

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

October 7, 2015

The Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

I am writing to request a GAO review of Component 1 (public housing) of the U.S. Department of Housing and Urban Development's (HUD's) Rental Assistance Demonstration (RAD) program. Over the last several years, public housing has experienced chronic underfunding, resulting in a backlog of capital needs of over \$26 billion and rising. We continue to lose units to demolition and disposition—10,000 a year by some estimates—and many families are currently experiencing deteriorating living conditions.

Established in the 2012 Consolidated Appropriations Act, RAD was created as a voluntary, limited demonstration program that provides the opportunity to test the conversion of public housing and other HUD-assisted properties to long-term, project-based Section 8 rental assistance. The demonstration was enacted to allow HUD the opportunity to determine whether this conversion would achieve certain goals, including the preservation and improvement of public housing properties through private debt and equity to address immediate and long-term capital needs. Despite serious concerns with the implementation of this demonstration, the 2015 Consolidated Appropriations Act expanded the unit cap under Component 1 of RAD from the original 60,000 authorized to 185,000 units, and the administration is advocating for the lifting of the cap altogether. Additionally, the Act requires HUD to assess RAD and publish findings on how the demonstration allowed for the preservation and improvement of public housing, how much PHAs were able to leverage their converted assistance with the private sector, and how tenants in converted properties were affected.

Over the years, I have been very vocal about several concerns regarding this demonstration. First and foremost, I am concerned that tenants' rights may not be properly protected throughout the process of conversion under RAD. I am also concerned that the demonstration's primary reliance on private capital essentially depletes our nation's stock of public housing over time by allowing for the privatization of an asset that has always been publicly owned. Continued public ownership and control depends on the complex, specific terms of each RAD conversion, and those materials are not generally readily available to the public for review. And even if a RAD application proposes an ownership structure that protects the government interest, using public housing properties as collateral to obtain private mortgage financing inherently creates risks of potential default and foreclosure, and it is unclear precisely how the government's interest in the property would be affected by such an event. I continue to have concerns about this kind of exposure on the heels of a major

foreclosure crisis that impacted so many homeowners and renters in both single and multifamily properties.

Moreover, while the statutory intent is to maintain affordability even in the face of foreclosure, it is wholly unclear whether the Section 8 housing assistance payment (HAP) contract will survive in all cases, since HUD could decide to terminate it or the foreclosure sale purchaser could refuse to accept it. The underlying use agreement, which becomes applicable if the HAP contract does not survive, does not guarantee use of a Section 8 contract, complete with the affordability restrictions and other tenant protections. Additional uncertainties exist around HUD's role in ensuring proper ownership as required post-foreclosure, and how HUD will select the new owner where private debt is involved.

Specifically, I request that the GAO examine if and how the RAD program is operating to achieve the stated goals that RAD was enacted to accomplish. The review should include the following questions and others you may determine to be necessary to fully evaluate the performance of the demonstration.

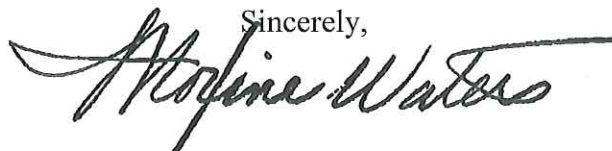
- How have housing authorities proposed to maintain public ownership in the properties that have been converted under RAD? Are the main mechanisms being utilized adequate for protecting the government interest? In what ways could the public interest be maximized in RAD deals, and does HUD have adequate processes in place to ensure that housing authorities are maximizing the public interest in RAD deals to the greatest extent possible?
- If an owner defaults on a contract, HUD may transfer the HAP contract, along with the Use Agreement, to another entity for use at another property, or HUD may terminate the HAP contract. When the HAP contract is terminated, new owners are subject only to the Use Agreement's default affordability requirements, which only require rents be no greater than 30 percent of 80 percent of the area median income, a rent level that few residents of RAD-converted public housing units could afford. What would happen to these properties and the residents in these cases? What other options are available to residents of these properties if they can no longer afford the rent levels that a new owner could impose? What does the public interest look like, if any, in these scenarios?
- Have the rights of tenants been protected at the sites that have been converted under RAD, as required by the authorizing statute? What safeguards and protections are in place to ensure tenants' rights are not diminished and tenants themselves not harmed before, during, and after the RAD conversion process? Have any tenants been displaced due to RAD? What is HUD doing to ensure that tenants are protected during the conversion process and throughout any temporary relocation of tenants? How have tenants been educated about and involved in the RAD conversion process?
- What has been the physical and financial impact on the properties converted under RAD so far?

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- In some cases, PHAs have made changes to their public housing programs in response to legal challenges made by tenant and legal aid groups. How do RAD conversions account for any agreements with tenants and/or legal settlements?
- Low-Income Housing Tax Credit properties typically serve relatively higher income households when compared to public housing. Considering that tax credits are a key source of funding to recapitalize projects converted under RAD, have PHAs participating in RAD been able to continue to serve very-low income and extremely low-income households? What can be learned from the developer community's approach to the opportunity posed by the conversion of public housing under RAD? How have income targeting and the income characteristics of public housing residents changed as a result of these conversions?
- Are RAD projects generally meeting their timeframes for conversion? Are there any patterns in complications that result in RAD transactions?
- What challenges have small PHAs faced in implementing RAD?
- What are HUD's plans for public housing developments that are not converted under RAD? What types of public housing properties are not good candidates for the demonstration program based on your analysis? Does HUD have any plans for addressing the needs of such properties that are not well-suited for RAD conversions?

Thank you for your cooperation and attention in this matter. If you have any questions, please do not hesitate to contact my staff, Theresa Dumais at Theresa.dumais@mail.house.gov, or Esther Kahng at Esther.Kahng@mail.house.gov.

Sincerely,

A handwritten signature in black ink that reads "Maxine Waters". The signature is written in a cursive, flowing style with a long, sweeping underline.

MAXINE WATERS
Ranking Member