Public Housing Repositioning Strategies

Session 3: PBV and Decision Tree
Ground Rules

- Participate in each session of the webinar series
- Avoid distractions (close email and web-browser)
- Silence your phone
- Ask plenty of questions. It is the best way to learn! We can unmute your line for you to ask your question verbally.
Webcast Training Agenda

Session 1
Nov 12
Introduction to Repositioning
RAD

Session 2
Nov 14
Section 18
Streamlined Voluntary Conversion

Session 3
Nov 19
Intersection with PBV
Repositioning Decision Matrix

Session 4
Nov 21
Public Housing Close-out
Case Studies

If you don’t recall the earlier sessions, don’t worry. They were recorded and will be posted on HUD Exchange.
Knowledge Check

What are some reasons why PHAs may choose to reposition?
Knowledge Check

What are some reasons why PHAs may chose to reposition?

- Stabilize Revenue
- Provides Access to Debt/Equity
- Reduce Administrative Burden
Knowledge Check

True or False?

RAD is the only repositioning tool that allows a PHA to carryover existing public housing funds/reserves and use them toward a Replacement Reserve to support the future Section 8 units (PBV or PBRA) following conversion.
Knowledge Check

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True
True or False?

When converting to Sec 18 or SVC PHAs are eligible for replacement TPVs for units occupied within previous 24 months.
Knowledge Check

True or False?

When converting to Sec 18 or SVC PHAs are eligible for replacement TPVs for units occupied within previous 24 months.

False. PHAs are eligible for replacement TPVs for units occupied within previous 24 months of SAC approval.
Here are some questions we will cover today

• How does Project Based Voucher (PBV) fit into repositioning?
• How are former public housing units treated differently in the PBV program?
• How does a PHA decide which repositioning strategy is best?
• How can a PHA compare their RAD Rents to FMR?
• How can a PHA figure out how much debt they could leverage?
Intersection with Project-Based Vouchers
What is the PBV Program?

- Funding comes from funds obligated by HUD to a PHA through an HCV ACC
- Discretionary use of funds
- PHA enters into a Housing Assistance Payment (HAP) contract with a project owner
- Rental assistance tied to specific housing units
- Specific PBV requirements apply. Most HCV requirements also apply.
  - Waivers of certain PBV requirements exist for RAD
# PBV Options for PH Conversion Actions

<table>
<thead>
<tr>
<th>PHA SIZE CATEGORY*</th>
<th>RAD</th>
<th>SECTION 18</th>
<th>VOLUNTARY CONVERSION</th>
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<tr>
<td>Very Small PHAs (50 or fewer units)</td>
<td>Streamlined RAD</td>
<td>Section 18 – 50 and Under, Obsolescence, Scattered Sites, Efficient/Effective, Health and Safety</td>
<td>Streamlined Voluntary Conversion (<em>tenant consent required to PBV if project used for housing after conversion</em>)</td>
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<tr>
<td>Small PHAs (51-250 units)</td>
<td>RAD and RAD/Section 18 Blend</td>
<td>Section 18 – Obsolescence, Scattered Sites, Efficient/Effective, Health and Safety</td>
<td>Streamlined Voluntary Conversion (<em>tenant consent required to PBV if project used for housing after conversion</em>)</td>
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<td>All Other</td>
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<td>Voluntary Conversion (<em>tenant consent required to PBV if project used for housing after conversion</em>)</td>
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*PHA size category is based on the date of application.*
Non-RAD PBV Process (Simplified)

- Notify HUD
- Competition
- Inspection 1
- Selection
- Construction (New/Rehab)
- Agreement to Enter HAP (New/Rehab)
- Subsidy Layering Review (New/Rehab)
- Environmental Review
- Determination of Rent
- Inspection 2
- HAP Contract
- Occupancy
On Proposal Selection Date

**Existing**
Units substantially comply with HQS

**Rehabilitated**
Units exist, but do not substantially comply with HQS

**Newly Constructed**
Units do not exist
The Importance of Existing vs. New Construction/Rehab

**Existing**

- Projects selected once inspection determines project substantially meets HQS.
- PHAs must determine that the units fully comply with HQS prior to executing HAP contract in all cases including existing/new/rehab (some limited exceptions per PIH 2017-20).

