

## **Streamlined Voluntary Conversion Notice (PIH Notice 2014-14) Frequently Asked Questions (FAQs)**

**(1) Question:** Why did HUD issue the Streamlined Voluntary Conversion (SVC) Notice?

**Answer:** HUD issued the SVC Notice to provide regulatory relief to small PHAs. The SVC Notice provides PHAs with a streamlined cost assessment to provide Section 8 vouchers to public housing residents. This Notice will also provide another tool to some PHAs to recapitalize their public housing inventory and to better assist low-income families in their communities.

**(2) Question:** Why is HUD limiting SVC authority to small PHAs (under 250 public housing units)?

**Answer:** HUD's decision to initially limit the streamlined cost assessment to small PHAs was based on several factors: (1) the statute requires HUD to limit the streamlining option to a "class of projects"; (2) HUD recognizes that small PHAs would benefit from streamlining authority and regulatory relief; and (3) the program will significantly reduce HUD's administrative workload since it requires applicant PHAs to convert all of their remaining public housing inventory (and while the 50,000 units eligible for conversion under this program represent only 5% of the public housing inventory, they represent about 18% of the PHAs with public housing). HUD is interested in seeing what the initial group of PHAs propose under the program before considering whether to expand eligibility to other classes of projects.

**(3) Question:** What are the main differences between SVC authority and HUD's Rental Assistance Demonstration (RAD) program?

**Answer:** The main difference between SVC authority and RAD is that RAD provides for the conversion of public housing assistance to section 8 project-based assistance, whereas under SVC authority, eligible residents receive Section 8 tenant-protection vouchers (TPVs).

**(4) Question:** Even if it's not required, if a PHA wants to attach Section 8 project-based voucher assistance to a public housing project after conversion, is it able to do that?

**Answer:** Unlike with RAD, SVC authority does not include any waiver authority of project-based voucher requirements. Notwithstanding this, a PHA may project-base voucher (PBV) the former public housing project contingent on the following: (i) it can comply with all applicable statutory, regulatory, and HUD program requirements of the Section 8 project-based voucher program; and (ii) it provides all residents who are eligible for section 8 tenant-based assistance with the ability to remain in their dwelling units in the project and use the tenant-based assistance toward rent for their units. In other words, a PHA may not project-base a unit unless the existing residents either voluntarily agree to give-up their tenant-based assistance for project-based voucher assistance, or take and use their tenant-based voucher to another unit in the private market.

**(5) Question:** What are the main similarities between SVC and RAD?

**Answer:** SVC and RAD are similar in that both: (i) provide PHAs with an effective tool to move their public housing inventory to a more stable Section 8 platform; (ii) provide residents and the public extensive participation and consultation rights as the PHA develops and submits its plan to HUD; and (iii) give existing

residents the right to remain in their current units if the existing public housing building is retained as housing after HUD approves the conversion. See also comparison chart as an additional resource on this.

**(6) Question:** How does SVC help to preserve assisted units?

**Answer:** Under SVC, the number of assisted units for low-income families in the community is not diminished. In effect, the PHA is exchanging public housing assistance for Section 8 assistance. Additionally, HUD anticipates that some PHAs will dedicate PBVs in the development, therein preserving the asset as deep-subsidy housing, permitting residents with TPVs to continue to reside at the converted development.

**(7) Question:** I'm a PHA on the SVC eligibility list. I'm interested in converting my public housing units to Section 8 assistance. Should I convert under this streamlined voluntary conversion notice or should I convert to Section 8 under RAD?

**Answer:** Each PHA will need to make a determination of which conversion option best meets local housing needs. Each program is a creature of its unique legislative histories. For example, under RAD, the Congress allowed HUD to waive various statutory requirements of the PBV program to facilitate conversion, including, for example, the limitation on the amount of assistance that can be project-based. The voluntary conversion statute doesn't provide those same flexibilities. Additionally, the voluntary conversion program depends on the availability of TPVs, whereas RAD allows for the transfer of assistance from public housing to Section 8.

**(8) Question:** I'm a PHA on the list eligible for this program, but I don't have a Section 8 HCV program. I understand I need a signed agreement with a PHA that administers a Section 8 Voucher program so that agency can administer the TPVs that the residents will be awarded. If I find a MTW agency willing to partner with me to receive the TPVs, will the agency have all the Section 8 project-based voucher flexibility otherwise available to it under its MTW agreement?

**Answer:** Yes, but before that MTW could project-base any of the TPVs, all resident rights regarding the ability to remain in their units with a TPV would still need to be complied with. See response to Question 4.

**(9) Question:** I'm a PHA on the list eligible for SVC, which means that I am getting more in subsidy today under the public housing program than the subsidy HUD would pay to assist these families with vouchers. Why would I convert if my agency would be getting less in funds?

