



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Regional Managers; Office of Public Housing
Directors; Program Center Coordinators:
Public Housing Agencies: Resident
Management Corporations

NOTICE PIH 2019-05 (HA)

Issued: March 21, 2019

Expires: This notice remains in
effect until amended, superseded or
rescinded

Cross-references: 24 CFR part 972,
2 CFR part 200, PIH Notice 2017-
22, PIH Notice 2016-20, PIH Notice
2016-23

Subject: Streamlined Voluntary Conversions of Last Remaining Projects of Small Public Housing Agencies

1) Purpose. Section 22 of the United States Housing Act of 1937, (42 U.S.C. 1437t) (the 1937 Act) and its implementing regulations at 24 CFR part 972, subpart B, authorize Public Housing Agencies (PHAs) to convert public housing to tenant-based assistance. HUD is authorized under Section 22(b)(3) to waive the conversion assessment or require a streamlined conversion assessment for “any public housing project or class of public housing projects.” Assistance for residents is through tenant protection vouchers (TPVs) under Section 22(b)(3). For purposes of this notice, a small PHA has 250 or fewer Section 9 public housing units under its Consolidated Annual Contributions Contract (CACC) with HUD.¹ Conversion to Housing Choice Vouchers (HCVs) gives small PHAs greater flexibility to respond to local needs, allows them to pursue private financing, and provides greater housing choice and mobility to assisted households.

2) Background. HUD and PHAs remain committed to providing deeply subsidized rental assistance to the nation’s most vulnerable populations, including the elderly, disabled and formerly homeless families. Meeting this commitment has been challenged by significant capital backlog, combined with regulatory burdens and limited access to private capital. Despite best efforts, PHAs, particularly small PHAs, struggle to preserve their stock of deeply assisted housing. This notice represents one of an array of tools that HUD is offering to PHAs to allow them to voluntarily reposition public housing units to more sustainable funding platforms in order to meet local objectives. Other opportunities that PHAs should evaluate for repositioning include the Rental Assistance Demonstration (RAD) program and new flexibilities in the Section 18 Demolition and Disposition process (see PIH Notice 2018-04). HUD is committed to working with each PHA as it determines which, or which combination, of these tools may be most appropriate to achieve sustainability of assisted housing in its particular housing market and community, while balancing overall cost-effectiveness for the Federal government.

¹The number of public housing units under a PHA’s ACC is based on the data in the Information Management System/PIH Information (IMS/PIC).

Section 22(c) permits PHAs to convert a Section 9 public housing project (or portion thereof) (i.e., a public housing project or portion thereof receiving Section 9 assistance under the 1937 Act) 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. In accordance with Section 22(b)(1)(A) of the 1937 Act, as amended by Section 553 of the Quality Housing and Work Responsibility Act of 1996 (P.L. 105-276), and HUD's implementing regulations at 24 CFR 972.212 and 972.218, PHAs shall 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.

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.

3) Eligibility. A Section 9 public housing project(s) is eligible for conversion under this notice if it meets the criteria listed below:

- A. As of the date of application submission, the project or projects are owned by a small PHA, as defined in Section 1 of this notice, that confirms its intent to close-out its public housing program after all units are converted²; and
- B. Conversion of the project or projects will result in the conversion of all public housing units owned by the PHA.

4) Application Submission and Conversion Plan Components. To apply for conversion under this notice, PHAs submit a conversion plan to HUD in the Inventory Removals Submodule of the IMS/PIC under "Streamlined VC." PHAs are required to complete the electronic IMS/PIC application and upload completed Forms HUD-52860 and HUD-52860-E. 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. The conversion plan and application include:

- A. PHA Plan. Explicit reference to the proposed conversion in the PHA Annual or Moving To Work (MTW) Plan or Significant Amendment to the PHA or MTW Annual Plan. See

² A PHA may close-out its public housing program through ACC termination (see PIH Notice 2016-23 or any replacement notice) or Consolidation/Voluntary Transfer (see PIH Notice 2014-24 or any replacement notice).

