

# Public Housing, Project-Based Vouchers, and Project-based Rental Assistance Similarities and Differences as it relates to RAD

AAHRA  
Birmingham. AL  
April 2019

# Contact Information

- D L Morgan & Associates
  - Dennis Morgan- Senior Associate/Owner
  - 6119 Winchester Place
  - Sarasota, FL 34243
- Telephone- 941 355 5912
- Fax- 941 355 7823
- Cell- 941 704 4068
- Email- [dlmorgan1127@att.net](mailto:dlmorgan1127@att.net)

# Rental Assistance Demonstration (RAD)

Interface with Project-based  
Voucher (PBV) and Project-  
based Rental Assistance (PBRA)

# PHA Plan

- Conversion assistance and changes are considered a significant amendment to the PHA's Five-Year Plan for qualified and non-qualified PHAs, the Annual Plan for non-qualified PHAs, and the Moving to Work (MTW) Plan for MTW PHAs.

# RAD Overview

- RAD provides the opportunity to test the conversion of public housing and other HUD-assisted properties to long-term, project-based Section 8 rental assistance to achieve certain goals, including the preservation and improvement of these properties through enabling access by PHAs and owners to private debt and equity to address immediate and long-term capital needs.
- RAD is also designed to test the extent to which residents have increased housing choices after the conversion, and the overall impact on the subject properties.

# Key RAD Goals

- Build on the proven Section 8 platform
- Leverage private capital to preserve assets
- Offer residents greater choice and mobility

# PBV and PBRA

- Two separate programs
- Two distinct areas of HUD
- Differing regulations
- Differing policies
- Differing processes
- Entirely separate from Public Housing

# PBV

- *Project-Based Voucher (PBV)*. A component of a PHA's HCV program, where the PHA attaches voucher assistance to specific housing units through a PBV HAP Contract with an owner.
- Unlike a tenant-based voucher, the PBV assistance remains attached to the unit when the family moves, and assists the next eligible family to move into the PBV unit.
- The PBV program is administered by HUD's Office of Public and Indian Housing.



# PBRA

- *Project-Based Rental Assistance (PBRA)*. Rental assistance under Section 8(C) of the Act provided by HUD to owners according to the terms of a HAP Contract for the provision of housing to eligible tenants.
- The PBRA program is administered by HUD's Office of Housing.

# PBV Conversions

- Where the PHA converts assistance of a public housing project to Section 8 PBVs, the HAP Contract will be administered by the agency with which HUD has entered into the applicable Voucher ACC (which in many cases will be the same agency that is converting assistance).
- Contract rents will be established according to the terms described in PIH 2012-32 rev 3 and will be adjusted annually by HUD's OCAF on each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract (see Section 1.6.B.5 and Attachment 1C) and the rent reasonableness requirement discussed later in this Notice.

# PBV Conversions- continued

- The initial contract will be for a period of at least 15 years (up to 20 years upon approval of the administering Voucher Agency). At expiration of the initial contract and each renewal contract, the Voucher Agency shall offer, and the Project Owner shall accept, a renewal contract.
- Each project with a PBV HAP Contract will also be subject to a RAD Use Agreement that will renew with the HAP Contract. Further, the administering Voucher Agency (i.e., the Contract Administrator) will provide a Choice-Mobility option to residents of Covered Projects in accordance with section 1.6.D.9 of PIH 2012-32 rev 3.

# PBV Conversions- continued

- With the exception of provisions identified in PIH 2012-32 rev 3 (as well as retained flexibilities of Moving to Work (MTW) agencies), all regulatory and statutory requirements of the PBV program in 24 CFR part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

# PBRA Conversions

- Where the PHA converts assistance of a public housing project to Section 8 PBRA, the HAP Contract will generally be administered by HUD's Office of Housing, unless later assigned to a PHA that is under ACC with HUD for the purpose of administering project-based Section 8 HAP Contracts.
- Contract rents will be established according to the terms described in PIH 2012-32 rev 3 and will be adjusted annually by HUD's OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract (see section 1.7.A.5 and Attachment 1C of PIH 2012-32 rev 3).

# PBRA Conversions- continued

- The initial contract will be for a period of 20 years and will be subject to annual appropriations.
- At expiration of the initial contract and each renewal contract, HUD shall offer, and the Project Owner shall accept, a renewal contract.
- The initial contract shall be eligible for renewal under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA).
- Each Covered Project with a PBRA HAP Contract will be subject to a 20-year RAD Use Agreement that will renew with the HAP Contract.
- Further, Project Owners must offer a Choice-Mobility option to residents of Covered Projects, as specified in Section 1.7.C.5 of PIH 2013-32 rev 3, unless exempted from this requirement.

# PBRA Conversions- continued

- With the exception of provisions identified in this Notice, all regulatory and statutory requirements of the PBRA program in 24 CFR part 880, and applicable standing and subsequent Office of Housing guidance, including related handbooks, shall apply (as modified and published in Appendix I of PIH 2012-32 rev 3).