**Answer:** Conversion might still be in the best interest of your PHA and your residents. One, the development might be obsolete and the PHA would prefer to provide residents with vouchers. Two, the development may not be obsolete but the PHA might want to convert to TPVs and, while the subsidy might be somewhat lower, the PHA may have lower operating costs if maintains the development as affordable (and accepts TPV assistance). For instance, the PHA may be spending, say, \$300 PUM to operate the development today. But once it leaves the public housing program, it may be able to operate the development for less, say \$280 PUM, since it will no longer have certain expenses related to public housing (i.e. community service, pet rules, FASS-Reporting, PHAS). Thus, while the funding might be less, the costs might also be less. Three, the PHA may find that, if it dedicated PBVs to the development, in compliance with all PBV requirements, the PHA might be better able to attract private debt and equity to recapitalize the development. However, before the PHA could project-base any of the TPVs, all resident rights regarding the ability to remain in their units with a TPV would still need to be complied with. See response to Question 4.

**(10) Question:** Am I eligible to receive TPVs for all of my units approved for SVC? Or just occupied ones?

**Answer:** The appropriations language provides that HUD may issue TPVs for public housing units approved for conversion that have been occupied within the past 24 months. However, consistent with PIH Notice 2014-5, HUD's recent practices is to fund only units that are occupied on the date a tenant-protection voucher application request is submitted to HUD.

**(11) Question:** Do residents have the right to remain in their current units after conversion?

**Answer:** Generally yes, provided the development will be used as housing (by the PHA or another entity) after conversion and the resident independently qualifies for the Section 8 voucher program, each resident may choose to remain in the dwelling unit in the development and use the tenant-based voucher assistance for rent.

**(12) Question:** The SVC Notice provides that TPVs will be funded on a "first-come, first-serve" basis, but doesn't specify based on what event.

**Answer:** HUD will fund TPVs based on the date and time of the submission of eligible applications in IMS/PIC. HUD will not accept applications after 5:00 PM EDT, September 30, 2014.

**(13) Question:** My PHA is planning on disposing of this development to a LIHTC entity so it can be rehabbed and preserved as housing for low-income families. For LIHTC basis purposes, I'm considering structuring the disposition of the building (improvements) through a seller-financed loan (i.e. my PHA won't get any cash at closing but will retain a note payable from surplus cash, if any). Does HUD consider payments on "seller-financing" that a PHA may receive to be disposition proceeds (subject to the use restrictions of Section 18 of the 1937 Act)?

**Answer:** Yes. HUD will issue more guidance on this in the future.

**(14) Question:** What are the various things I can do with the proceeds I may realize from a disposition of the property?

**Answer:** Proceeds are subject to Section 18(a) of the 1937 Act, which means they must be used for the provision of low-income housing (under the Act) or to benefit the public housing residents of the PHA. Because PHAs eligible for conversion under this Notice must convert their entire public housing inventory, a PHA's use of proceeds will generally be limited to either: (i) resident construction, rehabilitation, and/or acquisition of dwelling units that will be operate as Section 8 project-based voucher units for a period of generally not less than 30 years; or (ii) funding of voucher (HAP) shortfalls under section 8 of the 1937 Act. HUD will issue more guidance on this in the future.

**(15) Question:** If a PHA has no HCV program, no Section 8 Annual Contributions Contract (ACC), and hence no legal ability under the regulation to administer section 8 assistance, can it contract with a nearby PHA to assume that responsibility?

**Answer:** Yes. However, the voucher funding must be provided to the partnering PHA through its Consolidated ACC with HUD. That PHA must have the authority to administer the assistance in the jurisdiction.

**(16) Question:** Can there just be a simple process where the non-voucher PHA claims back "its vouchers"?

**Answer:** No. First, as indicated in question 15, the funding will have been provided to the partnering PHA with a voucher program. The funding and vouchers become part of that PHA's program. Second, in order to become a voucher PHA, a PHA has to undergo a fairly extensive capacity review by the HUD voucher office. Moreover, if there is already a PHA in the area with jurisdiction to administer, PIH policy has been to not expand voucher administering PHAs.

**(17) Question:** Must an applying PHA submit a copy of a signed agreement with another PHA to assume administration of its newly created HCV units with its application, or is a letter of intent sufficient?

**Answer:** The applying PHA must submit a signed agreement with its application if the converting PHA doesn't have a program. Without an agreement from a voucher PHA to administer, the conversion cannot work.

**(18) Question:** May residents be rescreened?

**Answer:** If the PHA is going to offer residents section 8 assistance, it is a new admission for purposes of the voucher program. They are screened both for income-eligibility purposes and the wide range of criminal and other bases under subpart L of part 982. If a resident qualifies for the Section 8 program and the development will be used for housing after conversion, the resident has the right to remain in the development using his/her voucher.

**(19) Question:** If residents are over-income today, can they stay/return following the SVC? Can that unit be excluded from the affordability restriction that may be required based on the below FMV disposition or retention of the property in accordance with 24 CFR § 970.19 or 24 CFR § 85.31?

