

Introductory Training on Section 8 PBRA, HCV, PBV and TPV



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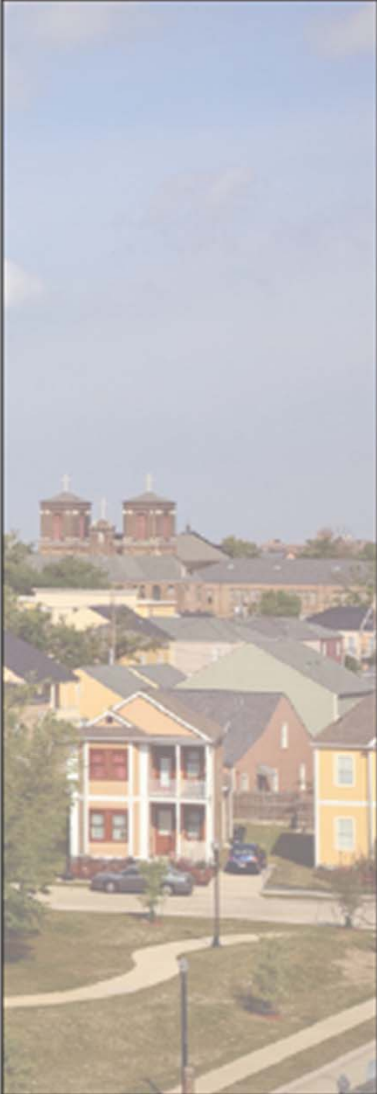
Thursday, April 6, 2017



Training Overview

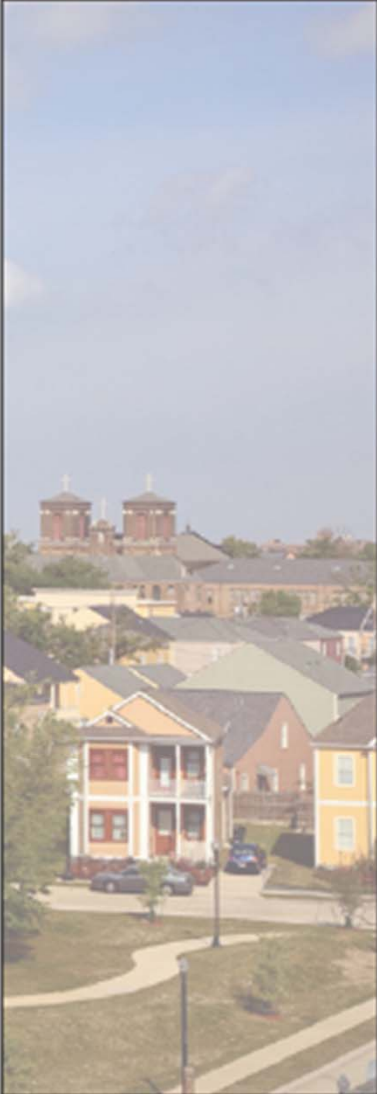
- **Section 8's Alphabet Soup**

1. **PBRA**
2. **HCV**
3. **PBV**
4. **TPV**
5. **AMI**
6. **HAP**
7. **RAD**
8. **HOTMA**



Training Overview

- **Section 8's Alphabet Soup**
 1. **PBRA: Project-Based Rental Assistance**
 2. **HCV: Housing Choice Vouchers**
 3. **PBV: Project-Based Vouchers**
 4. **TPV: Tenant Protection Vouchers**
 5. **AMI: Area Median Income**
 6. **HAP: Housing Assistance Payments Contract**
 7. **RAD: Rental Assistance Demonstration**
 8. **HOTMA: Housing Opportunity Through Modernization Act of 2016**