# RAD- 1st Component

- May Convert to Project-Based Rental Assistance (PBRA) or Project-Based Vouchers (PBV)
- Contract Term:
  - PBRA = 20 Years
  - PBV = 15 or 20 Years
  - Mandatory Renewals
- Use Agreement:
  - 1<sup>st</sup> Priority
  - Term Concurrent with HAP
  - Automatic Renewal



# RAD 1<sup>st</sup> Component

- Ownership/Control by Public or Nonprofit Entity
  - Ownership. Public or non-profit entity has legal title to the real 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. HOTMA Changed definition
- Exceptions
  - LIHTC: 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

# Waivers

- A major goal of the First Component of RAD is to test the conversion of the public housing assistance to long-term, project-based Section 8 assistance available to Project Owners of assisted multifamily housing in order to generate additional sources of private financing.
- Consequently, HUD is applying its waiver authority and ability to establish limited alternative requirements for the effective conversion assistance on a limited basis to facilitate the major goals of the Demonstration and maintain existing distinctions between the PBV and PBRA forms of contract assistance.
- Such distinctions will enable a PHA or Project Owner to choose the form of assistance to best meet its needs. It will also enable HUD and Congress to assess how effective each form of assistance proves to be in meeting such varied circumstances and needs.

# Tenant Rights

- Equally important for the success of RAD are meaningful resident participation, procedural rights, and mobility, which are addressed in detail in various sections of PIH 2012-32 rev 3 and summarized in Attachment 1B.

# Fair Housing

- RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally. See 24 CFR § 5.105.
- The Fair Housing Act prohibits discrimination in housing and HUD regulations in 24 CFR part 100) and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development . . . in a manner affirmatively to further” fair housing
- In addition, all federally assisted activities are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color and national origin

# Fair Housing- continued

- Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that federally assisted programs make each activity “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities
- Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of RAD transactions.
- This includes actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status (see 24 CFR part 1 and part 100 subpart G) or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.

# Fair Housing- continued

- Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection and new construction, occupancy policies, changes in unit configuration, increase or reduction in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration program accessibility, tenant selection policies and priority transfers, providing information to persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair Housing Marketing Plans.
- :

# Fair Housing- continued

- All PHAs must consider civil rights when structuring these and other elements of their RAD transaction. Further, all RAD conversions that include one or more of the activities listed below must undergo a front-end review for compliance with certain civil rights and fair housing requirements.
- A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans submitted after August 15, 2015, must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion

# Fair Housing- continued

- Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration.
- Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) as part of the subject transaction.
- Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions);



# Fair Housing- continued

- Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the converting project;
- Conversions where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference);

# Fair Housing- continued

- The RAD Fair Housing, Civil Rights and Relocation Checklist will require submission of information regarding the foregoing and the following activities:
  - Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months;
  - Conversions of assistance involving new construction or substantial alteration, as those terms are defined in Section 504 of the Rehabilitation Act of 1973.

# Latest on RAD

- PIH 2012-32 rev-3
- Providing RAD awards for multi-phased development to facilitate the assembly of financing
- Allowing a PHA to apply for a Portfolio Award for a set of projects, wherein HUD will reserve RAD conversion authority for all projects contained in the application

# Latest on RAD- continued

- Allowing PHAs to adjust subsidy (and initial contract rents) across multiple projects to facilitate financing. The combined subsidy for these “bundled” projects may not exceed the aggregate funding for all of the projects the PHA is proposing to bundle.
- Allowing Moving to Work (MTW) agencies who are applying for two or more projects to use their MTW block grant flexibility to set initial contract rents, subject to RAD rent caps and continued service requirements.
- Expanding eligibility of HOPE VI projects.
- Eliminating the caps on awards to PHAs and to Mixed-Finance projects

# Latest on RAD- continued

- Exempting awarded public housing projects from scoring under the Public Housing Assessment System (PHAS) to support redevelopment planning and need for temporary relocation during construction.
- Allowing PHA's to use the Choice Neighborhoods Implementation (CNI) Notice of Funding Availability (NOFA) to apply for Joint RAD/CNI Awards

# RAD – 1st Component

- Current Funding Cap per Statute
- Contract Rents:
  - 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 = Annual Operating Cost Adjustment Factor (OCAF)
- PBV Waivers on Inventory Cap, Income Mixing and Competitive Selection

# RAD – 2nd Component

- Mod Rehab, Rent Supp and RAP Projects
- Conversion of TPVs to PBVs
- Standard PBV rules for Contract Term, Rents, Rent Adjustments, and Renewals
- Waivers of PBV rules for Inventory Cap, Income Mixing (up to 50%), and Competitive Selection. Other exceptions still available for seniors and support services
- Two types of conversions: prospective (through 9/30/13) and retroactive (back to 10/1/2006)

# Key Terms

- *Choice-Mobility*. For residents of covered projects, the option to obtain a HCV from a PHA after a defined period of residency.
- *Closing*. The transaction during which any converting units are released from legacy contracts (e.g., the public housing Annual Contributions Contract), the new PBRA or PBV contract and RAD Use Agreement are executed, any debt and/or equity financing agreement is entered into, and the terms and conditions of the RAD Conversion Commitment are recorded. The closing is the event at which conversion of subsidy takes place; “conversion” has not occurred until completion of closing.
- *Commitment to enter into a Housing Assistance Payments Contract (CHAP)*. Document provided to the PHA or owner for projects that have been selected during the RAD competition under the first component of the Demonstration that describes the terms under which HUD will enter into a HAP contract with the project owner



# Key Terms- continued

- *Contract Rent or Rent to Owner in the PBV Program.* The total amount of rent specified in the HAP contract as payable to the owner for a unit occupied by an eligible family.
- *RAD Conversion Commitment (RCC).* Contract executed by HUD and the PHA or owner, following HUD approval of the submitted Financing Plan, that describes the terms and conditions of the conversion.