Form HUD-52860 and instructions. Qualified PHAs must discuss the proposed conversion at a public hearing, as required by 24 CFR 903.17.³

- B. Resident Involvement. Evidence the conversion plan was developed with resident participation as required by 24 CFR 972.227(c).⁴ The PHA must summarize resident comments and provide its responses to significant issues raised by the commenters including a description of actions taken by the PHA as a result of the comments. See Form HUD-52860 and instructions.
- C. Board Approval. Evidence by a copy of PHA's Board of Commissioners resolution approving the conversion plan. See Form HUD-52860 and instructions.
- D. Local Government Review. Evidence consultation with appropriate public officials as required by 24 CFR 972.227(b).⁵ See Form HUD-52860 and instructions.
- E. Future Use. Consistent with 24 CFR 972.230(a), describe the planned future use for all assets (real property) that comprise the units proposed for conversion. If the units are in different buildings and/or on different sites, provide a future use plan for each property. Describe any disposition (i.e. sale, ground lease), demolition, rehabilitation, or new construction, and anticipated financing (i.e. LIHTCs). See question #2 of HUD-52860-E form.

If a PHA proposes to retain the property in its own name (retention), HUD reviews the retention request pursuant to HUD policies under 24 CFR 200.311 and PIH Notice 2016-20 (or any successor notice), except the PHA is not required to submit a separate Retention Application to HUD. Instead, the PHA must include the submission requirements outlined in PIH Notice 2016-20 (or any successor notice) as part of the conversion plan.

If a PHA proposes to dispose of the property to another entity through sale or ground lease (disposition), the PHA must include a description of the disposition in the

³ A qualified PHA is defined by the Housing and Economic Recovery Act (HERA) as a PHA that (1) has a combined unit total of 550 or less public housing units and HCVs; (2) is not designated under section 6(j)(2) of the 1937 Act, the Public Housing Assessment System (PHAS), as a troubled public housing agency during the prior 12 months; and (3) does not have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months.

⁴ To satisfy the requirement for significant participation by residents of the development, in addition to the public participation requirements for the PHA Annual Plan, a PHA must hold at least one meeting with the residents of the affected sites (including the Resident Council, if any) at which the PHA must explain the voluntary conversion requirements especially as they apply to residents of the affected projects and provide draft copies of the conversion plan to them. PHAs must also provide residents with a reasonable comment period.

⁵ PHAs can satisfy this requirement by obtaining a certification from the appropriate state or local officials that the conversion plan is consistent with that jurisdiction's Consolidated Plan. This may be the same certification as is required for the PHA Annual Plan that includes the conversion plan, so long as the certification specifically addresses the conversion plan.

conversion plan pursuant to Section 22(d)(3) of the 1937 Act and 24 CFR 972.230. Consistent with Section 22(c) of the 1937 Act, a disposition proposed as part of a conversion plan must principally benefit residents, the PHA, and the community.

If a project continues to operate as rental housing, the PHA (or subsequent owner) must allow the families to remain in their units using the HCV in the form of tenant-based assistance. See 24 CFR 972.230(g)(ii)(E).

If a PHA plans to project-base a property in accordance with the Section 8 project-based voucher (PBV) program, all applicable PBV program requirements apply. PBV program requirements may be found in Section 8(o) of the 1937 Act (as amended by HOTMA, P.L. 114-201, 130 Stat. 782), program regulations at 24 CFR Part 983, and applicable guidance. Applicable program guidance includes, but is not limited to: the HOTMA Federal Register Implementation Notice at 82 Fed. Reg. 5458 (January 18, 2017), PIH Notice 2017-21, subsidy layering review requirements published in the Federal Register on July 9, 2010 (FR-5417-N-01) <http://edocket.access.gpo.gov/2010/pdf/2010-16827.pdf> and as described in PIH Notice 2013-11 (or any replacement notice) and environmental requirements described in PIH Notice 2016-22.⁶

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). If a family fails to consent to the PBV assistance and chooses to remain using tenant-based HCV assistance, that family's unit is excluded from the PBV HAP until the family moves out or consents to switching to PBV assistance. To obtain such consent, the PHA must follow the requirements outlined in Appendix A. Note that the requirements in Appendix A are in addition to the relocation requirements (including 90-day notice requirements) of 24 CFR 972.230(g) and PHAs must be cognizant of applicable timing requirements of both.

