

## **Chapter 2**

### **Required Conversion**

#### **2-1 Overview**

Section 33 of the U.S. Housing Act of 1937 requires PHAs to identify developments (or parts of developments) that must be removed from the stock of public housing operated under an Annual Contributions Contract (ACC) with HUD. In order to do this a PHA must

- Annually review their public housing inventory and identify distressed developments (or parts of developments) that must be removed from their stock of public housing and whose residents must be converted to tenant-based (or project-based) assistance<sup>1</sup>.
- Compare the cost of continuing to operate each of their developments as public housing with the cost of providing tenant-based assistance to the residents of that development.

In those instances when either: (1) the PHA cannot assure the long-term viability of a distressed development, or (2) it would be more expensive for the PHA to modernize and operate a development as public housing for its remaining useful life than to provide tenant-based assistance to its residents, the PHA must develop and carry out a required conversion plan to remove the development from its public housing inventory.

A PHA must include a description of their required conversion plans as part of its PHA Plan (or MTW Plan). However, the HUD Field Office's approval of a PHA Plan does not constitute HUD approval of the required conversion plan. The PHA must submit its conversion plan to the SAC for formal HUD approval of the conversion. The PHA may not proceed with implementation of the conversion until it has received written approval from the HUD Office of Public Housing Investments (OPHI), which will come through the SAC. A detailed overview of the required conversion process is provided in Appendix 3.

#### **2-2 Status of Mandatory Conversion**

Section 202 of the Fiscal Year 1996 HUD Appropriations Act (42 USC §1437) provided for a program of mandatory conversion of distressed public housing. Section 537 of QHWRA repealed Section 202 of this 1996 Act (including the implementing regulations at 24 CFR Part 971). Although Section 202 has been repealed, developments that were identified by PHAs or by HUD before the enactment of QHWRA on October 21, 1998 for a mandatory conversion or for a mandatory conversion assessment continue to be subject to the requirements of Section 202 (and 24 CFR Part 971) until such requirements are satisfied. Thereafter Section 33 of the Act, as amended by QHWRA, and 24 CFR Part 972 will apply to any remaining public housing units on the sites of those developments. The guidance contained herein is specific to developments identified after October 21, 1998 and should not be applied to projects identified before that date.

#### **2-3 Properties Subject to Required Conversion**

Public housing developments, portions of developments, or group of developments may be subject to conversion if they meet all of the following criteria:

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<sup>1</sup> Beginning for PHAs with fiscal years commencing on April 1, 2007, Section 33 of the Act, as amended by Section 537 of QHWRA,

- ✓ The development, portion of a development, or group of developments is in a cluster of 250 or more dwelling units on the same site or contiguous sites<sup>2</sup>.
- ✓ The units in the cluster are open to “general occupancy” by families.
- ✓ The units in the cluster have a vacancy rate in excess of the threshold for each of the last three years, and the vacancy rate has not significantly decreased during those three years (See Take Note: Vacancy Calculation).
- ✓ The properties are either distressed housing for which the PHA cannot assure the long-term viability as public housing, or more expensive for the PHA to operate as public housing.

Public housing properties meet the long-term viability standard only if:

- ✓ With reasonable investment, for at least 20 years (or at least 30 years for rehabilitation equal to new construction), it is probable that they can sustain structural/system soundness and full occupancy, will not be excessively dense by local standards, can achieve a broader range of family income, and have no other disqualifying site impairments; and
- ✓ The property will not be more expensive to operate as public housing than to provide tenant-based assistance for all of the families in occupancy. This assessment will be based on comparing the estimated cost, during the remaining useful life of the project, of continued operation and modernization of the development as public housing with the cost of providing tenant-based assistance (under the Housing Choice Voucher Program or other applicable HUD program). The costs used for public housing must be those necessary to produce a revitalized development as described in 24 CFR § 972.124(c)(1). These costs, including estimated operating costs, modernization costs, and accrual needs must be used to develop a per unit monthly cost of continuing to use the development as public housing. That per unit monthly cost of public housing must be compared to the per unit monthly cost under the applicable tenant-based assistance program.



