# RAD Awardee Conference: Questions & Answers

## Day 1

***Question:*** Regarding the RAD PBV Rent Cap, our public housing project had Flat Rents of $1,014, which we established in 2014. The FMR in 2014 was $1,087. How come our 2018 RAD PBV Contract Rents are only $697, which includes a $141.00 Utility Allowance?

***Answer:*** HUD does not use the Flat Rents to calculate the RAD Rents. The RAD Rents are based on current funding under the public housing program, i.e., the combined Tenant Rents, Operating Subsidy, and Capital Fund award for each project. The RAD Rents are based on the PHA's current funding – not the Section 8 Fair Market Rents or the agency's previous "flat rents."

***Question:*** Can you please explain what Choice Mobility means?

***Answer:*** Under the standard PBV program, a household gets the option to move (with a housing choice voucher) after one year, subject to the availability of vouchers. In essence, the household gets a "super preference" for any available vouchers. Under RAD, this same Choice-Mobility requirement applies to all PBV conversions. For RAD PBRA conversions, a household gets the option to move (with a housing voucher) after two years, but, as noted elsewhere, a PHA that does not operate a voucher program and converts to PBRA can request an exception.

***Question:*** In terms of the annual adjustments in rent, what is the difference between PBV and PBRA? Do they both receive an OCAF or does it depend on the HAP Contract?

***Answer:*** Both RAD PBV and RAD PBRA contract rents gets adjusted each year by OCAF; however, under PBV, that OCAF-adjusted rent is still subject to "rent reasonableness" (there is no such cap on PBRA).

***Question:*** If a property converts using PBRA and gets the $100 rent boost for projects in Opportunity Zones that are converting to PBRA and are undertaking repairs equal to at least 60% of HCC, will this rent boost also be subject to the RAD rent cap?

***Answer:*** Yes, all conversions are subject to the associated PBV and PBRA RAD rent caps. In the case of PBRA conversions, contract rents can exceed 120% of FMR, up to 150% of FMR, but only with a supporting Rent Comparability Study.

***Question***: Regarding the PBV contract rent rules, where the rents are set at the lower of: the RAD rent, 110% of FMR, or the "reasonable" rent, in my agency it turns out that the PBV rent is lower than all 3 options and I wanted to know if there is a reason for this?

**Answer:** In this case it likely that your current public housing funding actually exceeds the "reasonable" or market rent for the unit.

***Question:*** Has Choice Mobility helped you with utilization in your HCV Department?

***Answer:*** Unfortunately, we have not heard from PHAs about the impact of Choice Mobility on utilization.

***Question:*** If a PHA doesn't currently operates a Voucher program, and fully converts to PBRA, does Choice Mobility apply?

***Answer:*** The RAD program provides an exemption from Choice Mobility for PHAs that convert to PBRA and don't operate a voucher program. This exemption is available for up to 10% of all converted units, nationwide. We are well below this cap.

***Question:*** If someone wants a voucher after 12 months, i.e., the resident desires to exercise his/her "Choice-Mobility" option, which voucher income limit would apply – the income limit for the jurisdiction issuing the voucher or the income limit for the jurisdiction for where the voucher is utilize?

***Answer:*** The income limits apply based on where the tenant relocates.

***Question:*** We are a PHA that does not operate a voucher program. Under PBRA, after 24 months, if a tenant wants to move, the subsidy would remain with the initial unit and another PHA (that has partnered with our PHA to administer the PBVs) would issue vouchers. Is this how it works generally?

***Answer:*** You are correct that the subsidy stays with the unit (regardless of whether a family moves with a voucher). The voucher provided to household (allowing it to exercise its "Choice-Mobility" option) comes from the administering agency's voucher waiting list.

# Day 2

***Question:*** For RAD PBV conversions, does the voucher agency receive an administrative fee for each unit and, if so, does the PBV administrative fee come out of the contract rent for the unit?

***Answer:*** The administrative fee paid to the voucher agency for any RAD PBV unit is funded through a separate appropriations account, i.e., it is not paid by the converted project.