**New Construction/Rehab**

- HAP contract may be executed as a single-stage or multi-stage contract. (A multi-stage contract allows a PHA and owner to complete and accept contract units in stages.)
- Will impact PHA planning for relocation of tenants and timing of receipt of replacement TPVs. (TPVs issued for PBV will not be relocation TPVs.)

Note: RAD Exception may allow HAP contract to be effective prior to completion of work.
What is an AHAP?

- Agreement to Enter into a Housing Assistance Payments Contract
- For any project involving new construction or rehabilitation, an AHAP must be executed prior to the start of any construction or rehabilitation (RAD exception)
- Not required for existing units
- Subsidy layering review (if required) and environmental review must be completed prior to AHAP
Program Cap: Up to 30% of Units

**Authorized Vouchers**

- **70% HCV**
  - Short-term HAP
  - Contracts for units chosen by voucher-holders

- **20% PBV**
  - Long-term HAP
  - Contracts; units reserved for families the PHA refers

- **10% Special PBV**
  - Long-term HAP Contracts (after 4/18/17);
  - Must be in low-poverty census tract,
  - Reserved for homeless or for veterans,
  - Supportive housing for elderly or disabled persons

**Exceptions**

- VASH PBV set-aside
- Units, RAD units, and
- Units previously under certain federal rent
  - Restrictions or long-term housing subsidies
Income-Mixing (Project Cap)

- Project cap: greater of 25 units or 25%* of units within a project, except:
  - Units previously under certain federal rent restrictions or long-term housing subsidies (HAP Contract after 4/18/17, including former Public Housing)
  - Excepted units: generally, units housing elderly families or families eligible for supportive services

*If project located in low-poverty census tract; project cap is greater of 25 units or 40% of units in the project.
Program/Project Caps in the Context of Repositioning

- Units being repositioned from public housing are generally exempt from program and project caps on PBV.

- **Exception to the Exception**
  - Units must meet all of the criteria in PIH Notice 2017-21, Att. F to qualify as exempt from the caps. An additional waiver is in place for RAD projects.
Program/Project Caps in the Context of Repositioning: PIH Notice 2017-21, Att. F

- Original unit that the new PBV unit is replacing must have received public housing funding within 5 years of the issuance of RFP or of PHA written notice of owner selection (if project selected based on prior competition or without competition)

- Must be on same site as unit it is replacing.
  - Units not built on existing site are included if they share a common border with, are across a public right of way from, or touch that site
Competition

General rule: request proposals (RFP)

Exception: previous competition
- PBVs not considered in previous competition
- Prior selection must have occurred within 3 years of PBV proposal selection

Exception: no competition
- PHA has any ownership interest
- Improve, develop, or replace a public housing property/site ($25k / unit cost threshold if new/rehab)

Note: Waiver of competition requirement is in place for RAD projects
PHA-Owned Definition

- Building is owned by:
  - The PHA (including PHA having controlling interest in entity that owns unit);
  - An entity wholly controlled by the PHA; or
  - An LLC or LP in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner
Environmental Review

- Required before AHAP or HAP:
  - Release of funds issued if project is not exempt or categorically excluded under Part 58 review
  - Project exempt or categorically excluded not subject to environmental laws under Part 58
  - HUD completes Part 50 review
- Carry out required mitigation
PHA-Owned: Independent Entity

- Independent entity must perform the following services:
  - Review the selection process
  - Agree on the length of the initial HAP Contract and any extensions
  - Determine the initial rent and conduct annual redeterminations of rent
  - Conduct HQS inspections
  - Conduct reviews of rent reasonableness

Note: Independent entities for RAD PBV conduct these services according to RAD requirements
Subsidy Layering Review

- Required where a newly constructed or rehabilitated project will receive other Federal, State, or local housing assistance, including tax credits
- Required before AHAP
- SLRs may be performed by HUD or by a HUD-approved housing credit agency in some circumstances
- Government assistance must not be more than the amount needed to make the project feasible
- Federal Register Notice lists documents to submit
Setting the Rent to Owner (non-RAD)

Must be the lowest of:

- PHA-determined amount (up to 110% of applicable FMR or approved Exemption Payment Standard, minus utility allowance)

- Reasonable rent

- Owner-requested rent

**LIHTC Exemption:** PHA-determined amount must equal LIHTC rent, minus utility allowance, only if:
  - Outside qualified census tract
  - Comparable non-PBV LIHTC units
  - Rent for comparable LIHTC units exceeds FMR or approved exemption payment standards.
HAP Contract

