



# **RAD – Results Not Rules**

## **Louisiana Housing Corporation**

**December 12, 2013**

**Presented by:**

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# IS RAD FOR YOU?

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





# IS RAD FOR YOU?

- Be honest with yourself
- Do your homework
- Consider pooled procurements and transactions
- Assemble the best possible team
- Stay involved – follow the program





# RAD vs. HOPE VI

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





# WHY RAD?

## • PHA Objectives

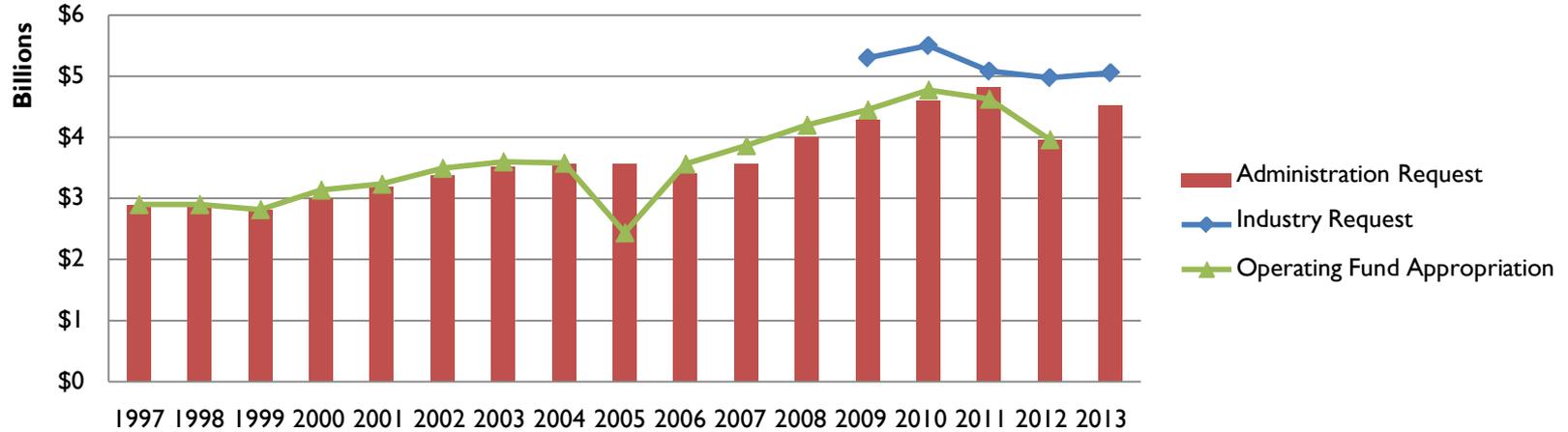
- Modernize aging family & elderly properties using a combination of debt and LIHTCs
- Demolish/replace severely distressed/obsolete properties
- Thin densities/mix-incomes via PBVs & transfer authority
- Escape from Public Housing regulations
- **MOVE TO A MORE STABLE FUNDING PLATFORM**