***Question:*** Can you please let attendees know if the 2020 "RAD modified rents" are the same thing as the next Congressional appropriation of PBRA rents?

***Answer:*** The Recap Office publishes new RAD rents about every two years, based on "current funding" under the public housing program. Each year thereafter, the rents are increased by an Operating Cost Adjustment Factor. Recap last updated the RAD Contract Rents in 2018 and expects to update again in late 2020.

***Question:*** What cost factors are used in the new HUD CNA eTool software that is being presented in this session?

***Answer:*** HUD does not publish its own cost data. Each PCA contractor uses his/her own cost estimates.

***Question:*** How does the HUD CNA eTool handle inflation for future-year items, e.g., the replacement of refrigerators in year 12?

***Answer:*** Each PCA contractor must include his/her estimate for inflation, which is typically between 2-3%.

***Question:*** In the RAD CNA eTool, does the replacement cost include Contractor's General Conditions, overhead, and profit?

***Answer:*** Yes, it includes GC, overhead, and profit.

***Question:*** Who is interacting with the needs assessor – the current PHA or the future RAD owner?

***Answer:*** The PHA is always the lead for any RAD conversion because it is the PHA that is presenting the Financing Plan (and removing the units from PIC). As such, the PHA is typically the entity interacting most with the needs assessor.

***Question:*** What options exist to address existing EPC debt at time of conversion?

***Answer:*** Any PHA that is converting a project must address any EPC debt, which generally means that the PHA will need to pay off or pay down that debt as part of conversion (there are certain times when the project can continue to assume the debt, provided there are no other remaining public housing projects associated with this EPC). As part of that process, the PHA will also need approval from the PIH Energy Center.

***Question:*** Can you please explain what Choice Mobility means?

***Answer:*** Under RAD PBV, a household gets the option to move (with a housing choice voucher) after one year; under RAD PBRA, a household gets the option to move (with a housing voucher) after two years.

***Question:*** If the PHA transfers the project as part of the RAD conversion to an affiliate, can the affiliate receive excess proceeds and can the PHA use public housing operating reserves to pay for the IDRR or the deferred developer fee?

***Answer:*** In all transactions, regardless of who will own the project, a PHA is allowed to generate "excess sales proceeds" (i.e., the sale of the public housing project to the new ownership entity, less any seller take-back financing), provided there are no public housing funds contributed to the deal (with an exception for the last project to be removed). Further, the RAD program allows any public housing funds to be contributed to the project's Development Budget. The RAD program also does not match specific sources with specific uses.

***Question:*** We have an existing public housing project, consisting of three sites, that we would like to convert under one transaction. There are 53 units on one site, 12 on a second site, and 129 on the third. They are all within about a one-mile radius. Will HUD approve these sites as one "grouping" or project?

***Answer:*** The RAD program requires that each project be a "single manageable, marketable entity." We suggest that you submit your site grouping to the RAD Resource Desk, with more details about the location of each site and whether the PHA has other sites beyond the three mentioned. Please also see PIH Notice 2006-10 for general guidance on groupings.

***Question:*** How do you handle a mixed finance property that still has million dollars owing to the PHA that wants to convert to RAD?

***Answer:*** Properties can convert with existing debt, or the debt can be repaid through the conversion process. Generally speaking, RAD doesn't change the terms of any existing financing.

***Question:*** I was told that if you join a solar farm it would work against you for financing. True?

***Answer:*** There is no restriction on any project from taking on any financing prior to RAD; however, a PHA may find that such a financing may not be as favorable as long-term mortgage debt and/or such financing may require high exit fees.

***Question:*** We have a situation in one of our properties where we could readily expand the number of units (through the reconfiguration of space). Under the RAD program, can we increase the number of units in the program?

***Answer:*** RAD doesn't have any authority to increase the number of assisted units beyond those that were in the converting project, unless the PHA is utilizing a "Transfer of Assistance" from another site.

***Question:*** My PHA is undertaking new construction and, as such, the project will need to meet HUD's Site and Neighborhood Standards. We are interested in the exception for "sufficient comparable housing opportunities." What standard does HUD use?

