
<b>HQS</b>	<b>Housing Quality Standards</b> is the HUD minimum quality standards for dwelling units occupied by families receiving project-based voucher program assistance.
<b>HUD</b>	<b>U.S. Department of Housing and Urban Development</b> , the primary Federal agency responsible for administering programs to support affordable housing, fair housing, homeownership, and community development nationally and on Native American lands, as well as research on housing and development issues.
<b>LIHTC</b>	<b>Low-Income Housing Tax Credit</b> , a program established in Section 42 of the IRS Code that allows projects to receive a credit against Federal tax owed. Project owners bring in investors as limited partners in return for the investor(s) providing funds to the owners to help build or renovate housing that will be rented to lower income households for a minimum period of years. There are two types of credits, both of which are available over a 10-year period: a 9-

	percent credit on construction and rehabilitation costs, and a 4-percent credit on acquisition costs and all development costs partially using below-market financing.
<b>LTV</b>	<b>Loan to Value</b> , calculated as the ratio of the balance of a loan divided by the value of the collateral, which is usually the appraised fair market value of the property for an acquisition loan, the improved value of the property for a rehabilitation loan, and the total cost of construction for a new construction loan.
<b>Mixed-Finance Project</b>	A Public Housing project that has been developed with a combination of private financing and Public Housing development funds in accordance with 24 CFR Part 905 (Subpart F).
<b>Mod Rehab</b>	<b>Section 8 Moderate Rehabilitation program</b> , administered by Public Housing authorities to provide project-based rental assistance to low-income families living in privately owned rental properties previously rehabilitated pursuant to a Housing Assistance Payment contract between the owner and the Public Housing authority. The conversion of Mod Rehab projects to the Rental Assistance Demonstration is part of the second component of the program and is not part of this study.
<b>MTW</b>	<b>Moving to Work</b> , a demonstration program administered by the Office of Public and Indian Housing that provides Public Housing authorities (PHAs) the opportunity to design and test innovative, locally designed strategies that use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. MTW gives PHAs exemptions from many existing Public Housing and voucher rules and more flexibility with how they use their Federal funds. MTW PHAs are expected to use the opportunities presented by MTW to inform HUD about ways to better address local community needs.
<b>NOI</b>	<b>Net Operating Income</b> , which equals all revenue from the property minus all reasonably necessary operating expenses.
<b>NSP</b>	<b>Neighborhood Stabilization Program</b> , a grant program administered by HUD's Office of Community Planning and Development for the purpose of stabilizing communities that have suffered from housing foreclosures and residential property abandonment. The program works by purchasing and redeveloping foreclosed and abandoned homes and residential properties.
<b>OCAF</b>	<b>Operating Cost Adjustment Factor</b> , established by HUD and applied to the existing contract rent, less the portion of the rent paid for debt service. The OCAF may not be negative. This is also known as the annual rate of increase in Section 8 housing contract rents as determined and published by HUD.
<b>OFFP</b>	<b>Operating Fund Financing Program</b> , administered by the Office of Public and Indian Housing to allow Public Housing authorities to borrow private capital to finance development and modernization of Public Housing communities by using a portion of their Operating Fund reserve balances to collateralize financing and pay debt service and customary financing costs where the financing is used for Public Housing development or modernization (including Public Housing mixed-finance developments).