**Answer:** Only residents who are income-eligible under the Section 8 program have the right to remain following conversion. If the property is disposed of/retained at below FMV in accordance with 24 CFR § 970.17 or 24 CFR § 85.31, then affordability restrictions will apply for all units, however HUD may be able to make limited exceptions to allow certain existing over-income residents to remain in their units.

**(20) Question:** What Choice Mobility rights will residents have post SVC? Will they have to remain in their units for one year before porting out?

**Answer:** Normal Section 8 rules apply (tenant-based or project-based voucher). In other words, if a development is used as housing after conversion and a resident chooses to remain at the development using his/her Section 8 tenant-based assistance (or agrees to accept at project-based unit at the development in lieu of retaining his/her tenant based assistance), all normal Section 8 rules apply regarding when, and if, the resident can move out of the development with a Section 8 tenant-based voucher.

**(21) Question:** What constitutes adequate resident participation?

**Answer:** 24 CFR § 972.227 is pretty explicit about these requirements. They include:(1) conduct at least one meeting with residents where the PHA provides draft copies of the conversion plan; (2) provide a reasonable comment period for residents; (3) prepare comprehensive written responses to resident; comments and submit to HUD with Voluntary Conversion Application; and (4) consider resident comments in developing the final conversion plan.

**(22) Question:** Even though the “conversion assessment” is waived, will the PHA be required to perform a Physical Condition Assessment (PCA) to determine the level of improvements for approval by HUD, or will that be a matter between the PHA and the FHA lender?

**Answer:** The PHA will not be required to perform a PCA.

**(23) Question:** Must a PHA comply with PIH 2008-35 in establishing an “analysis of the market value of the public housing project” and the analysis of “rental market conditions”?

**Answer:** No, a PHA does not need to comply with PIH 2008-35. This is waived by the alternative cost-test which HUD conducted, which resulted in the list of qualifying PHAs.

**(24) Question:** Is a detailed analysis by PHA staff sufficient to establish “rental market conditions”?

**Answer:** Yes, provided the PHA takes into account the following: (1) the overall use of its tenant-based assistance (vouchers) under lease; (2) its current success rates of using tenant-based assistance in the community for the appropriate bedroom sizes; (3) its recent success rates for units rented at or below the established payment standard; (4) and any particular characteristics of the specific residents of the public housing that may affect their ability to be housed. PHAs must utilize current census data, local consolidated plan information, and available housing figures when describing the rental market condition. The PHA should provide an overview of the rental housing market in the area as well as the concentration of poverty. The PHA should evaluate the location and types of housing units and rental rates that are available for occupancy that could accommodate the housing needs of the displaced families (i.e., 3, 4, or 5 bedroom units and units that are available to accommodate persons with disabilities) within the area. If the PHA is proposing to utilize the project (same units) as Section 8 project-based voucher (PBV) housing or other low-income housing and will not displace any residents, the rental market analysis may not be applicable.

**(25) Question:** Must the annual public hearing be concluded before the submission of an application?

**Answer:** Yes.

**(26) Question:** Will a mailing to participants on the waiting list be considered sufficient if it is sent to the last address listed, or must follow up mailings be sent if the PHA is notified of a change of address? Must this notice be sent with a return receipt or is registered mail sufficient? Must the PHA advertise this change in waiting lists in the local paper?

**Answer:** There is discretion and flexibility here. The PHA must just describe as part of its PHA Plan or significant amendment to that Plan (or in a Public Hearing) what it proposes to do.

**(27) Question:** Must all of the actions required in (7)(E) be completed before the submission of an application?

**Answer:** Generally, yes. These are things that should be covered as part of the PHA Plan process that includes the Streamlined Voluntary Conversion proposal.

**(28) Question:** Is a letter from the Chief Executive of the municipality sufficient to evidence the notification of local officials?

**Answer:** Yes.

**(29) Question:** If a resident residing in a development approved for conversion qualifies for the Section 8 program, and the PHA is offering residents Section 8 assistance as the form of relocation housing, does he/she have the right to use the voucher elsewhere, if he/she so chooses?

**Answer:** The VC statute gives the family a right to remain in the project (if retained for use as housing) with tenant-based assistance, under the conditions of section 22(d)(4)(C). It is the family's choice whether to exercise the right to leave with the tenant-based assistance or remain in the project with the tenant-based assistance.

**(30) Question:** Can a PHA fund the additional cost of defeasing CFFP bonds and other debt with surplus Capital Funds (including Replacement Housing Factor (RHF) Funds) or Operating Funds?

**Answer:** A PHA cannot use Operating Funds, but can use Capital Funds (including RHF) for these costs, provided it obtains prior HUD approval (and the Lender, if required) and it is consistent with the CFFP loan documents.