- F. Environmental Requirements. Conversion plans must have environmental clearance before HUD approves a conversion plan. Environmental clearance means final approval from a HUD Approving Official of an environmental review conducted under 24 CFR

⁶ Note that three HOTMA exceptions may apply when former Section 9 public housing projects are converted to project-based rental assistance under the PBV program: (1) a percentage cap exception where public housing units approved for conversion may not count toward the PBV program unit limitation (PHA-wide); (2) an exception to the income-mixing requirement where public housing units approved for conversion may not count toward the required project PBV cap; and (3) a competitive process exception where a PHA may be able to attach PBVs without following a competitive process to a former Section 9 public housing project in which it has an ownership interest or over which it has control, and for which the PHA is engaged in an initiative to improve, develop, or replace the public housing property or site. See PIH Notice 2017-21. PHAs consult their Field Office for technical assistance.

part 50, or the final electronic signature of the HUD approving official approving a Request for Release of Funds in HEROS or on form HUD-7015.16 for an environmental review conducted under 24 CFR part 58. See PIH Notice 2016-22. The PHA may not demolish or dispose of units or property until completion of the environmental review. See 24 CFR 972.212(b). PHAs are responsible for providing to the Responsible Entity or local Office of Public Housing (Field Office) a full description of the activities (including relocations, demolition, disposition and planned future use as described in response to section 4(E) of this notice) to comply with aggregation requirements.⁷ Site re-use is not limited to future actions by the PHA, but encompasses future re-use, including use of the project as rental housing after conversion. Even if there are no planned physical alterations and the project is categorically excluded from the National Environmental Policy Act (NEPA), a Categorically Excluded Subject To (CEST) environmental review addressing related environmental laws and authorities in Sections 58.5 and 58.6 or 50.4 needs to be completed. It is possible the environmental review may reveal risks or circumstances that do not allow for approval of the conversion plan.

- G. Impact Analysis. Provide a brief narrative statement describing the likely impact of the conversion on the neighborhood(s) in which the public housing is located. Describe: (i) the impact on the availability of affordable housing; (ii) the impact on the concentration of poverty; and (iii) other substantial impacts on the neighborhood. See HUD-52860-E.
- H. Relocation Activities. Provide a summary of information concerning the relocation plan required by 24 CFR 972.230(g), including information on counseling services, direct relocation assistance, providing the relocation notice, and relocation expenses. See Form HUD-52860. As part of the Form HUD-52860, PHAs certify the provision of a written notice to families, as required by paragraph 24 CFR 972.230(g)(4). To the extent that tenants are displaced as a direct result of demolition, acquisition, or rehabilitation of real property that receives federal financial assistance through the conversion of public housing as described in this notice, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601-4655) (URA), and its implementing regulations at 49 CFR part 24 apply. For the purposes of this paragraph, the term “project” is defined at 49 CFR 24.2(a)(22); the URA may therefore apply even if federal funds do not pay for the demolition, acquisition, or rehabilitation that causes the displacement. If voluntary conversion is subject to the URA, the PHA must also comply with the requirements in 24 CFR 972.230(g)(5).

Generally, PHAs fulfill requirements for comparable housing by offering HCV assistance through the award of Tenant Protection Vouchers (TPVs) (see Section 6 of this notice). To receive HCV assistance, a family must be low-income (less than 80 percent of AMI). Although the families were previously receiving public housing assistance, the PHA must still screen families for TPV eligibility consistent with the requirements in 24 CFR part 982. Accordingly, PHAs must also address relocation needs for families who do not qualify for HCV assistance (i.e., over-income families).

