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Dickey Sargent Housing Authority | Foster County Housing Authority
Stutsman County Housing Authority | Wells Sheridan Housing Authority



Wells County Housing Authority

Agenda

Friday, September 22, 2017

10:00 AM

Conference call: 1-855-212-0212

Meeting ID: 394-436-901

Board items

1. Meeting call to order
2. Prior meeting minutes approval (vote)
 - a. Minutes May 19, 2017
 - b. Minutes September 6, 2017
3. Board resolution 2018-1: Transfer Sheridan County vouchers to Burleigh County (vote)
4. Board resolution 2018-2: Transfer Wells County vouchers to Stutsman County (vote)
5. Set Next meeting in October to approve payment standards, annual plan, and bylaws
 - a. October 6, 2017 at 10:00 AM
6. Adjourn

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Wells Sheridan HA

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Wells County Housing Authority
Agenda
Friday May 19
Wells County Courthouse @ 9:00 AM

Board items

Attendance: Danny Maxwell, Stan Buxa, Dennis Dockter, Mary Hager

Public: Randi Suckut, Julie Krosbakken

Absent: Sandi Rose (tenant rep)

Director: David Klein

1. Meeting call to order at 09:00 AM
2. Accept resignation of Marcia Schneider
 - a. Danny made a motion to accept the resignation, Dennis second, the board accepted the resignation 4-0.
3. Contract with Stutsman County Housing Authority
 - a. Dave Klein, Stutsman County Housing Authority Executive Director, presented a contract to run Wells County Housing Authority for 6 months and get things on track. That would require coordinating services with other housing authorities.
 - b. Dave stated that he would stay in communication with the county commission and make sure everyone is updated on changes.
 - c. Stan made a motion to approve the contract, Danny second, the board approved the contract with Stutsman County Housing Authority.
4. Adjourn
 - a. Danny made a motion to adjourn, Dennis second, the board adjourned at 09:52 AM.

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Dickey Sargent Housing Authority | Foster County Housing Authority
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Wells County Housing Authority Agenda Wednesday, September 6, 2017 Wells County Courthouse @ 10:45 AM

Board items

Attendance: Danny Maxwell, Sandy Rose (tenant), Stan Buxa, Dennis Dockter, Mary Hager

Public: Randi Suckut, Julie Krosbakken

Director: David Klein

1. Meeting call to order at 11:05 AM
2. Prior meeting minutes approval
 - a. Dave did not have any prior meeting minutes and will research if there are any minutes to approve.
3. Financial report (vote to accept)
 - a. Dave explained the financials and that Wells County Housing is doing well and is adding some clients to the program. WCHA has reserves for both housing assistance and administrative reserves. Dave explained the extra funds needed to cover extra hours put in by himself and Paula Schuh (Ramsey County Housing) to fulfill requests by HUD.
 - b. Stan made a motion to approve the financials, Danny second, the board approve 5-0.
4. Contract options (discuss and vote)
 - a. Dave wanted to explain the options the board has once the initial contract ends in November. The board can continue the contract, look at hiring someone, transfer both counties to Stutsman, transfer Sheridan County to Burleigh County, or transfer Wells County to Stutsman County. Dave explained that HUD only allows transfers after 12/31 and 6/30 for fiscal year purposes with a 90 day notice. The boards involved must approve both the transfer and acceptance. The board discussed Sheridan County, which has 6 vouchers, to be transferred to Burleigh. Those clients utilize services in Burleigh. If the board transfers to Stutsman, SCHA would add a board seat for someone from Wells County to be appointed by this commission. SCHA would provide an annual report to the commission.
The board requested that Dave draw up the resolutions to transfer both programs and set-up a conference call meeting to discuss and approve any transfers. Dave stated that he will try to get everything done.
 - b. Continue contract
 - c. Transfer Sheridan County to Burleigh County
 - d. Transfer Wells to Stutsman County
5. Executive Director report
 - a. Dave discussed the reporting that HUD required and concerns HUD had for the budget as things transitioned. There were no issues of fraud or mishandling of dollars, the budget reporting was off because of non-reporting. Paula Schuh (Ramsey County

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- Housing) audited the financials and revised posts, Dave reviewed all tenant records and information, and Kathy Steinbach assisted with client visits.
- b. Landlords and tenants are receiving more information now on a regular basis, and the housing authority implemented direct deposit and that seems to be working well.
6. Call for next meeting (voting items)
- a. Dave stated that the housing authority board will need to make some changes soon to other items in October as noted.
 - b. Revised and adopt bylaws
 - i. Bylaws have not been changed for many years and has incorrect information. Will reformat to match other bylaws.
 - c. Adopt admin plan policies
 - i. The board will need to adopt VAWA changes and other items as changed by SCHA
 - d. Contract continuation
 - i. Determine how the next year will look and if a contract is necessary
 - e. Payment standard – rent amount changes
 - i. Fair market rents were just released, and the board will decide on what rate to set rent/utility rates for the next year. The goal is to maximize dollars, but provide safe and affordable units that do compensate the landlord fairly.
 - f. Annual plan
 - i. HUD requires the housing authority to revised and approve the annual plan. There are two board resolutions involved.
7. Adjourn
- a. Danny made a motion to adjourn, Dennis second, the board adjourned at 11:52 AM.