# PBV Conversion

- **PBV Conversions.** Where the PHA converts assistance of a public housing project to Section 8 PBVs, the project will be administered by the agency on whose Annual Contributions Contract (ACC) the vouchers are assigned (which in many cases will be the same agency that is converting assistance).
- Contract rents will be established according to the terms described in PIH 2012-32 rev-3 and will be adjusted annually by an operating cost factor at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term

# Physical Needs Assessment

- **Physical Condition Assessment (PCA).** Projects selected for award, regardless of whether the PHA is pursuing third-party financing, will be required to perform a detailed physical inspection of the project(s) to determine short-term rehabilitation needs, and long-term capital needs to be funded through a Reserve for Replacement account.

# Go Green

- **Green Building and Energy Efficiency.** For all projects retrofitted under a RAD conversion, if systems and appliances are being replaced as part of the initial repairs identified in the approved Financing Plan, at a minimum PHAs shall complete replacements with Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances. Additionally, PHAs shall utilize the most energy- and water-efficient options that are financially feasible and that are found to be cost-effective by the PCA described above.

# Temporary Relocation

- **Temporary Relocation.** Any temporary relocation must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and its implementing regulations

# Accessibility Requirements

- **Accessibility Requirements.** When a project's rehabilitation meets the definition of a "substantial rehabilitation" under 24 CFR Part 8.23, a PHA must comply with all applicable accessibility features under Section 504 of the Rehabilitation Act of 1973.
- Where a PHA is planning to use RAD conversion in conjunction with new construction, the project must comply with section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Part 8, and the design and construction requirements of the Fair Housing Act.

# Site Selection

- **Site Selection and Neighborhood Standards.** Where a PHA is planning to convert assistance under RAD in conjunction with new construction on an alternate site, the PHA must comply with all applicable site selection requirements of the Fair Housing Act and Title VI of the Civil Rights Act of 1964, including implementing regulations at 24 CFR §§ 1.4(b)(3) and 983.57 (for PBV)

# Financing Considerations

- Debt Financing
- Public Housing Capital and Operating Program Funds
- Existing Indebtedness and Contractual Obligations
  - Must disclose
- FHA Insured Financing
- Low-Income Housing Tax Credits (LIHTCs)
- Grant Funding



# PHA Development Methods

Public Housing		RAD	
Conventional	Mixed Finance	Conventional	Section 8/LIHTC
PHA owns project subject to HUD Declaration of Trust	Private owner (LIHTC entity) owns project (PHA may have GP interest); subject to HUD Declaration of Restrictive Covenants	PHA owns project directly (or through an affiliated single purpose entity), subject to RAD Use Agreement	Private owner (LIHTC entity) owns project (PHA may have GP interest), subject to RAD Use Agreement
All public housing funds (possibly other soft sources)	Multiple sources of funding, including LIHTC	Mortgage loan proceeds (possibly other sources)	Multiple sources of funding, including LIHTC
All public housing units	Often mixed-income (pub. housing, LIHTC, market)	All RAD Section 8 units	May be mixed income (Sec. 8, tax credit, market) subject to RAD one-for-one replacement requirements
Property manager typically PHA (but can be private)	Property manager typically private (but may be PHA)	Property manager probably PHA (but can be private)	Property manager probably private (but may be PHA)
PHA procures General Contractor directly; Field Office approves proposal	Owner entity contracts with General Contractor and other parties; HUD Headquarters review	PHA procures General Contractor directly; HUD RAD review	Owner entity contracts with General Contractor and other parties; HUD RAD review

# 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

## 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 SAC TPVs>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

# PHA Plan

- Conversion assistance under the Demonstration will be considered a significant amendment to the PHA's Five-Year Plan for qualified and non-qualified PHAs, the Annual Plan for non-qualified PHAs, and the Moving to Work (MTW) Plan for MTW PHAs.

# Public Housing Assessment System (PHAS)

- Upon issuance of a CHAP, all public housing units covered by the CHAP shall not be issued scores for the fiscal year in which the CHAP was issued, nor any subsequent fiscal year until such time as conversion, at which point the units shall be subject to applicable Section 8 program requirements.
- If HUD revokes the CHAP, HUD reserves the right to reassess and rescore all PHAS indicators and issue a new PHAS score and designation for all fiscal years concerning these units covered by the CHAP.