<b>OMB</b>	<b>U.S. Office of Management and Budget</b> , which oversees the management of the Federal budget.
<b>Operating Fund</b>	Established for the purposes of the operation and management of Public Housing. Additionally, all maintenance activities specifically listed in Section 9(e) of the 1937 Act are eligible Operating Fund activities. Public Housing authorities (PHAs) also may use operating funds for unforeseeable and unpreventable emergencies that include damage to the physical structure of the PHA's housing stock, such as damage as a result of a natural occurrence such as a windstorm or flood. Although damages caused by unforeseen emergencies may eventually be covered under a warranty, with insurance proceeds, or through disaster funds, PHAs may use operating funds to cover the expenses incurred prior to receipt of warranty, insurance, or disaster proceeds. After receipt of warranty, insurance, or disaster proceeds, the PHA must reimburse their operating account for any expenses that were initially covered with operating funds up to the amount received.
<b>Operating Fund Reserves</b>	Consist of the balance of surplus funds accumulated through operation of Public Housing, assistance from the Operating Fund, and operating receipts as defined in the Annual Contributions Contract.
<b>PBRA</b>	<b>Project-Based Rental Assistance</b> , a Section 8 Program administered by HUD's Office of Multifamily Housing. Under the terms of a PBRA contract between HUD and a project owner, HUD provides a housing assistance subsidy that makes up the difference between what an eligible tenant household can afford and the approved contract rent for an adequate housing unit in a multifamily project. Eligible tenants must pay the highest of 30 percent of adjusted income, 10 percent of gross income, the portion of welfare assistance designated for housing, or the minimum rent established by HUD. PBRA contracts are attached to specific housing units and are not portable for the tenant. Public Housing authorities are not party to a PBRA contract unless the authority is a project owner.
<b>Payment Standard</b>	The maximum monthly assistance payment for a family assisted in the HCV program (before deducting the total tenant payment). Payment Standards must be within 80% to 110% of the FMR.
<b>PBV</b>	<b>Project-Based Vouchers</b> , Section 8 vouchers that are attached to specific housing units and administered as part of a Public Housing authority's (PHA) Housing Choice Voucher program. Under the PBV program, a PHA enters into an assistance contract with the project owner for a specified number of units and for a specified length of time. The PHA refers families to the project owner to fill project vacancies. Because PBV assistance is tied to the unit, when a family moves from the PBV unit, the assistance remains with the unit.
<b>PHA</b>	<b>Public Housing Authority</b> , a Public Housing agency (which can be any state, county, municipality, or other governmental entity or public body) that administers programs under the Act, which could include Public Housing and Housing Choice Vouchers. It should be noted that many PHAs also act as local Redevelopment Authorities and are then referred to as Redevelopment and Housing Authorities.



<b>PHAS</b>	<b>Public Housing Assessment System</b> , the HUD system to measure the performance of all Public Housing authorities administering the Public Housing program, per 24 CFR Part 902. It includes components for assessing the physical, financial, and management performance of each Public Housing authority.
<b>PIC</b>	<b>PIH Information Center</b> , an online data-tracking system.
<b>PIH</b>	<b>Office of Public and Indian Housing</b> , a HUD office responsible for the development and maintenance of Public Housing and Native American housing programs.
<b>PMT</b>	<b>PHA Mortgaged Transactions</b> occur when Public Housing authorities' mortgage or otherwise encumber their Public Housing real estate and other property to secure financing transactions, as allowed under Section 30 of the <i>United States Housing Act of 1937</i> .
<b>PNA</b>	<b>Physical Needs Assessment</b> , an instrument that HUD uses to capture data on the physical condition of Public Housing properties in order to project a project's future capital investment needs in the short and long terms, typically used for Section 18 dispositions. See CNA. A CNA and PNA are quite similar but vary based on the format and on the requirements of each program.
<b>Public Housing</b>	A type of housing assistance administered by the Office of Public and Indian Housing that was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public Housing comes in all sizes and types, from scattered single-family houses to high rise apartments for elderly families. Approximately 1.2 million households live in Public Housing units, managed by some 3,300 Public Housing authorities that manage the housing for low-income residents at rents they can afford. HUD furnishes technical and professional assistance in planning, developing, and managing these projects.
<b>RAD</b>	<b>Rental Assistance Demonstration</b> , established under the Consolidated and Further Continuing Appropriations Act of 2012 to stem the potential loss of Public Housing and other subsidized housing units due to the growing backlog of unfunded capital needs. The program has two components: the first component focuses on the conversion of existing Public Housing to project-based Section 8 assistance, and the second component focuses on existing Section 8 projects that are being phased out.
<b>RAD Use Agreement</b>	The document specifying the affordability and use restrictions on the covered project, which will be coterminous with the HAP contract and will be recorded prior to the lien of the first mortgage and structured to survive foreclosure. The RAD Use Agreement is used only in connection with Public Housing conversions under RAD.
<b>RAP</b>	<b>Rental Assistance Payment</b> , a housing assistance program that preceded and is similar to the Section 8 housing assistance program and the Rent Supp program. The conversion of RAP projects to the Rental Assistance Demonstration is part of the second component of the program and is not part of this study.
<b>RCC</b>	<b>RAD Conversion Commitment</b> , a commitment provided by HUD to an active RAD project to officially convert the Public Housing to Section 8 under the RAD program. The RCC is provided