**(31) Question:** May the PHA dispose of or lease the property to an affiliate and/or a joint venture with a developer?

**Answer:** Yes.

**(32) Question:** How soon after approval must the Environmental Review, if applicable, be completed?

**Answer:** The Environmental Review must be completed BEFORE the SVC application is submitted.

**(33) Question:** We will be doing conversion without rehab, we have no debt against our properties why would we need to pay for an environmental review to submit with application?

**Answer:** The SVC Notice does not require an environmental review to be submitted with the application. However, prior to the submission of the SVC application, the PHA must submit sufficient information to its local HUD Office of Public Housing to indicate that applicable environmental requirements have been met, which could include the Responsible Entity determining that the project/activity is exempt under 24 CFR 58.34(a)(12) because the project/activity is categorically excluded under 24 CFR 58.35(a)(4) or (5).

**(34) Question:** Must a draft Relocation Plan be submitted with the application or may it follow HUD's initial approval?

**Answer:** A draft Relocation Plan must be submitted with the application.

**(35) Question:** Is it sufficient for a PHA to simply state its intent with regard to resident services in the application or must a formal plan be submitted with the application?

**Answer:** Pursuant to Section 5(E)(v) of the Notice, it is sufficient for a PHA to state its intent with regard to resident services in its PHA Plan.. The requirements of Section 9 of the Notice simply apply post-conversion if a converting PHA operates one of these programs (regardless of whether the PHA describes it in its application).

**(36) Question:** How should a PHA deal with over-income residents currently paying a flat rent?

**Answer:** The PHA could offer them comparable housing, in the form of a URA payment.

**(37) Question:** If a project approved for SVC is used as housing after conversion, do income-eligible residents have the right to remain in their existing units with a Section 8 TPV? Or just the right to remain at the project (i.e. can residents be required to move to another unit at the project)? ?

**Answer:** The statutory language ties the right to remain to a family's unit, not just the project.

**(38) Question:** When the ACC is terminated will a PHA be able to use its Operating, Capital and RHF funds to rehabilitate units or must these funds be returned to HUD?

**Answer:** After the conversion is complete and the ACC is terminated, the PHA may not spend any more Operating or Capital (including RHF) Funds. However, while the property is still under the public housing ACC, a PHA can spend Operating and Capital Funds on any eligible activity. If a PHA would like to spend Operating or Capital Funds during the period after receiving conversion approval from HUD but prior to actual conversion (e.g. during the 90-day resident relocation period), it should coordinate such expenditure with its local HUD Office of Public Housing.

**(39) Question:** Will HUD be creating a website and documentation to support Voluntary Conversion in the same way that it has for RAD?

**Answer:** HUD is working on guidance documents for the Streamlined Voluntary Conversion program. A “cheat sheet” on submission and processing requirements has been posted on the SAC website ([www.hud.gov/sac](http://www.hud.gov/sac)). All future guidance documents will also be posted on the SAC website

**(40) Question:** What are the mandatory certifications and attachments that must accompany HUD-52860 to ensure the application is complete?

**Answer:** See “cheat sheet” guidance document on SAC website.

**(41) Question:** Is a PHA required to follow HUD Procurement Guidelines in order to contract for technical assistance, professional services and developer participation associated with the preparation of an application for voluntary conversion?

**Answer:** Yes, if it is using Public Housing Funds for such services. Also note that state procurement requirements will continue to apply.

**(42) Question:** Is the cost associated with the preparation of an application an allowable expense?

**Answer:** Cost associated with preparing of a Voluntary Conversion application could be eligible Capital Funds expenses related to planning and development. The PHA must follow all applicable Capital Fund rules related to the expenditure of any Capital Funds for this purpose.

**(43) Question:** What Fiscal Year funding levels will be used to establish future funding?

**Answer:** Normal rules of the Section 8 program apply—Fiscal Year funding will be determined by these program rules.

**(44) Question:** Will a resident action claiming Fair Housing Violations based on an application for voluntary conversion be considered grounds for denying that application?

**Answer:** HUD’s Office of FHEO will be doing a Fair Housing compliance review in accordance to the requirements described in the Notice. The SVC Notice provides that in order for its application for conversion to be considered and reviewed, the applicant PHA and voucher PHA (if applicable — see paragraph (5) of this Notice) must be in compliance with all fair housing and civil rights requirements at 24 CFR 5.105(a) and may not have an outstanding charge, cause determination, lawsuit, or finding of noncompliance with such requirements that is not the subject of a voluntary compliance agreement, settlement agreement, consent order, or other remedial agreement to which the PHA is a party.

**(45) Question:** RAD permits a PHA to pay itself a developer fee as part of the conversion process. Are such fees permitted in the voluntary conversion process?

**Answer:** No, at least not from Public Housing Funds. Once the development is converted (and removed from ACC and Declaration of Trust (DOT)) all Public Housing Funds must be returned to HUD.

**(46) Question:** Are all fees and costs incurred during the voluntary conversion process considered allowable expenses that can be paid for out of LIHTC and/or mortgage funds?