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RESOLUTION #2018-1

RESOLUTION APPROVING PARTIAL VOLUNTARILY TRANSFERRING VOUCHER PROGRAM TO BURLEIGH COUNTY HOUSING AUTHORITY ND021

WHEREAS, Wells County Housing Authority is a housing authority established under state century code 23-11 and their own bylaws;

WHEREAS, Wells County Housing Authority administrates the Section 8 – Housing Choice Voucher program on behalf of HUD;

WHEREAS, Wells County Housing Authority has a fiscal year ending December 31;

WHEREAS, Wells County Housing Authority has jurisdiction over Wells and Sheridan Counties in North Dakota;

WHEREAS, Burleigh County Housing Authority determined that establishing a larger housing authority will provide efficiencies that will enable it to provide better services to the local area;

WHEREAS, HUD allows program transfers under PIH Notice 2015-22;

WHEREAS, Burleigh County Housing Authority and Wells County Housing Authority have gained legal opinions allowing for program transfers;

WHEREAS, Wells County Housing Authority Board of Commissioners authorizes partial transfer the Section 8 Program for Sheridan County to Burleigh County Housing Authority ND021;

WHEREAS, Wells County Housing Authority will transfer all client files to the parties identified in PIH Notice 2015-22;

WHEREAS, all HUD reporting and legal documents will be under the Burleigh County Housing Authority after the effective date;

WHEREAS, Burleigh County Housing Authority will continue its efforts to promote Sheridan County utilizing available HUD regulations and State Century Code;

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WHEREAS, the board members have read and reviewed the terms;

THEREFORE BE IT RESOLVED THAT the Wells County Housing Authority's board has approved the Partial Voluntary Transfer of the Sheridan County Section 8 Housing Choice Voucher program to Burleigh County Housing Authority effective January 1, 2018.

Passed and approved this September _____, 2017.

Chairman

Date

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**JOINT POWERS AGREEMENT BETWEEN THE BURLEIGH COUNTY HOUSING AUTHORITY AND
WELLS - SHERIDAN COUNTY HOUSING AUTHORITY**

This Joint Powers Agreement is to be effective the 1st day of January, 2018 by and between the Burleigh County Housing Authority (BCHA), a North Dakota political subdivision and the Wells - Sheridan County Housing Authority (WCHA), a North Dakota political subdivision.

PURPOSE

The purpose of this Agreement is to effect the transfer and subsequent administration of the WCHA's Housing Choice Voucher program to the BCHA.

JOINT POWERS AUTHORITY

1. Article VII, Section 10, of the North Dakota Constitution permits two or more local political subdivisions to jointly exercise their common powers. The provisions of Chapter 54-40.3 of the North Dakota Century Code specifically permit and, by their nature, encourage the cooperative and joint administration of government functions.
2. U.S. Department of Housing and Urban Development permits the transfer of a Housing Choice Voucher program from one public housing agency to another, upon its approval of an application to transfer, pursuant to PIH Notice 2015-22.
3. The provisions of Chapter 23-11 of the North Dakota Century Code allow a public housing authority "To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority."

AGREEMENT

1. The WCHA hereby relinquishes and partially transfers its Housing Choice Voucher program For Sheridan County to the BCHA, effective as of the above described date.
2. This agreement is made in regards to the administration of the WCHA's Housing Choice Voucher for Sheridan County's program only. The WCHA will retain all other powers, responsibilities, and privileges granted it pursuant to the provisions of Chapter 23-11 of the North Dakota Century Code.
3. The WCHA shall undertake to fulfill all matters required of it to effectuate the transfer of its Housing Choice Voucher program to the BCHA.
4. The BCHA shall undertake to fulfill all matters required of it to receive and administer Wells - Sheridan County's Housing Choice Voucher program.
5. The WCHA shall fulfill all financial requirements necessary to effectuate the transfer of its Housing Choice Voucher program, including compliance with all audits, transfers, and reviews mandated by the U.S. Department of Housing and Urban Development prior the effective date hereof.
6. The BCHA shall undertake all financial responsibility for administering the Housing Choice Voucher program in Wells - Sheridan County pursuant to the instructions of the Department of Housing and Urban Development upon its approval of the transfer application, after the effective date hereof.
7. This Agreement may be amended at any time by further written agreement of the BCHA and the WCHA and in accordance with any applicable Federal rules or guidelines.

8. This agreement shall be effective upon approval by resolution by the respective governing bodies of the WCHA and the BCHA, and approval by the U.S. Department of Housing and Urban Development, and shall remain in effect unless amended or terminated by mutual agreement for as long as there is a Housing Choice Voucher program to administer in Wells - Sheridan County.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The authorized representatives of the public housing authority signing below acknowledge by their signature that the governing board of their public housing authority has formally approved participation in this joint powers agreement.

BURLEIGH COUNTY HOUSING AUTHORITY

Name

Title

Date

WELLS - SHERIDAN COUNTY HOUSING AUTHORITY

Name

Title

_____ Date



RESOLUTION 2018-1

RESOLUTION OF BURLEIGH COUNTY HOUSING AUTHORITY TO ADOPT JOINT POWERS AGREEMENT

WHEREAS, the Burleigh County and Wells County Housing Authorities have been duly established under the provisions of Chapter 23-11 of the North Dakota Century Code, and are political subdivisions of the state of North Dakota; and

WHEREAS, each respective Housing Authority so duly established is endowed with certain powers and duties under the provisions of Chapter 23-11 of the North Dakota Century Code, including the power to make and execute contracts and other instruments necessary or convenient to exercise the powers of the authority; and

WHEREAS, political subdivisions of the State of North Dakota are authorized under Chapter 54-40.3 of the North Dakota Century Code to exercise jointly, powers that they otherwise are authorized to exercise independently; and

WHEREAS, the U.S. Department of Housing and Urban Development, authorizes public housing agencies that administer a Housing Choice Voucher program to transfer administration of their program to another housing authority; and

WHEREAS, the Burleigh County Housing Authority and the Wells County Housing Authority have agreed, that the Wells County Housing Authority's Sheridan County Housing Choice Voucher program may be more efficiently administered by accepting control of the Wells County Housing Authority's program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Burleigh County Housing Authority to effectuate and adopt, with the Wells County Housing Authority, a Joint Powers Agreement granting the Burleigh County Housing Authority control of the administration of the U.S. Department of Housing and Urban Development's Housing Choice Voucher program in Wells County.