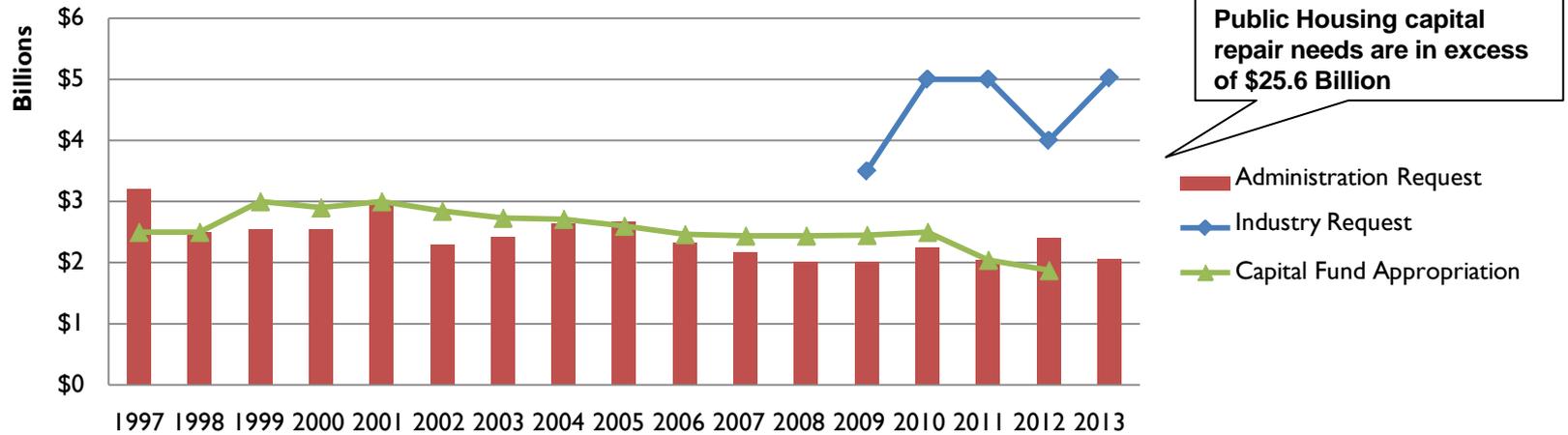


# TALE OF THE CURVES—SECTION 9

## Operating Fund



## Capital Fund

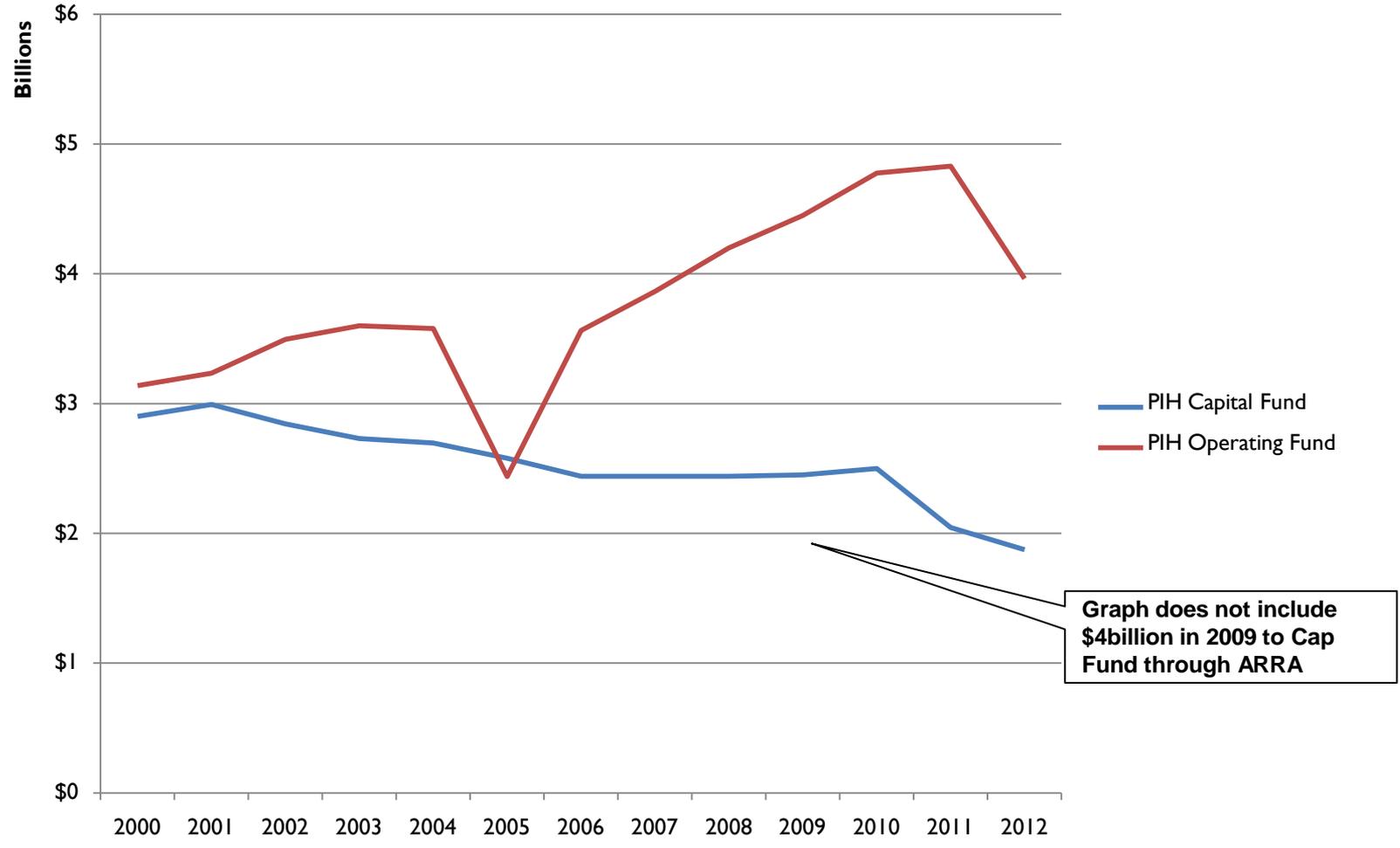


Public Housing capital repair needs are in excess of \$25.6 Billion



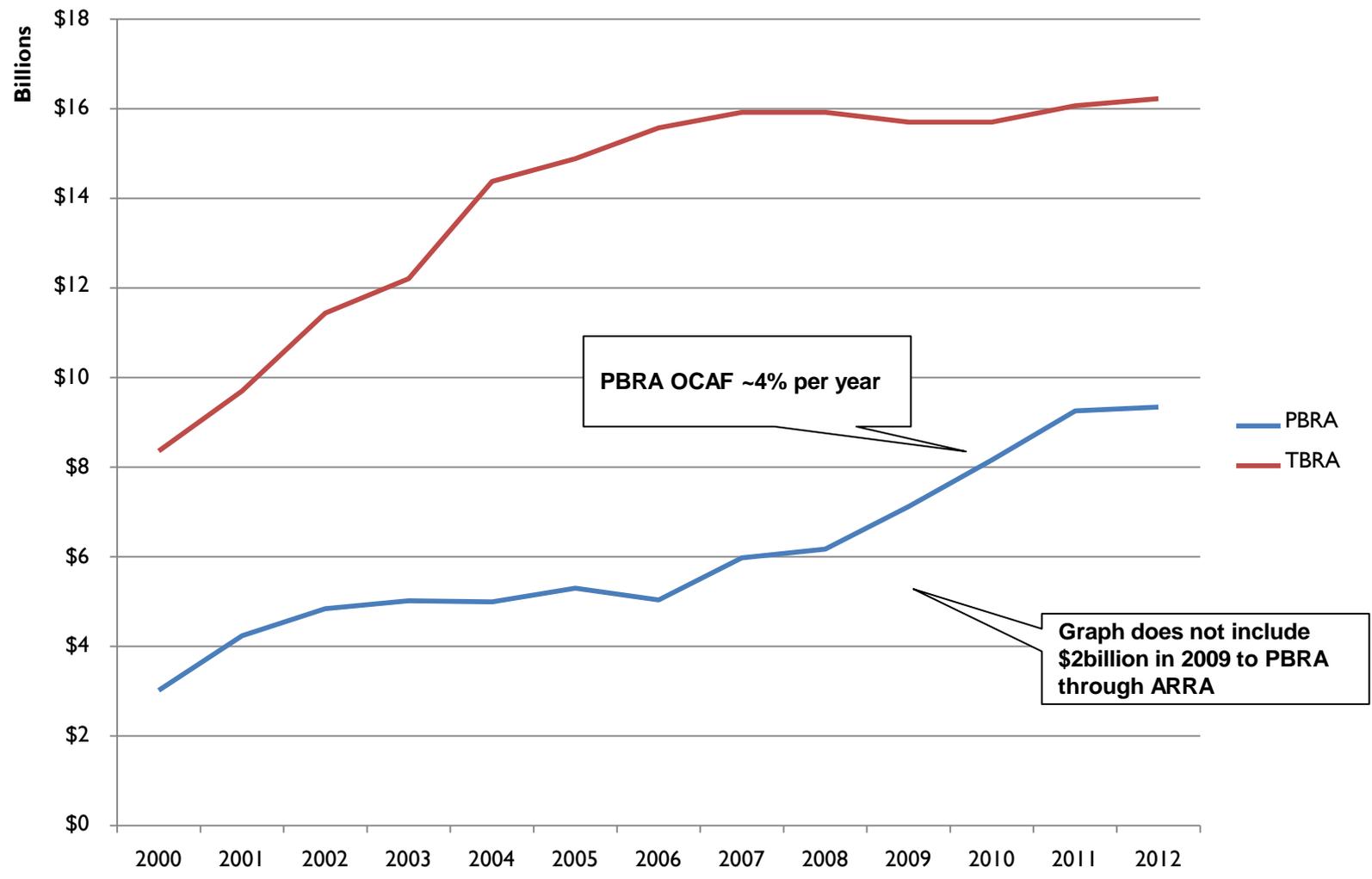


# TALE OF THE CURVES—SECTION 9





# TALE OF THE CURVES—SECTION 8





# RAD BASICS



- **Contract Rents:**

$$\begin{aligned} & \text{Operating Fund (with Operating Fund Allocation Adjustment)} \\ & + \text{ Capital Fund} \\ & + \text{ Tenant Rents} \\ & = \text{ RAD Contract Rent} \end{aligned}$$

- **Can convert Public Housing to:**

- Project-Based Rental Assistance (PBRA) or
- Project-Based Vouchers (PBV)