**Answer:** HUD has no say as to whether a PHA wants to use non-Public Housing Funds (i.e. LIHTC or mortgage funds) to pay for costs that a PHA may incur as part of the Voluntary Conversion process. However, as previously stated, a PHA could not use Public Housing Funds for conversion “process” expenses after it actually converts the development from public housing (and the ACC is terminated and the property is removed from DOT restrictions).

**(47) Question:** If a PHA’s SVC application includes LIHTCs as part of its rehabilitation of its units as part of the conversion must it have a LIHTC award in place?

**Answer:** No.

**(48) Question:** In the case of 4% LIHTCs to be issued as part of a Tax-Exempt bond issuance is a statement of the PHA’s intent sufficient for approval by HUD?

**Answer:** Yes.

**(49) Question:** How should a PHA treat an existing EPC?

**Answer:** There are several options--one strategy is to pay off the existing EPC loan at the time of conversion. If your voluntary conversion transaction will generate sufficient funds to pay off the EPC loan, this strategy will probably be the easiest strategy to implement. Alternatively, if the development will be used as housing after conversion, the PHA can work with its existing EPC lender (and any new first mortgage lender) to see if a strategy can be agreed upon in which the EPC loan will remain in place (i.e. with payments being made from extra cash flow). The PHA should consult its legal and financial advisors, its EPC lender and the new first mortgage lender (if any) to determine which approach will work best for the PHA and the future use of the development.

**(50) Question:** My PHA is eligible to convert under this Notice, but I’m a little confused about my options for the existing public housing units and the federal low-income housing assistance that I am eligible to receive (through the tenant protection voucher account). Can you explain some of the available options?

**Answer:** Here are some ways in which PHAs might use SVC to better meet local housing needs:

- Preservation of the property as PBV or other affordable housing. As part of the SVC application, the PHA could propose that the project continue to be used as affordable housing. The existing residents would have the right to remain in their units with their TPVs. Pursuant to the “commensurate public benefit” provision of 24 CFR 970.19, the PHA could request to transfer the property at below FMV (i.e. \$1). At a minimum, HUD generally also requires that the property be operated as and affordable to families at less than 80% AMI for at least 30 years (i.e. rents can’t be more than 30% of the 80% of AMI). The PHA typically secures other funding sources to maintain this affordability (i.e. LIHTC, HOME Funds, Federal Home Loan bank funds, PBV HAS). The PHA could only PBV the project if it complied with all applicable requirements under 24 CFR part 983 and would again need to assure all residents were given the opportunity to remain in their units

with their TPVs (see response to Question 4). The PHA would need to figure out the future operating income of the project (since HUD will not necessarily be providing PB assistance like it does under RAD), especially if it was not planning on PBVing the project. Alternatively HUD could permit the PHA to retain the property by following 2 CFR part 85/part 200, (under part 85 PHA would pay back HUD by applying HUD's percentage of participating in the cost of the original purchase to the FMV of the property and under part 200, PHA would pay back using this percentage including the costs of any grant funded improvements;

- Demolition and new construction as Section 8 PBVs. PHA could propose to demolish the existing units and do new construction on site. The demolition would not necessarily be subject to the cost-test of 24 CFR § 970.15 since HUD could approve it based on "other factors" under Section 18 and 24 CFR part 970. HUD would release the DOT under Section 18 disposition authority. The newly constructed units could be financed with LIHTC, debt (including FHA-insured loans), and other funding sources. All or a portion of the newly constructed units could be Section 8 PBV units (funded in whole or in part with the new allocation of tenant projection vouchers);
- Disposition and Acquisition of other properties that it would use as Section 8 PBV units or Section 9 public housing units. A PHA could propose to dispose of a project and use the proceeds to acquire other properties that it would use as Section 8 PBV or Section 9 public housing.
- Sell at Fair Market Value (FMV). A PHA could propose to dispose of a project at FMV with no requirement that the project be maintained as affordable housing for low-income families. The PHA would be obligated to: (i) provide all residents with a form of comparable housing, which will generally be a Section 8 HCV tenant-based assistance; and (2) propose an eligible use of the proceeds it will realize from the disposition.).

**(51) Question:** Could this money be made fungible with admin fees (HCV) like what HUD/Congress did for Katrina?

**Answer:** No, there is no statutory authority to do this.

**(52) Question:** A PHA may need to be able to go over the 20% PBV cap for these vouchers, could a waiver be requested at time of application? Would that require a waiver for advertisement? Would waivers also be needed for HUD approval of rents and third party inspectors?

**Answer:** The 20% PBV cap is statutory, thus HUD cannot approve any waiver requests for allowing a PHA to go over this limit. Any other non-statutory waiver requests pertaining to the PBV regulations will be processed in accordance with HUD's standard waiver process.

**(53) Question:** If a qualified PHA has a RAD application pending may they also pursue an streamlined voluntary conversion application with the SAC at the same time.