Chairman, Board of Commissioners

Date adopted

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Wells Sheridan HA

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BURLEIGH LETTER TO FARGO FIELD OFFICE

HUD Fargo Field Office
657 Second Avenue North, Rm 366
Fargo, ND 58108-2483

ATTN: Joel Manske

Re: Housing Choice Voucher Transfer Request

ND021 Burleigh County
ND057 Wells County
7 units in Sheridan County to be transferred

Greetings:

Burleigh County Housing Authority (BCHA) hereby requests the transfer of Wells County Housing Authority's (WCHA) Housing Choice Voucher Program units in Sheridan County to BCHA pursuant to the Joint Venture Agreement, Resolutions of the Housing Authorities, and PIH Notice 2015-22 (Notice) attached hereto.

The transfer is to be considered for approval under the limited waiver of departmental policy as outlined in the Notice. Justification for the waiver is as follows:

1. There are no State or Regional Public Housing Authorities available;
2. There are no other Public Housing Authorities that fit within the criteria of the Notice;
3. The non-metro counties with the State are contiguous;
4. There are no jurisdictional concerns/issues as each county housing authority in this transfer is subject to the laws of the State of North Dakota; and
5. There is a Joint Powers Agreement between the parties which relinquishes and transfers the HCV program from WCHA to BCHA effective January 1, 2018.

The next approvable date for transfer is January 1, 2018. Should your office require any additional documentation, please don't hesitate to contact the undersigned.

Sincerely,

Executive Director, Burleigh County Housing Authority

Enclosures: Joint Venture Agreement, BCHA Board Resolution, WCHA Board Resolution,
PIH Notice 2015-22

WCHA LETTER TO FARGO FIELD OFFICE

HUD Fargo Field Office
657 Second Avenue North, Rm 366
Fargo, ND 58108-2483

ATTN: Joel Manske

ND021 Stutsman County
ND057 Wells County
7 units in Sheridan County to be transferred

Re: Housing Choice Voucher Transfer Request

Greetings:

Wells County Housing Authority (WCHA) hereby requests the transfer of its Housing Choice Voucher Program Sheridan County units and jurisdiction to Burleigh County Housing Authority (BCHA) pursuant to the Joint Venture Agreement, Resolutions of the Housing Authorities, and PIH Notice 2015-22 (Notice) attached hereto.

The transfer is to be considered for approval under the limited waiver of departmental policy as outlined in the Notice. Justification for the waiver is as follows:

1. There are no State or Regional Public Housing Authorities available;
2. There are no other Public Housing Authorities that fit within the criteria of the Notice;
3. The non-metro counties with the State are contiguous;
4. There are no jurisdictional concerns/issues as each county housing authority in this transfer is subject to the laws of the State of North Dakota; and
5. There is a Joint Powers Agreement between the parties which relinquishes and transfers the HCV program from WCHA to BCHA effective January 1, 2018.

The next approvable date for transfer is January 1, 2018. Should your office require any additional documentation, please don't hesitate to contact the undersigned.

Sincerely,

David Klein,
Executive Director, Wells County Housing Authority

Enclosures: Joint Venture Agreement, BCHA Board Resolution, WCHA Board Resolution,
PIH Notice 2015-22



RESOLUTION #2018-1

RESOLUTION APPROVING VOLUNTARILY TRANSFERRING VOUCHER PROGRAM TO STUTSMAN COUNTY HOUSING AUTHORITY

WHEREAS, Wells County Housing Authority is a housing authority established under state century code 23-11 and their own bylaws;

WHEREAS, Wells County Housing Authority administrates the Section 8 – Housing Choice Voucher program on behalf of HUD;

WHEREAS, Wells County Housing Authority has a fiscal year ending December 31;

WHEREAS, Stutsman County Housing Authority determined that establishing a larger housing authority will provide efficiencies that will enable it to provide better services to the local area;

WHEREAS, HUD allows program transfers under PIH Notice 2015-22;

WHEREAS, Stutsman County Housing Authority and Wells County Housing Authority have gained legal opinions allowing for program transfers;

WHEREAS, Wells County Housing Authority Board of Commissioners authorizes transferring the Section 8 Program to Stutsman County Housing Authority (ND011);

WHEREAS, Wells County Housing Authority will transfer all reserve funds to the parties identified in PIH Notice 2015-22;

WHEREAS, all HUD reporting and legal documents will be under the Stutsman County Housing Authority after the effective date;

WHEREAS, Stutsman County Housing Authority will continue its efforts to promote Foster County utilizing available HUD regulations and State Century Code;

WHEREAS, Stutsman County Housing Authority and Wells County Housing Authority have an existing Joint Powers Agreement in place;

Stutsman County HA	Foster County HA	Dickey-Sargent County HA	Wells Sheridan HA
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Stutsman County Housing Authority | Wells Sheridan Housing Authority



WHEREAS, the board members have read and reviewed the terms;

THEREFORE BE IT RESOLVED THAT the Wells County Housing Authority's board has approved the Voluntary Transfer of the Section 8 Housing Choice Voucher program to Stutsman County Housing Authority effective January 1, 2018.

Passed and approved this September 22, 2017.