⁷ See 24 CFR 58.32 and 24 CFR 50.21.

To plan effectively for the relocation needs of individuals with disabilities, PHAs should consult HUD's Relocation Handbook 1378, and in particular, the guidance at Exhibit 3-1.

To plan effectively for the relocation needs of individuals with disabilities, PHAs should consult HUD's Relocation Handbook 1337.0, and in particular, the relocation planning checklist at Appendix 3-1.

If a project continues to operate as rental housing, the PHA (or subsequent owner) must allow the families to remain in their units using the HCV in the form of tenant-based assistance, as provided in section 22(d)(4)(C) of the 1937 Act.⁸ The family may also choose to move from the unit and use continued tenant-based assistance in accordance with HCV program requirements. See section 4(E) of this notice for more information on using PBV assistance at the project after conversion. The PHA should consult with families early in the conversion process to determine which residents will choose to remain at the project using HCV assistance.

- I. Close-Out Information. The PHA evidences its intention to close-out its public housing program by including a completed Form HUD-5837 with its conversion plan submission. Section D of the Form HUD-5837 requires the PHA to identify any potential issues related to close-out and how those issues can be addressed. In identifying issues, the PHA assesses the likely impact of the close-out on the PHA's staffing, repayment agreements, other obligations, and remaining liabilities. Field Offices may require additional information from PHAs as part of their review of the Form HUD-5837. See PIH Notice 2016-23 (or successor notice). The PHA should reach out to its Field Office for technical assistance.
- J. Public Housing Only PHAs. If the applicant PHA does not administer a Section 8 HCV program, then another PHA with a Section 8 HCV program must be identified to administer the TPVs. A Public Housing Only PHA may enter into an agreement with an HCV PHA or may contact its Field Office for assistance in identifying an appropriate PHA to administer the TPV assistance. In all instances and as stipulated by PIH Notice 2018-09, or subsequent notice, the HCV PHA must have the jurisdictional authority to administer its program in the Section 9 public housing project's geographic location under state and local law. Additionally, the HCV PHA must have the administrative capacity to administer TPVs and be in compliance with federal civil rights laws. Public Housing Only PHAs are encouraged to identify and contact potentially interested HCV PHAs in the early stages of conversion planning, as the PHAs' agreement to cooperate in the conversion must be established prior to HUD's approval of the conversion plan. As stipulated by PIH Notice 2018-09, or subsequent notice, once the Field Office approves the partnership, the two PHAs must enter into a written agreement regarding the roles and responsibilities of the two PHAs, including communication with the residents. Public

⁸ Families must be provided with the option to remain in their unit using tenant-based HCV assistance. However, families can also be offered the option to remain in their units using PBV assistance. In this case, families would need to voluntarily consent to the PBV assistance. HUD is available to provide technical assistance on how PHAs can inform families of their options.

Housing Only PHAs should consult their Field Offices for technical assistance with these agreements.

5) HUD Processing. HUD will not process an application found to be deficient or incomplete (i.e., missing required supporting documentation); HUD will return the application to the PHA and inform the PHA of the deficiencies.⁹ If a property will not be used as rental housing after the conversion (and the residents therefore do not have the option of remaining in their units using HCV assistance), HUD may conduct a rental market analysis by examining the PHA's Section 8 success rate data, leasing data, and utilization. In addition, HUD may require additional information from PHAs about its conversion plan, including information on Section 8 data, with consideration of the impacted residents (such as large households, elderly or disabled family members), as well as the availability of rental housing and proximity to schools, jobs and transportation. If the applicant PHA is a Public Housing Only PHA, HUD will conduct this analysis on the PHA administering the TPVs.

PHAs may not proceed with a conversion plan without a written approval from HUD. HUD must provide a preliminary response within 90 days of the PHA submitting the conversion plan, otherwise the plan is treated by HUD as automatically approved. A longer process may be required where HUD's review of the plan raises questions that require further discussion with the PHA. See 24 CFR 972.236.

