



NATIONAL LOW INCOME
HOUSING COALITION

VOLUNTARY CONVERSION OF PUBLIC HOUSING TO VOUCHERS

(Voluntary Conversions, Section 22 of Housing Act of 1937)
Ed Gramlich March 2019

A public housing agency (PHA) may convert any public housing development (or a part of one) to vouchers. Voluntary conversion is a two-step process. First a PHA must send to HUD a “conversion *assessment*” and then it must send a “conversion *plan*”. A special HUD office is in charge, the Special Applications Center (SAC). (Section 33 is about “required” conversions of public housing that has high vacancy rates and would be too expensive to repair over the long-run.)

CONVERSION ASSESSMENT*

- If a PHA wants to voluntarily convert public housing to vouchers, it must first conduct an assessment that has five parts: [24 CFR 972.218]
 1. **Cost.** What is the cost of providing vouchers compared to the cost of keeping units as public housing for the remainder of their useful life?
 2. **Market Value.** What would the public housing be worth after conversion if it *was not* repaired compared to what it would be worth after conversion if it *was* repaired?
 3. **Rental Market Conditions.** Will residents be able to use a voucher?
The assessment must consider:
 - a. The availability of decent, safe, and sanitary homes renting at or less than the PHA’s voucher payment standard.
 - b. The recent rate of households’ ability to rent a home with a voucher.
 - c. The public housing residents’ characteristics that might affect their ability to find and use a voucher; for example, homes accessible to people with a disability, or homes available in the right sizes.
 4. **Neighborhood Impact.** How would conversion impact:
 - a. The availability of affordable housing in the neighborhood?
 - b. The concentration of poverty in the neighborhood?
 5. **Future Use of the Property.** How will the property be used after conversion?

* As of April 1, 2019, PHAs with fewer than 250 public housing units (“small PHAs”) that want to convert all of their units don’t have to conduct a conversion assessment.

- **Three Conditions Needed for HUD Approval.**

[24 CFR 972.224(a)]

The assessment must show that converting to vouchers:

1. Will not be cost more than continuing to use the development as public housing.
2. Will principally benefit the residents, the PHA, and the community.
3. Will not have a harmful impact on the availability of affordable housing.

- To show that conversion will principally benefit residents, the PHA, and the community, a PHA must consider:

1. The availability of landlords willing to accept vouchers.
2. Access to schools, jobs, and transportation.

[24 CFR 972.224(b)(2)(ii)]

- To show benefit to residents, a PHA must hold at least one public meeting with residents and the resident council of the affected developments.

- At the meeting the PHA must:

1. Explain the regulations.
2. Provide draft copies of the conversion assessment.
3. Give residents time to submit comments.
4. Summarize resident comments and the PHA's responses in the assessment sent to HUD.

[24 CFR 972.224(b)(2)(iii) & (iv)]

- The conversion assessment must be sent to HUD as part of a PHA's next Annual PHA Plan. (See page 5 about the Annual PHA Plan.)

[24 CFR 972.209(a) and 972.221(a)]

CONVERSION PLAN, *see next page*

CONVERSION PLAN

- If a PHA wants to voluntarily convert public housing to vouchers, it must next prepare conversion plan that has six parts: [24 CFR 972.230]
 1. Description of the conversion and future use of the property.
 2. Analysis of the impact on the community.
 3. Explanation showing the conversion plan is consistent with the assessment.
 4. Summary of resident comments during plan development and the PHA's response.
 5. Summary showing how the conversion assessment met the three conditions needed for HUD approval (as listed on page 2).
 6. Relocation plan that must: [24 CFR 972.230(g)]
 - a. Indicate the number of households to be relocated by bedroom size and by the number of accessible units.
 - b. List relocation resources needed, including:
 - i. The number of vouchers the PHA will request from HUD. (HUD will give the PHA priority for "tenant protection vouchers".)
 - ii. Public housing units available elsewhere.
 - iii. Amount of money needed to pay residents' relocation costs.
 - c. Include a relocation schedule.
 - d. Provide for a written notice to residents at least 90 days before displacing them. The notice must inform residents that:
 - i. The development will no longer be used as public housing and that they may be displaced.
 - ii. They will be offered comparable housing that could have tenant-based or project-based assistance, or be other housing assisted by the PHA.
 - iii. The replacement housing offered will be affordable, decent, safe, and sanitary, and housing that the household chooses (to the extent possible).
 - iv. If residents will be assisted with vouchers, the vouchers will be available at least 90 days before displacement.
 - v. Whether relocation and/or mobility counselling might be provided.
 - vi. If after conversion the property is used for housing, residents may choose to remain there with a voucher.

RESIDENT PARTICIPATION

- The conversion plan must be sent to HUD as part of a PHA's next Annual PHA Plan (see below) within one year after sending the conversion assessment.
 - The conversion plan can be sent as a Significant Amendment to an Annual PHA Plan.
 - A PHA can send the plan and assessment with the same Annual PHA Plan.