# Relocation Requirements

## **RAD Fair Housing, Civil Rights, and Relocation Notice.**

Relocation requirements related to public housing conversions under RAD are described in Notice H 2016-17; **PIH 2016-17**, as may be amended from time to time (“RAD Fair Housing, Civil Rights, and Relocation Notice”).

The RAD Fair Housing, Civil Rights, and Relocation Notice provides PHAs and their development partners with information and resources on RAD program requirements and Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) requirements when planning for or implementing resident moves in connection with a RAD conversion under the First Component of RAD.

Specifically, the RAD Fair Housing, Civil Rights, and Relocation Notice provides guidance on relocation planning, resident right to return, relocation assistance, resident notification, initiation of relocation, and the fair housing and civil rights requirements applicable to these activities.

# Environmental Review

- Under Federal environmental review requirements, proposed RAD projects are subject to environmental review under either Part 50 or Part 58, as applicable, and environmental documents are required to be submitted as part of the applicant's Financing Plan.
- HUD will not issue an RCC if the project plan does not meet the environmental review requirements described in Attachment 1A of PIH 2012-32 rev 3.

# Right to Return

- Any resident that may need to be temporarily relocated to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed.
- Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery.
- Where the transfer of assistance to a new site is warranted and approved (see Section 1.4.A.12), residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

# Special Provisions Affecting Conversions to PBV

- Under the Demonstration, HUD has the authority to waive statutory and regulatory provisions governing the PBV program, or to establish alternative requirements for the effective conversion of assistance. Additionally, the RAD statute imposes certain unique requirements.
  - Maximum Amount of PBV Assistance
  - Cap on the Number of PBV Units in Each Project
  - Owner Proposal Section
  - Site Selection
  - Length of the Contract
  - Mandatory Contract Renewal
  - Ownership or Control
  - RAD Use Agreement



# Special Provisions Affecting Conversions to PBV- continued

- Initial Contract Rent Setting
- Method for Adjusting Contract Rents
- Transfer of Assistance
- RAD Rehab Assistance
- No Rescreening of Tenants upon Conversion
- Right to Return
- Renewal of the Lease
- Phase-in of Tenant Rent Increases
- When TTP Exceeds the Gross Rent
- PH FSS and ROSS Programs
- Resident Participation and Funding

# Special Provisions Affecting Conversions to PBV- continued

- Resident Procedural Rights
  - Termination Notification
  - Grievance Process
- Earned Income Disregard (EID)
- Capital Fund Education and Training Community Facilities Program (CFCF)
- Access to Records, Including Requests for Information Related to Evaluation of Demonstration
- Additional Monitoring Requirement
- Davis Bacon Act and Section 3
- Establishing Waiting List
- Mandatory Insurance Coverage

# Special Provisions Affecting Conversions to PBV- continued

- Agreement Waiver
- Future Refinancing
- Administrative Fees for Public Housing Conversion
- Resident Notification

# Maximum Amount of PBV Assistance

- Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which is currently set at 20 percent of the amount of budget authority allocated to a PHA under the Housing Choice Voucher program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6.

# Cap on the Number of PBV Units in Each Project

- The 25 percent limitation on the number of units that may receive PBV assistance in a project is increased to 50 percent. An assisted household cannot be involuntarily displaced as a result of this provision.
- An owner may still project-base 100 percent of the units provided at least 50 percent of the units at the project qualify for the exceptions for elderly, disabled, or families receiving supportive services, or are within single-family properties.
  - For applicable program rules for complying with the supportive services exception, see 24 CFR § 983.56(b)(2)(II)(B). (It is not required that the services be provided at or by the project (a third-party organization may provide the supportive services)).

# Excepted Units

- For purposes of RAD, the requirement that a family must actually receive services to reside in the excepted unit has been modified. Families living in units subject to a proposed RAD conversion must be given the option to receive supportive services.
- If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination.
- Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply. (HOTMA has relaxed the provisions of enforcement)

# Owner Proposal Selection Procedures

- Selections of covered projects shall be made in accordance with program requirements outlined in PIH 2012-32 rev-3. (HUD waived procedures)

# Site selection – Compliance with PBV Goals

- HUD waives these provisions having to do with de-concentration of poverty and expanding housing and economic opportunity, for the existing site.
- Site selection standards at 24 CFR 983.57 will apply to all off-site replacement projects and transfers of assistance



# Length of Contract

- Covered projects shall have an initial HAP term of at least 15 years (up to 20 years upon request of the PHA and with approval by the agency administering the vouchers).

# Mandatory Contract Renewal

- Applies both to PBV and PBRA
- By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal.

# Ownership or Control

- Applies both to PBV and PBRA (HOTMA changed definition of ownership)
- Pursuant to the RAD statute, during the initial term and all renewal terms of the HAP contract, HUD will require ownership or control of assisted units by a public or non-profit entity.
- However, as HUD, in its sole discretion, determines necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations of, or default under, the HAP contract, HUD will require ownership or control of assisted units in the following priority: (1) a capable public entity; and (2) a capable non-public entity (e.g., a private entity), as determined by the Secretary.