6) Tenant-Protection Vouchers (TPVs). The premise of the voluntary conversion program is that public housing units are converted from the Section 9 funding stream through the provision of tenant-based assistance for the residents in the form of TPVs. As a result, PHAs will be provided replacement TPVs subject to the availability of funding. HUD determines a PHA's maximum TPV award based on relevant appropriations and promulgates such determinations through guidance (including, but not limited to, the annual HCV funding implementation notice). Please see PIH Notice 2018-09 or the most recent notice regarding TPV eligibility and awards.

HUD will continuously monitor PHA requests for TPVs through certain activities such as demolition, disposition, and voluntary conversions. As needed, HUD plans to issue guidance that describes how it will manage available TPV resources, including prioritizing the circumstances or conditions warranting TPV issuance for a range of eligible actions, including those of voluntary conversions. Such guidance may place constraints on the voluntary conversion approval process under this notice, which may affect the order in which HUD reviews and approves voluntary conversion applications, limiting the number of units that HUD will approve for voluntary conversions in a given fiscal year, or temporarily suspending the voluntary conversion approval process until TPV resources are determined to be sufficient to meet the demand for tenant protection actions.

7) Asset Repositioning Fee (ARF). Refer to PIH Notice 2017-22 (or any replacement notice) to determine if units approved for conversion under this notice are eligible for ARF pursuant to 24 CFR 990.190(h)(1).

⁹ HUD returns applications to PHAs by changing the status of the application to DRAFT status in IMS/PIC.

8) Demolition Disposition Transitional Funding (DDTF). PHAs are not eligible to receive DDTF under 24 CFR 905.400(j) for conversions approved under this notice.

9) Other Requirements.

- A. Existing Financial Transactions. PHAs with an approved transaction through the Capital Fund Financing Program (CFFP), Section 30 (including PHA Mortgaged Transaction (PMT)), Energy Performance Contracting (EPC), Operating Fund Financing Program (OFFP), or Repayment Agreements required by HUD must comply with additional instructions provided by HUD regarding such financing and may not take any steps to implement a conversion plan without receiving confirmation from HUD that all applicable requirements of the financing are satisfied. PHAs must certify an existing financial agreement is not at-risk because of the proposed conversion.
- B. Reporting Requirements. PHAs must work with their Field Offices and the Special Application Center (SAC) to ensure the accuracy of data in IMS/PIC—specifically to ensure units are put into Removed from Inventory (RMI) status upon completion of the conversion to HCV assistance. On a case-by-case basis, HUD may require other reporting information.
- C. False Certifications and HUD Enforcement. Any person knowingly presenting a false, fictitious or fraudulent statement or claim in a HUD matter, including certifications and supporting documentation for submitted conversion plans, are subject to criminal penalties, civil liability, or administrative actions which HUD may prosecute. HUD may pursue debarment/suspensions of principals and PHAs, and any enforcement actions available including, but not limited to, injunctive relief and other equitable remedies under HUD program and other Federal authorities. See 18 U.S.C. §§ 1001, 1010 and 1012; 2 CFR 180 and 2424; 31 U.S.C. §§ 3729-3731; and 31 U.S.C. §§ 3801-3812. Procedures and possible consequences of a false or otherwise invalid civil rights certification under Section 5A of the 1937 Act are incorporated in HUD regulations at 24 CFR 903.7(o) and 903.15(d)(3).
- D. Civil Rights Requirements.
 - i) PHA Certification. As part of the conversion plan and application, PHAs certify compliance with all applicable civil rights nondiscrimination and equal opportunity requirements, including, but not limited to, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing. A PHA's certification that it will affirmatively further fair housing means: (1) for a PHA that has completed an Assessment of Fair Housing (AFH) which has been accepted by HUD, that it will take meaningful actions to further the goals identified in the AFH conducted in accordance with 24 CFR 5.150 through 5.180, and that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its

programs, in accordance with 24 CFR 903.7(o)(3); or (2) for a PHA that is not yet required to and has not submitted an AFH, that it must continue complying with the requirements that existed prior to August 17, 2015, with respect to affirmatively furthering fair housing. PHAs also certify that if HUD approves the conversion plan, subsequent implementation of the approved conversion will comply with all applicable civil rights requirements, including conditions imposed in an environmental review to address environmental justice concerns.

