

“Rolling Out RAD” Webinar Q&A

Hosted by Ballard Spahr LLP on March 14, 2012

Q *What are PEL and UEL?*

A The PEL is the “Project Expense Level” and the UEL is the “Utility Expense Level.” These, along with add-ons, are the three elements under the Operating Fund Program that comprise a project’s Formula Expense (and, which are netted against Formula Income, comprise a project’s Subsidy Eligibility).

Q *Is a project that was rehabbed through an ARRA Category 2 Transformation Grant eligible for RAD?*

A Yes. It’s OK that a project may have made upgrades (light or major) under ARRA. The project is still eligible for conversion.

Q *Without addressing any of the potential underwriting issues, can these projects, under the regs and assumptions for the program as is, be structured as tax credit deals?*

A Yes. Public housing projects can, through RAD, be repositioned through tax credits. The statute specifically authorizes for-profit transfer of the project in the case of tax credits.

Q *How do the new dispo regs fit into this picture?*

A For the most part, the new dispo regs are not relevant because the statute exempts selected projects from having to go through the Special Applications Center (SAC), i.e., Section 18 of the 1937 Act, provided there is not more than a de minimis reduction in units. If the PHA is proposing more than a de minimis reduction, the PHA would first need to go through the SAC for approval of those plans.

Q *An elderly site would be eligible for 100 percent PBV under RAD?*

A Correct. Under current statute/regulation, the income mixing requirement under PBV does not apply to elderly units.

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Q We did not understand the answer to the impact on MTW agencies. Can you please explain again?

A For a PHA that converts assistance to PBRA, the units would leave the public housing program and be overseen by the Office of Housing. In that case, the units would also leave the MTW program. For public housing conversions to PBVs, the PHA must observe all RAD requirements, but might be able to continue with some MTW elements that are not inconsistent with RAD.

Q Perhaps the notice should just defer to individual states' LIHTC rules on fees instead of creating new policy.

A If the public housing project converts to PBRA, the income targeting requirements of the PBRA will apply (after grandfathering existing tenants). The same will hold true for PBVs.

Q Still waiting for punch line....that being RAD does not appear to be viable financing tool for even moderate rehab (i.e. Emily's and Eric's figures of \$7K-\$10K per unit)

A The examples presented during the webinar were not intended to be representative but instead illustrative of the mechanics of conversion. Two of the examples required light rehab (less than \$10k/unit) and one example required more moderate rehab (\$19k/unit). Nationwide, the 2010 Public Housing Capital Needs Study estimated backlog needs at about \$24,000/unit.

Q The two case studies so far say RAD works only if physical needs are minimal, but half the RAD ranking points are for rehab, with the max for \$48,000 per unit. The projects in the case studies would seem uncompetitive. Is this correct?

A PHAs should not be discouraged in applying when projects require light rehab. There is no minimum scoring associated with RAD. If all projects that apply were in need of light rehab (as in the first two examples), then those projects would be competitive.

Q Third case study also falls well short of rehab levels targeted in the RAD Notice, even with optimistic assumptions on P.H. reserves, financing, etc. Hard to see RAD being applicable to projects that are most vulnerable.

A Each PHA must assess its portfolio for where RAD is most beneficial. In some cases, PHAs with larger rehab needs have indicated an interest in RAD because they also plan to obtain tax credits or other local sources of funding to fill the gap. Additionally, as indicated by the presenters, some PHAs are interested in RAD for other strategic reasons – e.g., shift to a more stable subsidy and regulatory platform, establish a better system for funding on-going capital needs (replacement reserves), etc.

- Q Smaller developments <75 may need additional support in the RAD contract rent formula - such small developments lack economy of scale.*
- A RAD, by itself, is not an answer to the challenge that all owners have of financing improvements at smaller projects. That said, a number of lenders are attempting to fill that need – see recent announcement by CW Capital.*
- Q If you convert PH units to Sec 8, do you use Sec 8 cash flow for debt service?*
- A If you convert, you will use current funding as your contract rents. Once you make allowances for vacancies, bad debt, operating costs, etc., you will use the project’s Net Operating Income against which to support debt service. So, yes, you are using the revenue stream from the Section 8 rents to support debt service.*
- Q 10 percent development fee on hard costs only or total development costs?*
- A The Notice says 10 percent of hard costs, which is proposed.*
- Q Under a Project based HAP contract, can the PHA subsidiary have a joint venture with a private developer to share in the developer fee and Sec 8 cash flow?*
- A The Statute requires “ownership or control” by public or non-profit, except in the case of tax credits. Any arrangement that fits this requirement is acceptable.*
- Q (1) If a PHA chooses to go with project-based vouchers – when resident moves out after a year, do they get to take the voucher with them (portability)?*
- (2) Based on the slide with the income, HUD will allow 100 percent of the PEL/UEL to be moved to the project-based vouchers and not reduced by the resident rent?*
- A (1) When the residents of a PBV unit access choice, they are tapping into the agency’s turnover vouchers. The subsidy for the unit they are currently occupying remains (i.e., project-based).*
- (2) See Attachment 1C of the notice for more detail. The contract rent for the converted unit will, essentially, be the sum of the operating subsidy eligibility for the unit (net of that year’s proration), the Capital Fund allocation for that project, and the rent roll for that project.*
- Q (1) Will PHAs be able to earn Admin Fees for properties that convert to PBV? Where will the funding for these fees come from? Will it be subject to the same prorations as the Tenant-Based Voucher program?*
- (2) In year 2, will funding for properties that convert assistance to PBR A be funded from the PBR A account? If so, will it be split out as a sub-account?*