- **Can only convert at current funding levels**

- **Basic Tenant Protections:**

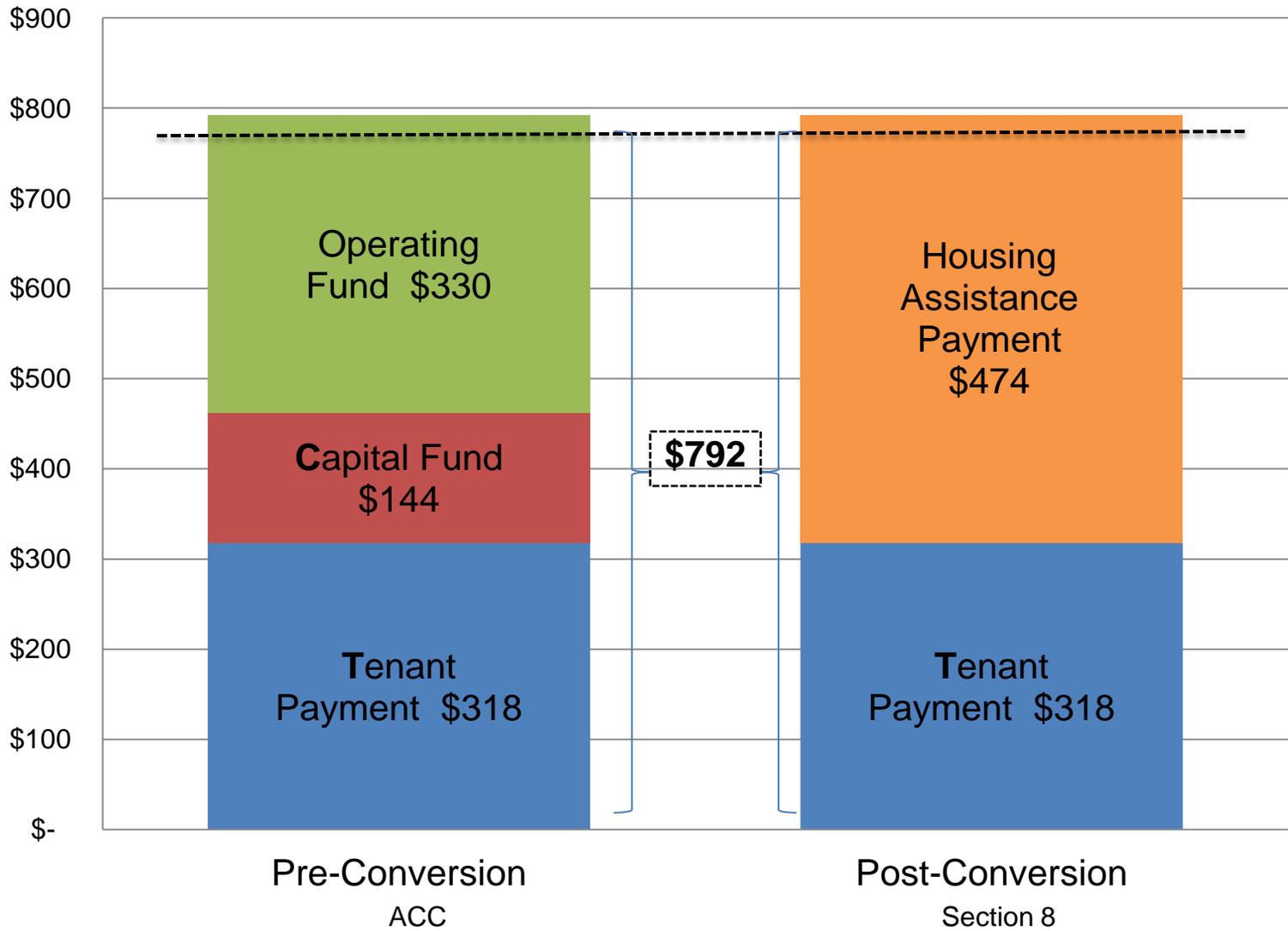
- Tenants have the absolute right to return
- Tenant rents remain at 30% of income
- Choice-Mobility, with limited exemptions

- **Extensive waiver authority available to facilitate conversion**



# PUBLIC HOUSING CONVERSION RENT LEVELS

## Sample Public Housing Conversion Per Unit Monthly (PUM)





# WHERE'S THE MONEY?

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





# WHERE IS RAD TODAY?

## ➤ Number of applications to date:

- 60,000 unit threshold reached on 10/11/2013
- 108,941 units as of 11/27/2013

The Department currently has authority to *convert* 60,000 units of Public Housing and Mod Rehab housing under RAD's 1<sup>st</sup> component. As of November 30, 2013, HUD had received 621 applications, for a total of 108,941 units. An updated summary of the number of applications submitted by date and a running total of submitted applications can be viewed by clicking here: [1<sup>st</sup> Component Applications Submitted by Date](#). Of the applications submitted as of November 30, 2013, 199 of them, totaling 23,681 units, have been given initial approval and issued a Commitment to Enter into a Housing Assistance Payment Contract, or CHAP.





# WHERE IS RAD TODAY?

## ➤ Number of awards to date:

Total Units	23,681
Total Projects	199
Total PH CHAPs	195
Total MR CHAPs	4
Total PBRA Project Conversions	118
Total PBRA Unit Conversions	14,404
Total PBV Project Conversions	81
Total PBV Unit Conversions	9,277





# WHERE IS RAD TODAY?

## ➤ Number of actual closings to date:

Closed PH Projects	5
Closed PH Units	497
Closed MR Projects	-
Closed MR Units	-

4% Tax Credit Projects	55
9% Tax Credit Projects	43
No Tax Credit Projects	101





# WHERE IS RAD TODAY?

## ➤ Prospect for Congressional action:

Current and prospective applicants and other interested parties are also reminded that the Department continues to work with Congress in seeking an increase in the cap for RAD's 1<sup>st</sup> component from 60,000 to 150,000 units relative to its FY 2014 budget proposal. If an increase in the cap and/or other changes to RAD result from the FY 2014 budget process or other legislation, the Department will advise all interested parties of such changes via Notice.

**Don't wait, APPLY NOW!**





# WHY RAD?

## What Makes RAD So Special?

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





# THE RAD DETAILS



- **May spend up to \$100,000 in public housing funds for predevelopment costs without HUD approval**
  - However, must follow public housing procurement rules (small purchase procedures)
  
- **Post-conversion, a PHA can only contribute public housing funds pursuant to HUD approved financing plan**
  - HUD-approved post-conversion funding does not trigger 24 CFR part 85
  - Still need to comply with state/local procurement requirements



# THE APPLICATION

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







# RESIDENT RIGHTS



- **Consultation.** Resident consultation before RAD application and following award is important and required
- **Resident Right to Return.** No permanent involuntary displacement may result from RAD conversion, including as a result of changes in bedroom distribution, reduction of units, or reconfiguration. Any resident temporarily relocated has right to return
- **URA.** Any temporary relocation must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- **Waiting List.** If project-specific waiting list exists, it must be used after conversion. Otherwise, one must be established consistent with public housing rules which provide access from PHA's community-wide list. Thereafter, waiting list managed under Section 8 rules
- **No Rescreening.** Current public housing residents are not subject to rescreening, income eligibility, or income targeting provisions
- **PBV Lease Renewal.** Unlike standard PBV program, a resident's lease must be renewed unless cause exists
- **Tenant Rent Increases.** If tenant's rent would increase more than greater of 10% or \$25, then increase phased in over 3-5 years
- **Procedural Rights.** RAD statute requires certain rights of public housing residents be retained for converted projects, including requirements for adequate written notice of lease termination and access to grievance process.



# PUBLIC HOUSING CONVERSIONS

## Resident Provisions

### No Re-Screening of Residents at Conversion

### One-for-One Replacement

- Must convert all or substantially all units in covered project

### Family Self Sufficiency

- Current FSS participants continue in program

### Resident Participation & Funding

- PHA must recognize legitimate tenant organizations
- PHA must provide \$25 per occupied unit annually for resident participation (\$15 per occupied unit > legitimate tenant organization)

### Resident Procedural Rights

- Consistent with Section 6 of the 1937 Housing Act

- **Resident Relocation**

- **Consistent with Uniform Relocation Act**





# RESIDENT RIGHTS - CHOICE MOBILITY

- **HUD Goal: Provide residents of all covered projects with portable tenant-based vouchers after initial occupancy**
  - **PBV: standard rules – voucher after 1 year**
  - **PBRA: more flexibility – 2 years; turnover & project caps; some good cause exemptions**
  - **Vouchers from turnover or another PHA**
    - Implications for Voucher Waiting List
- **Tenants paying “ceiling” or “flat” rents**
  - What is the impact
  - What are your options





# THE APPROVAL PROCESS



- **Commitment to enter a Housing Assistance Payment (“CHAP”) – effectively this is the HUD RAD award letter**
- **CHAP sets forth units to be converted, size, and contract rents as well as “Milestones” that must be met after issuance of the CHAP**
- **For LIHTC deals, milestones begin at award of LIHTC funding**
- **For a 4% LIHTC tax exempt bond transaction the issuance of bonding authority is the award date**



# RAD – FHA MILESTONES

## RAD Acceptance and CHAP

**Within 30 days:** Lender Engagement Letter or Commitment  
Statement of Development Team Capacity

**Within 60 days:** Owner/PHA submits Amendment to 5-year plan  
PHA decision on PBV vs. PBRA

**Within 90 days:** PHA certifies due diligence/3<sup>rd</sup> party reports

**Within 150 days:** PHA/3<sup>rd</sup> party reports

**Within 150 days:** PHA certifies it has filed FHA Firm Commitment application

**Within 180 days:** PHA submits financing plan to HUD, Relocation Plan **Within**

**320 days:** (not later than 40 days before closing)

FHA Firm Commitment and RAD Conversion Commitment  
(RCC) – RCC will be a Use Agreement attachment