### Clusters for Conversion vs. Groupings for Asset Management Project (AMP)

Conversion clusters are a development, or group of developments of 250 or more dwelling units on the same site or contiguous sites. AMP groupings are the result of PHA’s asset management decisions. In some cases, depending on how the PHA grouped the AMP, the AMP grouping may be the same as the conversion cluster. However, they are not required to always be the same in order to be subject to conversion. For example - Smithfield Apartments has 150 public housing units with 20% vacancy for 3 years, and the PHA has assigned this to AMP Grouping 1. Just across the street, Meadow Gardens has 160 public housing units, with 18% vacancy for 3 years that the PHA has assigned to AMP Grouping 4.

## 2-4 Developments Exempt from Required Conversion

Developments, portion of developments, or group of developments which otherwise meet the standards above but are not subject to required conversion (and should therefore not be included to determine the vacancy rate calculation of the units in the cluster) include:

<sup>2</sup> Contiguous is defined as sharing a border, or separated by no more than a street.

- Developments with an approved HOPE VI Revitalization Plan. Conversely, a development with a HOPE VI Revitalization Grant, but without an approved HOPE VI Revitalization Plan is fully subject to required conversion standards, which should be incorporated into its HOPE VI Revitalization Plan;
- Developments restricted to occupancy by elderly residents or disabled residents under a HUD-approved Designated Housing Plan; and
- Developments identified before October 21, 1998 for Mandatory Conversion under Section 202 of the Fiscal Year 1996 HUD Appropriations Act (42 USC §1437) or for assessment of whether mandatory conversion is required under Section 202.



### Take Note- Vacancy Calculation

For a conversion analysis performed on or before March 16 2009, the specified vacancy rate is 15%. For an analysis done after that date, the specified vacancy rate is 12%.

The PHA must use the data it relied upon for the PHA's latest Public Housing Assessment System (PHAS) or successor management performance reporting system, to determine vacancy rates MTW PHAs must use the data it relied upon to provide HUD with vacancy information required by the agency's MTW Agreement.

Units in the following categories must not be included in the vacancy calculation:

- ✓ Vacant units previously approved by HUD independently for a demolition or disposition action under Section 18 of the Act;
- ✓ Vacant units where resident belongings have been abandoned, but only if state law requires the resident belongings to be left in the unit for some period of time, and only for the period of time stated in the law;
- ✓ Vacant units that have sustained casualty damage, but only until the insurance claim is adjusted;
- ✓ Units occupied by employees of the PHA and units used for resident services; and
- ✓ Units HUD determines, in its sole discretion, are intentionally vacant and do not indicate continued distress.

## 2-5 Relationship Between Asset Management Project (AMP) Groupings and “Clusters” of Public Housing Units

Pursuant to the revisions to the Public Housing Operating Fund Program rule published in the Federal Register on September 19, 2005 (79 FR 54983) and HUD Notice PIH 2006-10, PHAs must assign Asset Management Project (AMP) numbers to their existing developments by April 21, 2007. The new AMP numbers (and groupings of public housing) may or may not be the same as the numbers and groupings of public housing developments prior to this date. However, the newly assigned AMP numbers do not impact how HUD determines what units comprise a "cluster" for purposes of determining the units that may be subject to required conversion. Cluster groupings are based on the geographic proximity of units to one another, while AMP groupings are the result of a PHAs asset management decisions.

## 2-6 Identification of Properties on the SAC's Website

To assist PHAs in identifying the developments, portion of developments, or group of developments in their public housing stock that may be subject to required conversion, the SAC has created, in the form of a report, information

from HUD Field Offices listing public housing developments nationwide that contain clusters of at least 250 dwelling units on one or more contiguous sites that may be required conversion candidates.

The report includes the PHA name, the development number, and an assigned "cluster" number- See "A Closer Look" below. The report is arranged in alphabetical order, first by State and then by PHA, with the developments for each cluster grouped together. Subtotals are included for the number of units within each cluster. Some clusters of 250 or more contiguous units have multiple development numbers while other clusters are entirely within one development. The cluster data has been filtered against information in HUD's Public and Indian Housing Information Center (PIC) to generate an accurate and current report. Detailed and updated information about cluster data is available on the SAC webpage.

