



## Converting Site-Based Projects Under 15- or 20-Year Use Restrictions Without Having to Repay Funds

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To achieve the goals of [Opening Doors](#) and to better serve people experiencing homelessness, HUD is encouraging recipients of CoC Program funds to assess their projects to determine whether they should be reallocated or repurposed. This guidance document provides information and alternatives on what recipients can do with properties under use restrictions. The alternatives, discussed below, include using properties for another purpose or selling properties and using the proceeds to provide homeless assistance.

### What are Use Restrictions?

Under the statute that governed the Supportive Housing Program (SHP), a transitional housing or permanent housing project that received SHP funding for acquisition and rehabilitation or new construction was required to operate the project for that purpose for 20 years. The 20-year use restriction was included in the grant agreement. If the property was not used for the project for 20 years, the recipient would have to pay back all or a portion of the original acquisition and rehabilitation or new construction grant. A similar process is currently used for acquisition and rehabilitation or new construction grants provided under the Continuum of Care (CoC) Program except that the use restriction lasts for 15 years.

### What if I Want to Convert or Sell a Property with Use Restrictions?

There is a statutory exception to the use restriction requirement in both the SHP and CoC Programs. HUD can approve a conversion of the property to another purpose that serves low-income or homeless people. HUD can also approve an exception that allows the sale of a property. In those cases, the recipient does not

The statutory language for SHP can be found in Sec. 423(b) of the McKinney-Vento Homeless Assistance Act as it existed prior to the enactment of the HEARTH Act.

The CoC Program interim rule includes language in 24 CFR 578.81.

have to repay their assistance as long as the proceeds from the sale are used for homeless assistance. HUD regularly allows recipients to convert properties used in site-based transitional housing projects to site-based permanent supportive housing through the reallocation process because the property continues to be used for homeless assistance. Please note, this guidance is specific to a site based project. When recipients are attempting to convert to scattered site projects, recipients should request additional guidance from HUD about converting the properties.

### When can a Property be Converted without Having to Repay Grant Funds?

HUD will allow recipients of CoC Program funds who operate site-based transitional and permanent housing projects with use restrictions to convert their properties to other uses. The guidance in this document can be used to determine how these properties can be converted even if there is not an

existing CoC Program grant associated with the structure to reallocate (e.g., a grant that is providing supportive services to program participants or supporting ongoing operating costs of the structure).

**Note:** the options presented below are not the only circumstances under which a use restriction could be modified or removed. HUD can consider other options on a case-by-case basis.

***Option 1: Use the property for a different, approved, purpose by reallocating to a new housing project in accordance with that Fiscal Year's NOFA***

Some properties with use restrictions are associated with current CoC program grants providing supportive services or operations. The CoC could choose to reallocate the funding associated with the property for an eligible activity. In that case, the original property could be approved to be converted to an eligible purpose.

For example, in FY 2015 a CoC could reallocate to PSH for chronically homeless individuals or families or to RRH for individuals and families residing in a place not meant for human habitation, in emergency shelters, or fleeing from domestic violence.

So long as the original property is used for one of the following purposes for the remainder of the use period, the recipient will not have to repay grant funds:

- Emergency shelter for people experiencing homelessness;
- Permanent supportive housing for people experiencing homelessness;
- Permanent affordable housing for people who are currently experiencing homelessness;
- Health clinic or other outpatient health facility for people who are currently experiencing homelessness, have previously experienced homelessness, are at risk of homelessness, or have extremely low incomes;
- Substance abuse treatment facility for people who are currently experiencing homelessness, have previously experienced homelessness, are at risk of homelessness, or have extremely low incomes; or
- A day center or other facility that provides social services for people who are currently experiencing homelessness, have previously experienced homelessness, are at risk of homelessness, or have extremely low incomes.

**Note:** The conversion of the building could occur even if the new grant created through reallocation is not awarded. **The use restriction would continue to apply for the building's new purpose until the date when the original use restriction would have expired.**

***Option 2: Sell the property and invest the proceeds in a permanent housing project.***

If the property is not suitable for the purposes described above in Option 1, or if it is not needed for any of those purposes, it could be sold. Any CoC Program grant associated with the project could be reallocated toward a new housing project in accordance with that Fiscal Year's NOFA.

In this option, the following requirements would need to be met.

- The proceeds from the sale of the building would have to be used to expand or supplement one or more projects that provide permanent supportive housing or rapid re-housing to people experiencing homelessness.
- These projects can be newly created with the reallocated funds, or they could be other projects already operating in the CoC, regardless of whether they receive CoC Program funding.
- In no case could the proceeds used from the sale of the building supplant other resources.
- In general, the proceeds from the sale of the property cannot be used as a match for a CoC Program-funded project.

### ***Option 3: Transfer the Use Agreement to a New Property***

Occasionally, a property that received new construction or rehabilitation funding many years ago becomes run down or is no longer in good enough condition to continue serving people experiencing homelessness. If the recipient is unable to, or chooses not to, rehabilitate the property, it may be able to identify another property that can be used for the project. In these cases, the use agreement attached to the original property can be transferred to the new property for the remainder of the term of the use agreement. For example, if a property has three years left on a 20-year use agreement, the provider may transfer the use agreement to a new property for the remaining three years.

To be eligible under this option, the new property must:

- Meet applicable Housing Quality Standards (for CoC Program funded projects) or habitability standards (for SHP funded projects).
- Comply with any applicable State or local codes and must be in better condition than the original property.
- Be able to serve at least the same number of people as the original property.
- Be accessible and integrated into the community at least as much as the original property.

### **What are the Instructions for Executing a Conversion?**

The first step is for the recipient to reach out to the CoC for approval of any conversion requests. Then, the recipient covered by the use agreement would contact the local HUD field office to request an amendment to their original grant agreement and a modification to the lien, as necessary.

The following information should be submitted to the field office with the grant agreement amendment request:

- How the existing building will be used;
- The time frame for the building to be sold or used for another purpose;
- A commitment of how proceeds from the sale of the building would be used;

- A description of why the property is no longer needed for its original purpose and why it is being converted or sold or the use agreement is being transferred; and
- A letter from the CoC indicating that the building is no longer needed or suitable for its original purpose and that the conversion or sale of the property is consistent with the CoC's strategic plan.

The local HUD field office will then work with HUD Headquarters to determine if it is approved by the HUD Secretary or a designee. If the request is approved by the HUD Secretary or the designee, the field office will execute the grant agreement amendment and remove or modify the lien as necessary. In cases where the property is being sold and the proceeds invested in another homeless assistance program (option 2 above), the field office will create a separate agreement with the recipient to ensure that the recipient follows through with their commitment to invest the proceeds in a permanent housing project.