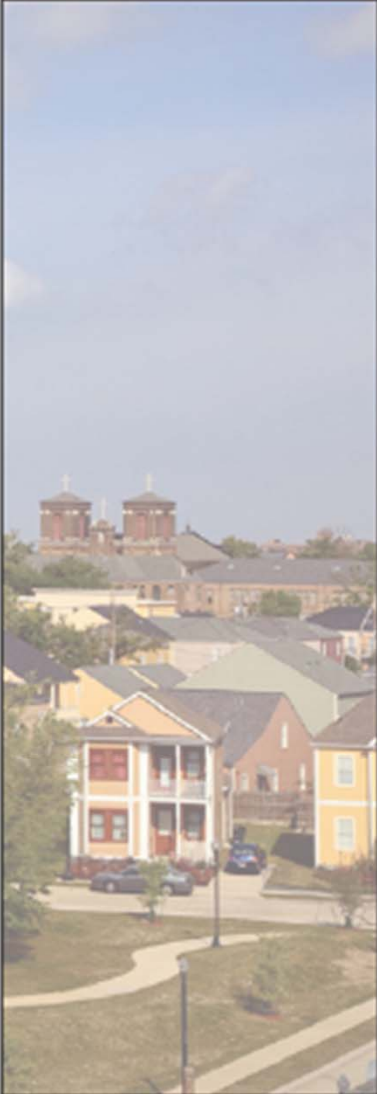


Training Overview

- 1. What Do These Acronyms Mean?**
- 2. Where Will We See Them?**
- 3. What Challenges and Opportunities Do They Present?**



Introduction to Section 8



- **What is “Section 8”?** Rental assistance program for low-income families
- **Why is it called “Section 8”?** Section 8 of the United States Housing Act of 1937
- **What programs make up Section 8?** Project-Based Rental Assistance; Housing Choice Voucher; Project-Based Voucher; Tenant Protection Voucher
- **How long have these programs been around?**
 - **PBRA:** 1974
 - **HCV predecessors:** 1983
 - **PBV and HCV:** 1998



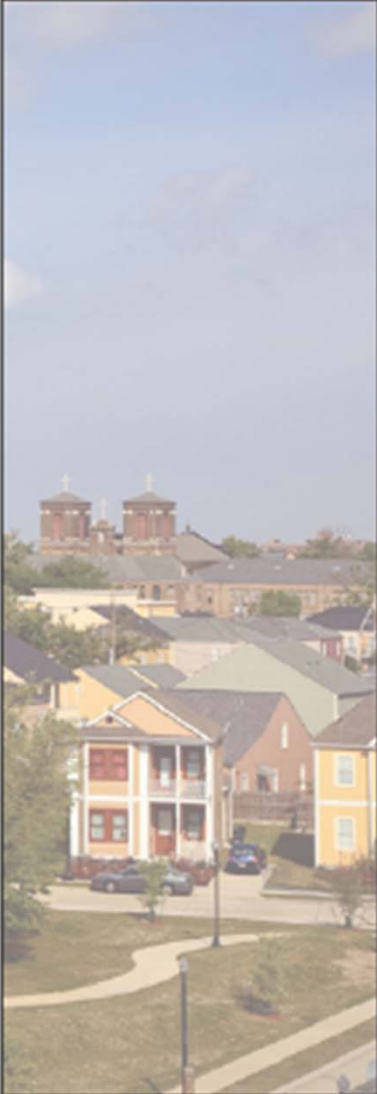
Introduction to Section 8



- **Payment Assistance**
 - **How much do tenants pay?**
 - 30% of income
 - Takes into account whether tenant or owner pays utilities
 - **What do project owners receive?**
 - Subsidy from HUD covers the difference between what the tenant pays and the HUD-approved “contract rent”
 - Subject to annual appropriations from Congress



Introduction to Section 8



- **Tenant Eligibility**
 - **Area Median Income (AMI)**
 - 30% AMI (targeting)
 - 50% AMI
 - 80% AMI (certain circumstances)
 - **Immigration Status**
 - Household must have one member who is citizen or has eligible immigration status
 - Tenant payment pro-rated for immigration status
 - **Preferences**

