

# Strategic Planning for Housing Authorities



SERC/NAHRO Conference  
Norfolk, Virginia  
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## U.S. Housing Act of 1937



- Another New Deal initiative designed to relieve conditions in the nation's housing stock
- This was the beginning of Public Housing on the federal level
- Public Housing got off to a slow start, as the program was new and somewhat cumbersome to administer
- During World War II the program's emphasis shifted to building homes for defense industry workers
- By 1950, about 150,000 public housing units had been built nationally



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## Growth of HUD Public Housing 1941-1980



Year	Number of Assisted Rental Housing Units
1941	24,000
1950	147,000
1960	426,000
1970	891,000
1980	1,200,000

Public housing is housing that is owned by the federal government and is operated by local Public Housing Authorities (PHAs). Persons living in public housing generally pay 30% of their monthly income toward rent, with the remaining costs being covered by the federal government. There are over 3,200 Public Housing Authorities nationwide managing 1.2 million units of public housing.

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## Brief History



- ☞ U.S. Housing Act – 1937
- ☞ Housing and Community Development Act of 1974
- ☞ Tax Reform Act of 1986
- ☞ Uniform Guidance – 1998
- ☞ Asset Management Rules – passed in 2005, rules published April 2007
- ☞ RAD – Public Law 112-35 November 2011



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## What is RAD ?



- ☞ Rental Assistance Demonstration Program
- ☞ Takes Public Housing units and converts them to one of two other rental assistance platforms:
  1. Project Based Vouchers - PBV
  2. Project Based Rental Assistance - PBRA

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## What is RAD?



The Rental Assistance Demonstration Program was created in order to give public housing authorities a tool to improve public housing properties to address a backlog of billions in deferred maintenance.

1. The ability to leverage debt and equity in order to reinvest in public housing.
2. Allow for a more stable funding through long-term Section 8 contracts which must be renewed.
3. Continued Public Housing Stewardship.
4. Maintain the same 30% of income towards rent, and residents maintain same basic rights.
5. The program was sold to be revenue neutral.

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## Summary of HUD Assisted Rental Housing – Budget 2018

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	1,100,000	24.4%	6.342 Billion	16.94%	\$5,765
Project Based Assistance	1,200,000	26.7%	10.816 Billion	28.88%	\$9,013
Tenant Based Assistance	2,200,000	48.9%	20.292 Billion	54.18%	\$9,224
TOTAL	4,500,000		37.450 Billion		

Source: HUD website

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## Summary of HUD Assisted Rental Housing – Budget 2019

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	1,000,000	22.7%	7.300 Billion	18.19%	\$7,300
Project Based Assistance	1,200,000	27.3%	11.515 Billion	28.68%	\$9,596
Tenant Based Assistance	2,200,000	50.0%	21.330 Billion	53.13%	\$9,695
TOTAL	4,400,000		40.145 Billion		

Source: NAHRO website

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## RAD is like Cookies

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## Summary RAD Batches of Cookies

Year	RAD Units	Funding Percent
2017	230,000	93.10%
2016	40,000 (2014) <sup>1</sup>	90.21%
2015		85.36%
2014	125,000	88.79%
2013		81.86%
2012	60,000	94.97%



<sup>1</sup> The PIH Notice conflicts with the August 23, 2017 Federal Register - allows for 2016 funding.

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## RAD is like Cookies



- ❖ Momma (HUD) is making cookies in the kitchen - sometimes she is using our help - but she is in charge. However there has been two batches of cookies - 60,000 and 125,000 out of the 1,100,000 units nationwide.
- ❖ The 2017 Appropriations Act - increased the number of cookies in the second batch to 165,000 which turned into the third batch of cookies. All new approved RAD deals received the funding from the 2014 Appropriations Act.

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## RAD is like Cookies



- ❖ The 2018 Omnibus Appropriations Act - increased the number of cookies and somewhat introduced a fourth batch of cookies with an additional 230,000 units. At this time it is unclear which year the funding will be tied to.
- ❖ The rationale for the increased units was the number of Housing Authorities with units on the waiting list, which as of January 2018 was 85,000 over the 225,000 allocated.