Chairman

Date

Stutsman County HA	Foster County HA	Dickey-Sargent County HA	Wells Sheridan HA
300 2nd Ave NE Ste.200 Jamestown, ND 58401 701-252-1098 Fax: 701-252-7735	PO Box 37 Carrington, ND 58421 701-652-3276 Fax:701-252-7735	PO Box 624 Ellendale, ND 58436 701-349-3249 ext. 9 Fax:701-252-7735	PO Box 37 Carrington, ND 58421 701-652-3276 Fax: 701-252-7735



RESOLUTION 2018-3

RESOLUTION OF STUSMAN HOUSING AUTHORITY TO ADOPT JOINT POWERS AGREEMENT

WHEREAS, the Stutsman County and Wells County Housing Authorities have been duly established under the provisions of Chapter 23-11 of the North Dakota Century Code, and are political subdivisions of the state of North Dakota; and

WHEREAS, each respective Housing Authority so duly established is endowed with certain powers and duties under the provisions of Chapter 23-11 of the North Dakota Century Code, including the power to make and execute contracts and other instruments necessary or convenient to exercise the powers of the authority; and

WHEREAS, political subdivisions of the State of North Dakota are authorized under Chapter 54-40.3 of the North Dakota Century Code to exercise jointly, powers that they otherwise are authorized to exercise independently; and

WHEREAS, the U.S. Department of Housing and Urban Development, authorizes public housing agencies that administer a Housing Choice Voucher program to transfer administration of their program to another housing authority; and

WHEREAS, the Stutsman County Housing Authority and the Wells County Housing Authority have agreed, that the Wells County Housing Authority's Wells County Housing Choice Voucher program may be more efficiently administered by accepting control of the Wells County Housing Authority's program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Stutsman County Housing Authority to effectuate and adopt, with the Wells County Housing Authority, a Joint Powers Agreement granting the Stutsman County Housing Authority control of the administration of the U.S. Department of Housing and Urban Development's Housing Choice Voucher program in Wells County.

Chairman, Board of Commissioners

Date adopted

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JOINT POWERS AGREEMENT BETWEEN THE STUTSMAN COUNTY HOUSING AUTHORITY AND WELLS - SHERIDAN COUNTY HOUSING AUTHORITY

This Joint Powers Agreement is to be effective the 1st day of January, 2018 by and between the Stutsman County Housing Authority (SCHA), a North Dakota political subdivision and the Wells - Sheridan County Housing Authority (WCHA), a North Dakota political subdivision.

PURPOSE

The purpose of this Agreement is to effect the transfer and subsequent administration of the WCHA's Housing Choice Voucher program to the SCHA.

JOINT POWERS AUTHORITY

1. Article VII, Section 10, of the North Dakota Constitution permits two or more local political subdivisions to jointly exercise their common powers. The provisions of Chapter 54-40.3 of the North Dakota Century Code specifically permit and, by their nature, encourage the cooperative and joint administration of government functions.
2. U.S. Department of Housing and Urban Development permits the transfer of a Housing Choice Voucher program from one public housing agency to another, upon its approval of an application to transfer, pursuant to PIH Notice 2015-22.
3. The provisions of Chapter 23-11 of the North Dakota Century Code allow a public housing authority "To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority."

AGREEMENT

1. The WCHA hereby relinquishes and transfers its Housing Choice Voucher program for Wells County to the SCHA, effective as of the above described date.

2. This agreement is made in regards to the administration of the WCHA's Housing Choice Voucher for Wells County's program only. The WCHA will retain all other powers, responsibilities, and privileges granted it pursuant to the provisions of Chapter 23-11 of the North Dakota Century Code.

3. The WCHA shall undertake to fulfill all matters required of it to effectuate the transfer of its Housing Choice Voucher program to the SCHA.

4. The SCHA shall undertake to fulfill all matters required of it to receive and administer Wells County's Housing Choice Voucher program.

5. The WCHA shall fulfill all financial requirements necessary to effectuate the transfer of its Housing Choice Voucher program, including compliance with all audits, transfers, and reviews mandated by the U.S. Department of Housing and Urban Development prior the effective date hereof.

6. The SCHA shall undertake all financial responsibility for administering the Housing Choice Voucher program in Wells - Sheridan County pursuant to the instructions of the Department of Housing and Urban Development upon its approval of the transfer application, after the effective date hereof.

7. To effectuate the administration of Wells County's Housing Choice Voucher program by the SCHA, one board member of the WCHA must also be appointed by the Wells County Commission and approved by the SCHA to serve on the board of the SCHA.
8. This Agreement may be amended at any time by further written agreement of the SCHA and the WCHA and in accordance with any applicable Federal rules or guidelines.
9. This agreement shall be effective upon approval by resolution by the respective governing bodies of the WCHA and the SCHA, and approval by the U.S. Department of Housing and Urban Development, and shall remain in effect unless amended or terminated by mutual agreement for as long as there is a Housing Choice Voucher program to administer in Wells - Sheridan County.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The authorized representatives of the public housing authority signing below acknowledge by their signature that the governing board of their public housing authority has formally approved participation in this joint powers agreement.

STUTSMAN COUNTY HOUSING AUTHORITY

Name

Title

Date

WELLS COUNTY HOUSING AUTHORITY

Name

Title

_____ Date

STUTSMAN LETTER TO FARGO FIELD OFFICE

HUD Fargo Field Office
657 Second Avenue North, Rm 366
Fargo, ND 58108-2483

ATTN: Joel Manske

Re: Housing Choice Voucher Transfer Request

ND011 Stutsman County
ND057 Wells County
34 units in Wells County to be transferred

Greetings:

Stutsman County Housing Authority (SCHA) hereby requests the transfer of Wells County Housing Authority's (WCHA) Housing Choice Voucher Program units in Wells County to SCHA pursuant to the Joint Venture Agreement, Resolutions of the Housing Authorities, and PIH Notice 2015-22 (Notice) attached hereto.

The transfer is to be considered for approval under the limited waiver of departmental policy as outlined in the Notice. Justification for the waiver is as follows:

1. There are no State or Regional Public Housing Authorities available;
2. There are no other Public Housing Authorities that fit within the criteria of the Notice;
3. The non-metro counties with the State are contiguous;
4. There are no jurisdictional concerns/issues as each county housing authority in this transfer is subject to the laws of the State of North Dakota; and
5. There is a Joint Powers Agreement between the parties which relinquishes and transfers the HCV program from WCHA to SCHA effective January 1, 2018.

