

PRACTical RAD Series - Closing 101 MP4.mp4

Hello and welcome to another video in the PRACTical RAD series. This series provides PRACTical guidance to owners of Section 202 properties seeking to convert their Project Rental Assistance Contract, or PRAC, to a Section 8 Housing Assistance Payments contract, or HAP, through HUD's Rental Assistance Demonstration program, known as RAD.

Other videos in this series include an overview of the RAD program, conversion milestones, capital needs assessments, financing strategies, rents, supportive services, and environmental reviews.

The purpose of this video is to provide an overview of the RAD closing process for PBRA conversions. After watching this video, 202 practitioners will be able to answer the following questions: What triggers the start of the closing process? How is the closing timeline established? Who coordinates the closing process? Who is responsible for obtaining and preparing closing documents, and what are some best PRACTices to ensure a smooth closing?

To qualify for RAD conversion, a 202 PRAC owner must develop and submit a conversion plan that satisfies all RAD program requirements. A complete list of all conversion requirements applicable to Section 202 projects can be found in Housing Notice H-2019-09-PIH-2019-23, Section 4, Attachment 4A.

Once HUD determines that an owner's proposed conversion plan satisfies all RAD program requirements, HUD will issue a conditional approval letter. The conditional approval letter is valid for 90 days unless extended by HUD in writing. Final approval to close the RAD conversion is conditioned upon the project owner satisfying all requirements set forth in the conditional approval letter. These requirements include completion of all pre-closing repairs prior to the closing date, satisfaction of all special conditions, submission of all required closing documents for HUD review and approval, and timely execution of all closing documents. A draft conversion agreement will be sent with the conditional approval letter.

The conversion agreement includes three exhibits: a sources and uses of funds; a scope of work, identifying any rehabilitation work to be performed; post-closing; and any additional provisions to the conversion agreement. Although the template conversion agreement language will not change, it is not uncommon for the information in the sources and uses and the scope of work to change prior to closing. It is the project owner's responsibility to timely notify HUD of such changes, and to submit requests to modify these exhibits via the RAD Resource Desk.

Also included with the conditional approval letter is a HAP term sheet, which will be used to populate the new HAP contract. When the conditional approval letter is issued, HUD's Office of Recapitalization will assign a RAD closing coordinator to your project and request assignment of HUD Field Office legal counsel. The RAD closing coordinator serves as the project owner's main point of contact with respect to the closing process. The coordinator will establish the closing timeline, track the submission of documents, and check the information in certain documents for correctness.

After the conditional approval letter has been issued, the closing coordinator will send an introductory or hello email to all owner contacts. The hello email is also sent to the HUD Multifamily Account Executive, the RAD Transaction Manager and the HUD Field Office Legal Counsel. The hello email instructs the owner to review the conditional approval letter, and all attachments provide the closing coordinator with the name and contact information for anyone who wasn't copied on the hello email, who should be included in future emails; provide dates and times the owner is available to attend a closing kickoff call; and begin preparing documents listed in the closing checklist.

Attached to the hello email is a closing checklist. The closing checklist identifies the documents needed to close your RAD conversion. The project owner is responsible for drafting these documents and providing them to HUD for review and approval. Upon receipt of the conditional approval letter, the project owner should carefully review it with their legal counsel and begin work on the closing documents as soon as possible.

Template HUD closing documents can be found on the RAD Resource Desk at www.RADresource.net in the Document Library under the closing section. Once the owner has provided information regarding their availability, the closing coordinator will schedule and conduct a closing kickoff call. The purpose of the closing kickoff call is to

introduce all parties to the closing; develop a closing timeline; explain how to submit the closing package; discuss any special conditions; and answer any questions that the owner may have.

The closing timeline should: include a target date for the owner's submission of the draft closing package; provide time for HUD's review process; identify the desired effective date of the new HAP contract; and account for any unique aspects of the conversion, such as completing any pre-conversion repairs and or closing any financing associated with the RAD conversion. If the project is converting to project based rental assistance, the new PBRA contract will start on the first day of the first full month that begins at least 30 days after the closing of the RAD conversion.

For example, if closing occurs on July 15th, the HAP contract would begin on September 1st. After the closing kick off call, the project owner will focus on drafting and submitting the applicable closing documents identified in the closing checklist. Owners will typically submit two complete sets of draft documents to HUD. Owners will upload one set to the RAD resource desk and send the other set to the assigned HUD Field Office Council in a form and manner of the HUD council's choosing. Documents submitted to the RAD Resource Desk may be uploaded individually, but HUD will not begin its review until all required documents have been uploaded and the owner has clicked the submit button. HUD will conduct two concurrent reviews of the documents, a programmatic review and a legal review. Documents uploaded to the RAD Resource Desk will be reviewed for programmatic compliance by the RAD closing coordinator.

The assigned HUD Field Office Council will perform a legal review of the closing documents. After reviewing the draft closing package, HUD will issue its comments to the project owner. The owner or their legal counsel will need to review all comments and revise the draft documents. Once the documents are approved, the owner will upload them to the resource desk. For purposes of developing a closing timeline, owners should allow 45 to 60 days after their initial submission of their draft closing package for full completion of all HUD reviews, including multiple rounds of back and forth.

After HUD approves all closing documents, the closing coordinator will circulate them for signature. HUD will sign the documents first. HUD will execute and send the new

Elderly Use Agreement and the Section 202 Capital Advance Termination documents to the closing escrow agent. These items must be sent to the escrow agent and cannot be sent to any other party. The closing coordinator will notify the project owner by email when these documents have been sent. Once all the HUD documents have been received by the escrow agent, closing must occur within 11 business days. Conditions for release of the documents are detailed in the escrow instruction letter, but generally include ensuring that all documents are dated, executed, and in recordable or final form. Once documents are released from escrow, the title agent is responsible for recording the documents, at which point the transaction is closed.

Following closing, the owner is responsible for emailing the documents listed in the escrow instructions to the closing coordinator within three business days. The final closing docket must be uploaded to the RAD Resource Desk within 30 days. Closings are occasionally delayed.

Here are some best practices for ensuring a smooth closing: Make sure that the project has an approved affirmative fair housing marketing plan; if the transaction involves a change of ownership, make sure that all parties have submitted a previous participation certification HUD form 2530 to HUD's active Partners Performance system, known as APS; be responsive to comments from the closing coordinator; submit the draft closing package to HUD at least 45 days prior to your closing; and lastly, if any entity other than HUD will have a lien on the project, make sure they are willing to subordinate their lien to the new Elderly Housing Use Agreement.

Your RAD closing coordinator is ready to assist you. If you have not yet been assigned a closing coordinator, email the general mailbox at rad2@hud.gov. For more information on HUD's Rental Assistance Demonstration program, please see section four of Housing Notice H-2019-09-PIH-2019-23, or visit HUD.gov/RAD and the RAD Resource Desk at RADResource.Net. Thank you for your interest in RAD for Section 202 PRAC properties. This concludes our video.