At some point this will not be "demonstration."  
Will there be a fifth batch? (59% without cookies)

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## The 5<sup>th</sup> Batch?



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## The RAD gifts!!!



- ❖ Removal of Declaration of Trusts
- ❖ Surplus Cash flexibility
- ❖ Organizational diversity



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## Pitfall #1 - Recapiture of Surplus Cash

- ☞ Understand the risk of doing too good and there is no guarantee of future funding.
- ☞ HUD Notice June 19, 2015 - Section 202/811 Project Rental Assistance Contracts



*"HUD defines 'Residual Receipts' as Multifamily Housing project funds in excess of amounts needed for project operations, required reserves, and permitted distributions."*

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## Pitfall #2 - Can we move Surplus Cash?

- ☞ The Section 880.205 "Limitation on distributions" is stricken through - with virtually no explanation
- ☞ Surplus Cash must first be used to liquidate debt - 811.108
- ☞ 888.315 gives the restrictions on surplus cash distributions for retroactive payments and physical condition of the property



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## Pitfall #2 - Can we move Surplus Cash?

- ☞ The RAD Conversion Commitment document contains the following wording "The Owner shall not be entitled to earn or receive any cash flow distributions from the Project until after completion of the Repairs, and written HUD acceptance of the completed Repairs."
- ☞ Under the **PIH Notice 2012-32** it states under paragraph E - Distributions (**PBRA**). "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."

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## Pitfall #2 - Can we move Surplus Cash?

The RAD HAP Contract states -

1. "Project funds must be used for the benefit of the project, to make mortgage payments, to pay operating expenses, to make required deposits to the replacement reserve... and to provide distributions to the Owners."
2. "For the life of the Contract, surplus cash may be distributed to the Owner only at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met."

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### Pitfall #3 - Can we really leverage our assets?



- ☞ According to the RAD website "RAD allows public housing agencies to leverage public and private debt and equity in order to reinvest in the public housing stock."  
<http://portal.hud.gov/hudportal/HUD?acc=/RAD>
- ☞ What ever happened to Public Law 105-276?

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### Pitfall #4 - Mobility



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### Pitfall #5 - Revenue Neutral

- The basis premise of RAD is that the program is designed to alleviate the nearly \$26 billion in public housing capital improvements.
- Any debt added to the existing balance sheet will reduce operating margins and probably not result in increased occupancy percentages.
- The only debt which makes any sense is with a 9% tax credit partner who will help fund the redevelopment.



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## Pitfall #6 Lack of clarity on regulations



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## Pitfall #6 Lack of clarity on regulations



Under the Rental Assistance Demonstration Conversion Commitment it clearly or unclearly states:

"With regard to any Project covered by this Commitment, Applicable HUD Regulations and Requirements means (1) all applicable statutes and any regulations issued by HUD pursuant thereto that apply to the Project..., and (2) all current requirements in HUD handbooks and guides, notices, and Mortgagee letters that apply to the Project, and all future updates...."

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## Pitfall #6 Lack of clarity on regulations



- Clearly understand the rules as it pertains to RAD properties under 24 CFR 880
- Read all the documents and ask HUD for explanations
- Get a clear understanding on Surplus Cash
- Don't throw procurement procedures out the window



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## Pitfall #7 Negative Cash Flow in the future



- ❏ How much does the financing cost over the next 20 years, and is this cost cheaper than the annual increased rental revenue?
- ❏ Are we paying for a consultant, developer fee and syndication fee? And how do these costs increase the monthly rental income?
- ❏ Will we have increased maintenance costs?
- ❏ Have we properly computed our utility allowances and will a negative variance impact our decision?



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## The risk of RAD!!!



- ❖ What about the ACC? Who guarantees the units to be modernized?
- ❖ Increased debt – decreases margin
- ❖ New regulations limiting the use of Surplus Cash
- ❖ Decreased funding
- ❖ Mobility

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## The Flexibility of Surplus Cash

*“HUD defines ‘Residual Receipts’ as Multifamily Housing project funds in excess of amounts needed for project operations, required reserves, and permitted distributions.”*

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## Surplus Cash Computation

Multi-family definition – HUD 93486

1. Cash – Unrestricted Cash, Security Deposit Cash, Rental Assistance Receivable, amounts receivable from HUD.
2. Current Obligations – Accrued mortgage interest – current – non-HUD, current maturities of debt, delinquent funding for replacement reserves, accounts payable, delinquent escrow payments, accrued expenses, prepaid rents and tenant security deposits.