**Within 30 days of RCC:** PHA must sign RCC and return to HUD

**Within 90 days:** Closing

**LIHTC Credit time limits:** Date to submit application; Date to notify HUD of LIHTC acceptance



# THE RAD DOCUMENTS



- **Financing Plan**
- **Conversion Commitment**
- **Use Agreement**
- **PBV HAP and Rider**
  - No AHAP in 1<sup>st</sup> Component
  - HAP Executed Before Construction
- **PBRA HAP**
- **RAD Closing Package and Checklist – under development by HUD**



# THE RAD DETAILS



## ➤ Key elements of Financing Plan are:

- Identify type of conversion (PBV or PBRA)
- Physical Condition Assessment
- Scope of Work for rehab or new construction
- Completed Environmental Review
- Relocation Plan
- Development Budget
- Development Team (all principals must have Previous Participation Certification in APPS – i.e. Form 2530 clearances)
- Proposed Financing (including consent of first mortgage lender to Use Agreement)
- Title pro forma
- Other items: Operating Pro Forma, Market Study, and How Construction Management Will Be Done



# THE RAD CONVERSION COMMITMENT



- **RCC will include key conditions to conversion such as:**
- Effective Date of HAP (Executed by HUD but held in escrow)
  - Scope of Work
  - Timeline for Work
  - Key terms of financing, replacement reserve funding, and other special conditions



# WHAT RAD CAN DO NOW



## Terms

- 15-20 year, renewable contracts with Use Agreement
- Predictable initial contract rent setting; annual operating cost adjustments for inflation (OCAF)
- Established Replacement and Operating Reserves; standard industry underwriting requirements
- RAD HAP funding begins at construction closing
- No limitations on use of project cash flow
- PHA Ownership/control similar to LIHTC practices
- Long term affordability ensured

## Process

- Open applications through 9/15
- Initial review/approvals in 30-45 days; RAD Transaction Manager assigned upon initial approval
- Ability to review prospective deals with RAD Team prior to application
- Submit full AMP or part of an AMP
- No SAC approval
- Subsidy layering review via RAD
- Simplified procurement
- Freed from PH Annual Plans, PHAS, Community Service, PIC, etc.

## Financing

- Availability of FHA 223(f) & 221(d)(3) insurance, with priority processing
- Access to FHA LIHTC Pilot processing
- Ability to tap 9% & 4% LIHTCs, including “short bond” structures
- Ability to support transaction with public housing reserves and capital funds, including Replacement Housing Factor funds
- Access to HOME and CDBG for development budgets
- Available sales proceeds can support other affordable housing purposes

## Flexibility

- Transfer assistance from unworkable units prior to conversion
- Market accommodations in meeting 1-for-1 preservation (e.g., convert efficiencies to 1 bdrms; long-term vacant units)
- Combine RAD & agency PBVs or SACTPVs > PBVs
- Flexibility to reduce densities, replace housing off-site, produce mixed income communities
- Allows PHA to undertake renovations immediately or after conversion, as warranted
- Demolition/New Construction allowed
- Soon: Ability to “bundle” project applications for flexibility with initial contract rents



# KEY DECISION POINTS

## What are your key decision points?

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





# THE RAD DETAILS

## Deal prototypes:

- **Conversion/No Rehab (includes conversion-only HUD mixed-finance transactions)**
- **FHA/No LIHTC; Basic Rehab/Conversion**
- **4% LIHTC/Bond/FHA; Substantial Rehab/Conversion**
- **4% LIHTC/Bond/Private Financing; Substantial Rehab/Conversion**
- **9% LIHTC/FHA or Private; Substantial Rehab/Conversion**





# WHICH SITE FIRST?

- **Do you select the site that:**
  - Needs the most work
  - Can be converted with modest improvements
  - Can be converted with no improvements
- **If you do your RADomatic sites first what about PHAS**
- **Please consider a Portfolio Application**
- **Please consider Pooled Procurements**
- **Lobby your state's Housing Finance Agency**





# THE RAD DETAILS

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





# THE RAD DETAILS



- **May Convert to Project-Based Rental Assistance (PBRA) or Project-Based Vouchers (PBVs)**
- **Contract Term:**
  - PBRA = 20 Years
  - PBV = 15 or 20 Years
  - Mandatory Renewals (HUD must offer, owner must accept)
- **Use Agreement (only Public Housing Conversions):**
  - 1<sup>st</sup> Priority
  - Term Concurrent with HAP
  - Automatic Renewal
  - Not Foreclosable



# THE RAD DETAILS

➤ **Contract Rents Capped at Current Funding per Statute (Public Housing and Mod Rehab):**

**PBRA = Lower of Current Funding or 120% FMR (But exception rents available in some cases)**

**PBV = Lower of Current Funding, 110% of FMR, or Reasonable Rent**

**Rent Adjustments = OCAF**

➤ **RAD Rehab Assistance: Funding for Vacant Units Undergoing Rehab or Construction**

➤ **PBV Waivers on Competitive Selection, Inventory Cap (PBVs don't count against 20%), and Income Mixing (up to 50%, but existing exceptions for seniors and services still available)**





# THE RAD DETAILS



- **PHA Plan.** RAD conversion requires a “significant amendment” to PHA Plan.
- **Use of Public Housing Funds.** PHA may use current public housing funds, including reserves, for predevelopment costs and construction.
- **Effect on Public Housing Funding and Unit Cap.** RAD units not eligible for Asset Repositioning Fee (ARF) or Replacement Housing Factor (RHF) funds. PHA’s “Faircloth cap” reduced by number of RAD units.
- **Davis-Bacon.** Requirements apply to all initial repairs identified in Financing Plan to the extent they would qualify as construction or rehabilitation, regardless of whether the project qualifies as “existing housing” under standard PBV rules.
- **Demo/Dispo.** Section 18 does not apply unless number of assisted units would be reduced by more than a *de minimis* amount. (1-for-1 replacement)
  - Previously Demolished Units Eligible for RAD if Still Receiving Subsidy
  - Allows Transfer of Subsidy for Off-Site Replacement without HUD Demo/Dispo Review
- **Existing Debt – CFFP and EPC:** Address reduced loan coverage with current lender; can prepay in whole or in part with RAD proceeds.



# THE RAD DETAILS



- **Ownership/Control by Public or Nonprofit Entity  
(only public housing conversions)**
  - **Ownership.** Public or non-profit entity has legal title to property.
  - **Control.** Public or non-profit entity has the direct or indirect legal authority (via contract, partnership share or agreement of an equity partnership, voting rights, or otherwise) to direct the financial, legal, beneficial or other interests of the owner of a project or has 51 percent or more interest of the general partner share in a limited partnership.
- **Exceptions Allowing Private Ownership/Control**
  - **LIHTC: But PHA Must Maintain Control via Ground Lease, ROFR, PHA Subordinate Debt**
  - **Foreclosure, Bankruptcy, Termination or Transfer of Assistance**
    - Priority for capable public entity
    - If none, then capable private entity



# PORTFOLIO APPLICATIONS: QUESTIONS

- What's a portfolio? How should the PHA define it?
  - Area of City
  - Financing Method
  - Relocation Challenges
  - Type of project
  - Level of rehab required
- Can the PHA change it later? At least 50% of projects or units?
- How will it help with financing?
- When should resident meetings be held?
- How does it affect rent bundling?
- What's the difference between rent bundling and project "bundling"?