The next approvable date for transfer is January 1, 2018. Should your office require any additional documentation, please don't hesitate to contact the undersigned.

Sincerely,

Executive Director, Stutsman County Housing Authority

Enclosures: Joint Venture Agreement, SCHA Board Resolution, WCHA Board Resolution,
PIH Notice 2015-22

WCHA LETTER TO FARGO FIELD OFFICE

HUD Fargo Field Office
657 Second Avenue North, Rm 366
Fargo, ND 58108-2483

ATTN: Joel Manske

ND011 Stutsman County
ND057 Wells County
34 units in Wells County to be transferred

Re: Housing Choice Voucher Transfer Request

Greetings:

Wells County Housing Authority (WCHA) hereby requests the transfer of its Housing Choice Voucher Program units to Stutsman County Housing Authority (SCHA) pursuant to the Joint Venture Agreement, Resolutions of the Housing Authorities, and PIH Notice 2015-22 (Notice) attached hereto.

The transfer is to be considered for approval under the limited waiver of departmental policy as outlined in the Notice. Justification for the waiver is as follows:

1. There are no State or Regional Public Housing Authorities available;
2. There are no other Public Housing Authorities that fit within the criteria of the Notice;
3. The non-metro counties with the State are contiguous;
4. There are no jurisdictional concerns/issues as each county housing authority in this transfer is subject to the laws of the State of North Dakota; and
5. There is a Joint Powers Agreement between the parties which relinquishes and transfers the HCV program from WCHA to SCHA effective January 1, 2018.

The next approvable date for transfer is January 1, 2018. Should your office require any additional documentation, please don't hesitate to contact the undersigned.

Sincerely,

David Klein,
Executive Director, Wells County Housing Authority

Enclosures: Joint Venture Agreement, SCHA Board Resolution, WCHA Board Resolution,
PIH Notice 2015-22



MEMO

TO: David Klien
FROM: Camrud Law Firm, Russ Melland
DATE: April 26, 2017
RE: Transfer of Housing Choice Voucher Program

With respect to questions posed in your request for an opinion letter, we have come to the following opinions regarding your inquiries. To answer your other questions posed in your initial inquiry, they are presented in the order they were posed.

1. ***“Does North Dakota Century Code 23-11 allow for a housing authority to transfer the HCV contract to another housing authority via a housing authority board of commission resolution and vote?”***

Yes, in our opinion the North Dakota Century Code would allow a housing authority to transfer its Housing Choice Voucher contract to another housing authority via a resolution and commission vote. N.D.C.C. § 23-11-11 enumerates the powers and duties of a housing authority commission. Included in these provisions under subsection 31 is the power “To do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of any housing project.” Having another housing authority administer the HCVs in our opinion would fall under this provision.

Additionally, N.D.C.C. § 23-11-11(36) allows a housing authority “To exercise other powers and duties as may be necessary to carry out the purposes and provisions of this chapter.” If a housing authority reaches the conclusion that the goals and purposes of the authority would be better accomplished by having a third party administer its HCV contracts, such an arrangement should be allowed and encouraged.

Additional support for the proposition that the transfer of an HCV contract is permissible is found under N.D.C.C. § 54-40. Chapter 54-40, “In effect authorizes one or more governmental units to do jointly what each may do individually.” (See, *City of Hazelton v. Dautherty*, 275 N.W.2d 624, 629, fn.1). In the opinion of the Attorney General, this chapter also allows “any political subdivision to enter into an agreement for joint or cooperative action ‘to carry out any function or duty which may be authorized by law or assigned to one or more of them.’” Thus, once a housing authority is established, it may “either administer the [HCV] program itself or contract with an existing LHA to administer the certificates and vouchers.” *N.D. Op. Atty. Gen. L-190*, Office of the Attorney General, WL 762669 (N.D.A.G. 1993).¹ Such a decision would be made by a resolution and vote of the housing authority board of commissioners.

2. ***“What are the steps a housing authority must take to facilitate a program transfer to comply with the North Dakota Century Code and PIH Notice 2015-22”***

HUD Notice PIH 2015-22 outlines the requirements and steps necessary to effectuate a transfer of HCVs, which in part provides no transfers may take place if the receiving PHA, the Stutsman County Housing Authority (SCHA) in this case, has a troubled Section 8 Management Assessment Program performance designation, or if the PHA has failed to comply with any corrective action plan. Also, the SCHA must currently administer a Section 8 program. (See PIH 2015-22 ¶ 3). All transfers must have an effective date of either January 1st or July 1st of a given calendar year; transfers may not be retroactive.

At least ninety (90) days before the requested effective date of the transfer (before October 3rd to meet the January 1, 2018 deadline), both the Stutsman and Foster County housing authorities must submit the following materials to the Fargo field office indicating they are in agreement with regards to transferring the HCV contract:

- A memo signed by the Executive Director of the Foster County Housing Authority (FCHA) that contains the following materials: (1) Executive Director agreeing to transfer their program; (2) name and code of the divesting (FCHA) and receiving (SCHA) PHAs; and (3) the requested effective date of the transfer or consolidation.

¹ See attached: *Op. Atty. Gen. L-190*

- FCHA board resolution approving the transfer
- A memo signed by the Executive Director of the SCHAs that contains the following materials: (1) Executive Director agreeing to accept the transfer of FCHA's program; (2) name and code of the divesting (FCHA) and receiving (SCHAs) PHAs; and (3) the requested effective date of the transfer or consolidation.
- SCHAs board resolution approving the transfer.

Within 30 days of receiving the transfer request and accompanying documents, the field office should complete its review and make a recommendation to either deny or accept the request. If acceptable, the Public Housing Director (Joel Manske) should submit a memorandum to the Housing Voucher Financial Management Division Director within the same 30 day period. This memo should contain the following information: (1) names and codes of the divesting and receiving PHAs; (2) the requested effective date of the transfer; (3) the number of HCVs that will be divested to SCHAs; (4) confirmation of approval by the field office's legal counsel; (5) the number of leased vouchers; and (6) the number of special purpose vouchers.