The report data will be refreshed periodically based on the PHA's data in PIC and HUD records. Accurate vacancy rates for units ineligible for subsidy are important to the calculation of buildings subject to required conversion. The calculation of public housing unit clusters subject to required conversion is impacted by whether units are ACC-Yes or ACC-No in PIC, as well as whether they are in one of the vacancy categories exempted from this vacancy calculation. PHAs are not to move currently (subsidized) dwelling units to (unsubsidized) non-dwelling unit status (taking units "off-line") in order to avoid a negative impact on their vacancy rates.

If SAC receives no response from a PHA after a report is published on the SAC website, it will assume the data identifying developments that may be candidates for required conversion is correct. If a PHA believes that a development or units in its inventory do not belong in the report because: (1) there are not 250 or more contiguous units in the development/cluster; (2) the occupancy information of the development/cluster is not accurate; or (3) other data relied upon by HUD to generate the report is not correct, the PHA must contact the SAC to request corrections to the report. After consulting the HUD Field Office, the SAC will update the report based on an evaluation of the PHA's request. If the development/cluster remains on the SAC report, the PHA must address the appearance of the development in its next PHA Plan (or MTW Plan) (see Section 2-7).



**SAC Report of Possible Required Conversion Candidates.** The report on possible required conversion candidates is posted on the SAC webpage at: <http://www.hud.gov/offices/pih/centers/sac/rconv.cfm>. The report is posted with the expectation that it will be verified and refined with the benefit of further data from HUD Field Offices and PHAs, especially with regard to developments that individually have more than 250 units and are not contiguous to other developments.

## 2-7 Identification of Properties on HUD's Website: PHAs Responsibility to Respond

The appearance of a development, portion of a development, or group of developments in the report on the SAC website does not automatically trigger an obligation for the PHA to convert that development under HUD's required conversion regulations. Inclusion in the report identifies the development as a possible candidate for required conversion and triggers an obligation for the PHA to address the situation as part of its next PHA Plan (or MTW Plan). See Section 2-12 for guidance on how this information can be presented in the PHA Plan (or MTW Plan).

PHAs must address the appearance of a development on the SAC website in one of the following ways:

- Explain why the development should not be included as a possible candidate for required conversion due to inaccurate data relied upon by HUD (see previous Section);
- Certify a Cost Analysis (using the methodology of the Calculation Rule) has been completed and the PHA has determined it is more cost effective to continue operating the development as public housing than to convert the units in the development to tenant-based assistance; or
- Submit a required conversion plan, if after doing the Cost Analysis (using the methodology of the Calculation Rule), the PHA determined the development is not cost effective to maintain when compared to the cost of providing tenant-based assistance to the residents of that development.

If the appearance of a property on the SAC website leaves insufficient time to complete the Cost Analysis and/or develop the required conversion plan before the next PHA Plan submission deadline, the PHA must explain the status of the Cost Analysis and/or required conversion plan in its next PHA Plan.

In order to ensure that PHAs have adequate time to properly evaluate and respond to the appearance of a property on the SAC website, the tables below identify key dates applicable to each of the four possible PHA fiscal year (FY) start dates. All tables are designed to assist PHAs that are “non-qualified” under HERA are therefore required to submit Annual PHA Plans to HUD.

The first table anticipates that the PHA will be able to complete a Cost Analysis and, if required, complete a required conversion plan within 6 ½ months, once a PHA’s property appears on the SAC website. This information must be finalized and available for public review with the PHA Plan. PHAs who own properties that they believe may appear on the SAC website begin strategic planning for their required conversion process as early as possible.