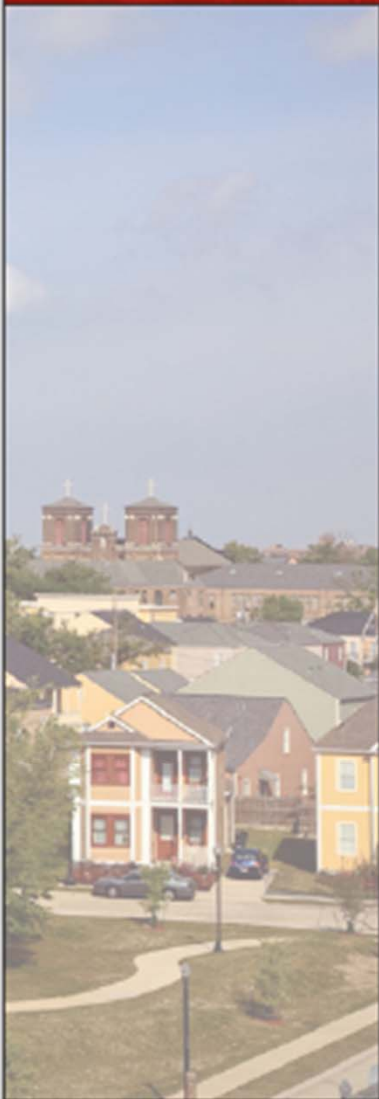


Introduction to Section 8



Project-Based	Tenant-Based
Project-Based Rental Assistance (PBRA)	Housing Choice Voucher (HCV)
Project-Based Voucher (PBV)	←←←←←←←←←
	Tenant Protection Vouchers (TPV)
Project-Based Tenant Protection Vouchers	←←←←←←←←←

Project-Based Rental Assistance



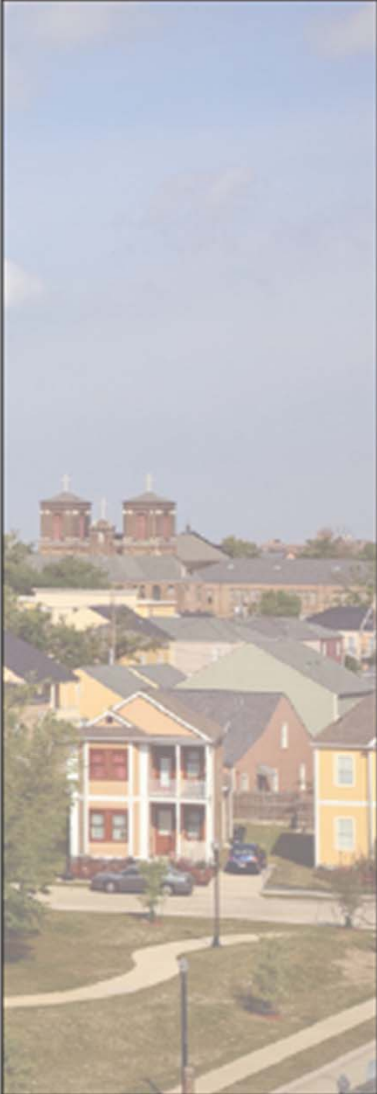
- **PBRA by the Numbers**
 - **17,700** PBRA properties
 - Mostly developed between **1976** and **1983**
 - Now seen again with RAD
 - **1.2 million** households
 - Average income < \$12,000/year
 - 56% house someone with a disability or someone who is elderly
 - **\$17 billion** in private financing and equity leveraged



Project-Based Rental Assistance

- **The Nuts and Bolts of PBRA**

- Project Owner entered into Housing Assistance Payments (“HAP”) contract with HUD/contract administrator
- HUD (via contract admin) makes subsidy payments directly to the Owner
- Rules regarding rents, reserve requirements, limitations on distributions, occupancy
 - Depends on when contract executed → look to **original HAP contract**
- Term length \leq 20 years (renewable with rent increases)
- Scarce resource: **No new PBRA contracts since 1983** (except under RAD)



Housing Choice Vouchers

- **Nuts and Bolts of HCV**

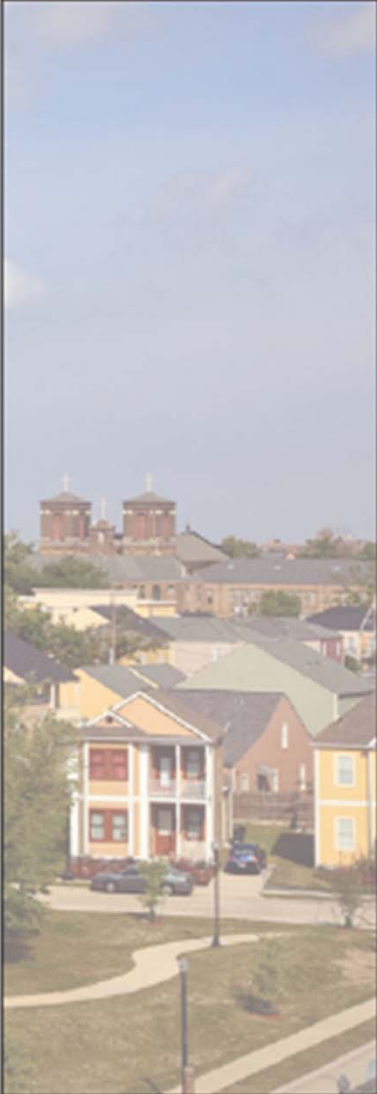
- PHAs receive funding for HCVs from HUD pursuant to their Annual Contribution Contract
- Tenant-Based Process:
 - Apply to PHA for HCV →
 - If eligible, PHA waitlist →
 - Receive voucher →
 - Rent qualifying unit from Owner →
 - Unit inspected by PHA
- Income source discrimination