- May cover a single building, multiple contiguous buildings, multiple buildings on contiguous parcels of land, or multiple single-family scattered site projects
- Maximum initial term: 20 years
  - Extend pre-4/18/17 HAP Contracts by mutual consent
HAP Contract

- Extensions:
  - Multiple extensions permitted
  - Cumulative terms of up to 20 years each
  - 1st extension: any time during initial term
  - Subsequent extensions: no earlier than 24 months prior to the expiration of the HAP contract

- RAD: 15-20 year initial term, with renewal contract requirement
Eligibility to Move with HCV

- Participants receive next available HCV or comparable tenant-based rental assistance after one year in a PBV unit. (However HUD may approve a turnover cap for RAD units in limited circumstances.)

- **Requirements:**
  - Family must provide written advance notice
  - Family must remain in PBV unit for 1st year

Exceptions: domestic violence, dating violence, sexual assault, or stalking (VAWA-covered crimes) victims need not provide written advance notice where either a move is needed to protect health and safety, or a sexual assault occurred on the premises during the past 90 days.
Impact of a Large PBV Program

- Mobility impacts on regular waiting list admissions
  - If the PHA project-bases a substantial portion of its overall HCV program, this could impede regular HCV waiting list admissions

- Funding subject to proration
  - After initial TPV/RAD funding award, new ABA is subject to proration
  - Depending on future proration, small PHAs could end up with a large % of ABA committed to PBV projects

- Priority of HAP contracts in shortfall
  - In the event of insufficient funds, the PHA may need to terminate HAP contracts. If PHAs terminate HCVs first, this would make the PHA’s program PBV-heavy
Key PBV Operational Differences from HCV

- HQS inspections of random sample & all new admissions
- Based on the terms of the PBV Housing Assistance Payment contract units vacant over 60 days may not receive subsidy. The PHA may still receive Administrative fees provided the units are reported appropriately in VMS.
- Different 50058 section – rent implications
- No 40% rule (family share is TTP minus utility allowance), no over-housing
  - RAD PBV: phase-in for families that were paying PH flat rent
- RAD converting projects: HUD may approve site-based utility allowance
- PBV turnover: HAP spending projections should account for units being filled quickly upon attrition, possibly vacancy payments
Intersection with PBVs – Key takeaways

- Unless the project includes RAD units, there is no ability to phase in the tenant rent increase as families transition from Public Housing to PBVs. (Some flat rent Public Housing tenant may see a big rent increase as soon as the conversion occurs.)

- PBV units must fully comply with HQS prior to the effective date of the HAP Contract, unless the PHA has implemented alternative requirements per PIH Notice 2017-20. (If a unit requires rehab as part of the conversion, the PHA must plan accordingly, and may need to relocate tenants prior to adding a unit to the PBV HAP contract.)
Important Resources

- 24 CFR Part 983
- PIH Notice 2017-21
- HUD PBV Website

https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/project
Knowledge Check

What does PHA-owned mean?
Knowledge Check

What does PHA-owned mean?

Building is owned by:

• The PHA has a controlling interest;
• An entity wholly controlled by the PHA; or
• An LLC or LP in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.
Knowledge Check

True or False?
If a unit is considered “PHA Owned” the PHA can do its own HQS inspections.
True or False?

If a unit is considered “PHA Owned” the PHA can do its own HQS inspections.

FALSE.

If a unit is PHA owned, (based on the definition in Notice PIH 2017-21) then an independent entity must complete HQS inspections. This includes the HQS inspection prior to initial occupancy.
Knowledge Check

What is the maximum length of the initial PBV HAP contract term?
Knowledge Check

What is the maximum length of the initial PBV HAP contract term?