<b>Sample of Information on Required Conversion</b>				
<b><u>Detailed Report</u></b>				
<b>HA Code:</b>	<b>FL001</b>			
<b>HA Name:</b>	<b>Sample PHA</b>			
<b>Cluster Number:</b>	<b>FLO1C009</b>			
<b>Cluster Total:</b>	<b>308</b>			
<b>Development</b>	<b>Total Units PIC</b>	<b>Designated Units</b>	<b>DD Approved</b>	<b>Non Designated</b>
FL001025	274	0	0	274
FL001040	34	0	0	34

<b>SAMPLE TIMELINE FOR INCLUSION OF FINALIZED REQUIRED CONVERSION INFORMATION IN ANNUAL PLAN</b>				
<b>Action</b>	<b>Jan 1 FY Start</b>	<b>Apr 1 FY Start</b>	<b>Jul 1 FY Start</b>	<b>Oct 1 FY Start</b>
Property appears on SAC website list as a possible conversion candidate	Prior to Nov 1 (13 months or more before FY begins)	Prior to Mar 1 (13 months or more before FY begins)	Prior to Jun 1 (13 months or more before FY begins)	Prior to Sep 1 (13 months or more before FY begins)
PHA issues draft Annual Plan for public review, including <u>FINALIZED</u> required conversion information	Mid July (5 1/2 months before FY begins)	Mid October (5 1/2 months before FY begins)	Mid January (5 1/2 months before FY begins)	Mid April (5 1/2 months before FY begins)
PHA submits Annual Plan to HUD with <u>FINALIZED</u> required conversion information	Mid October (2 1/2 months before FY begins)	Mid January (2 1/2 months before FY begins)	Mid April (2 1/2 months before FY begins)	Mid July (2 1/2 months before FY begins)

The second table provides guidance for PHAs whose properties appear on the SAC website less than 13 months before the start of the PHAs fiscal year. In such cases, the PHA must include a status report on their evaluation of the property's appearance on the SAC website in that year's PHA Annual Plan if the appearance on the SAC website occurred prior to the PHAs issuance of the draft PHA Annual Plan for public review.

<b>SAMPLE TIMELINE FOR INCLUSION OF A REQUIRED CONVERSION STATUS REPORT IN ANNUAL PLAN</b>				
<b>Action</b>	<b>Jan 1 FY Start</b>	<b>Apr 1 FY Start</b>	<b>Jul 1 FY Start</b>	<b>Oct 1 FY Start</b>
Property appears on SAC website list as a possible conversion candidate	Nov 1 to Jul 1 (6 to 13 months before FY begins)	Mar 1 to Oct 1 (6 to 13 months before FY begins)	Jun 1 to Jan 1 (6 to 13 months before FY begins)	Sep 1 to Apr 1 (6 to 13 months before FY begins)
PHA issues draft Annual Plan for public review, including a required conversion evaluation status report *	Mid July (5 1/2 months before FY begins)	Mid October (5 1/2 months before FY begins)	Mid January (5 1/2 months before FY begins)	Mid April (5 1/2 months before FY begins)
PHA submits Annual Plan to HUD with a required conversion evaluation status report *	Mid October (2 1/2 months before FY)	Mid January (2 1/2 months before FY)	Mid April (2 1/2 months before FY begins)	Mid July (2 1/2 months before FY begins)

*\*A PHA may include all finalized conversion information, including a completed required conversion plan, in its PHA Plan, if this information is available in time to be included in the PHA Plan public review process.*

## 2-8 Cost Analysis

If a PHA determines that the appearance of one of its developments on the SAC report of possible required conversion candidates is correct, the PHA must compare the costs of continuing to operate that development as public housing to the cost of providing tenant-based assistance to the residents of that development (Cost Analysis). The PHA must conduct this Cost Analysis by using the methodology set forth in the Calculation Rule. In order to assist PHAs in completing the calculations and comparisons required by the Calculation Rule, the SAC has created a downloadable spreadsheet calculator.



The spreadsheet calculator, and examples, are available on the SAC website at: <http://www.hud.gov/offices/pih/centers/sac/docs/costcomparison.xls> (attached as Appendix 7).



The cost methodology for required conversion is different from the cost methodology for voluntary conversion.