**Answer:** Yes. If the PHA receives HUD approval for voluntary conversion and opts to proceed with that conversion, it should withdrawal its RAD application.

**(54) Question:** During the conversion process, to what extent is a PHA required to bring its units into compliance with the ADA and Section 504?

**Answer:** This is not required at all as part of the conversion requirements under Section 22 of the 1937 Act or this Notice. The PHA must comply with these requirements to the extent they are required by other requirements or funding (i.e. PBV, LIHTC) depending on how the development is used post-conversion.

**(55) Question:** Shouldn't PHAs be advised to ensure that their PILOT Agreements will continue post conversion?

**Answer:** It depends on the PHA's unique decisions related to the future use of the development after conversion; and applicable state law. PILOT as a matter of Federal law will no longer be required as it is a requirement under the public housing program.

**(56) Question:** Must Davis Bacon wages be paid during renovations? What if the funding for improvements includes FHA debt?

**Answer:** Davis-Bacon wages are not required based on any conversion approval under Section 22 of the 1937 Act and this Notice, but may apply based on the other funding sources, including FHA debt and LIHTC that are used to renovate the development post-conversion. If PHA is able to convert the TPVs to PBVs, Davis-Bacon may apply.

**(57) Question:** Does the PHA managing the HCVs receive the standard Administrative fee for the Vouchers?

**Answer:** Yes.

**(58) Question:** What is the chance that the September 30, 2014 deadline will be extended?

**Answer:** An extension is possible, especially if HUD receives extension requests from eligible PHAs. However, since this is a first-come, first-served competition, a deadline extension won't help most PHAs, unless HUD does not receive applications for 1,000 eligible units by September 30, 2014.

**(59) Question:** Do the profits generated by the property post-conversion remain unrestricted funds?

**Answer:** It depends. Although any cash flow from the property after conversion would be unrestricted funds (unlimited distributions), any payments to the PHA based on the sale, or transfer (e.g., ground lease) of the property, including seller-financing payments from surplus cash, would be considered disposition proceeds and restricted to authorized uses under Section 18(a)(5) of the 1937 Act.

**(60) Question:** Once the DOT is released, do any land lease payments flowing to the PHA from the former PH site become restricted funds?

**Answer:** Yes, Any lease payments to the PHA based on the ground lease (or disposition) of the property would be considered disposition proceeds and restricted to authorized uses under Section 18(a)(5) of the 1937 Act.

**(61) Question:** What rules apply to the proceeds from seller financing (i.e. seller note) that is typically used to increase the LIHTC basis?

**Answer:** Payments are considered disposition proceeds and restricted to authorized uses under Section 18(a)(5) of the 1937 Act.

**(62) Question:** Some PHAs have units they are no longer receiving subsidy for (i.e. units that are “off-line” in PIC. How will these units be considered? Are these units eligible to receive TPVs?

**Answer:** Under PIH Notice 2014-5, only occupied units are eligible for TPVs. However, after conversion of the project, and the release of the DOT on the property, units that were not eligible for Operating Subsidy as public housing (based on unit status in PIC) could be used for de-federalized purposes, including housing, provided such use is in accordance with the HUD-approved SVC plan and application.

**(63) Question:** In the Gulf states it is common to have units in flood zones that are not currently occupied and probably should not be occupied. Some of these units are still receiving subsidy and may be occupied from time to time. If a PHA has units like this, will they receive Vouchers for the units still receiving subsidy?

**Answer:** No, under PIH Notice 2014-5, only occupied units are eligible for TPVs.

**(64) Question:** Can those vacant flood plain units be sold off and the proceeds from the sale be used to modernize the remaining units?

**Answer:** It depends on what the PHA proposes to do with those units in the HUD-approved SVC plan and application. The PHA could propose this kind of scenario as part of its conversion plan and HUD would review it in accordance with all applicable requirements (i.e. any HUD approval would require the PHA to implement the conversion through a two-part disposition—first of the flood-plain units and then later, after modernization, the remaining public housing units).

**(65) Question:** If a PHA has excess land from a prior approved demolition, what happens to that land in connection with a PHA’s SVC application (which requires it to convert all its remaining public housing units)?

**Answer:** Vacant public housing land would not automatically be de-federalized as part of the SVC approval. However, the PHA could request one of the following as part of its SVC plan: (1) that HUD de-federalize this land under 24 CFR part 200; or (2) to dispose of this land in accordance with the disposition requirements of Section 18 and 24 CFR part 970.

**(66) Question:** Will projects approved under SVC be able to participate in the 223(f) program and receive expedited approval?

**Answer:** All normal rules of the FHA-insured 223(f) program apply. After receiving SVC approval from HUD, the PHA (or new owner) could apply to HUD to refinance the former public housing development under the FHA 223(f) program. Also, see the response to Question 4. All residents who are eligible for section 8 tenant-based assistance must be provided with the ability to remain in their dwelling units in the project and use the tenant-based assistance toward rent for their units.