# PORTFOLIO APPLICATIONS: EXAMPLES

## PHA A: 900 units, 1 Portfolio

### Rehab Needs

- Two complex redevelopments (LIHTC, HTC) totaling 450 units
- Added balance of inventory

### PHA's Goals

- Get financing started on two major redevelopments
- Preserve 2012 rents for balance, despite no plans in place
- Move everything to one funding platform



# PORTFOLIO APPLICATIONS: EXAMPLES

## PHA B: 2400 units, 3 Portfolios

### Rehab needs:

- \$19k/unit average rehab across inventory
- Several ARRA projects
- One clear demo/new construction candidate

### PHA's goals:

- Keep 100% ownership of 1/3 of inventory
- Stage rehab; manage by cap fund staff; PHA property management
- 4% LIHTC for minor rehab/excess proceeds
- 9% LIHTC for clear demo; CNI; phasing
- 9% for new additions to portfolio



# PORTFOLIO APPLICATIONS: EXAMPLES

- **PHA C: 6000 units, 8 portfolios**
- **Rehab Needs**
  - Less than \$35,000 average
  - Manageable “first cut”
- **PHA Goals**
  - Full inventory conversion
  - Cash out on existing minor rehab to generate capital for construction
  - Define portfolios by identified neighborhoods and nonprofit developers





## PORTFOLIO APPLICATIONS: KEY POINTS

- Double PHA's ability to lock in 2012 rents
- Spread out financing applications and workload
- Follow milestones for each part of portfolio
- Increases feasibility of whole inventory conversions



# PHASING: QUESTIONS

- When does phasing make sense?
- Partial vs. Phasing and Phasing vs. Portfolio?
- How many phases can be done within the Notice timing?
- “Early bite” at the LIHTC apple?
- Effect of unsuccessful 9% LIHTC?



## PHASING: KEY POINTS

- Milestones apply within the context of phases
- Primary use in large projects with demolition, new construction and 9% credits
- Should increase use of RAD in high cost markets
- Can be used for locking-in 2012 rents in staged off-sites (transfer of assistance)



# PHASING: EXAMPLES – REPOSITIONING A LARGER ASSET

Phase	# of Units in Phase	Date of Application (or Proposed)	Type	LIHTC & QAP Year Or Other Financing	Financing Plan	Demo/ Dispo in Phase
1	120	9/1/13	Rehab	4% - 2013	3/1/14	No
2	80	3/1/13	New Construction	9% - 2014	9/1/14	Yes
3	100	3/1/14	New Construction	9% - 2015	9/1/14	Yes
4	50	1/1/15	Acquisition	Surplus Cash	7/1/15	No
5	50	7/1/15	Rehab	FHA	12/1/15	No
Total	400	-	-	-	-	-



# PHASING: EXAMPLES – TRANSFERS OF ASSISTANCE

Phase	# of Units in Phase	Date of Application (or Proposed)	Type	LIHTC & QAP Year Or Other Financing	Financing Plan	Demo/ Dispo in Phase
1	10	9/1/13	New Construction	9% - 2012	3/1/14	No
2	10	3/1/13	New Construction	9% - 2013	9/1/14	No
3	15	3/1/14	New Construction	9% - 2014	9/1/14	No
4	25	1/1/15	Acquisition	4% - 2014	7/1/15	No
5	10	7/1/15	Acquisition	4% - 2015	12/1/15	No
6	75	7/1/15	Rehab	FHA	12/1/15	No
Total	145	-	-	-	-	-



# THE DEVELOPER'S ROLE

## Create and Implement the Development Vision

- Develop overall program (design, unit mix, income mix)
- Assemble/Manage Development Team
  - Architects/Engineers
  - General Contractor
  - Attorneys
  - Accountants
- Manage Closeout, Cost Certification





# THE DEVELOPER'S RESPONSIBILITIES

- **Proforma/Underwrite Project**
- **Acquire Allocation of Tax Credits**
- **Select/Negotiate Tax Credit Investor**
- **Arrange First Mortgage**
- **Identify/Negotiate Gap Financing**

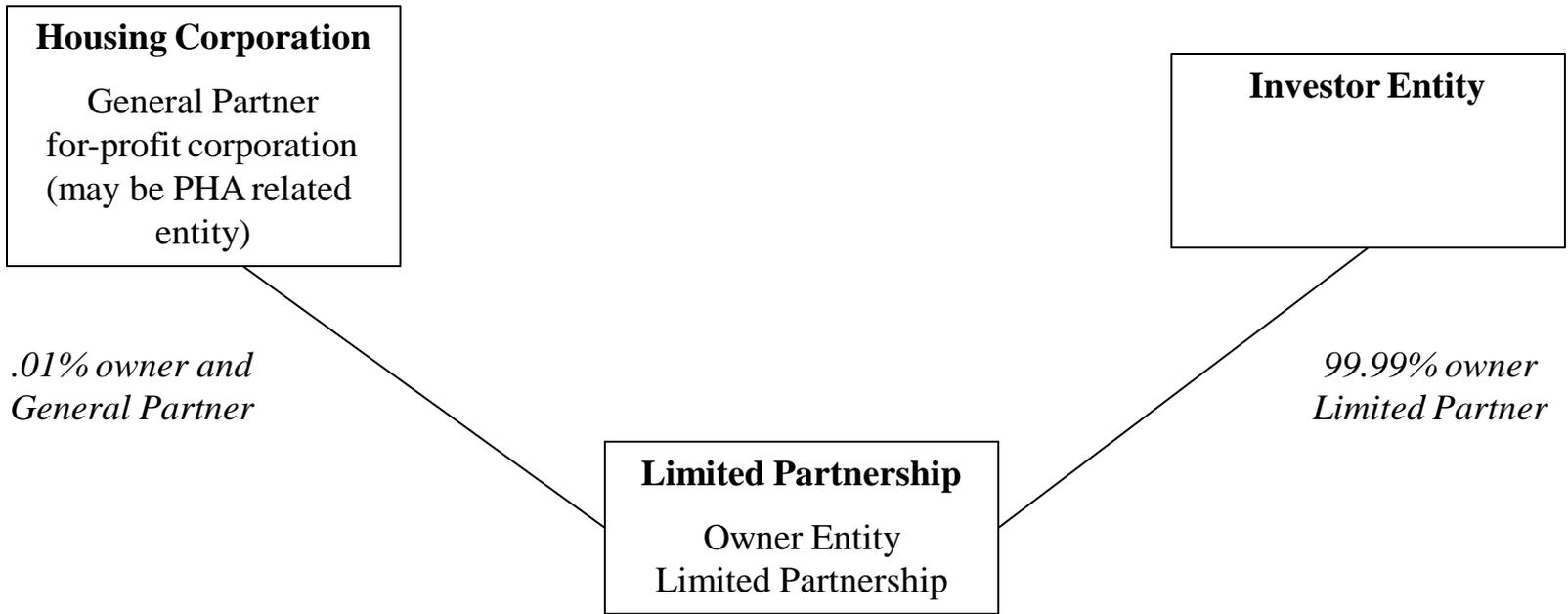






# RAD/LIHTC

## Development Structure Diagram





# OPERATING PROFORMAS

- Must project for term of initial PBV or PBRA contract
- Rents must be set in accordance with RAD rules (incorporate OCAF into projections)
- Vacancy and bad debt set at not less than greater of: i) average of past three years; or ii) 3% for vacancy and 2% for bad debt (or stricter lender requirements)
- RE taxes set at most recent actual tax bill amount
  - Note: Continuation of PILOT requires legal opinion
- Other operating expenses set at no less than 85% of most recent three year average (unless HUD waives based on reasonable justification)
- Replacement Reserve set based on capital needs (need to maintain minimum balance of 5% of total aggregate capital needs)





# RAD – PERMANENT DEBT TERMS

## ➤ HUD requirements:

- Fixed interest rate
- Fixed term
- Fully amortizing over no more than 40 years
- Maturity date or balloon no earlier than 18 years (except loans in PBV deals may be coterminous with PBV HAP)
- DSC cannot be less than 1.11 or lender requirements