PHAs must use the SAC spreadsheet calculator to compute the information on the development's operating, modernization, and accrual costs, as well as to compute the information on tenant-based assistance costs for required conversion. In addition the PHA must acknowledge additional financial, contractual or legal obligations that may affect the conversion of the development. These may include Energy Performance Contracts with third parties, Capital Fund leveraging agreements, etc. ***These factors are not included in the SAC spreadsheet calculator, but must be factored into and addressed in the PHA's cost analysis.***

When comparing the cost of tenant-based assistance with the costs of continuing to operate public housing, PHAs must determine if the length of the remaining useful life for the public housing development should be calculated for a 20-, 30-, or 40-year period. Typically, a 40-year period is used when rehabilitation is performed equal to new construction. A 30-year period is used when a PHA plans a modernization effort that addresses all backlog needs and any redesign that is necessary to ensure long-term viability. A 20-year period is used when light or moderate rehabilitation (that does not address all accumulated backlog) is undertaken, but it is compliant with the International Existing Building Codes (IEBC) or Public Housing Modernization Standards in the absence of a local rehabilitation code. Additional information on determining the remaining useful life of a public housing development are set forth in the Appendix to 24 CFR 972 (I.B. Modernization).

In order to determine if a property meets the standard of long term viability, all of the following criteria must be met:

- ✓ The investment the PHA must make to revitalize the identified units is reasonable. The costs required to revitalize the identified units must not exceed, and under normal circumstances would be far less, than 90 percent of HUD's total development costs (TDC) limit for the units (100 percent of the TDC costs limit for any "infill" new construction). The revitalization cost estimate used in the PHA's most recent PHA Plan is to be used for this purpose, unless the PHA demonstrates, or the SAC determines, that another cost estimate is more realistic to ensure viability and to sustain the operation costs. The overall projected cost to revitalize the identified units in the development should not exceed the cost estimate previously provided in the PHA's most recent PHA Plan, even if the new projected cost of revitalization is a lower percentage of the TDC than the limits stated above. If the previous cost estimate was lower, the PHA must provide a compelling explanation of why the revitalization cost projections have now increased. The SAC will only accept such an increase, if it

determines, in its sole discretion, that the increase is justified. The source of funding for a revitalization program proposed by a PHA must be identified and available. In addition to other resources already available to the PHA, it may assume that future formula funds provided through the Capital Fund over five years are available for purposes of revitalizing the identified units. The PHA's 5-Year PHA Plan should therefore indicate that sufficient funding has been budgeted for the revitalization;

- ✓ The PHA is able to demonstrate appropriate density in the revitalized development will be achieved. The revitalized development must have a density, which is comparable to that which prevails in, or is appropriate for, assisted rental housing or for other similar types of housing in the community; and
- ✓ The PHA is able to demonstrate a greater income mix will be achieved in the revitalized development. The PHA must be able to demonstrate that the range of resident incomes over time at the development will be broadened to include a significant mix of households with at least one full-time worker. Appropriate evidence would include census or other recent statistical evidence demonstrating a broad mix of incomes of other households located in the same census tract or neighborhood, or other unique advantages of the public housing site.



### Other Factors to Consider During the Analysis

PHAs must review other factors not part of the SAC calculator when determining the feasibility for required conversion, such as:

- ✓ Contractual legal obligations that exists on the property that may be contingent on continued occupancy as public housing
- ✓ Energy Performance Contracts that obligate the PHA to future years in sharing the cost savings
- ✓ Future pledging of Capital Funds in order to expedite the modernization of a development that is being considered

## 2-9 Relationship Between Required Conversion and Section 18 of the Act

Pursuant to 24 CFR § 972.112 and 24 CFR § 970.3(15), Section 18 of the Act does not apply to a (full or partial) demolition of a development removed pursuant to a Section 33 required conversion, but environmental requirements still apply to any demolition done as part of a required conversion. Section 18 of the Act, however, does apply to a disposition of a development removed pursuant to a required conversion. Therefore, to dispose of a PHA property as part of a required conversion, the PHA must meet all of the disposition requirements of Section 18 of the Act, including the environmental requirements found at 24 C.F.R § 970.13.