[24 CFR 972.209(b) and 972.233]

- In addition to the public participation requirements for the Annual PHA Plan, a PHA must:
 - Hold at least one meeting about the conversion plan with the residents and resident council of the affected developments.
 - At the meeting the PHA must:
 1. Explain the regulations.
 2. Provide draft copies of the conversion plan.
 3. Give residents time to submit comments.
 4. Summarize resident comments and the PHA's responses.
 5. Consider resident comments in developing the final conversion plan

[24 CFR 972.227(c)]

⇒ Residents will want to make sure that all of these resident involvement requirements were adequately met.

HUD APPROVAL OF CONVERSION PLAN

- A PHA can't start converting until HUD approves its conversion plan.

[24 CFR 972.212(a)]
- Conversion plan approval is separate from HUD approval of an Annual PHA Plan.

[24 CFR 972.212(a) and 236]

 - HUD will provide a PHA with a preliminary response within 90 days.
 - If HUD does not respond in 90 days, the plan is automatically approved.

[24 CFR 972.236]
- HUD will not approve a conversion plan if:

[24 CFR 972.239]

 - The plan is "plainly inconsistent" with the conversion assessment;
 - There is information and data that contradicts the conversion assessment; or
 - The conversion plan is incomplete or fails to meet the requirements of the regulation.

Two Advocacy Suggestions, next page

- ⇒ Once a conversion assessment or a conversion plan is submitted with a PHA Plan, residents will want to study the assessment or plan, identify inaccuracies, and provide alternative information or data to HUD.
- ⇒ Residents should convey to HUD any information that contradicts the assessment or should demonstrate how the conversion plan is inconsistent with the assessment.

VOLUNTARY CONVERSION and THE PHA PLAN REGULATION

HUD approval of an Annual PHA Plan does not mean HUD has approved a conversion plan.

Remember, the process for obtaining HUD approval for a voluntary conversion plan is separate from and in addition to the Annual PHA Plan process.

What Is the PHA Plan?

[24 CFR 903.7(h)]

The PHA Plan is the gathering together of a PHA's key program intentions (such as converting public housing to vouchers) and policies (such as the Admission and Continued Occupancy Plan). Each year, all but very small PHAs must submit an Annual PHA Plan 75 days before the beginning of the PHA's fiscal year.

You will also hear about the "5-Year Plan" which all PHAs must send to HUD every five years. The 5-Year Plan merely states a PHA's mission, goals, and objectives.

Does Your PHA Even Have to Send in a PHA Plan?

Congress changed the PHA Plan law in 2008, calling PHAs that administer a combination of fewer than 550 units of public housing and vouchers "Qualified PHAs". About 70% of all PHAs are Qualified PHAs. They are not required to submit an Annual PHA Plan. However, a Qualified PHA must submit an Annual PHA Plan if it was designated as "troubled" as a result of its most recent Public Housing Assessment System (PHAS) score or had a failing Section Eight Management Assessment Program (SEMAP) score during the prior 12 months.

Qualified PHAs must still submit a 5-Year PHA Plan. They must also have a public hearing each year regarding any proposed changes to the PHA's goals, objectives, or policies. In addition, they must have Resident Advisory Boards (RABs see page 8) and respond to RAB recommendations at a public hearing.

To find out whether your PHA is a Qualified PHA, go to https://www.hud.gov/program_offices/public_indian_housing/pha/lists

(There no longer is a reliable source to learn whether your PHA is a "troubled" or "high performer". On HUD's Housing Authority Profiles webpage, <https://pic.hud.gov/pic/haprofiles/haprofilelist.asp> when you get to the list of housing authorities in your state, you will see your PHA's "HA Code" on the left hand column. Click on it. Sometimes the site will indicate whether a PHA is a "High Performer" or a "Standard Performer" – but many PHAs have no indication.)

For PHAs That Must Send In an Annual PHA Plan

For PHAs that do have to send in an Annual PHA Plan, there are four types of Annual PHA Plan templates to be used for different categories of PHAs:

- **Standard PHAs and Troubled PHAs.** A Standard PHA owns or manages 250 or more public housing units and any number of vouchers, for a combined total of *more than 550*; and the PHA was designated “standard” by its most recent PHAS and SEMAP assessments. A Troubled PHA has an overall PHAS or SEMAP Score less than 60%.
- **High Performer PHAs.** A High-Performer PHA owns or manages any number of public housing units and vouchers, for a combined total of *more than 550*; and the PHA was designated a “high performer” by its most recent PHAS and SEMAP assessments. They have a streamlined PHA Plan template.
- **Small PHAs.** A Small PHA owns or manages fewer than 250 public housing units and any number of vouchers, for a combined total of *more than 550*; and the PHA was not designated as troubled by the most recent PHAS or SEMAP assessments, or at risk of being designated as troubled. They have a streamlined PHA Plan template.
- **HCV Only PHAs.** A Housing Choice Voucher (HCV) Only PHA does not own or operate any public housing units, but does administer *more than 550* vouchers; and the PHA was not designated as troubled by its most recent SEMAP assessment. They have a streamlined PHA Plan template.