**(67) Question:** Will the future funding levels vary with changes in FMR? Or the OCAF?

**Answer:** PIH Notice 2014-5 provides information on how HUD calculates HAP renewal funding for every PHA's HCV program. In recent years, Congress has established a detailed formula for calculating renewal funding amounts in HUD's annual appropriations bills. PHAs will receive funding in accordance with the requirements that Congress enacts in future years.

**(68) Question:** What happens if a local developer in the community builds new market rate properties (at FMR rents) and all of the PHAs residents move to this new site? What options does the PHA have for its site? Is this just the market risk?

**Answer:** Yes, this is just the market-risk. Residents have the right to relocate off-site with their tenant-protection voucher (and the right to remain at the development with the Section 8 voucher if the development will be used as housing after conversion). A former development may be PBV'd in the future after the initial residents move-out (i.e. if a PHA wishes to PBV a portion of the units at the development after conversion, but no resident wishes to give up his/her tenant-based voucher for a PBV unit, it can wait until the initial residents move-out and then PBV that unit in accordance with all PBV rules and occupy it with a new resident off the waiting list).

**(69) Question:** What, if any, special mobility rules will apply if a PHA gets its site designated for PBVs?

**Answer:** No special rules; all rules and requirements of the Section 8 PBV program apply.

**(70) Question:** Are overhead, profit and expenses related to the modernization, rehabilitation, or revitalization that occurs post-conversion restricted only by the LIHTC and FHA rules (if those funding sources are used)?

**Answer:** Yes, anything done post-conversion would not be restricted by any public housing rules or requirements, as the property would be de-federalized at this point. That said, the property would need to comply with any use-restrictions imposed as part of HUD's conversion approval.

**(71) Question:** Immediately post conversion, will the PHA begin receiving HCV funding even as the residents are temporarily relocated?

**Answer:** The assumption here is flawed. Residents of units approved for SVC will generally be entitled to TPVs (if they qualify for the Section 8 program), which allow them to go where they want to go. PHAs can apply for TPVs immediately upon receiving HUD's conversion approval. A PHA can merge the TPVs into its normal HCV pool, but must assure that all relocation requirements of the SVC Notice and 24 CFR part 972 are complied with. A PHA can request that residents voluntarily give up their TPV for a PBV unit and if that happens, the PHA must assure any temporary relocation necessary for the rehabilitation or new construction of that PBV unit comply with all applicable relocation requirements (i.e. the Uniform Relocation Act).

**(72) Question:** If a PHA is not in Appendix A, but plans reconfiguring its units in such a way that displaces no qualified residents and that reconfiguration and the PHAs current funding meet SVC criteria, can that PHA apply?

**Answer:** No. The PHAs listed on Appendix A are based on FY2012 Funding. HUD hopes to open up the program to more PHAs in the future and any new eligibility will be based on updated funding numbers.

**(73) Question:** On the last page of the Cheat Sheet it says: "SAC will review all applications submitted by the application deadline (September 30, 2014) and issue its approvals (for eligible applications) up to 1,000 units in the order the applications were submitted in IMS/PIC" Doesn't this just apply to TPVs?

**Answer:** Yes, the 1,000 units applies to TPVs. But PHAs are not eligible to apply for these TPVs without first receiving HUD approval of the conversion.

**(74) Question:** Could a PHA propose in its application that the actual conversion be delayed for 6 months to permit architectural work, financing and LIHTC approvals?

**Answer:** Yes. In fact, there are no deadline requirements for how soon after receiving conversion approval the PHA needs to complete the conversion. Notwithstanding this, HUD expects PHA to exercise due diligence in pursuing the conversion implementation.

**(75) Question:** Could a PHA sell its site and build new units on another site and relocate the residents when the new property is completed?

**Answer:** No. Although a PHA could propose to sell the converted site and use the proceeds to build a PBV project on other land, it would need to offer the residents Section 8 tenant-based assistance to use anywhere in the private market at the time of conversion. After the new PBV project was developed, a PHA could offer the residents from the former public housing site a first opportunity to relocate to the new PBV development (i.e. give up their tenant-based voucher in favor of PBV unit at the new development).

**(76) Question:** My PHA has a pending RAD Application, but with a 12/20/2013 application date. They are also on your Appendix A and they have both LIPH and Section 8 programs. Could they pursue conversion without giving up their spot on the RAD list?

**Answer:** Yes. But after receiving a SVC approval from HUD, it should withdraw its RAD application for the units.

**(77) Question:** If a PHA pursuing a SVC enters into an agreement with a nearby authority to manage its vouchers, could those two PHAs jointly request as part of the SVC application that the approval include a Waiver of Competition from HUD that would allow the TPVs to be project-based.