Project-Based Vouchers

• Nuts and Bolts of PBV

- PHAs can **project-base** HCV units up to a cap
- Project-Based Process:
 - PHA awards PBV contract to Owner →
 - Owner enters into HAP (new construction, enters into AHAP prior to start) →
 - PHA refers applicants to Owner from PHA waiting list →
 - Owner may screen →
 - PHA makes subsidy payments to Owner



Housing Opportunity Through Modernization Act of 2016



- Self-implementing vs. rule-making
 - HOTMA Implementation Notice
 - Regulatory Freeze Memo
- Updates/streamlines rental assistance programs
- Changes for PBVs, including:
 - Alters PBV program caps
 - New PHA competitive selection exception
- Future rule-making, including:
 - HAP post-construction start
 - PBV rent adjustments
 - Owner waiting lists



"No, Thursday's out. How about never—is never good for you?"



Project-Based Vouchers

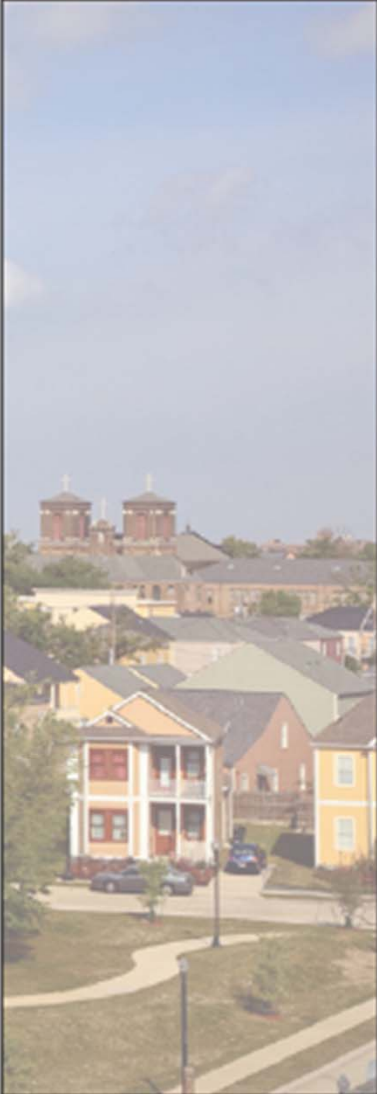
• Nuts and Bolts of PBV

– Project cap:

- **Pre-HOTMA:** < 25% of units in project unless exception
- **Post-HOTMA:** < greater of 25% or 25 of units unless exception
- **Post-HOTMA Exceptions :**
 - Units for elderly families
 - Units for families eligible for supportive services
 - Projects in census tract with poverty rate $\leq 20\%$
 - Projects previously federally rent-restricted or assisted

– Adding units:

- Post-HOTMA, may add units to HAP without additional competition, subject to requirements