(3) Page 32 requires that the PHA continue to honor any existing waiting list for the project. What happens if a PHA currently utilizes a consolidated waiting list (as opposed to site-based)?

A (1) Yes – from the Admin Fee Account under the Tenant Based Rental Assistance account.

(2) Yes – it is expected that it will be included as part of the larger PBRA account.

(3) Guidance forthcoming.

Q *I want to clarify the funding of RAD. If we are converting Public Housing units to Project Based Vouchers, would the funding after conversion be the Public Housing Operating Funding and Capital Funding including the reduction for proration loss?*

A Yes, plus, of course, tenant rents. But PBVs also have a cap of (generally) not more than 110 percent of the payment standard or the comparable market/reasonable rent (see page 25 of the Notice).

Q *We have 3 questions: (1) Are subsidy amounts tied to PH funding after the first year or will they operate under FMR/payment standard going forward?*

(2) *Are they scored with SEMAP or PHAS?*

(3) *Can units with EPC in place be converted?*

A (1) At conversion, we calculate the contract rent based on current funding. In following years, the project receives an OCAF (operating cost adjustment factor).

(2) Once the units convert to PBRA, they leave public housing and PHAS. If the units convert to PBVs, they are still part of the PHA's voucher program and, so, are part of the SEMAP evaluation (as would any PBV unit).

(3) Yes. The PHA should consider refinancing the EPC debt.

Q *Typically, when the funds to be spent on repairs are not HUD funds, Davis Bacon wage requirements would not apply, but, because of the PH units at the site, Davis Bacon applies even when non-HUD funds are being used to do the construction repair. Correct?*

A Only the initial repairs identified in the Financing Plan that are considered construction or rehabilitation must be undertaken consistent with Davis-Bacon.

Q *We own scattered site public housing units through a nonprofit entity. The PHA has no ownership interest on the units. Could we apply directly for the RAD or must the PHA apply on our behalf?*

A The application must come from the entity on whose ACC the units are listed.

Q CFP allocations (historically and currently), although they are calculated for each development, are provided to the PHA rather than the development. The PHA allocates them as needed, gathering up this resource to apply them to individual developments, rotating through the inventory over a period of years. In case study 1, the subject development benefited from \$85k/unit in CFP, effectively using many years of CFP attributable to other properties in the inventory for accomplish this major renovation to clean up the physical needs assessment picture. After the RAD transaction, CFP funds attributable to the subject development are now considered locked-in for the use of the subject development, and are therefore not available for use in other developments in the inventory. In summary, it appears that the deal pencils-out for the subject development only because of this disproportionate commitment of existing and future CFP resources (in relation to, and perhaps to the detriment of, the balance of the PHA inventory). Is that a fair criticism? Comments?

A If all public housing developments had \$88k/unit in average needs, it would indeed be a long time under the current program to accumulate enough funds to make the repairs (likely, this example used ARRA funds to get to that level of rehab). Average capital needs in public housing are around \$24,000/unit, based on the 2010 Capital Needs Study. PHAs will need to be aware that, yes, if a project converts the Capital Fund allocation for the converted project will go away – and to weigh that against the reduced capital needs of that project as a result of conversion.

Q Is the 50 percent of PBVs at the site available outside of the RAD program or just in the RAD program?

A Just in the RAD program. Under current rules, no more than 25 percent of the units in a PBV project can be assisted, excepting elderly, handicapped, single-family properties, or units receiving supportive services.

Q Please clarify if whether or not the RAD program allows for multiple sources of leverage funds; specifically, the combination of LIHTC equity and debt leveraged through the conversion of public housing to PBV/PBRA via the RAD program.

A Yes. Permissible and encouraged.