# RAD – DEVELOPER AND OTHER FEES

- For non-LIHTC, developer fee up to 10% of development budget (less dev fee, reserves, and related party acq costs)
  - Payout limits: 33% at closing, 33% at 50% rehab completion; and remainder at 100% rehab completion (and certification of HUD's inspector)
- For LIHTC deals, developer fee lesser of: i) 15%; or ii) state LIHTC agency limits
- Other potential PHA fees:
  - Ground lease payments
  - Seller financing (i.e. acquisition note)
  - Financing fees
  - Cash flow
- RAD fees earned by PHAs are unrestricted, non-federal funds



# RAD – NEW CONSTRUCTION

- Demolition of existing public housing and new construction is permissible
- May transfer RAD assistance to a replacement site
- Must meet requirements in HUD PIH Notice 2012-32 (e.g. energy efficiency, accessibility, site selection, etc.)
- Relocation Plan
- PCA not required





# LIHTC GUARANTEES TO INVESTORS

## ➤ **Development Deficit**

- Developer agrees to fund development shortfalls
- Typically unlimited

## ➤ **Recapture**

- Developer agrees to fund loss of credits
- May carve out for bad acts of Investor

## ➤ **Operating Deficit**

- Developer agrees to fund operating deficits
- Usually limited to a period of years (e.g. 3 consecutive years of DSC or breakeven)
- May be capped at developer fee

## ➤ **Limitations on PHAs –**

- Limit to unrestricted non-federal funds

## ➤ **Limitations on Exempt Organizations - Urban Memo/Choi Memo**

- Requires caps on certain guaranties provided by tax exempt entities





# Subsidy Layering and Future Refinancing

- RAD does not require subsidy layering except:
  - Contribution of public housing operating funds in excess of average amount of operating reserves over past three years
  - Contribution of Capital Funds or RHF funds
  
- Owners must obtain HUD approval for future refinancing





# RAD – FHA-INSURED FINANCING

- With FHA-insured financing, HUD will follow HUD FHA processes
- Less clear HUD process if private lender is involved
- Need to coordinate timing of LIHTC and HUD RAD processes
- Loan to Value/ DSC: FHA affordable transaction standards
- FHA financing subordinate to RAD Use Agreement





# FHA Streamlined Processing and Closing

## ➤ Streamlined Processing

- Transaction Manager
- Kick off call – in lieu of concept meeting
- Designated Underwriter – (May be transaction manager)
- One stage applications
- Electronic submission followed by single original/hard copy

## ➤ Closing

- Waiver of survey
- Deferred submission of Plans and Specs
- Partnership Agreement w/application submission
- Request Title
- Release of ACC and Declaration of Trust





# Financing Programs for RAD Transactions



## COMPLEX TRANSACTIONS: QUESTIONS

- How does a PHA do RAD if there is a Capital Fund Financing Program (CFFP) Loan or an Energy Performance Contract (EPC)?
- How can RAD support a major revitalization project—including multiple sites?
- What sources can be tapped to fill gaps in development budgets?
- What are best strategies for using 4% vs. 9% LIHTCs?



## COMPLEX TRANSACTIONS: QUESTIONS

- Can RAD be used with with CNI, Mixed-Finance, Section 18, HOME, CDBG, AHP, etc.?
- How can MTW agencies best maintain flexibility under RAD?
- Can PHAs use RAD to take units off the Faircloth “shelf”?
- When should a PHA choose FHA financing?



# COMPLEX TRANSACTIONS: THRESHOLD ISSUES

## Capital Fund Financing Program (CFFP)

- \$3B in financing nationally
- Fannie portfolio sold to Dreadnought – repaid with Capital funds
- Other lenders
  - Lock-outs and prepayment penalties
  - Are DCR ratios HUD or lender requirements?
- Defeasance
- Review with RAD Team at HQ



# COMPLEX TRANSACTIONS: THRESHOLD ISSUES

## Energy Performance Contracting (EPC)

- Existing EPC facilities
  - Pay-off?
  - Restructure in 2nd lien position?
  - RAD rent freezes the established utility funding level
- New facilities
  - Review with RAD Team at HQ
  - RAD-EPC workshop coming soon



# COMPLEX TRANSACTIONS: REVITALIZATION

## Planning

- Phasing
- Transfer of Assistance
  - Criteria: physical, economic, disaster-affected, best interest of residents
  - Transfer to PHA-owned or controlled property
- RFP for developers to compete for RAD HAP contracts?
- New site
  - Site and neighborhood standards (exceptions for redevelopment areas)

## Relocation

- Cost covered by RAD rehab assistance payments/development fudget
- Right to return
- URA

## Timing Demolition and Construction

- Reverse of HOPE 6/Mixed-Finance



# COMPLEX TRANSACTIONS: OTHER SOURCES

## RAD and LIHTCs

- Larger, deeper needs require 9% LIHTCs
  - Combine with 4%/TE bond in other phases with lesser capital needs?
- Using 4%/TE bonds
  - Availability
  - Short bonds to address 50% rule
  - Multi/scattered-site potential for larger projects
- Acquisition payments in 4% deals
  - Access available proceeds for other mission purposes
  - Seller take-back loan for gaps
- Tiering: respect RAD no-rescreening



# COMPLEX TRANSACTIONS: OTHER SOURCES

## **RAD and CNI**

- Application strategies
- Leverage points for CNI

## **RAD and Mixed Finance**

- Standardized transition legal documents
- Need to meet PCA requirements
- Limits on HOPE VI conversions

## **RAD and Partial Section 18 Demo/Dispo**

- Meet physical obsolescence test
- Use to thin density, mix incomes, address deeper capital needs

## **RAD and CDBG, HOME, AHP—per usual**





# COMPLEX TRANSACTIONS: OTHER SOURCES

## Use of RAD Net Proceeds

- Primary or subordinate debt financing on projects with limited rehab needs
- Acquisition payments in 4% deals
- De-federalizing excess land—applying proceeds to fill gaps in other deals





# COMPLEX TRANSACTIONS: MTW FLEXIBILITY

- **Use Existing Voucher Funds to Augment Rents**
  - Not to exceed market rent
  - Subject to Subsidy Layering Review
  - Subject to MTW continued service requirements
  - Respect established MTW polices if PBV—except RAD Choice-Mobility requirements for PBVs





# FHA LIHTC PILOT PROGRAM

## Streamlined-Enhanced FHA 223(f) & LIHTCs

- Rehab expenditures of up to \$40,000/unit
- Tax credit or Bond Cap allocation in hand
- Located within Pilot Hub areas (or in the case of RAD projects, underwritten in an assigned Pilot Hub)
- Using MAP lender approved for the Pilot
- Low risk, meeting/sustaining occupancy requirements





# FHA MULTIFAMILY MORTGAGE INSURANCE

## Section 223(f)

- Refinance or acquisition
- Minor/moderate repairs (\$6,500/unit\*high cost factor)
- Permanent debt with repair escrow - up to 35 years
  - 90% rental assistance: DSC 1.15; Loan to Value: 87%
  - Affordable: DSC 1.176; Loan to Value: 85%





# FHA MULTIFAMILY MORTGAGE INSURANCE

## Section 221(d)(4)

- Substantial rehab: 2 major building systems
- Construction/permanent debt all in one - initial/final closing
- 40-year financing
  - 90% rental assistance: DSC 1.11; Loan to Cost: 90%
  - Affordable DSC 1.15 Loan to Cost: 87%