The Financial Management Division (FMD) should act on requests for transfers received from the field office, within 30 days if possible. If approved, a notification email containing the signed transfer approval memo should be sent to the Real Estate Assessment Center (REAC), the Fargo field office, and the Financial Management Center (FMC). The Public Housing Director will then notify FCHA and SCHAs of the approved transfer. The FMC will draft and transmit amendments to the Consolidated Annual Contribution Contracts (CACC) for each housing authority. The REAC will move participants from FCHA to SCHAs and update the HUD PIH system accordingly.

At the time of the transfer, FCHA must transfer to HUD its total budget authority on hand and accumulated Restricted Net Position (RNP). Budget authority, as defined by the Code of Federal Regulations, is "the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment." 24 CFR Ch. IX § 982.4(b). (Restricted Net Position is new terminology for Net Restricted Assets – See PIH 2015-22 fn. 1). FCHA must contact its financial analyst at the Financial Management Center to identify the method of payment to HUD. FCHA's available administrative fees (24 CFR § 982.152) must be transferred to SCHAs. (See PIH 2015-22 ¶ 6).

FCHA must also contract with an independent public accountant to conduct a close-out audit. If FCHA does not have the funds available for such an audit, additional administrative fees may be allocated by HUD to cover the cost (24 CFR § 982.152(a)(iii)(B)), but FCHA available administrative fee and other funds must be considered first. (See PIH 2015-22 ¶ 6). If FCHA owes money to HUD, these funds must be repaid to the HCV account prior to the transfer, either from their non-federal funds, UNP (unrestricted net position – formally unrestricted net assets), or insurance. FCHA is not responsible for FCHA’s debts. (See PIH 2015-22 ¶ 6).

3. ***“Can a housing authority exist in North Dakota without a HUD contract?”***

Yes, a housing authority may exist in North Dakota without a HUD contract. Pursuant to N.D.C.C. § 23-11-02, a housing authority is created in each city and county by this section, although “such authority may not transact any business nor exercise any powers . . . until the governing body . . . by proper resolution, declares that there is need for an authority to function.” As one North Dakota case explained, the N.D.C.C. “creates a housing authority in each county of the state whether there is need for it or not. Although thus created, it lies dormant until the governing body of the county, by resolution, declares that there is need for the authority to function in the county.”²

According to N.D.C.C. § 23-11-03, the governing body shall adopt the resolution declaring need for the authority to function if (1) “the governing body finds that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county”; OR (2) “there is a shortage of safe or sanitary dwelling accommodations in the city or county.”

Thus, “the authority must be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of the city or county declaring the need for the authority.” N.D.C.C. § 23-11-04. Furthermore, the requirements of the necessary resolution are relatively light. Section 23-11-04 continues, “Such resolution must be deemed sufficient if it declares that there is need for an authority and finds that either or both of the conditions enumerated in section 23-11-03 exist . . .”³

² *Fradet v. City of Southwest Fargo*, 59 N.W.2d 871, 876 (N.D. 1953).

³ Fact that members of board of county commissioners did not make an independent investigation did not mean that their determination was arbitrary, or that their action in passing the resolution was void. *Fradet v. City of Southwest Fargo*, 59 N.W.2d 871, 877 (N.D. 1953).

Additionally, HUD is capable of working in an area without a contract with a local housing authority. 24 CFR § 982.160 states:

[If it is] determine[d] that there is no . . . PHA able and willing to implement the provisions of this part for an area, HUD (or an entity acting on behalf of HUD) may enter into [Housing Assistance Payment] contracts with owners and perform the functions otherwise assigned to PHAs under this part with respect to the area.”

The phrase “no PHA able and willing” indicates that the Code of Federal Regulations is cognizant of a situation where a housing authority would exist, but not have a contractual agreement with HUD for the disbursement of HCVs.

Finally, owning its own property is an acceptable reason for a housing authority to exist. Under the Powers of Authority enumerated in N.D.C.C. § 23-11-11, subsection 11 states that an authority has the power, “To own, hold, and improve property.”



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention:

Housing Choice Voucher Program
Administrators; Public Housing
Field Office Directors; Section 8
Financial Management Center

NOTICE PIH 2015-22 (HA)

Issued: December 16, 2015

Expires: Effective until amended, superseded,
or rescinded

Cross References:

Notice PIH 2012-11 (HA)

Notice PIH 2010-39 (HA)

Notice PIH 2007-6 (HA)

Notice PIH 2001-25 (HA)

Subject: Process for Public Housing Agency Voluntary Transfers and Consolidations of Housing Choice Vouchers, Five-Year Mainstream Vouchers, Project-Based Vouchers and Project-Based Certificates

1. Applicability. This notice applies to public housing agencies (PHAs) that administer the Housing Choice Voucher (HCV), Project-Based Vouchers (PBV) and/or Project-Based Certificates/(PBC) and Five-Year Mainstream (MS5) programs. This notice does not cover the public housing program or the Section 8 Moderate Rehabilitation (Mod Rehab) program. Please note that MS5 vouchers have not been included in prior notices; however, these vouchers are now included in HCV funding appropriations, but are still reported separately under section 14.879 (mainstream Vouchers) of the Catalog of Federal Domestic Assistance.

2. Purpose. The purpose of this notice is to clarify the circumstances under which HUD will consider a **voluntary transfer** or **consolidation** of budget authority (including restricted net position (RNP), unrestricted net position (UNP) and other capital assets)¹ and corresponding baseline units for the HCV program (including PBVs, PBCs and MS5) from the divesting PHA's Consolidated Annual Contributions Contract (CACC) to the receiving or consolidating PHA(s)' CACC. In a **voluntary transfer** one PHA's identifying number and CACC remains intact. In a **consolidation**, both or all of the PHAs' names, CACCs and identifying numbers will be permanently terminated and replaced by a new PHA with a new name, identifying number and CACC.