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## Surplus Cash Computation

Account	Amount
Unrestricted Cash	75,000
Restricted Security Deposits	10,000
Rental Assistance Receivable	8,000
Total Cash Available	93,000

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## Surplus Cash Computation – with Debt

Account	Amount
Accounts payable	15,000
Security Deposits payable	10,000
Accrued interest payable	1,500
Tenants prepaid rent	1,000
Notes payable – within 30 days	5,000
Delinquent reserve for replacements	12,500
Accrued expenses	5,000
Total Current Obligations	50,000
Surplus Cash	43,000

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## Surplus Cash Computation – no Debt or delinquent reserves

Account	Amount
Accounts payable	15,000
Security Deposits payable	10,000
Tenants prepaid rent	1,000
Accrued expenses	5,000
Total Current Obligations	31,000
Surplus Cash	62,000

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## PBV or PBRA?

Category	Project Based Vouchers	Project Based Rental Assistance
Replacement Reserves	Yes	Yes
Surplus Cash	Yes	Yes – more regulated
Mobility	Yes - Greater risk	Yes but limited
Reporting	FASPHA	FASSUB & FASPHA?
Funding stability	OCAF – limited	OCAF
Project flexibility	Yes	Multi-family

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## Highest Growth in Affordable Housing?



### Low Income Housing Tax Credits

- Developed 2.78 million units in 43,092 projects placed into service from 1987 to 2014.
- Created by the 1986 Tax Reform Act allocating nearly \$8 billion in annual budget authority.



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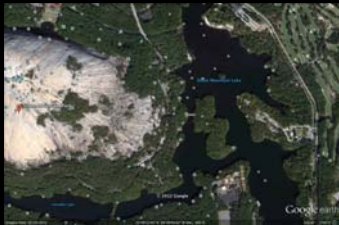
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## Where are the tax credit properties?



➤ <https://lihtc.huduser.gov/>



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## What Are Low Income Housing Tax Credits?



### ☞ Tax Credits Are Used To Reduce Federal Income Tax

- Individuals
- Corporations

### ☞ Federal Government Allocates Credits To Each State Annually

- \$1.95 Multiplied By State Population (2007)
- State Credit Ceiling

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## What Are Low Income Housing Tax Credits?



### ☞ Available For Rental Housing Only

### ☞ Tax Credits Are Claimed By Investors Over A 10 Year "Credit Period"

### ☞ 15 Year "Compliance Period" - Project Must Be Rented To Low-Income Tenants

### ☞ Extended Use Requirements - 30 Years+

### ☞ $EB \times LIOP \times CP \times 10 = \text{Credits}$

\*  $EB = \text{Eligible Basis}$ ,  $LIOP = \text{Low Income Occ. \%}$  &  $CP = \text{Current \%}$

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## Administrative Roles Of The States



### ❧ Responsible For Reserving and Allocating Tax Credits

- Determine Competitive Process
- (Beauty contest)
- Assess Financial Feasibility
- Monitor Development Process

### ❧ Compliance Monitoring

\* *Varies by State IRS = Minimum of 1 time every 3 years*

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## How Are Credits Awarded?



### ❧ State Housing Agencies Responsible For Administering The Program

### ❧ LIHC Allocations Made In Accordance With A Qualified Allocation Plan (QAP)

- QAP Documents Local Affordable Housing Need

### ❧ "Beauty Contest" Determines Which Projects Will Be Awarded LIHC

### ❧ Application Cycles Vary From State To State

### ❧ Program Oversubscribed In Almost Every State

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## How Are LIHC Projects Funded?



### ❧ Equity Sources

- Public Funds
- Private Funds
- Corporations
- 30-65% Of Project Funded From Equity



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## How Are LIHTC Projects Funded?