The PHA Plan Template

The current computer-based templates are much shorter and less helpful than those used before 2008. They no longer contain everything important to residents. They simply ask whether some of the PHA Plan elements have changed since the previous year. The PHA just checks a box “Yes” or “No”. If the answer is “Yes” the PHA is supposed to describe the change.

⇒ It is up to you to ask your PHA for the previous year’s PHA Plan and the upcoming year’s PHA Plan to figure out if the description of the change is accurate.

The PHA Plan templates ask (at B.2) whether the PHA intends to convert public housing to vouchers during the PHA’s current fiscal year.

To see the HUD-required templates go to https://www.hud.gov/program_offices/public_indian_housing/pha and scroll down to “Available Templates”.

Resident and Public Participation with the PHA Plan

The law and regulations provide a modest public participation process. [24 CFR 903.17]

- The PHA must conduct “reasonable” outreach to encourage broad public participation.
- The PHA’s governing board must invite public comment regarding a proposed Annual PHA Plan and conduct a public hearing to discuss it. The hearing must be held at a location convenient to PHA residents.
- At least 45 days before the public hearing, the PHA must:
 - Make the proposed Annual PHA Plan, required attachments, and other relevant information available for public inspection at the PHA’s main office during normal business hours.
 - Publish a notice indicating the date, time, and location of the public hearing, as well as the availability of the proposed Annual PHA Plan.
- The final, HUD-approved Annual PHA Plan, along with required attachments and other related documents, must be available for review at the PHA’s main office during normal business hours. [24 CFR 903.23(e)]

⇒ If any of these public participation requirements were not truly met, file a complaint with HUD, specifying the shortcomings.

Send Complaints to HUD

There are four places in the regulations indicating that writing and calling HUD to complain about the Annual PHA Plan might secure attention and relief from HUD.

1. If a RAB (see page 8) claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a “finding” and hold up approval of an Annual PHA Plan until this failure is remedied. [24 CFR 903.13(c)(2)]
2. The regulations declare that before approving an Annual PHA Plan, HUD will review “any...element of the PHA’s Annual Plan that is challenged.” [24 CFR 903.23(b)]
3. HUD can decide not to approve a PHA Plan if it or one of its components:
 - Does not provide all of the required information.
 - Is not consistent with information and data available to HUD.
 - Is not consistent with the jurisdiction’s Consolidated Plan.[24 CFR 903.23(c)]
4. To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, “HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan...HUD will take whatever action it deems necessary and appropriate.” [24 CFR 903.25]

Mid-Year Changes to the PHA Plan

“Significant” amendments (such as submitting a voluntary conversion plan) can only take place after formal adoption by the PHA board of directors at a meeting open to the public, and after subsequent approval by HUD. “Significant” amendments are subject to all of the RAB and public participation requirements. [24 CFR 903.21]

The PHA Plan must identify the basic criteria for determining what constitutes a “significant” amendment to either an Annual PHA Plan or a 5-year PHA Plan. [24 CFR 903.7(r)(2)]

- ⇒ Residents and advocates should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified.
- ⇒ Advocates and residents should review the PHA Plan’s criteria defining “significant” amendments, and work to change them if they are written so that few modifications would be judged “significant” and therefore escape the RAB and public participation requirements.

Resident Advisory Boards (RABs) and Drafting the PHA Plan

- Each PHA must establish at least one “Resident Advisory Board” (RAB) to make recommendations and assist in other ways in the drafting of the PHA Plan and any “significant” amendment or modification to it.

- RAB membership must reflect and represent residents served by the PHA.

[24 CFR 903.13(a)]

- If there is a jurisdiction-wide resident council, then the PHA must appoint it or its representatives as the RAB.
 - If there is not a jurisdiction-wide resident council, but there are project-based resident councils, then they or their representatives must be appointed to serve on one or more RABs.
 - Where Section 8 residents make up at least 20% of all assisted households, the PHA must make sure that they have reasonable representation on the RAB(s).

[24 CFR 903.13(b)]

- To ensure that RABs can be as effective as possible, the PHA must allocate “reasonable” resources to provide “reasonable” means for the RAB to:
 - Become informed about programs covered by the PHA Plan;
 - Communicate with residents in writing and by telephone;
 - Hold meetings with residents; and,
 - Access information through the internet.

[24 CFR 903.13(a)(2)]

- ⇒ Does the RAB truly reflect and represent the residents?
- ⇒ Was the RAB truly involved in drafting the PHA Plan?
- ⇒ Did the PHA provide the RAB with adequate resources to participate effectively?
- The PHA must “consider” RAB recommendations when preparing a final PHA Plan or any significant amendment or modification to it. A copy of the RAB’s recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan. [24 CFR 903.13(c)]
- “Small” PHAs submitting “streamlined” Annual PHA Plans must certify that the RAB had an opportunity to review and comment on any policy or program changes over the course of the year, including those relating to voluntary conversion. [24 CFR 903.12(c)(3)]