# RAD Use Agreement

- Applies both to PBV and PBRA
- Recorded superior to other liens
- Will run the same time as the initial HAP Contract, automatically renew upon extension of renewal
- Requires in event of breach or non-compliance, new tenants must have incomes at or below 80 percent of median income
- Requires compliance with all applicable fair housing and civil rights requirements

# Initial Contract Rent Setting

- Applies to PBV
- HUD has calculated initial contract rents for every public housing project based on each project's subsidy under the public housing program.
- The initial contract rents cannot exceed the lower of: (a) the reasonable rent (as defined under 24 CFR § 983.303); (b) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard), minus any utility allowance; or (c) the rent requested by the owner
- In the event that current funding exceeds the amounts established above, a PHA may make a permanent transfer of any subsidy in excess of the allowable rent caps to its voucher program to support Choice-Mobility.
- In a limited number of situations where converting projects with LIHTCs are located outside of a Qualified Census Tract, rents are determined in accordance with 24 CFR 983.301(c).

# Method of Adjusting Contract Rents

- Applies to PBV and PBRA
- Contract rents will be adjusted annually by HUD's OCAF at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term

# Transfer of Assistance

- Applies to PBV and PBRA
- Pursuant to the RAD statute, in order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, with HUD and lender and/or investor approval, after consultation with residents, and consistency with the Consolidated Plan, a PHA (as owner) may transfer part or all of a rental assistance contract and a RAD Use Agreement to unassisted units owned or controlled by a public or non-profit entity.

# RAD Rehab Assistance

- Applies to PBV and PBRA
- Units that are not occupied and will be undergoing rehabilitation or construction as identified in the approved Financing Plan and RAD Conversion Commitment will be eligible for assistance equal to the Public Housing Operating Fund and the Capital Fund amounts that formed the basis for the calculation of initial contract rents



# No Re-screening of Tenants upon Conversion

- Applies to PBV and PBRA
- Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.
- Once that remaining household moves out, the unit must be leased to an eligible family.

# Right to Return

- Applies to PBV and PBRA
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed.
- Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or Owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

# Renewal of Lease

- Applies to PBV
- Under current regulations at 24 CFR § 983.257(b)(3), upon lease expiration, a PHA can choose not to renew the lease, without good cause.
- In such a case, the regulatory consequence is the loss of the assisted unit.
- Under RAD, the PHA must renew all leases upon lease expiration, unless cause exists.

# Phase-in of Tenant Rent Increases

- Applies to PBV and PBRA
- If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years.
- A PHA must create a policy setting the length of the phase in period at three years, five years or a combination depending on circumstances.
- This policy must be in place at conversion and may not be modified after conversion.

# RAD Rent Phase In

- For in-place tenants at the time of conversion, if the current rent is lower than that calculated by the HCV formula by more than a specified amount (the greater of 10% or \$25), there is either a 3 or 5 year phase in to full rent.

# RAD Rent Phase-in

- TTP at RAD Conversion
- Used when phasing in rent for an in-place tenant as part of a RAD Conversion from Public Housing to PBV
- Defined as the TTP for the tenant immediately prior to the conversion to RAD. Becomes the TTP for the Initial Conversion to RAD
- Initial Conversion TTP does not change from cert to cert during the phase-in

# Phase-in Rent

- Watch for tenants that may now come under the student rule
- Watch for Flat Renters or Ceiling Renters
- Watch for complexes where the utility allowances factors are less for the complex after the conversion takes place- which means that their rent will go up

# Phase-in Rent

- Watch for other methods that will increase the rent- just because of the conversion- but is not a result of increase in the tenants income.
- If during the process the TTP becomes less than or equal to the initial conversion TTP- the phase in will stop



# RAD Rent Phase-in

- HUD notice PIH-2012-32 (HA), Rev-3 clarifies the rules concerning rent phase-ins
- Phase-ins, when applicable, will be for either a 3-year or a 5-year term, with the percentage increases each year being equal (for a 3-year phase-in, 33% in year 1 and 50% in year 2; for a 5-year, 20%, 25%, 33%, 50% in years 1-4) and that the increase on any particular certification is calculated by applying the proper percentage increase to the difference between the TTP on the prior certification and that for the current certification. In the final year (the year-3 or year-5 annual) the calculated TTP is used as the phase-in is complete.

# RAD Rent Phase In With Increase in TTP due to Income Increase

- Determination if Phase-in is required
  - TTP at RAD Conversion 900
  - Calculated TTP at Conversion due to increase in income 990
  - Increase in TTP is 90
- Contract Rent is \$1,000
- Phase in not required- because increase in rent was due to increase in the income of the participant

# RAD Phase-in of Tenant Rent due to the Conversion

- Determination when the Phase-in is required
  - TTP at the RAD conversion \$100
  - The participant is a student and subject to the student rule which now the annual income will include the difference between the Pell Grant and the tuition- so the income is increased resulting in a new TTP of \$200
  - Increase is greater than 10% or \$25
  - The difference between the two is \$100
  - If using the 3 year phase-in period- the increase would be \$33 for the first year and if everything remained constant then \$66 for the second year, and the \$100 in the third year.