- ii) Disclosure of Remedial Orders and Compliance Agreements. In its conversion plan and application, the PHA provides a certification that the conversion does not violate any remedial civil rights order or agreement, voluntary compliance agreement, final judgment, consent decree, settlement agreement, or other court order or agreement (per 24 CFR 972.224(b)(2)). In addition, the PHA states whether it is operating under any federal, state, or local remedial order, compliance agreement, final judgment, consent decree, settlement agreement or other court order or agreement, including but not limited to those related to a fair housing or other civil rights finding of noncompliance. If the PHA is operating under such a document, it must provide a citation to the document and attach a narrative description explaining how the proposed conversion is consistent with such document.
- iii) HUD Civil Rights Review. HUD's Office of Fair Housing and Equal Opportunity (FHEO) conducts a civil rights review of conversion plans.
- iv) Federal Labor Standards and Economic Opportunity. PHAs using Public Housing funds for a conversion must comply with all applicable federal labor standards of section 12 of the 1937 Act (42 U.S.C. 1437j) (Davis-Bacon) and requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C 1701u), as amended. Such activities include but are not limited to demolition and resident relocation. Under Section 3 and HUD's implementing rule at 24 CFR 135, recipients of certain HUD public housing financial assistance must provide employment, training, contracting, and economic opportunities to the greatest extent feasible to Section 3 residents or business concerns. Section 3 obligations apply to PHAs, their contractors, and their subcontractors regardless of the amount of funds received by the PHA or the amount of the contract or subcontract. See 24 CFR 134.3(a)(3).
- v) Accessible Resident Consultation, Meetings, and Notices. To ensure individuals with disabilities have reasonable opportunities to consult on the conversion plan and application, as well as ensuring that other communications and meetings are effective for individuals with disabilities, PHAs must ensure communications and materials are accessible and in compliance with Section 504 of the Rehabilitation Act of 1973 and implementing rules at 24 CFR 8.6 and Title II of the Americans with Disabilities Act of 1990 and implementing rules at 28 CFR 35 and 36. This includes ensuring written and oral communications, including resident meetings, are provided in appropriate alternative formats as needed, e.g., Braille, audio,

large type, accessible electronic communications, assistive listening devices, sign language interpreters, computer-assisted real time transcription of meetings, brailled materials, large print documents, accessible web-based and email communications, and when providing materials via the Internet. In selecting locations for consultation with residents, the PHA must provide equal access for persons with disabilities, conducting sessions at locations that are physically accessible to persons with disabilities, including individuals who use wheelchairs. Individuals with disabilities must receive services in the most integrated setting appropriate to their needs, meaning the needs of qualified individuals with disabilities that enables interactions to the fullest extent possible. The PHA is guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to on-site accessible locations (e.g., TV rooms or informal gathering places) even if to do so requires multiple sessions with smaller groups of residents.

Title VI of the Civil Rights Act of 1964 and regulations at 24 CFR 1 require PHAs to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English (i.e., individuals who have limited English proficiency or LEP persons). Written materials provided in English are to be provided in regularly encountered languages among the residents. PHAs may need to provide interpreters to communicate between different languages to ensure LEP persons have meaningful access. PHAs hold meetings in languages other than English to provide direct communication and participation.

10) Technical Assistance. Contact SACTA@hud.gov.

11) Paperwork Reduction Act. The information collection requirements contained in this notice are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control numbers are 2577-0075, 2577-0169, 2577-0226, and 2577-0276.