# FEDERAL HOME LOAN BANK AHP

## Affordable Housing Program (AHP)

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

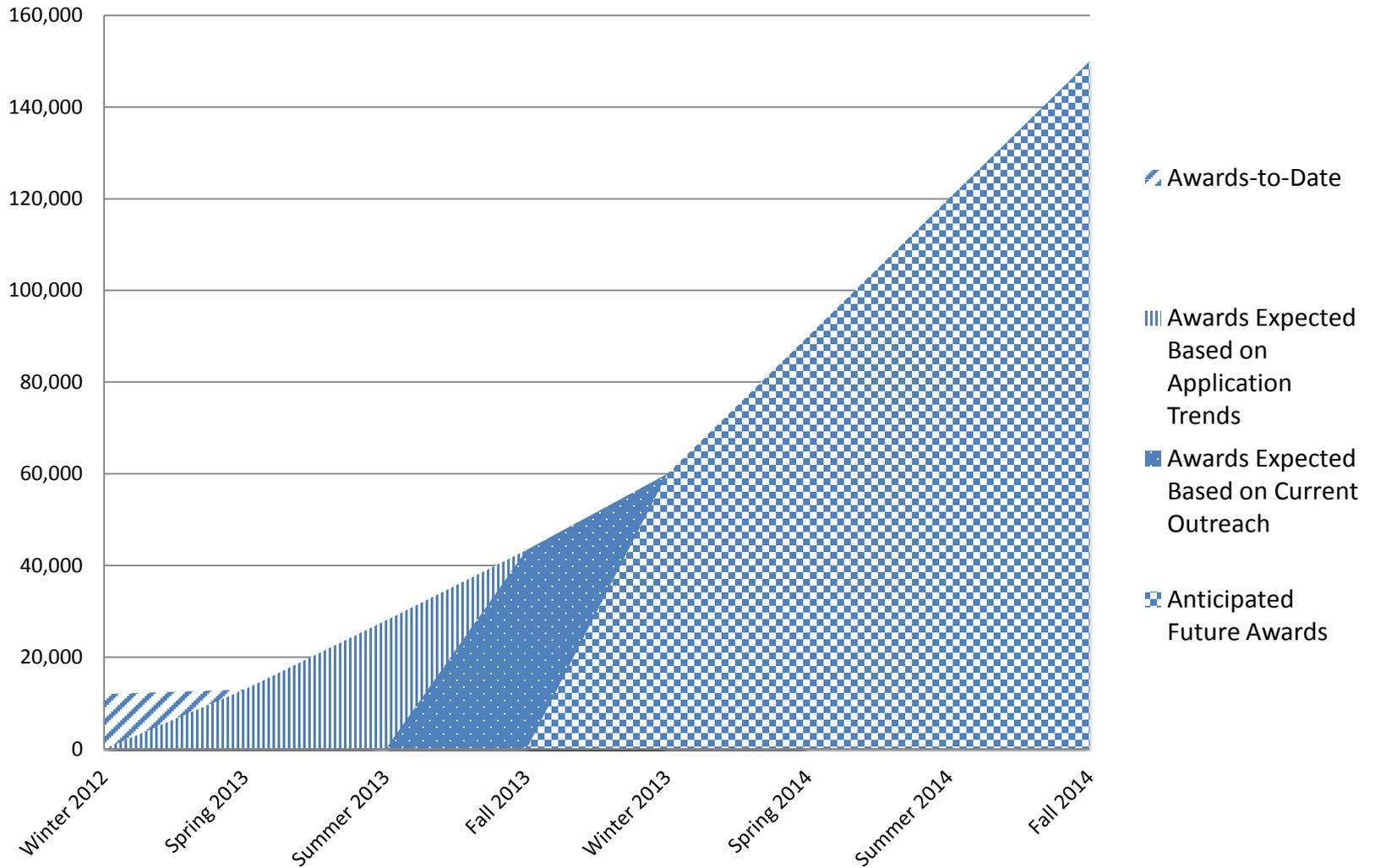




# RAD AWARDS TREND CHART



Aggregated Number of Unit Awards Issued





# RAD CAPITAL MARKETPLACE

[www.radcapitalmarketplace.com](http://www.radcapitalmarketplace.com)



Welcome to the Rental Assistance Demonstration Capital Marketplace (RAD Capital Marketplace). The site is designed to encourage contact and information sharing among housing authorities (PHAs) and multifamily owners considering a RAD conversion and the lenders, investors, development partners, financial intermediaries, professional financing advisors, consultants, that offer services and products that PHAs and owners may wish to use in preparing their application and/or financing plan.

The site has been developed collaboratively by [National Equity Fund, Inc.](#) (NEF), [Council for Large Public Housing Agencies](#) (CLPHA) and [Enterprise Community Investment, Inc.](#) One of the goals of RAD (Notice PIH-2012-32) is to demonstrate how the conversion of current assistance to long-term project-based Section 8 rental assistance contracts can generate access to private debt and equity to address immediate and long-term capital needs of the public housing stock and Rent Supp, RAP and Section 8 Mod Rehab multifamily housing at risk from being lost from the affordable stock. The Initial Application Period for the limited, competitive component of RAD for public housing and Mod Rehab properties opens on September 24, 2012 and closes October 24, 2012. Owners of eligible Rent Supp, RAP and Mod Rehab properties may submit conversion requests for Section 8 Project Based Vouchers only on a rolling basis. Program rules and application instructions are outlined in the Notice, which can be found on the RAD webpage: [www.hud.gov/rad](http://www.hud.gov/rad)

If you would like to post your information please choose the type of Entity that you are

- PHA/Owner
- Lender
- Investor/Syndicator
- Consultant/TA
- Developer/Co-Developer



Search

Search by company type:

Search by State:



# RAD WEB PAGE

RAD Notice, application materials, and additional resources can be found at

[www.hud.gov/rad](http://www.hud.gov/rad)

Email questions to [radresource.net](mailto:radresource.net)





# TEN THINGS...

## 1. Contract Rents

- Referred to as “current funding”
- Amounts can be found in:
  - RAD Inventory Assessment Tool (rows 71-74 of the Inventory Overview Tab), and
  - RAD Application (rows 5-7 of the Validation Tab)
- Based on 2012 funding levels:
  - 2012 Tenant rents (from subsidy worksheet)
  - 2012 Capital Fund Grant Award, by project
  - 2012 Operating Subsidy Eligibility, assuming 95% proration (i.e., we restored the Operating Fund “Allocation Adjustment”), excluding Asset Repositioning Fee (a special fund for demo/dispo projects)
- Current funding may be affected by PBV or PBRA rents caps, which are sensitive to estimated market (reasonable) rents
- Inventory Assessment Tool estimates market rent by using typical voucher rents (93% of FMR)
- RAD rents will be inflated beginning in 2014 using OCAFs (Operating Cost Adjustment Factors)
- OCAFs apply for both PBRA and PBV





# TEN THINGS...

## 1. Contract Rents (cont.)

- RAD contract rents reflect whatever utility arrangements are in effect at the project.
  - Project-paid utilities -- RAD rents equal Gross Rents
  - Tenant-paid utilities – RAD rents plus utility allowance equals Gross Rents
- Inventory Assessment Tool uses average utility allowance (data was not available by bedroom size)
- RAD rents reflect any existing Energy Performance Contracts (EPCs)
  - If project has an EPC where HUD has allowed a freezing of the project-paid consumption baseline, or an energy “add-on”, those arrangements will be carried over in RAD
- During the remainder of the initial calendar year of funding, the project receives only what it would have received under the public housing program (i.e., it carries forward all remaining Operating and Capital Funds for that year)
- If a PHA changes the bedroom distribution, the contract rents will be adjusted accordingly. Under public housing funding formulas, operating subsidies increase with each increase in average bedroom size (and decreases in each decrease in average bedroom size)
- For partial conversions, just enter the proposed number of units, and bedroom mix, and both the Tool and Application will show the new contract rents



# TEN THINGS...

## 2. PBVs vs. PBRA

- See accompanying chart of differences between PBV and PBRA
- Election depends on many factors