# RAD Rent Phase-in

- The rules can result in counter-intuitive results.
  - A Gross Rent decrease can result in a rent increase for the participant
  - A corrected cert with no change in financial information can result in a rent increase
  - An Interim Recertification of adding a member with no income but with deductions can result in a rent increase

# Public Housing FSS and ROSS Programs.

- Applies to PBV and PBRA
- Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program, subject to the following:
  - Must convert the participants
  - Must create or administer HCV FSS Program

# Resident Participation and Funding

- Applies to PBV and PBRA
- Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

# Resident Procedural Rights

- Applies to PBV and PBRA
- Termination Notification
  - 14 days
  - 30 days
  - Reasonable time for expedited
- Grievance Process
  - An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as owner) action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
    - For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
    - For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

# Earned Income Disregard (EID)

- Applies to PBV and PBRA
- Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617.
- Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.



# Earned Income Disregard (EID)- continued

- Applies to PBV and PBRA
- In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only disabled persons is waived.
- The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion.

# When TTP Exceeds Gross Rent

- Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)).
- Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)) (24 CFR § 983.258).

# When TTP Exceeds Gross Rent-continued

- Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent.
- Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations.

# When TTP Exceeds Gross Rent- continued

- When the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.
- In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident.
- Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance.
- Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.
-

# When TTP Exceeds Gross Rent-continued

- Following conversion, 24 CFR § 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time.
- Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has vacated the property.
- If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where "floating" units have been permitted, Section 1.6.B.10 of this Notice.

# Under-Occupied Unit

- If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project.
- When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency.
- In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived.
- MTW agencies may not modify this requirement.

# Capital Fund Education and Training Community Facilities (CFCF) Program

- Applies to PBV and PBRA
- Where a community facility has been developed under CFCF in connection to or serving the residents of an existing public housing project converting its assistance under RAD, residents will continue to qualify as “PHA residents” for the purposes of CFCF program compliance

# Access to Records, Including Requests for Information Related to Evaluation of Demonstration

- Applies to PBV and PBRA
- PHAs must agree to any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work.



# Additional Monitoring Requirement

- Only PBV
- The PHA's Board must approve the operating budget for the covered project annually in accordance with HUD requirements.
- For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of the evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC

# Davis-Bacon Act and Section 3

- Applies to PBV and PBRA
- Davis-Bacon Act and Section 3 shall apply to all initial repairs that are identified in the Financing Plan to the extent that such repairs qualify as construction or rehabilitation, regardless of whether the project qualifies as “existing housing.”
- Developmental requirements under 24 CFR § 983.154 and fair housing provisions under 24 CFR § 983.152(c)(vi) continue to apply. (Applicable to projects with nine or more units).

# Establishment of Waiting List

- Applies to PBV and PBRA
- In establishing the waiting list for the converted project, the PHA shall utilize the project-specific waiting list that existed at the time of conversion, unless the assistance is being transferred to another neighborhood.
- If a project-specific waiting list does exist, but the PHA is transferring the assistance to another neighborhood, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at the new project site or other sites.

# Establishment of Waiting List- continued

- Applies to PBV and PBRA
- Applicants on a project-specific waiting list for a project where the assistance is being transferred shall have priority on the newly formed waiting list for the new project site in accordance with the date and time of their application to the original project's waiting list.
- In addition, the waiting list must be established and maintained in accordance with PBV program requirements.

# Establishment of the Waiting List-continued

- Applies to PBV and PBRA
- If a project-specific waiting list for the project does not exist, the PHA shall establish a waiting list in accordance 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the converted project's initial waiting list.
- For the purpose of establishing the initial waiting list, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing waiting list given the number of applicants, PHA resources, and community characteristics of the proposed conversion under RAD.
- Such activities should be pursuant to the PHA's policies for waiting list management, including the obligation to affirmatively further fair housing.

# Establishment of the Waiting List-continued

- Applies to PBV and PBRA
- A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area, informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate.

# Establishment of the Waiting List-continued

- Applies to PBV and PBRA
- Applicants on the agency's centralized public housing waiting list who wish to be placed onto the newly-established waiting list are done so in accordance with the date and time of their original application to the centralized public housing waiting list.
- Any activities to contact applicants on the public housing waiting list must be conducted accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and the obligation to provide meaningful access for persons with limited English proficiency (LEP).

# Mandatory Insurance Coverage

- Applies to PBV and PBRA
- The project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except with the written approval of HUD to the contrary.



# Agreement Waiver

- Applies to PBV
- For public housing conversions to PBV, there will be no Agreement to Enter into a Housing Assistance Payments (AHAP) contract.
- Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D are waived.

# Future Refinancing

- Applies to PBV and PBRA
- Owners must receive HUD approval for any refinancing or restructuring of permanent debt within the HAP contract term to ensure the financing is consistent with long-term preservation.

# Administrative Fees for Public Housing Conversions

- Applies to PBV
- After this transition period, the ACC will be amended to include Section 8 funding that corresponds to the units covered by the ACC.
- At that time, the regular Section 8 Administrative Fee funding provisions will apply.

