

FLASH ALERT

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HUD Offers Streamlined Voluntary Conversions of Last Remaining Projects of Small Public Housing Agencies

Many PHAs have been looking at options to transition out of the Public Housing program. It is no secret that HUD has been heavily promoting “repositioning” this year, and likely will continue to do so in the future. RAD has been a very popular tool for this, but does not work for everybody.

HUD PIH Notice 2019-05, published recently, provides small PHAs another alternative. In order to be eligible for streamlined voluntary conversion, the following must apply:

- ▶ As of the date of application submission, the project or projects are owned by a small PHA (a small PHA has 250 or fewer Section 9 public housing units under its Consolidated Annual Contributions Contract (CACC) with HUD), that confirms its intent to close-out its public housing program after all units are converted; and
- ▶ Conversion of the project or projects will result in the conversion of all public housing units owned by the PHA.

Voluntary Conversion

This notice enables a PHA to transition its public housing to the Section 8 model, but not at RAD rents, at the Section 8 rents funding levels. Section 22 of the Housing Act is the legislation authorizing this.

Section 22(c) permits PHAs to voluntarily convert a public housing project (or portion thereof) to HCV assistance if the PHA demonstrates conversion 1) is not more expensive than continuing to operate as public housing; 2) principally benefits residents, the PHA, and the community; and 3) has no adverse effect on the availability of affordable housing in the community. Normally, PHAs must conduct a conversion assessment and provide a timeline identifying PHA actions to convert to HCV assistance. The conversion assessment consists of a cost analysis, market value analysis, rental market analysis, and an impact analysis on the neighborhood.

According to this new PIH Notice: "Recognizing that small PHAs typically have reduced staff and limited funding available to conduct a full conversion assessment, even if the conversion to HCV serves the best interests of residents and has no adverse effect on the availability of affordable housing in affected neighborhoods, HUD is exercising its authority under Section 22(b)(3) of the 1937 Act to waive the conversion assessment for small PHAs as described at Sections 22(b)(1)(A)-(E) and 24 CFR 972.218(a)-(e). This waiver does not affect other voluntary conversion requirements or procedures under the statute, regulations, directives, or guidance."

The notice goes on to describe the process to apply for this action. The application Forms HUD-52860 and HUD-52860-E are required to be submitted through the Inventory Removals module of PIC. Under this streamlined process, PHAs complete only question #2 of the HUD-52860-E form related to future use. The other questions are not applicable to streamlined voluntary conversions under this notice.

There are other considerations concerning PHA Plan, Resident Involvement, Board Approval, Local Government Review, Future Use – see PIH 2019-05 for details.

There are possibilities for a PHA to dispose of the property to itself or to an instrumentality such as an LLC or 501c3, but to tie the new Tenant Protection Vouchers that are provided by HUD under this approach requires the tenants to accept that.

In other words, they would have to accept PBV versus Tenant Based Voucher. According to the notice:

"Because section 22(d)(4)(C) of the 1937 Act requires that families be provided with the option to remain in their unit using tenant-based HCV assistance when a property will be used as housing after conversion, in order to provide project-based (PBV) assistance at a property as part of or immediately after conversion, families must voluntarily consent to the PBV assistance. Tenant consent means a family, after being fully informed of its options, voluntarily giving up the ability to receive a tenant-based HCV voucher (that it could use at the property or off-site in the private market) in order to be assisted under a PBV contract at the property. The informed and voluntary consent a family gives is to forego tenant-based HCV assistance (for use at the property or in the private market)."

Even though it is streamlined for small PHAs, this is a somewhat complex repositioning strategy that should be studied carefully if you are considering it. It should be compared to other options such as RAD.

See PIH 2019-05 for important details.

Good luck!

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