## 3. Choice-Mobility

- Applies to all conversions unless project has received an exemption
- Exemption available to: (1) public-housing only PHAs, and (2) PHAs that currently provide a preference in their voucher programs for homeless and vets if such preferences account for more than 33% of voucher turnover.
- Exemptions are granted based on first-come, first-served basis
- Requirements:
  - PBV – first available voucher after one year
  - PBRA – first available voucher after two years; however, PHA may also limit Choice-Mobility to not more than 15% turnover in any year and not more than 33% of voucher turnover in any year
- In all cases, assistance remains with the project. The mobility voucher comes from the agency's voucher turnover





# TEN THINGS...

## 4. Right to Return and Relocation

- All existing residents have a right to return to the RAD project, including Transfers of Assistance.
- There is no RAD requirement to retain the same bedroom mix or building type; however, a PHA must still meet the right to return requirement when making changes in bedroom mixes
- Residents may voluntarily waive their right to return – a PHA may offer, for example, a turnover voucher or a unit in public housing
- To assist with relocation, HUD will make “Rehab Assistance Payments” for units under rehab or construction, equal to current subsidies, for all units receiving subsidy at the time of conversion.
- As a result, HUD does not provide Tenant Protection Vouchers (TPVs) for RAD and all other relocation expenses must be addressed in the Development Budget
- If relocation must last for more than one year, the family is considered to be permanently relocated under the Uniform Relocation Act (AC) and the PHA must find the family “comparable assisted housing”, which can include public housing or vouchers. While these resources will satisfy the URA, the family must still be given the right to return to fulfill RAD requirements (if not voluntarily waived)





# TEN THINGS...

## 5. De Minimis Reductions and Transfers of Assistance

- PHA must replace 95% of all units at project converting, with exceptions for units vacant for more than two years, to facilitate social service delivery, or for reconfiguring efficiency apartments.
- PHA can rehab, tear down on site and build new construction on or off-site
- PHA can also acquire/transfer the assistance
- Projects meeting RAD de minimis requirements do not need to seek separate approval from the Special Applications Center (SAC) to demolish or dispose of the project (exempt from so-called "Section 18").
- PHA may, however, apply to the SAC for demo/dispo for a portion of the project
- All conversions must still meet right-to-return requirements





# TEN THINGS...

## 6. Public Housing Mixed-Finance Projects (i.e., projects developed under 24 CFR part 941, subpart F)

- To convert to RAD, both the PHA and the mixed-finance ownership entity must agree
- HUD will fund the project at the established RAD contract rent (or some other amount if the PHA is “bundling” projects); however, the PHA and ownership entity can decide how those funds are split (say, a new lease payment), provided the “deal” is considered feasible
- There is no limit to the number of mixed-finance projects (other than HOPE VI projects) that can convert
- The PHA and the ownership entity will need to “unwind” the mixed-finance project – (1) the Declaration of Restrictive Covenants, (2) mixed-finance ACC, and (3) the Regulatory and Operating (R&O) Agreement. HUD recommends that the R&O be replaced by a streamlined regulatory agreement.
- Projects that are currently being developed under “Faircloth” may not be eligible for RAD if those projects are not currently receiving assistance under public housing (however, HUD is looking at the possibility of a “joint closing” process down the road)





# TEN THINGS...

## 7. Program Funds and “De-federalization”

- There is no restriction on use of cash flow (and no residual receipts account), mortgage proceeds, or developer fees – PHAs are bound only by State and local laws, as applicable
- Unless the project is the remaining project to convert in a PHA’s inventory, there will be a subsidy layering review where the PHA contributes Capital Funds to the Development Budget or where the PHA contributes public housing operating reserves in excess of the three-year average of reserves for the project
- All proceeds from seller-take back financing related to LIHTC transactions is also de-federalized.

## 8. Public Housing-only PHAs

- If convert to PBV, must find a voucher administrator willing to administer the PBV contract (that voucher agency will earn new admin fees)
- If convert to PBRA, will need to request Choice-Mobility exemption (or otherwise find a voucher agency willing to provide Choice-Mobility)





# TEN THINGS...

## 9. Projecting Operating Costs

- If estimating Operating Costs as a percentage of current Formula Expenses (say, 95%), keep in mind that “Formula Expenses”, as defined, within the Inventory Assessment Tool, exclude funding the PHA may receive under Stop-Loss (called “Transition Funding”)
- If estimating Operating Costs based on historical project expenses, remember that HUD’s public housing financial reporting model (1) has a slightly different chart of accounts than FHA and (2) has a separate column for Operating Fund and one for Capital Fund. Generally, you will want to include only the Operating Fund column

## 10. Resident Participation

- Remember to include two meetings with residents of the project prior to submitting an application (a PHA can combine more than one project at each meeting, as long as residents are notified accordingly)
- Remember to have one meeting with residents after RAD award (and prior to submission of Financing Plan)
- The PHA will also be required to submit a Significant Amendment to its Annual Plan, which also has public notice requirements





# TEN THINGS...

## 11. Bonus – RAD Physical Condition Assessment (RPCA)

- Required only after CHAP award
- Exclusions for: new construction, for rehab that is “down to the stud”, and for projects recently built (based on HUD approval)
- HUD shortly to form “user group”

## 12. Bonus – Ownership Type

- Ownership can include:
  - PHA, directly or through related non-profit
  - Any other public or non-profit owner
  - For-profit owner in the case of tax credits
- No approval required of these alternate ownership arrangements (other than 2530/APPS process)





# Various Considerations in Choosing PBRA vs. PBV



Item	PBRA	PBV
1. Baseline Funding Levels	Based on 2012 levels, with Operating Fund Allocation Adjustment restored	Same
2. Initial Contract Term	20 years	15 years (up to 20 at option of voucher agency); voucher agency may also automatically extend for another 15 years
3. Contract Renewals	At end of contract term, Secretary must offer, and PHA must, accept renewal	Same
4. Rent Caps	Current funding cannot exceed 120% of the FMR, unless the current funding is less than market, in which case the current funding cannot exceed 150% of FMR.	Current funding cannot exceed the lower of (1) reasonable rent or (2) 110% of FMR.
5. Annual Inflation Adjustment	Based on Operating Cost Adjustment Factor (OCAF), i.e., the method used to adjust rents for Multifamily projects renewed under the Multifamily Assisted Housing Reform and Affordability Act (MAHRAA).	Same
6. Choice Mobility	Resident may request next available voucher after two years; however, voucher agency may limit to not more than 15% of project in any year and not more than 33% of voucher turnover due to RAD.	Resident may request next available voucher after one year, with no limitations.
7. Voucher Admin Fee	N/A	PHA earns Section 8 voucher admin fee for all units converted to PBV. Note: for agencies that do not administer a voucher program, and that convert to PBVs, the voucher agency will be responsible for administration of the waiting list, eligibility, reexaminations, leading to substantial deregulation for the converting agency.



# Various Considerations in Choosing PBRA vs. PBV



8. REAC/UPCS Inspections	Yes	No (unless project receives FHA insurance)
9. REAC/FASS-MF Annual Financial Statements	Yes	No (unless project receives FHA insurance)
10. Management and Occupancy Reviews (MORs)	Yes	No (unless project receives FHA insurance)
11. Cash Flow	Unrestricted	Same
12. Appropriations	Annual funding subject to appropriations; however, the Congress has never failed to renew a PBRA contract	Annual funding subject to appropriations. Because of the RAD Use Agreement, if Congress provides less than full funding for the Voucher program (i.e., proration), the PHA administering the voucher program may will likely need to absorb the cuts from its non-RAD voucher units.
13. Rehab Requirements	There is no required level of rehab under RAD (or requirement to leverage debt). The PHA must simply ensure that whatever needs are identified are addressed.	Same
14. FHEO Site/Neighborhood Standards	Standard FHEO requirements not waived under RAD.	Same
15. Income Mixing	N/A	<u>Under normal PBV rules, not more than 25% of units in a project can be assisted, unless the units are elderly or disable, scattered site, or receiving supportive services. RAD increased the threshold to 50%, with the same exceptions. (see pages 30-41 PIH 2013-32 –REV. 1)</u>