# PBV Pros and Cons

- Pros
  - PHA administers the assistance
  - Administrative fess earned
  - Management fees from both site and HCV program for COCC
  - No REAC Inspection
- Cons
  - Lower cap on maximum rents and thus less potential debt service
    - 110% of FMR
  - Only 50 % of units can receive assistance unless exceptions met
  - Need capacity to administer PBV assistance (must have existing HCV Program to self administer PBV)
  - Independent entity must perform HQS inspections and rent reasonableness determinations

# Key Considerations

- Agency Plan Amendment- required
- Resident Participation- required
- Choice Mobility- required
- Physical Needs Assessment- required
- Rent Phase-In- required
- Certain PHA benefits are still given- post conversion
  - Lease provisions
  - Grievance procedure
  - Tenant organization
- Right to return
- No screening for existing resident population

# Supportive Services for PBV

- HUD Requirement for Exemption
  - Applies at turnover, not for existing residents
  - Can be FFS participation or any other supportive services program as defined by HCV Administrative Plan
  - Plan may be reviewed by FHA or other funder for sufficiency
  - Key components
    - Intake and Assessment
    - Case Management
    - Individual Action Plan and Goals
    - Tracking and Reporting

# Supportive Goals

- Typical Program Goals
  - Self-sufficiency
  - Upward Mobility
  - Educational Achievement
  - Quality of Life

# Supportive Services- Sources of Funding

- Existing FSS Program
- Priority points for New HCV FSS coordinator positions in upcoming FSS competitions
- Site's operating budgets
- HCV Administrative Fees
- Partnership Agencies
- 501(c) 3 Affiliates
- Grants and other private sources



# 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
  - Vouchers from turnover or another PHA

# Resident Choice-Mobility

## **PBV**

- Adhere to current program rules:
  - Minimum residency: 1 year
  - Waitlist priority if comparable TBRA is not immediately available

## **PBRA**

- Minimum residency: 2 years
- PHA may limit:
  - Choice-mobility vouchers to one-third of its turnover vouchers
  - Choice-mobility moves to 20 percent of the assisted units in the project
- HUD may exempt up to 10% of converted units for:
  - PHAs/owners without voucher program
  - PHAs with one-third of voucher turnover already committed to veterans or to the homeless
- Ranking factor (in competition) for applicants who obtain/commit choice- mobility vouchers

# RAD Form Documents

- Financing Plan
- Conversion Commitment
- Use Agreement (and Release of DOT)
- PBV HAP and Rider
- PBRA HAP
- RAD Closing Package and Checklist – under development

# Why RAD and PBV or PBRA?

- Preservation of Assisted Housing Program
- Impact on the Resident is Minimal
- Method to Infuse Outside Capital
- Forces PHAs to Compete in the Market

# Specifics to the Program on Project-based Rental Assistance

# Special Provisions Affecting Conversions to PBRA- HUD Waivers

- URA Applies with some exceptions
- 24 CFR Part 880 Section 8 Housing Assistance New Construction Applies with some exceptions
- Office of Housing Guidance Applies- with some exceptions

# PBRA Length of Contract

- Covered projects shall have an initial HAP term of 20 years. To implement this provision, HUD is waiving section 8(d)(2)(A) of the Act, which establishes a maximum term of 15 years for “an existing structure

# Mandatory Contract Renewal

- Pursuant to the RAD statute, upon contract expiration, the Secretary shall offer, and the PHA shall accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal. The various provisions stating or requiring that any renewal of an expiring contract for project-based assistance under Section 8 shall be “at the request of the owner” will not apply.



# Ownership or Control

- Pursuant to the RAD statute, during the initial term and all renewal terms of the HAP contract, HUD will require ownership or control of assisted units by a public or non-profit entity.
- However, as HUD, in its sole discretion, determines necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations of, or default under, the HAP contract, HUD will require ownership or control of assisted units in the following priority: (1) a capable public entity; and (2) a capable non-public entity (e.g., a private entity), as determined by the Secretary.

# RAD Use Agreement

Covered projects shall have an initial RAD Use Agreement that:

- Will be recorded superior to other liens on the property;
- Will run for the same term as the initial HAP contract, automatically renew upon extension or renewal of the HAP contract for a term that runs with the renewal term of the HAP contract, and remain in effect even in the case of abatement or termination of the HAP contract (for the term the HAP contract would have run, absent the abatement or termination), unless the Secretary provides approval for the RAD Use Agreement to be terminated when an owner requests a transfer of assistance;

# RAD Use Agreement- continued

- Requires that in the event that the HAP contract is removed due to breach, noncompliance or insufficiency of Appropriations, for all units previously covered under the HAP contract new tenants must have incomes at or below 80 percent of the area median income (AMI) at the time of admission and rents may not exceed 30% of 80% of median income for an appropriate size unit for the remainder of the term of the RAD Use Agreement; and
- Requires compliance with all applicable fair housing and civil rights requirements, including the obligation to affirmatively further fair housing and the site selection and neighborhood standards requirements set forth in 24 CFR § 1.4(b)(3).