Project-Based Vouchers

• Nuts and Bolts of PBV

– **Contract term:**

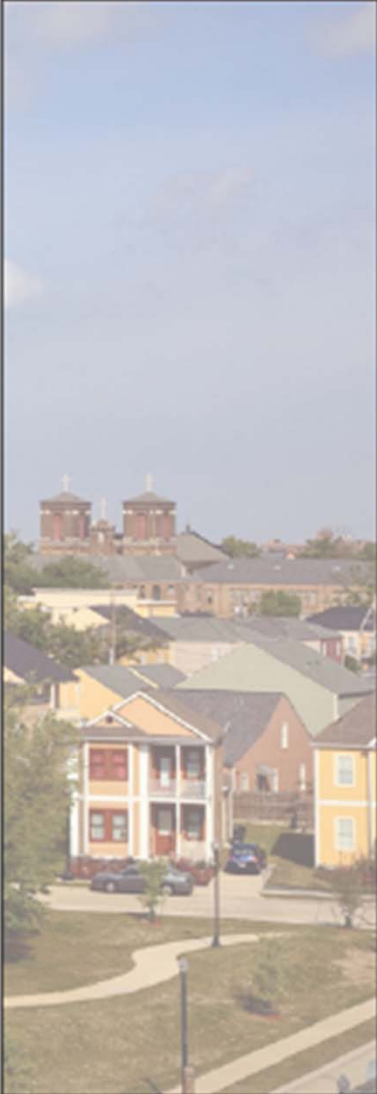
- Pre-HOTMA: **15** year initial and renewal terms
- Post-HOTMA: **20** year initial and renewal terms

– **Contract rents:**

- PHA may set contract rents at **90-110%** of FMR, minus Utility Allowance, subject to “rent reasonableness” determination. “Exception Rent” would require HUD approval.
- No provision for rent increase during term (requires future HOTMA implementation)



Tenant Protection Vouchers

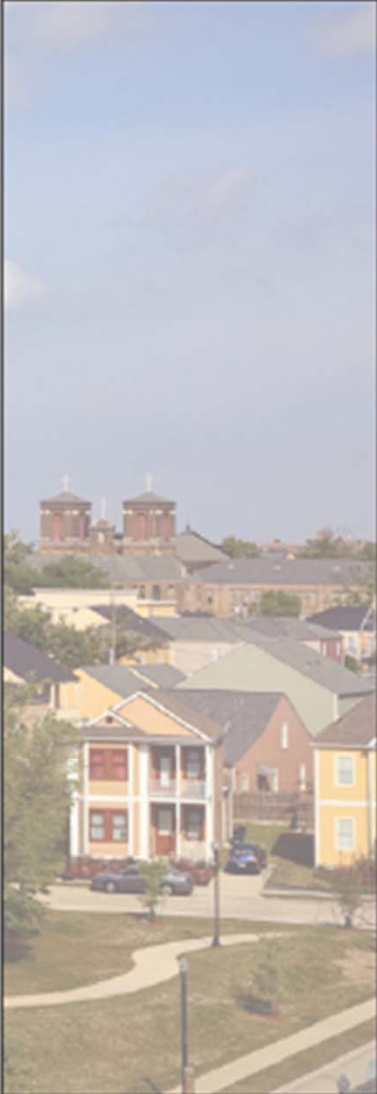


- **Nuts and Bolts of TPV**

- Prevents displacement of currently assisted households in “eligibility event”
 - PBRA Opt-out
 - HUD financing prepayment
 - HUD affordability restrictions expiration
- Annually authorized voucher
 - Regular (HCV)
 - Enhanced Vouchers (same building, greater rent)
- Tenant-based
 - Project-basing possible



PBRA Preservation



- **Context**

- 1990s, PBRA contracts from 1970s began expiring
- Potential loss of 100s of 1000s of affordable housing units (38,000 units lost from '96 to '98)
→ Renewal legislation

- **Preservation Tools**

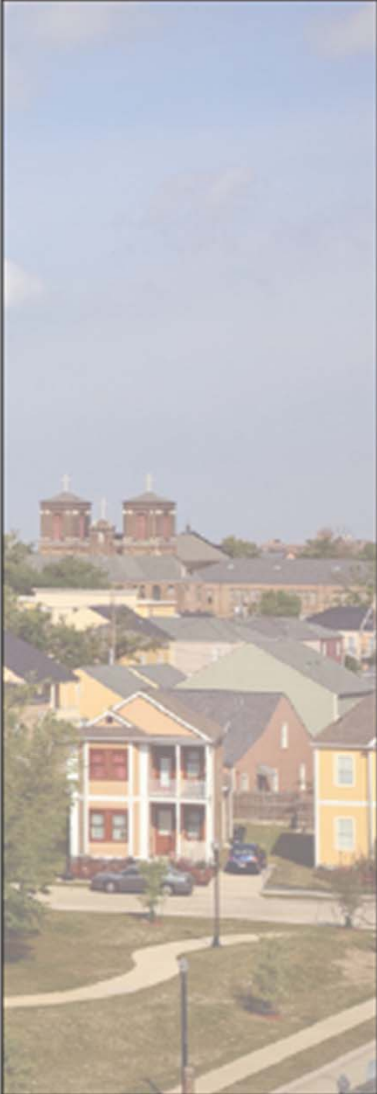
- Multifamily Assisted Housing Reform and Affordability Act (“MAHRA”)
- Section 8(bb)
- Section 212