20 years
Program Matrix and Decision Tree
How to Identify the Best Tool

Section 32 Homeownership

Public Housing Property

Rental Assistance Demo (RAD)

Section 18 Demo/Dispo

Streamlined Voluntary Conversion*

Section 8 Project-Based Rental Assistance

Section 8 Project-Based Voucher

Section 8 Tenant-Based Voucher

* Under Voluntary Conversion tenant protection vouchers must first be offered to residents as tenant-based assistance but may be project-based with tenant consent.
Assess Capital Needs

- **No debt “straight conversion”**
- **Rehab with debt and/or 4% LIHTC**
- **Substantial rehab or demolition/new construction with 4% LIHTC or 9% LIHTC**

*Under the RAD/Section 18 blend, a RAD conversion undergoing new construction or sub rehab with 4% LIHTC gets approved for 25% of units under Section 18. The vouchers are subsequently project-based, typically at higher rents.*
Preserve vs Voucher Out

- Some sites are poor locations for affordable housing, are too expensive to maintain, or are in markets with excess supply of housing
  - Voucher out (Section 18 or Streamlined Voluntary Conversion)
  - If the site does not qualify for Section 18 or Streamlined Voluntary Conversion, consider RAD Transfer of Assistance
- Original property can be sold and proceeds can be used to support RAD rehabilitation or redevelopment
- Homeownership also an option in lieu of preservation as affordable rental
Compare RAD Rents to PBV Rents

- Compare the RAD Rents vs. the regular PBV rents (lesser of 110% of FMR, less utility allowance, or reasonable rent)
- If RAD rents higher (~20% of all public housing), stick with RAD (unless wish to voucher out)
- If RAD rents lower, consider Section 18 where eligible

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<th>RAD Rent</th>
<th>PBV Rent</th>
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<td>110% of FMR, Less UA = $700</td>
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<td></td>
<td>Reasonable Rent = $900</td>
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<tr>
<td></td>
<td>PBV Rent = $700</td>
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Wondering what your rents are? Find them at: https://www.hud.gov/sites/dfiles/Housing/documents/2018_RAD_Rents.xlsx
HUD posts the RAD Rents for EVERY Public Housing Project Online.

- Just go to the HUD RAD Website (https://www.hud.gov/RAD/library/notices)
- Click on “2018 RAD Rents” or the most current RAD Rent Table
HUD posts the RAD Rents for EVERY Public Housing Project Online.

<table>
<thead>
<tr>
<th>PIC Number</th>
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<th>PHA Code</th>
<th>PROJECT NAME</th>
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<th>2018 PUM Capital Fund</th>
<th>2018 PUM Tenant Rents</th>
<th>2018 PUM Op Fund</th>
<th>2018 PUM Contract Rent (weighted)</th>
<th>Estimated Average Utility Allowance</th>
<th>Estimated Gross Rent</th>
<th>2018 PUM as a % of FMR</th>
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<td>$1,179</td>
<td>336</td>
<td>$1,192</td>
<td>82%</td>
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</tbody>
</table>
Eligible for Section 18 Based on PHA Size or Scattered-Site?

- Scattered-site (non-contiguous) with operational challenges can qualify under Section 18 without demonstrating “obsolescence”

- PHAs with 50 or fewer units (including last 50 units of a larger portfolio) can qualify under Section 18 without demonstrating obsolescence
  - Note: HUD has also created a streamlined RAD conversion for PHAs with 50 or fewer units

- If property is eligible for Section 18 or SVC, Section 18 generally better tool
  - PHA’s choice to PBV or give tenants vouchers
Eligible for SVC and PHA can Secure Consents?

- PHAs with 250 or fewer units (including last 250 units of a larger portfolio) can qualify under Streamlined Voluntary Conversion, without demonstrating cost-effectiveness

- SVC a good option if:
  - PHA wants to voucher out and dispose of the property for non-rental use
  - PHA can secure consents
  - Property doesn’t need financing or PHA wants to manage a mixed-income property
### Can a PHA use SVC as Preservation Tool?

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Outcome</th>
<th>Conclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1 All or substantially all residents consent to allow voucher to be project-based</td>
<td>Property under PBV contract</td>
<td>Effective preservation tool; PHA can secure financing</td>
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<tr>
<td>#2 Some or few tenants consent to allow PBV; tenants remain in property with tenant-based voucher</td>
<td>Property filled with tenant-based voucher holders; more challenging to finance</td>
<td>Good option if property doesn’t need financing</td>
</tr>
<tr>
<td>#3 Some or few tenants consent to allow PBV; tenants leave property with tenant-based voucher</td>
<td>PHA may operate property as mixed-income property or backfill property with additional PBV</td>
<td>Unique challenges to operate mixed-income property; backfilling requires greater use of PHA’s existing vouchers</td>
</tr>
</tbody>
</table>
1st Mortgage Debt
- FHA-insured debt:
  - 223(f) (light/mod rehab) or
  - 221(d)(4) (sub rehab/new construction)
- Conventional debt