12) Public Comments. HUD welcomes public comments on this notice. Comments may be submitted to HUD via email at SACTA@hud.gov or to HUD's Special Applications Center (SAC), 77 W. Jackson Blvd. Chicago, IL 60604. It is helpful to organize comments by specific sections of the notice to assist with the subsequent review and response. Explain your views and reasoning as clearly as possible; outline the basis for assumptions; and supporting evidence or data, wherever possible. If you disagree with an aspect, provide alternatives that implement your suggestions. Add an analysis of how your alternative(s) would better serve the public interest and specific examples to illustrate your concerns, again, as possible.

/s/

Dominique Blom,
General Deputy Assistant Secretary for
Public and Indian Housing

APPENDIX A

Voluntary Relinquishment of Voucher Assistance in Exchange for Project-Based Voucher Assistance in Public Housing Conversions

If a PHA plans to use Project-Based Voucher (PBV) assistance as part of, or immediately following, conversion of a public housing property, neither the PHA nor the owner can require families to relinquish tenant-based vouchers already received by the eligible family, or tenant-based vouchers that have not yet been issued but will be received by the eligible family, pursuant to the public housing conversion. Provided all applicable PBV requirements are met, PBV assistance may only be attached to units in the project occupied by families eligible for tenant-based assistance resulting from the conversion, if the following conditions are satisfied:

- A) **Family Briefing** – PHAs must schedule a family briefing for all families potentially impacted by the proposed attachment of PBV assistance. A representative from the HUD Field Office of Public Housing must be invited and must attend the briefing either in person, or by teleconference. At a minimum, the briefing must include:
- 1) Information on families' right to remain in the unit using tenant-based HCV assistance;
 - 2) Information on the significant differences between PBV assistance and HCV assistance including income limits and the family's total tenant payment;
 - 3) An opportunity for families to ask questions;
 - 4) Written material available for families concerning PBV assistance and HCV assistance, including mobility options, rent levels, rent payments, provision of supportive services, etc.;
 - 5) Provision of a written consent form explaining that a family's decision to consent to relinquish its right to receive HCV assistance, or, if a voucher has already been issued, consent to relinquish its HCV assistance, is completely voluntary (see Paragraph B below);
 - 6) Information on the anticipated date of the conversion action and the execution of the PBV contract between the owner and the PHA.

In selecting the proper venue for the briefing, PHA's must give priority to methods that provide physical access to individuals with disabilities, i.e., holding the briefing in an accessible location, in accordance with the regulations implementing Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act of 1990, as applicable. If accessibility is not achievable, PHAs must give priority to alternative methods of product delivery that allow persons with disabilities to access the family briefing in the most integrated setting appropriate. PHAs must ensure that persons with disabilities have an equal opportunity to participate in the family briefing. PHAs must provide appropriate auxiliary aids where necessary to afford persons with disabilities an equal opportunity to participate in the family briefing (see 24 CFR §8.6). Additionally, the PHA must take reasonable steps to provide meaningful access to the family briefing for persons with Limited English Proficiency (LEP). This may include the provision of translated notices of the date, time and location of the family briefing and qualified interpreters at the family briefing. The PHA must also make available any written materials that are provided at

the family briefing in the appropriate languages for persons with LEP¹⁰. PHAs must keep records of their efforts to comply with these requirements.

- B) Written Consent** – The family must be given at least 30 days from the date of the family briefing to make their decision. The consent form provided to each family at the briefing must explicitly acknowledge a family’s consent or non-consent. The consent form must indicate that it must be signed by the head of household and include the name and telephone number of a PHA employee that families can contact directly if they should have any questions or need additional information. If a family does not respond, informs the PHA that they wish to retain HCV assistance, or affirmatively withholds consent, the PHA shall not include that unit under a PBV HAP contract.

The consent form must be provided in an accessible format for persons with disabilities and must include a TDD/TTY number or other equally effective communication system for persons with disabilities to use if they wish to contact the PHA with any questions or request for additional information (see 24 CFR §8.6). Additionally, the consent form should be translated into the appropriate language for persons with LEP and must include information on how persons with LEP can access language assistance if they wish to contact the PHA with any questions or requests for additional information.

¹⁰ See HUD’s Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published in the Federal Register on January 22, 2007 (72 FR 2732)