PBRA Preservation

- **PBRA Renewal under MAHRA:**

- Renew most terms of original HAP contracts
 - Potential elimination of distribution limitations (Options 1 & 2)
 - Post-rehab rents under Chapter 15
- **Option 1: Mark-Up-To-Market**
 - Renewing contracts must have rents < market
 - Increases rents to market
 - Re-adjusted to market every 5 years
- **Option 2: Budget-based or OCAF increase**
 - For renewing contracts with rents ≤ market
 - OCAF: Operating Cost Adjustment Factor (HUD)
- **Option 3: Mark (down)-to-Market**
 - Referral to Office of Recapitalization
 - Required for renewing contracts with FHA-insured mortgages and > market rents



PBRA Preservation

- **PBRA Renewal under MAHRA:**
 - **Option 4: Exception projects**
 - e.g., properties with > market rents but no FHA-insured financing so not subject to M2M
 - OCAF for entire term (no 5-year adjustment)
 - **Option 5: Renewal of Preservation and Demonstration Projects**
 - Projects with special HUD use agreements
 - **Option 6: Terminating PBRA and Opting Out**
 - Owner must send notice to HUD, tenants and local government 1 year prior to contract expiration
 - Tenants generally eligible for TPV Enhanced Vouchers



PBRA Preservation

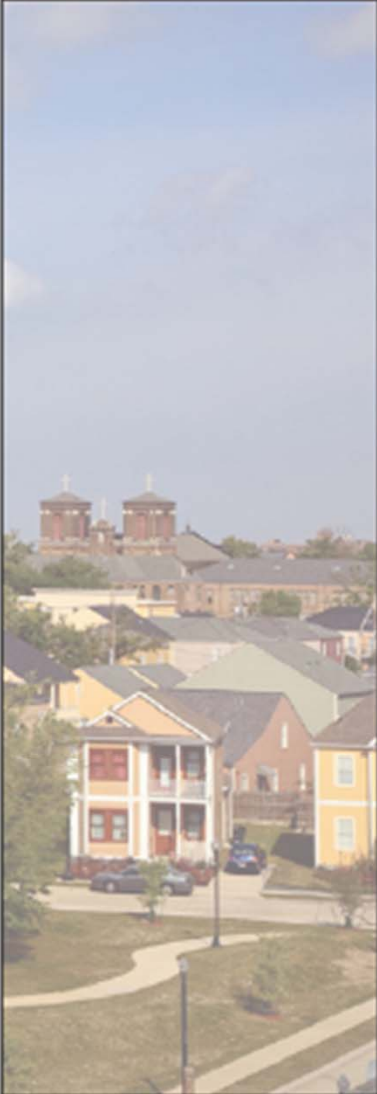
- **PBRA Renewal under MAHRA:**

- **“Chapter 15” Renewal (new debt)**

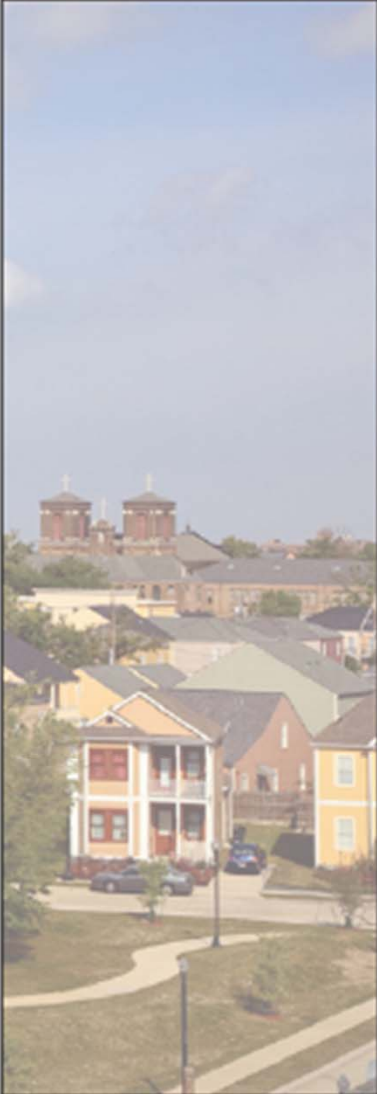
- For capital improvements, pre-approval of post-rehab rents at renewal
 - For profit or non-profit controlled entity can Mark-Up-To-Market (Option 1 or 2)
 - Non-profit can Mark-Up-To- (post-rehab) Budget (capped at market rent) (Option 2)
- Transfers to nonprofit (Option 2) or non-profit controlled entity (Option 1 or 2)