Public Housing Funds (RAD only)
- Operating Reserves
- Capital Funds, DDTF, RHF
- Sales Proceeds

Equity
- 4% LIHTC
- 9% LIHTC
- Historic Tax Credits
- Opportunity Zones

Other Secondary Financing
- HOME
- CDBG
- Housing Trust Fund
- Federal Home Loan Bank AHP
- Deferred Developer Fee
- Seller takeback financing
RAD vs Section 18 Considerations

- When a property qualifies for Section 18 (obsolete, scattered site, PHA under 50), RAD might still make sense if:
  - RAD rents are comparable or higher to PBV rents
  - PHA wishes to convert to PBRA
  - PHA has no voucher program and cannot find partnering agency
  - PHA has large amount of public housing Capital funds & Operating Reserves
  - PHA seeks to adopt RAD resident protections
Other Considerations

- What if a PHA wants to transition a property to PBV, but does not have a voucher program?
  - Partner up!
  - Convert to PBRA under RAD

- What if nothing seems to work?
  - Repositioning Panels
  - Section 18 “More efficient and more effective”
Remember: You can blend RAD and Section 18 (i.e., RAD Closeout Blends)

If a PHA can take advantage of higher rents often associated with a Section 18 (50 and Under Application) conversion, and the benefits of RAD through a “RAD Closeout Blend”:

1. PHA should submit a RAD application that covers their whole remaining inventory
2. Once the PHA has a CHAP, they will work with their RAD Transaction Manager to move up to 50 units to a Sec 18 application
3. Both portions of the project (RAD and Sec 18) will close at the same time
4. Like all other Section 18 50 and Under applications, the PHA will be required to closeout their public housing program.

Why do this?

- It allows RAD Resident rights to be applied to all the PHAs tenants
- It allows the PHA to use remaining public housing funds through the RAD conversion
One Size Doesn’t Fit All

Many PHAs will need a combination of repositioning tools to meet their community’s housing goals. Don’t be afraid to mix and match!
Important Resources

- Section 18 Notice – PIH 2018-04
- Streamlined Voluntary Conversion Notice – PIH 2019-05
- Repositioning Panel discussions – sign up with your field office
- For more information visit the webpage at: https://www.hud.gov/rad
- New Repositioning Public Housing webpage at:
  https://www.hud.gov/program_offices/public_indian_housing/repositioning
Knowledge Check

True or False?

A public housing property can be sold (if approved by HUD) and proceeds can be used to support RAD rehabilitation or redevelopment.
Knowledge Check

True or False?

A public housing property can be sold (if approved by HUD) and proceeds can be used to support RAD rehabilitation or redevelopment.

TRUE
Knowledge Check

If a PHA wants to combine RAD and Section 18 50 and Under, they should start by submitting a RAD application that covers all the remaining units.

**TRUE.** Once the PHA has RAD Approval (a RAD CHAP) they can work with their RAD Transaction Manager to move up to 50 units to a Section 18 (50 and under) application.
Knowledge Check

True or False?

If a PHA wants to combine RAD and Section 18 50 and Under, they should start by submitting a RAD application that covers all the remaining units.
Knowledge Check

True or False?
If a PHA wants to combine RAD and Section 18 50 and Under, they should start by submitting a RAD application that covers all the remaining units.

TRUE.
Once the PHA has RAD Approval (a RAD CHAP) they can work with their RAD Transaction Manager to move up to 50 units to a Section 18 (50 and under) application.
True or False?
You better have paid a lot of attention to this decision tree process because you are on your own after this.
Knowledge Check

True or False?
You better have paid a lot of attention to this decision tree process because you are on your own after this.

FALSE. Your local HUD Field Office can help walk you through these options, and (if necessary) set up a Repositioning Assistance Panel call with HUD program experts.
End of Session 3

Things to consider:
• Would your PHA receive higher rents under RAD, Section 18 or SVC?
• Does your PHA have any units that may qualify for Section 18 or SVC?
• Is your PHA authorized to run a PBV program? (If not, do you have a local PHA that might partner with you?)