### Balance Of Cost Funded From Debt

- For-Profit Lenders
- Federal, State And Local Programs
  - HOME Funds
  - Community Development Block Grants
  - Affordable housing Program
  - Other State And Local Programs



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## What Are The Compliance Requirements?



### Tax Credits Available For "Low-Income Units" Only

#### Restrictions On Low-Income Units

- Income Restrictions
- Rent Restrictions

#### Income Limitations

- Percentage of Area Median Gross Income - HUD Limits
- Income Limits Adjusted For Family Size-Actual Number of People Living In The Unit
- Deeper Restrictions Often Imposed By States

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## What Does The Developer Give To The Investor?



### Generally 99 to 99.99% Of The Partnership

- Tax Credits
- Losses

### Generally 50 to 99.99% Of The Partnership

- Available Cash
- Residual Value Of Property
- Capital Account Maintenance Rules Apply



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## What Does The Developer Give To The Investor?



### ☞ Tax Credit Guarantees

- Construction Completion & Deficit
- Lease-up
- Permanent Loan Funding
- Tax Credits (Adjusters)
- Tax Losses
- Yield Maintenance
- Compliance Monitoring



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## What Does The Developer or Housing Agency Retain?



- ☞ Developer Fees
- ☞ Contractor Overhead And Profit
- ☞ Property Management Fees
- ☞ Incentive Management Fees
- ☞ Operating Cash Flow
- ☞ Sale Or Refinancing Proceeds
- ☞ Land
- ☞ First Right of Refusal



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## Typical Tax Credit Waterfall



- ☞ Reserves not funded
- ☞ Accrued interest
- ☞ Repayment of capital loans
- ☞ Unpaid Asset Management Fees
- ☞ Accrued Management Fees
- ☞ Development Fees
- ☞ Repayment of operating loans
- ☞ Supervisory Management Fees
- ☞ Incentive Management Fees
- ☞ Distributions to Partners



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## Why Supervisory & Incentive Fees



- ☞ Rewards the entity that initiated the project – oversees the development, and responsible for the developments success verses the tax credit investor who shows up with lawyers and a checkbook.
- ☞ Supervisory Fees – oversees the operational success of the partnership operations, provides office space, monitors day-to-day management, maintains books and records.
- ☞ Incentive Fees – oversees the financial success.

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## For a RAD deal without Tax Credit Partners – what could you earn?



- ☞ Property Management Fees
- ☞ Incentive & Supervisory Fees
- ☞ Fully available and fungible Surplus Cash – to the limit of debt obligations



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## Surplus Cash Computation – no Debt or delinquent reserves

How many RAD properties – or AMPs – converted to being “fully flexible with Surplus Cash can we get to build more affordable housing?

Account	Amount
Accounts payable	15,000
Security Deposits payable	10,000
Tenants prepaid rent	1,000
Accrued expenses	5,000
Total Current Obligations	31,000
Surplus Cash	62,000

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## Organizational Structure



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## Types of Entities & Organization



- ❧ Is the Entity - Is it for profit or non-profit?
- ❧ A Public Housing Authority is a Quasi-governmental agency with a unique IRS Code Section.
- ❧ Joint Venture with Mixed Financing
- ❧ Types of Corporations:
  - ❧ Regular C Corporation
  - ❧ Limited Liability Company or Partnership (LLC or LLP)
  - ❧ Not for profit - Tax Exempt

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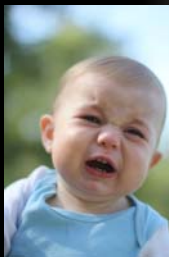
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## What Advantage does a PHA have in developing affordable housing?



- Guarantee of the Annual Contributions Contract
- Flexibility with QHWA
- Automatic tax exemption under the IRS Code
- Receive priority for tax credits
- Receive priority for certain state and federal grants
- Existing relationship with local municipality
- Designated oversight and governance



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## Strategic Planning for the future



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## Strategic Planning for the future



- Understand all the tools in the tool shed
- Diversify portfolio – get involved in management of tax credits and other affordable housing
- Pursue tax credits – even without RAD
- Have positive cash flow in ALL properties
- Consolidate and unify with other PHA's in the development of affordable housing nationwide
- Lobby Congress



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