- **Early termination for renewal possible**

- Owner agrees to a 20 year renewal term



PBRA Preservation



- **PBRA Porting:**
 - Tools for off-site redevelopment and PBRA conservation
 - **Section 8(bb) (permanent):**
 - Transfer all or portion of existing budget authority from expiring or terminated PBRA to new project(s)
 - **Section 212 (appropriations):**
 - Transfer HAP contract, HUD debt and HUD use restrictions



Rental Assistance Demonstration (RAD)



- Authorized in 2012 Appropriations Act
- Process to convert public housing to long-term, project-based Section 8 contracts (Component 1)
 - Rehab or new construction
 - PBRA or PBV available
 - Congressional cap on total units
- Leverages private debt and equity
- Component 2 for pre-1974 “orphan” programs



LIHTC Deal Structuring

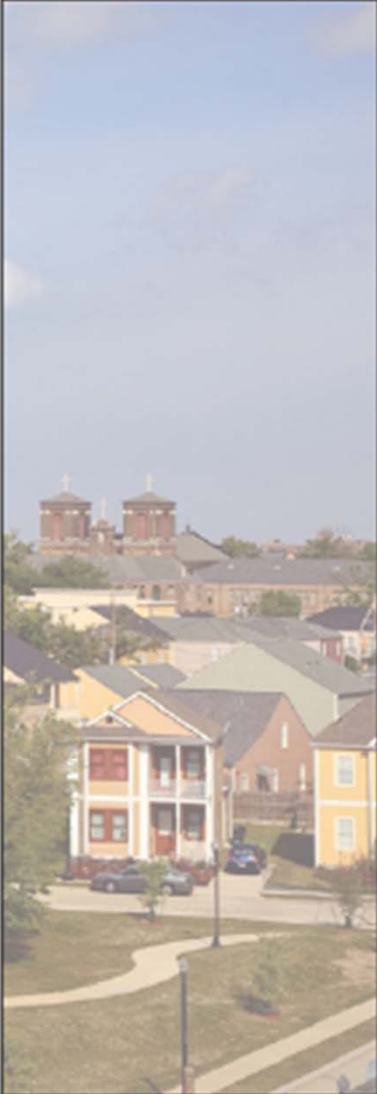


- **Higher Rent Potential**
 - Potential for Owner to collect rents higher than LIHTC rent for Section 8 tenants
 - LIHTC rules allow Section 8 contract rents > LIHTC rent limits as long as tenant-paid portion < LIHTC limit
- **Overhang = difference between Section 8 contract rent and LIHTC rent**
 - Lenders will not underwrite tenant-based “overhang” (if tenant leaves Owner reverts to lower LIHTC rent)
 - Lenders will often underwrite project-based “overhang”



LIHTC Deal Structuring

- **Contract Term**
 - Lenders and investors want the longest HAP term possible (up to 20 years)
- **Appropriations Risk**
 - Lenders and investors often require substantial reserves to protect against appropriations risk for project-based subsidy



Uncertain Times

- **“Skinny” Budget**
 - Funding shortfalls
- **2 for 1 Regulatory Replacement**
 - HOTMA implementation
 - What stays and what goes?
- **HUD Hiring Freeze/Attrition**
 - Resources



Takeaways

- Tenant-based vs. Project-based
- PBRA vs. PBV
- PBRA preservation is key yet complicated
- Locate original HAP contract
- When in doubt or in need of additional resources → contact Emily and Jed

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