***Answer:*** In determining if there are "sufficient comparable housing opportunities" in a community, at least 50% of the Section 8 project-based inventory in the community generally must be located in a non-minority area.

***Question:*** Is there a waiver due to COVID-19 that allows an extension for the Financing Plan beyond the 6-month period without holding an additional Resident Meeting?

***Answer:*** The Office of Recap has not waived the requirement that any Financing Plan extension beyond 6 months requires an additional resident meeting; however, we have offered additional flexibilities in meeting that requirement, including remote or electronic meetings.

***Question:*** Can you use previous year Replacement Housing Factor (RHF) or DDTF funds for the rent boost?

***Answer:*** Yes, both RHF and DDTF funds can be used as a source in the Development Budget (or even for rent-augmentation/rent-boost).

***Question:*** Can Capital Funds be loaned to a RAD project and repaid through cash flow?

***Answer:*** Yes; however, all public housing funds loaned to a project must be in the form of a soft (cash flow) note.

***Question:*** Is the Transaction Manager who is assigned at the CHAP award also the one who is setting up the kick-off call for new PHAs?

***Answer:*** For all new awardees, the Office of Recap assigns an initial Technical Assistance Provider for an initial 4 month "launch" period; however, the assignment of a Financing Plan Transaction Manager will not be made until the time of request of Concept Call.

***Question:*** During this COVID period, is a ZOOM resident meeting sufficient?

***Answer:*** Per our FAQ, a Zoom meeting could meet the requirements, under certain circumstances.

# Day 3

***Question:*** Can you elaborate when a project's proposed operating expenses are less than 85% of 3-year average?

***Answer:*** In underwriting RAD transactions, the Office of Recap generally requests additional supporting documentation if projected operating costs will be less than 85% of the three-year average.

***Question:*** A PHA has a 100-unit high rise consisting of all efficiency apartments. The PHA wants to reconfigure project into 50 one-bedroom units. Can these "lost" units be "warehoused" to be replaced elsewhere, either by new construction or acquisition? If so, what would be the timeline for the units to be replaced?

***Answer:*** A PHA that is "losing" units through reconfigurations can either have the lost subsidy spread through the remaining units (subject to all applicable RAD rent caps) or can place the lost units into a Converted Awaiting Transfer (CAT) agreement, to be placed elsewhere. These CAT agreements are usually for periods of up to 5 years.

***Question:*** What if in your Financing Plan you do not anticipate any relocation, but then, following conversion, you find you need to relocation some families temporarily?

***Answer:*** We ask PHAs to do their best at projecting periods of relocation during Financing Plan submission but at times a project may experience unforeseen conditions and relocation may last longer than 12 months. All applicable relocation rules still apply.

***Question:*** Do public housing units in a floodway automatically qualify for Section 18?

***Answer:*** Yes

***Question:*** Can you clarify whether regular Capital Funds can be used for the rent-augmentation or just those related to RHF/DDTF?

***Answer:*** Both regular Capital Funds and RHF/DDTF can be used to augment the RAD Contract Rents.

***Question:*** Is there a maximum amount that a PHA can spend, with public housing funds, on predevelopment costs?

***Answer:*** There is no maximum amount; however, if the PHA is wanting to use public housing funds to pay for these pre-development costs, HUD approval is required for any amount about $100,000.

***Question:*** Did I hear correctly that all existing debts on the PH property must be paid off prior to the RAD conversion?

***Answer:*** No. A PHA must satisfy all obligations of a project prior to conversion, which could include simply carrying over this debt as part of conversion, provided such obligations can be met with project income. The only exception is EPC debt that is part of a larger EPC effort for projects that are not converting; in that instance, the converting project must pay off its proportionate share of the EPC debt prior to conversion.

***Question:*** In transferring the project to a new ownership entity, can a nonprofit entity not controlled by the PHA have the controlling interest, or does it have to be the PHA that has the controlling interest, including through an affiliate nonprofit?

***Answer:*** The RAD program requires that all converted projects are "owned or controlled" by a public or non-profit entity. Hence, the PHA is not required to have a controlling interest in the affiliate or instrumentality as long as such affiliate/instrumentality is a non-profit.