	when HUD completes its underwriting of the project and approves the conversion’s financing plan.
<b>Rent Supp</b>	<b>Rent Supplement</b> , a program similar to Rental Assistance Payment and Section 8 in which HUD makes payments to owners of private housing on behalf of qualified low-income tenants. The conversion of Rent Supp projects to the Rental Assistance Demonstration is part of the second component of the program and is not part of this study.
<b>Responsible Entity</b>	The responsible entity that assumes the responsibility for environmental review, also assumes the decision-making and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified at Part 58.
<b>RHF</b>	<b>Replacement Housing Factor</b> funds are Capital Fund grants in two 5-year increments that are awarded by HUD to Public Housing authorities that have removed units from inventory for the sole purpose of developing new Public Housing units. RHF is being replaced by the Demolition and Disposition Transitional Funding (DDTF) program. Also, see DDTF.
<b>REAC</b>	<b>Real Estate Assessment Center</b> , a HUD office that conducts inspections of properties that are owned, insured, or subsidized by HUD, including Public Housing and multifamily assisted housing, to determine whether the affordable housing stock is meeting the standard of being decent, safe, sanitary, and in good repair. REAC Inspection Scores range from 0 to 100 points. REAC also reviews the financial performance of the projects and provides Financial Assessment Subsystem scores.
<b>SEMAP</b>	<b>Section Eight Management Assessment Program</b> , the system used to measure the performance of PHAs administering the Section 8 Housing Choice Voucher Program, per 24 CFR Part 985.
<b>Section 8 Housing Assistance</b>	The “Section 8” Housing Choice Voucher and Project-Based Rental Assistance Program is the Federal Government’s major program for assisting very-low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. In both types of Section 8 Programs, rental units must meet minimum standards of health and safety. A housing subsidy is paid directly to the landlord on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program. (See HCV and PBRA.)
<b>Section 18 Demolition/Disposition</b>	A management strategy option for Public Housing projects that have difficulties associated with physical deterioration or the overall deterioration of the surrounding community, or that were built to a standard that is no longer acceptable for the general public.
<b>TDC</b>	<b>Total Development Cost</b> , generally the total development cost per a development project’s sources and uses budget. In the case of HUD-funded development projects, HUD determines the TDC for a Public Housing project based on unit construction costs (as listed in nationally recognized residential construction cost indices), bedroom size, and structure types for all of the Public Housing units in the project. HUD also sets a maximum TDC that restricts the amount

	of HUD funding that can be contributed to a unit (but other funding can be added from private sources). HUD publishes annual TDC limits. More information about HUD's TDC calculations, including procedures HUD uses for establishing TDC limits can be found at 24 CFR 905. and procedures for the Annual posting of TDC limits on HUD's webpages, can be found in <a href="#">PIH Notice 2011-38</a> . See also HUD's <a href="#">TDC Limits Workbook</a> and TDC costs limits from <a href="#">2020</a> , <a href="#">2019</a> , <a href="#">2018</a> , <a href="#">2017</a> , <a href="#">2016</a> and <a href="#">2015</a> .
<b>Tenant Rent</b>	The amount payable monthly by the family as rent to the owner.
<b>TTP</b>	<b>Total Tenant Payment</b> , the minimum amount a family must contribute toward rent and utilities.
<b>UPCS</b>	<b>Uniform Physical Condition Standards</b> , Public Housing Assessment System standards used to measure the physical condition of public and assisted housing.
<b>URA</b>	<b>Uniform Relocation Assistance and Real Property Acquisition Act (URA)</b> , is a Federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for Federal or federally funded projects.
<b>Utility Allowance</b>	HUD's or the Contract Administrator's estimate of the average monthly utility bills (except telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not a utility allowance. The HAP contract (and the PBV tenancy addendum) lists the utilities provided to the contract units, by bedroom type, including a listing of the utilities covered by the owner and those to be covered by the tenant.