# Initial Contract Rent Setting

- No additional or incremental funding is associated with this Demonstration. Consequently, section 8(c)(1) of the Act, which governs rent setting for project-based Section 8 units, shall not apply.
- Nor shall section 8(c)(5) of the Act or 24 CFR § 880.503(b), which govern the “project account,” apply.
- HUD has calculated initial contract rents for every public housing project based on each project’s subsidy under the public housing program.

# Initial Contract Rent- continued

- Regardless of HUD's calculation, initial contract rents will be capped at 120 percent of the Section 8 FMR, adjusted by the number of bedrooms, and after subtracting any applicable utility allowance.
  - PHA has flexibility
    - MTW Fungibility
    - Rent Bundling
    - Future Replacement Housing Factor

# Method of Adjusting Contract Rents

- Contract rents will be adjusted annually by HUD's OCAF at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term.
- Consequently, neither section 8(c)(2) of the Act nor 24 CFR § 880.609, which govern rent adjustments for project-based Section 8 units, shall apply.
- While the initial rent is capped, rent caps do not apply when calculating rent adjustments by OCAF and no RCS is required.

# Distributions

- Applies to PBRA only
- Regardless of type of financing, converted projects will not be subject to any limitation on distributions, contingent on the availability of surplus cash as determined by year-end audited or certified financial statements.
- To implement this provision, HUD will not apply 24 CFR § 880.205, which, among other provisions, establishes certain limitations on distributions for profit-motivated owners and authorizes HUD to require the owner to establish a residual receipts account.
- Distributions are not considered program or project funds.

# Transfer of Assistance

- In order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, with HUD and lender and/or investor approval, after consultation with residents, and consistency with the Consolidated Plan, a PHA (as owner) may transfer part or all of a rental assistance contract and a RAD Use Agreement to unassisted units owned or controlled by a public or non-profit entity.



# RAD Rehab Assistance Payments

- To ensure that the amount of subsidy for the project is retained at the pre-conversion level once the assistance is converted to the HAP contract, covered projects will be eligible for assistance equal to current funding, as defined in this notice, less adjusted formula income, for units that are not occupied and will be undergoing rehabilitation or construction as identified in the approved Financing Plan and RAD Conversion Commitment.

# PBRA Resident Rights and Participation

- No Rescreening of Tenants Upon Conversion
- Right to Return
- Phase-in of Tenant Rent Increases
- Public Housing Self-Sufficiency (PH FSS) and Resident Opportunities and Self Sufficiency (ROSS-SC)
- Resident Participation and Funding
- Resident Procedural Rights
- Termination Notification
- Grievance Process
- Earned Income Disregard
- Capital Fund Education and Training Community Facilities (CFCF) Program

# PBRA: Other Miscellaneous Provisions

- Access to Records, including Requests for Information Related to Evaluation of Demonstration
- Davis-Bacon Act and Section 3
- Establishing of Waiting List
- Mandatory Insurance Coverage
- Choice Mobility- **unique**
- Future Refinancing
- Submission of Year-End Financial Statements
- Classification of Converting Projects as Pre-1981 Act Projects under Section 16 © of the United States Housing Act of 1937

# Choice Mobility

- Only for PBRA
- HUD seeks to provide all residents of covered projects with viable Choice-Mobility options. PHAs that are applying to convert the assistance of a project to PBRA are required to provide a Choice-Mobility option to residents of covered projects in accordance with the following:
  - Resident Eligibility
  - Voucher Inventory Turnover Cap
  - Project Turnover Cap

# Choice Mobility- Resident Eligibility

- Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 24 months from date of execution of the HAP or (b) 24 months after the move-in date.

# Choice Mobility- Voucher Inventory Turnover Cap

- Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of covered projects.
- While a voucher agency is not required to establish a voucher inventory turnover cap, if implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

# Choice Mobility- Project Turnover Cap

- Also recognizing the limited availability of turnover vouchers and the importance of managing turnover in the best interests of the property, in any year, a PHA may limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the PHA could limit the number of families exercising Choice-Mobility to 15 in any year, but not less than 15.)
- While a voucher agency is not required to establish a project turnover cap, if implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

# Submission of Year End Statements

- Only for PBRA
- Covered projects converting assistance to PBRA must comply with 24 CFR Part 5 Subpart H, as amended, revised, or modified by HUD from time to time regarding submission of financial statements. This provision is included to clarify existing requirements for PHAs that own PBRA-assisted projects through Single Asset Entities. Such owners are considered reporting entities under 24 CFR § 5.801 (a)(3) and (a)(4).



# Classification of Converting Projects

- Applies to PBRA
- For purposes of ensuring maximum flexibility in converting to PBRA, all such projects converting to PBRA shall be treated as Pre-1981 Act Projects under Section 16(c) of the US Housing Act of 1937.
- Section 16(c)(1) of the US Housing Act of 1937, which applies to pre-1981 Act projects, restricts occupancy by families that are other than very low-income to 25% of overall occupancy. Thus, owners of projects converting to PBRA may admit applicants with incomes up to the low-income limit.
- HUD Headquarters tracks the 25% restriction on a nationwide basis. Owners of projects converting to PBRA do not need to request an exception to admit low-income families.

# Questions?

- Thank You