***Question:*** In a PBV conversion - you mentioned that the PHA cannot own the property and then administer the vouchers. What if the PHA sets up an LLC that is owned by its instrumentality?

***Answer:*** For PBVs, a PHA cannot be on both sides of the HAP contract. Hence, to satisfy that requirement, a PHA can set up an LLC that is owned by its instrumentality to own the project. This arrangement would meet the need to have different entities on both sides of the HAP contract; however, in this case, because the PHA has an ownership interest in the LLC (as defined by PBV regulations), the PHA would need to have an independent entity perform the annual reasonable rent determination and to conduct the HQS inspections.

***Question:*** How often do the affiliates hold board meetings and how are they audited?

***Answer:*** It depends on the state law.

# Day 4

**Question:** What are the differences in timing of when subsidies start in a RAD conversion vis-à-vis a conversion under Section 18 (where the PHA may be project-basing the TPVs)?

**Answer:** For all RAD transactions, subsidies from the time of conversion until the end of the calendar year are funded via the project's current funding under the public housing program. Then, in the second calendar year of conversion subsidies are paid via the PBV or PBRA program. But in Section 18 (non-RAD) conversions, where a PHA may be project-basing the TPVs, the voucher funding will begin as soon as the units meet HQS.

**Question:** Does HUD envision or plan on RAD to eventually be absorbed into "regular" Section 8 (PBV/PBRA) once there are few original PH residents?

**Answer:** RAD remains a voluntary demonstration program. Although the Department has asked to raise/eliminate the cap, the Department has not had any discussions about "absorbing" the rest of the public housing program into the "regular" Section 8 program, which could only be done with Congressional action.

**Question:** If an existing public housing mixed finance project, which was built with tax credits, converts to RAD, how should the existing waiting list be handle upon the commence of the HAP contract?

**Answer:** The existing project waiting list can be carried over.

**Question:** Can a PHA use existing LIHTC units as temporary housing for households that need to be temporarily relocated?

**Answer:** For RAD, a LIHTC unit is an acceptable form of temporary relocation. But a PHA would need to follow all tax credit rules.

**Question:** Over income residents and units not being eligible for LIHTC can cause issues with investors. What options are there to be offered to residents?

**Answer:** Under RAD, all residents of a converting project have an absolute right to return. So, if they are over income for tax credits, the PHA will either need to obtain a voluntary relinquishment of the tenant's right to return or modify the project's plan so that the family can remain. Also note that the tax credit program now allows income-averaging.

**Question:** If the project pre-conversion was senior-designated housing, would the designation follow post conversion? Or, would there be a senior preference instead of senior designation?

**Answer:** Under RAD, whether converting to PBV or PBRA, no senior designation is permitted; however, the converting project can have senior preferences.

**Question:** Under the RAD-Section 18 75/25 blend, does the PHA get to pick which units are granted TPV and which stay under RAD?

**Answer:** Yes, the PHA can determine which units are the Section 18 units, e.g., the larger bedroom units.

**Question:** In order to qualify for Section 18 Scattered sites, what is the definition of "scattered sites"?

**Answer:** If you are looking to qualify for Section 18 Scattered Sites, the "site" must include not more than 4 units and it must not be contiguous to other public housing units.

**Question:** For Section 18 removals, when does the clock start for determining TPV eligibility?

**Answer:** A unit will only be eligible for TPVs if it has been occupied within 24 months of the date of the SAC approval of the Section 18 request.

**Question:** When can the sponsor / PHA designate that the project as a RAD-Section 18 75/25 Blend or RAD-Section 18 Close-Out Blend (i.e., does the Sponsor / PHA designate a RAD-Section 18 blend at the time of the RCC or RAD Conversion)?

**Answer:** The PHA will make this election at time of Financing Plan submission, but will communicate its plans at Concept Call.

**Question:** For the RAD-Section 18 Close-Out Blend, does the PHA also need to ensure that repairs must exceed 60% of HCC?

**Answer:** There's a difference between RAD/Section 18 75-25 Blend and RAD/Section 18 Close-out Blend. The latter has no threshold of repairs. The former must meet 60% of HCC.

