

stated above in this preamble, the goal of the final rule is to better enable small PHAs to focus on their core mission of providing housing assistance to poor families. HUD will monitor the impact of the final rule on PHAs and will revise the rule as necessary to ensure that the deregulatory changes do not conflict with the provision of decent, safe, and sanitary housing to families in need.

Comment: Streamlining changes should be extended to large PHAs and high-performing PHAs. One commenter suggested that the deregulatory benefits of the proposed rule should be provided to all PHAs, large and small alike. The commenter wrote that "all PHAs, regardless of being small or large, would be better able to serve their clients without the administrative burdens defined in the proposed rule." Another commenter suggested that the streamlining changes should be extended to high-performing PHAs and to PHAs that do not participate in the Operating Fund program. The commenter wrote that these PHAs have displayed the ability to operate in an effective manner without extensive HUD regulation and monitoring. The commenter wrote that PHAs that function with positive revenues and do not take operating subsidy from HUD should be regulated differently than those receiving allocations from the Operating Fund.

HUD response. HUD has not revised the proposed rule to incorporate these suggestions. HUD is aware that large PHAs may also benefit from deregulation and will examine whether there are actions that can be taken to alleviate the regulatory burdens currently imposed on these PHAs.

Comment: Small PHAs with less than 250 units should be completely exempt from Annual Plan and assessment requirements. Two commenters made this suggestion. The commenters wrote that the time and energy spent to comply with these requirements impedes PHAs in providing services to their clients.

HUD response. HUD has not adopted the suggestion made by the commenter. While the provisions of the 1937 Act establishing the PHAS and the PHA Plan process provide HUD with the flexibility to establish streamlined requirements for small PHAs, they do not authorize the exemption of small PHAs from these requirements altogether.

V. Discussion of the Public Comments on the Proposed Changes to the PHA Annual Plan

A. Comments Regarding Definition of Small PHA

Comment: Applicability of streamlining changes should be clarified. Three commenters requested greater clarity on how the streamlining changes to the PHA Plan will apply to PHAs that manage both public housing and voucher programs. The commenters wrote that the proposed rule appears to streamline the Annual Plan process only for small PHAs with less than 250 public housing units (regardless of the number of voucher units they operate). However, the preamble discussion of the Annual Plan refers to Public and Indian Housing (PIH) Notice 2000-43 (issued on September 18, 2000), which defines small PHA to mean PHAs that operate 250 or fewer units of public housing and 250 or fewer voucher units. One of the commenters asked whether a PHA with less than 250 public housing units, but more than 250 voucher units, would qualify for the new streamlined Annual Plan procedures.

HUD response. The streamlined Annual Plan requirements apply to PHAs with less than 250 public housing units, irrespective of the number of voucher units administered by the PHA.

Comment: Suggested changes to definition of a small PHA. Three commenters suggested a revised definition of a small PHA. One commenter wrote that the final rule should define a small PHA as one with less than 100 public housing and voucher units combined. The commenter wrote that this definition is consistent with the definition contained in legislation pending in Congress. Another commenter wrote that the final rule should define a small PHA as one with fewer than 100 public housing units.

Yet another commenter wrote that the final rule should revise the definition of a small PHA to include only PHAs with less than 250 assisted units, including both public housing and voucher units. This commenter wrote that the proposed rule would create the anomalous result that a PHA with 250 public housing units, but potentially thousands of voucher units, would be considered "small" and have fewer planning and reporting requirements than a PHA with 260 public housing units and no voucher units at all. In addition, the commenter noted that the proposed rule would treat all PHAs that only administer vouchers the same, regardless of the size of their voucher

programs. The commenter wrote that its suggested change would be the fairest and easiest to understand, and would treat similar PHAs in a similar manner.

Two other commenters, however, urged HUD to ensure that the final rule includes the same definition of small PHA as the proposed rule. One of the commenters endorsed the proposed definition, writing that it will enable PHAs to "focus on the delivery of quality services and being responsive to their community, rather than worrying about filing reports with HUD."

HUD response. After careful consideration of all of the suggestions offered by the commenters, HUD has decided not to revise the definition of a small PHA for purposes of the streamlined Annual Plan requirements. The final rule continues to define a small PHA as one with less than 250 public housing units. The number of voucher units administered by the PHA is not taken into consideration for purposes of the definition. This definition of a small PHA is consistent with section 5A(k) of the 1937 Act, which authorizes the establishment of streamlined Annual Plan requirements.

B. Comments Regarding Resident and Public Participation in the PHA Plan Process

Comment: Existing Resident Council should be allowed to substitute for the Resident Advisory Board. One commenter wrote that, given the difficulties faced by small PHAs in finding residents interested in serving on a Resident Advisory Board (RAB), another way to lessen the administrative burden on these small PHAs would be to allow an existing PHA Resident Council to substitute for the RAB.

HUD response. HUD has not revised the proposed rule in response to this comment. The PHA Plan regulations at § 903.13(b) already provide that if a jurisdiction-wide Resident Council that complies with HUD's tenant participation regulations in 24 CFR part 964 exists, the PHA shall appoint the Resident Council or the Council's representatives to the RAB. Further, as provided in PIH Notice 2000-36 (issued on August 21, 2000), if a PHA has made every effort, but has still been unsuccessful in finding residents to serve on a RAB, the PHA may appoint all its residents as the RAB. Should this occur, the PHA must provide adequate notice to the residents that all residents are appointed to the RAB. The PHA must ensure that a RAB consisting of all the residents is provided the same opportunity to comment on the PHA Plans, and the PHA must consider these resident comments when drafting the