3. Eligibility for HCV Transfers and Consolidations. All transfers and consolidations will be permanent and for the entire balance of one PHA's HCV program to one or more receiving PHAs. The transfer or consolidation must be between PHAs within the same metropolitan area, within the same non-metropolitan county, or within the same state where the HCV program administration is

¹ Restricted net position (RNP) and unrestricted net position (UNP) are the new accounting terminology for net restricted assets (NRA) and unrestricted net assets (UNA), respectively, based on GASB #63.

voluntarily shifted from a city or county PHA to its state PHA or from a state PHA to one or more of its county or city PHAs. All the divesting and receiving or consolidating PHAs are bound by fair housing requirements, including the responsibility to affirmatively further fair housing and to reduce racial and national origin concentrations. No transfers may be permitted to a PHA with a troubled Section 8 Management Assessment Program (SEMAP) performance designation, nor may transfers be permitted where a receiving PHA has failed to comply with corrective action plans to address financial or program audit findings related to the HCV program. No transfers will be permitted to a receiving agency that does not currently administer the Section 8 program.

4. Exceptions to Eligibility for HCV transfers. The Department will consider approving voluntary partial transfers only in the following cases: (1) the transfer is for the purpose of developing PBV units in an area of low poverty concentration; (2) the transfer is to a state or regional PHA; or (3) for a compelling business reason. These exceptions do not apply to consolidations.

5. Application Process for Transfers and Consolidations. At least 90 days before the requested effective date of the voluntary transfer or consolidation, both the divesting and receiving PHAs must submit letters to their respective field offices indicating agreement upon the part of the PHAs of the transfer or consolidation and the date upon which the PHAs would like the transfer to occur. The divesting PHA's letter must also include their reason for requesting this transfer. All transfers must have an effective date of either January 1st or July 1st of a given calendar year (CY). **No transfers or consolidations may be retroactive.** The letters must be signed by their respective Executive Directors with an accompanying board resolution. If the PHA is a unit of local government, the appropriate authorized official must sign the letter.

6. Renewal and Administrative Fee Funding Amounts for Units Transferred or Consolidated and Equity Balances. At the time of the transfer or consolidation, the divesting PHA(s) must transfer to HUD, the total budget authority on hand and accumulated RNP. The divesting PHA must contact its Financial Analyst at the FMC to identify the method of payment to HUD. However, the divesting PHA's available administrative fees and UNP must be transferred to the receiving PHA to ensure continuity of assistance to transferred families.

While considering the transfer of UNP to the receiving/consolidated PHA, the Field Office will ensure the divesting PHA has properly procured and entered into a contract with an independent public accountant to conduct its close-out audit², and has the funds available to cover it. Or, in compelling circumstances, the divesting PHA's available administrative fees and UNP will be transferred immediately to the receiving/consolidated PHA and the Field Office may request the receiving/consolidated PHA to hold funds in escrow to be released by the receiving/consolidated PHA to the divesting PHA (or the auditor) upon HUD's acceptance of the divesting PHA's audit. HUD may assign extraordinary administrative fees (EAF), subject to availability of funds and justifiable circumstances, from the Administrative Fee set-aside funds to cover close-out audit costs, and may conduct a final close-out or forensic audit of a divesting PHA, either prior or following to the transfer/consolidation. The Field Offices must contact the Housing Voucher Financial Management Division at PIH.Financial.Management.Division@hud.gov to confirm availability of EAF; however, the divesting PHA's available administrative fee, UNP, and/or other non-federal funds must be considered first and restricted for this purpose.

²For a PHA under the single audit threshold, a close-out audit would consist of an Independent Public Accountant (IPA) validating the ending balances prior to transfer.

Administrative fees earned and disbursed to the divesting PHA(s) during the months not yet reconciled by the time of the transfer or consolidation (whether an underpayment owed to the PHA or an overpayment owed HUD), will be provided (or offset) to the receiving or consolidating PHA(s) based on the divesting PHA(s)' rates. For subsequent years the renewal funding and administrative fee calculations will be considered based on the receiving or consolidating PHA's eligibility and leasing reported, respectively, subject to the mandates of the Appropriations Bill for that year.

If the divesting PHA(s) owes money to HUD (such as RNP used for other purposes), these funds must be repaid to the HCV account prior to the transfer, either from the PHA's non-federal funds, insurance or UNP. When neither is available, and compelling reasons exist to ensure uninterrupted housing assistance to families, the transfer or consolidation will be processed. Funds owed to HUD could include executed repayment agreements and audit findings involving money due for which a management decision has not yet been rendered. No receiving PHA(s) will be responsible for a divesting PHA's debts.

7. Special Purpose Vouchers. Any special purpose vouchers (HUD-Veterans Affairs Supportive Housing (VASH); Family Unification Program (FUP); Non-Elderly Disabled (NED) and Five-Year Mainstream (MS5) vouchers must be maintained and accounted for as such by the receiving PHA(s) or consolidating PHA.

8. Recommendation to Headquarters. No later than 30 days after the receipt of the documents referenced in section 5 of this notice, the field office will complete its review of the transfer or consolidation documents. If the field office determines that the request is unacceptable, the Public Housing Director will submit a written notice to the PHA. If the field office determines that the request is acceptable, the Public Housing Director will prepare a memorandum to the Housing Voucher Financial Management Division Director within that same 30 day period and at least 60 days prior to the requested effective date with the following information:

- (1) name and code of the divesting and receiving or consolidating PHA(s);
- (2) the requested effective date of the transfer or consolidation;
- (3) the number of HCVs that will be divested to each receiving PHA or combined into the new consolidated PHA;
- (4) confirmation that the field office's legal counsel has provided their jurisdictional approval, agreeing that the receiving PHA has the legal authority to administer the program within their jurisdiction;
- (5) the number of leased vouchers; and
- (6) the number of special purpose vouchers or programs by category (HUD-VASH, FUP, NED, FSS, MS5, Mod Rehab and Single Room Occupancy (SRO)) that will be divested to each receiving PHA or combined into the new consolidated PHA. If the Public Housing Director does not have information on the number of special purpose vouchers of the divesting PHA(s), he or she may contact the respective Financial Analyst at the Financial Management Center for assistance, or you can send an email to the Housing Voucher Financial Management Division, at PIH.Financial.Management.Division@HUD.gov.