# Day 5

***Question:*** Can you walk through what hard costs are eligible within the HCC definition? I see that the workbook references looking at the definition in the e-tool.  I believe some things are not allowed.

***Answer:*** For the purposes of the RAD/Section 18 75-25 Blend, as well as the RAD $100 Rent Boost for projects converting to PBRA in Opportunity Zones, HCC costs include: construction, general overhead, profit, and contingency.

***Question:*** For the RAD-Section 18 75/25 Blend, can you use either PBRA or must you use PBV?

***Answer:*** For the RAD/Section 18 75/25 Blend, you must convert the Section 18 units to PBVs. The RAD units, however, can be either PBV or PBRA.

***Question:*** We have 34 units and rehabbing all of them. We are going to do a loan but is it better to do the RAD-Section 18 75/25 Blend instead?

***Answer:*** We would need to look at the Sources/Uses to determine if you would qualify...but if you do, generally, yes, it's better to do the "blend" if the Section 8 TPV rents are higher than current public housing funding.

***Question:*** Are HUD Capital Funds an eligible source of funds (can be used) for a RAD-Section 18 Blend transaction?

***Answer:*** Yes; however, as with all "mixed" transactions, the amount of public housing contributions is governed by "proportionality", i.e., if the RAD units represent 75% of the units in the project, then public housing funds cannot exceed 75% of the total development costs.

***Question:*** Can you repeat the information about Faircloth limits on close out blends?

***Answer:*** A PHA does not earn Faircloth Units on RAD units; however, in a RAD/Section 18 blend, the PHA would earn Faircloth units on the Section 18 units.

***Question:*** If the Special Purpose units (for resident services) is part of CHAP award, does the PHA need to maintain the special purpose unit designation in order to maintain the CHAP rent status?

***Answer:*** Under RAD, a PHA that currently is funded for a special purpose unit can have the subsidy associated with that unit "spread" over the remaining RAD units at the project but the PHA would then need to maintain that unit for such special purpose throughout conversion.

***Question:*** How long does it typically take for HUD to review closing package?

***Answer:*** Not long. Typically, 10 days and the more communication the better! Let them know your deadline.

***Question:*** Do you accept DocuSign signed documents?

***Answer:*** We are not using DocuSign.

***Question:*** Would there be any reason NOT to utilize the Rehab Assistance Payments? Is there any impact or relation to the PH funding needed for the initial year of the HAP contract?

***Answer:*** We don't see any reason why a PHA would not request Rehab Assistance Payments, if eligible.

***Question:*** If our CHAP specifies a specific bedroom count. can that be modified after it has been submitted?

***Answer:*** Yes! You can reconfigure your bedroom mix, which would be done through a CHAP amendment.

***Question:*** Can you rent bundle with 2 properties that do not meet the aggregation requirements mentioned in previous sessions, i.e., more than 1 mile apart or separated by a physical barrier such as a highway?

***Answer:*** Rent bundling can occur between any two CHAPs and there is no aggregation requirement.

***Question:*** How does rent bundling work with a RAD/Section 18 Blend, in which the project would have RAD designated rents and 25% non-RAD PBV rents?

***Answer:*** Under a RAD/Section 18 Blend, a PHA can still rent-bundle for the RAD units in the blend.

***Question:*** What is the typical calculation of the DDTF rent boost?  How much additional rent is generated, typically?

***Answer:*** It depends on many factors. But for purposes of illustration, assume that a PHA has $1 million in DDTF funds that it wants to use to boost the rents at a 100-unit project. In this case, the rents would be increased by $42 PUM ($1,000,000 divided by 20 years, divided by 12 months, and divided by 100 units).

***Question:*** Can you give a brief example of a non-financial closing?

***Answer:*** A non-financial closing is any closing where there is no third-party loan.

***Question:*** We are going PBV and are about to submit our Financing Plan. The RAD Gross Contract Rents are well below the FMR under section 8. Can this be amended and if yes is it thru the chap?

***Answer:*** Under RAD, the Contract Rents are set according to "current funding" and not based on Fair Market Rents.