**Answer:** Residents of units approved for SVC will generally be entitled to TPVs (if they qualify for the Section 8 program), which allow them to go where they want to go (or to remain in their current units with their TPV if the project is used as housing), so the PHA and partnering Voucher PHA cannot immediately take action to PBV the TPVs. In addition, all PBV rules and requirements apply. PHAs should request any waivers to the PBV program to the applicable HUD Office that oversees their PBV program. These waivers should not be requested as part of the SVC application as the PHA must award the residents tenant-based assistance and can only PBV the assistance if the residents agree to give up their tenant-based assistance.

**(78) Question:** If the Vouchers are project based, couldn't a PHA close its SVC transaction, then select its developer, obtain credits, secure debt, temporarily relocate residents and modernize the units?

**Answer:** The PHA needs to propose a plan for the future of the public housing development post-conversion as part of its SVC application. The PHA could propose a plan that includes rehab of the development with LIHTC post-conversion so it can continue to be used as housing, but the PHA would need to offer all residents permanent comparable housing, which in this case, will generally be a tenant-based Section 8 voucher. If the residents choose to remain in the development using their voucher towards rent after conversion, and the LIHTC rehab plan later requires the residents to be temporarily relocated due to modernization work, such temporary relocation would need to be done in accordance with all applicable federal, state, and local requirements, but the relocation requirements of Section 22 would not apply.

**(79) Question:** What costs associated with the SVC transition – including consultants attorneys, architects and other professionals – can be paid for with HUD Public Housing Funds?

**Answer:** Prior to conversion, the use of Public Housing funds for consultants, attorneys, architects and other professionals is permitted in compliance with all applicable public housing rules, including the predevelopment requirements of 24 CFR part 905. Once converted under SVC, no Public Housing Funds can be used for these fees.

**(80) Question:** Does the public housing project automatically get released from DOT as part of the SVC approval?

**Answer:** Not automatically. The “conversion” approval under Section 22 is specifically related to the public housing subsidy: if it costs (the federal government) less to give the families Section 8 subsidy than Section 9 subsidy, the PHA is authorized to “convert” the residents’ federal low-income housing assistance. This conversion is what terminates the ACC (Section 9) assistance and contract. But this leaves the question of the asset/property (dwelling units where the residents used their Section 9 assistance). As part of the conversion application/plan, the PHA can propose a “future” for this asset/property, which may include:

- Selling it at FMV via public bid (if the PHA proposes to “voucher out” the tenant-based Section 8 assistance) ;
- Selling it at FMV or below FMV (which may include seller-backed financing) through a negotiated sale to a related or unrelated entity so that the property can continue to be used as affordable housing (PBV, LIHTC, other); or
- Retaining title and ownership it in the PHA’s own name so that the PHA can continue to use it for affordable housing (or potentially other) purposes.

HUD would review the PHA’s proposed plans under any of these 3 of these options as part of the conversion plan. In order to approve the first 2 options, HUD would assure that the PHA’s proposed plan met the disposition requirements of Section 18 (but this would NOT require a separate disposition application at a later time). In order to approve the 3<sup>rd</sup> option, HUD would assure that the proposed plan met the requirements of 24 CFR part 85/part 200. HUD’s approval of any of these options (as part of the conversion approval) would cause HUD to release the DOT recorded on the property.

**(81) Question:** If a project will be used as housing after conversion, do over-income residents (i.e. residents who do not qualify for the Section 8 program) have a right to remain in their units at the project?

**Answer:** No. Only residents that qualify for the Section 8 program and receive a voucher under those program rules have the right to remain at the project using their TPVs. Notwithstanding this, HUD encourages PHAs to offer over-income residents the opportunity to stay in their units paying the same rent that they paid under the public housing program (if they are able to do that under the financing plan and future use of the development).

**(82) Question:** Paragraph (3)(A)(ii) of the Notice states that “HUD will consider a request for a reexamination of eligibility from a PHA that believes it was excluded from the list in Appendix A due to a technical error (i.e., number of units) in HUD’s PIH Information Center (PIC).” What does this mean?

**Answer:** A reexamination of eligibility entails a review of the data used by HUD to calculate eligibility under HUD’s cost test. A technical error would be an error that resulted in HUD’s cost calculation being incorrect, resulting in HUD determining that a project is ineligible when in fact the project is eligible. So, for example, if PIC showed that a project has 20 2-bedroom units when it really has 20 1-bedroom units, this technical error could have affected whether a PHA made it onto the list of eligible agencies (Appendix A of the Notice). All reexaminations of eligibility will be based on FY12 funding levels.

**(83) Question:** Since this SVC Notice requires PHAs to convert all of their public housing units, how does HUD treat future payments that a PHA may or may not receive in the future for seller financing (i.e. a seller take-back note)?

**Answer:** It depends.

- For PHAs that still retain Section 8 programs, the PHA can still receive these seller-financing payments—it would just need to use them for authorized Section 8 purposes, in compliance with Section 18(a)(5) proceeds requirements;
- For public-housing only PHAs, the PHA would be required to assign the seller-financing note to HUD and any future payments made on the seller-note would be made directly to HUD.