The financial management division reserves the right to close-out incomplete transfers in cases where a request has been made, but the field has neglected to provide all information and documentation necessary to complete the review within 30 days of the request. In these cases, an email will be sent to the field office contact informing them that the review could not be completed

within the 30 day window due to the absence of necessary information and that the transfer will have to be resubmitted once all the necessary information has been collected.

Additionally, the field office will provide the details to headquarters on a number of factors they consider in determining whether to recommend approval of the transfer to the receiving PHA(s) or consolidation including:

- (1) the receiving or consolidating PHAs' most recent SEMAP performance designation;
- (2) under utilization based on the receiving or consolidating PHAs' SEMAP leasing indicator regardless of performance;
- (3) outstanding debts to HUD and the status of the divesting, receiving or consolidating PHAs' repayment; and
- (4) estimated RNP and UNP balances as of the latest audited Financial Assessment Subsystem (FASS) submission, and restricted cash and investments for all divesting or consolidating PHAs as determined by the field office.

A checklist including all the documentation the field must provide within the transfer request to headquarters is included as Attachment 1. All the additional information the field must provide to headquarters with the transfer request is included as Attachment 2 to this notice.

The field must complete and sign Attachment 2 and submit it along with all the documents listed in Attachment 1. All the required information and documentation for the transfer/consolidation request must be uploaded to the FYE/Consolidations/Transfers SharePoint site, <http://hudsharepoint.hud.gov/sites/reac/FYE/Fiscal%20Year%20End%20Request%20Upload/Form%20s/AllItems.aspx>. For instructions of how to upload documents to the SharePoint Site: Select “**Guidance**” under “**Documents**” on the left side of the webpage then select the “**HCV Transfer Information File**” to find the “**HCV Transfer and Consolidation Requests – Instructions for Upload to SharePoint**”.

Finally, all transfers and consolidations are considered permanent. PHAs will not be able to decouple from the transferred or consolidated entity to reinstate a former program or PHA.

9. Approval Notification. To the extent possible, the Financial Management Division (FMD) will approve requests for transfers or consolidations within 30 days of receiving all the required information and documentation necessary to determine if the transfer or consolidation is approvable. Once the FMD in Headquarters has approved the transfer or consolidation, the Real Estate Assessment Center (REAC) and the Public Housing Field Office and Financial Management Center (FMC) Directors will be notified through an email including the signed transfer approval memo. The Public Housing Field Office Director will notify the respective PHAs of the approved transfer or consolidation of HCV budget authority and units. The FMC will prepare and transmit the requisite amendments to the CACC of all affected PHAs including a new CACC in the case of a consolidation. Finally, the REAC will move participants from the divesting PHA to the receiving PHA and will update HUD PIH systems.

10. Owner and Tenant Notification. No later than 30 days after approval notification, the receiving or consolidated PHA must notify owners and participants of the transfer; however, no notifications should be made prior to the field office's receipt of the signed approval memo from headquarters.

11. HAP Contracts. New HAP contracts must be executed with the existing owners reflecting the name of the receiving or consolidated PHA, no later than at the family's next annual recertification. No other changes to the HAP contracts will be required.

12. Receiving or Consolidated PHA Management Responsibilities. At the time of the family's next annual recertification, the receiving or consolidated PHA may apply its occupancy and subsidy standards and any other applicable administrative policies. However, if the payment standards of the receiving or consolidated PHA are lower than those of the divesting PHA(s), the receiving or consolidated PHA must maintain the higher payment standard for the family until its second annual reexamination in accordance with 24 CFR § 982.505(c). In addition, the receiving or consolidating PHA must honor all reasonable accommodation waivers and exceptions. If there are issues with the reasonable accommodation waivers or exceptions, they should be addressed with the field office.

13. Public Housing Information Center (PIC) Data. The REAC will complete the transfer or consolidation of all Family Reports (form HUD-50058) in PIC, so that all affected families will be recorded under the receiving PHA's code or consolidated PHA's new code with the last action code (field 2a on the Family Report) that was entered by the divesting PHA.

15. Voucher Management System (VMS) Data Entry. Starting with the effective date of the transfer or consolidation, the receiving or consolidated PHA will begin including the transferred or consolidated units for the applicable month in its next VMS submission. Conversely, the divesting PHA(s) will stop including any divested units starting with the effective month of the transfer.

16. HUD Self-Reported Systems. PHAs that are transferring or consolidating will be responsible for submitting their individual financial statements through FASS and other financial or program data to self-reported HUD systems, such as VMS and PIC, for periods prior to the effective date of the transfer or consolidation.

17. PBV and PBC Units. All provisions in sections 1 through 16 will apply. However, PBV and PBC HAP contracts must be executed as soon as possible between the receiving or consolidated PHA and the owner with the expiration date and all terms and conditions unchanged. The field office will consider whether the receiving or consolidated PHA has the capacity to manage assistance under the PBV and PBC programs.

18. Information Contact. Inquiries about this notice should be directed to your field office Public Housing Director or Financial Management Center representative.

19. Paperwork Reduction Act. The information collection requirements contained in this document have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1955 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

_____/s/_____
Lourdes Castro Ramírez
Principal Deputy Assistant Secretary
for Public and Indian Housing