## 2-10 Environmental Requirements

Regardless of the applicability of Section 18 to a demolition or disposition done as part of a required conversion, pursuant to 24 CFR § 972.109(b), a PHA may not demolish or dispose of units or property as part of a required conversion until the completion of the required environmental review under 24 CFR Part 58 or 24 CFR Part 50. The SAC will not approve a conversion plan until the completion of the required environmental review. However, the SAC may approve the targeted units for removal from the PHA's inventory and may authorize the

PHA to undertake other activities proposed in the conversion plan that do not require environmental review as long as the buildings in question are adequately secured and maintained.

## **2-11 Applicability of the Uniform Relocation Act (URA)**

Pursuant to 24 CFR § 972.118, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601) (URA) apply to required conversions to the extent that residents are displaced from a public housing development as a direct result of the demolition, acquisition, or rehabilitation of that development.

Because Section 18 of the Act does not apply to demolitions that a PHA may undertake in connection with a required conversion (e.g. HUD may approve a demolition as part of its approval of a required conversion plan without requiring that the PHA comply with Section 18 requirements), Section 18's exemption to the URA is not applicable and the requirements of the URA apply to demolitions conducted as part of a required conversion. Additional guidance on the relocation requirements under the URA can be found in HUD Handbook 1378 and on the following HUD web-pages: [www.hud.gov/relocation](http://www.hud.gov/relocation) and [www.hud.gov/sac](http://www.hud.gov/sac).

Section 18 of the Act, however, does apply to dispositions that a PHA may undertake in connection with a required conversion (e.g. HUD will not approve a disposition proposed as part of a required conversion plan without verifying that the PHA has complied with all requirements of Section 18 of the Act and 24 CFR Part 970). Therefore, a PHA may be entitled to the exemptions from the URA that are included in Section 18, if it is proposing a Section 18 disposition action in connection with its required conversion. To the extent that the requirements of the URA apply to disabled residents occupying accessible units and for the purposes of satisfying the implementing regulations at 49 C.F.R. Part 24, a functionally equivalent comparable replacement dwelling unit is one that includes adequate accessibility features or modifications.

The next section of the document provides detailed information for PHAs that determine a required conversion is in order.



### **Duration of Required Conversion Plan**

The required conversion plan may not be more than a 5-year plan, unless the PHA applies for and receives approval from the SAC for a longer period of time. The SAC may approve a plan that is up to 10 years, but only in exceptional circumstances where it determines the extended time is clearly the most cost-effective and beneficial means of providing housing assistance over that same period. For instance, a longer plan may be permissible if a PHA is converting more than one development and a large number of families require relocation than cannot be easily absorbed into the local rental market at one time, provided the development has a remaining useful life of longer than 5 years and such a longer time frame will assist in relocation.

## 2-12 Required Conversion Plan

If, after doing the Cost Analysis, a PHA determines it is more cost-effective to convert the residents of a development to tenant-based assistance than it is to maintain the development as public housing, the PHA must develop a required conversion plan for removing the identified public housing units from its inventory.

The PHA must describe its required conversion plan as part of its next PHA Plan (or MTW Plan).



### Six Components of the Required Conversion Plan

- Identification of Public Housing Units
- Identification and Obligation Status of Public Housing Funds
- Evidence of Consultation with Public Officials
- Evidence of Consultation with Residents
- Description of PHA's Proposed Future Use of the Development
- Relocation Plan

The Six components of a required conversion plan are discussed in greater detail below:

1. Identification of Public Housing Units. The PHA must provide a listing of public housing units that are subject to required conversion and for which it is requesting the SAC permission to remove from its inventory;
2. Identification and Obligation Status of Public Housing Funds. The PHA should identify and provide the obligation status of modernization, reconstruction, or other capital funds for the distressed development that have previously been approved by the SAC, along with the PHA's recommendations concerning the transfer of these funds to alternative public housing uses;
3. Evidence of Consultation with Public Officials: Pursuant to 24 CFR § 972.130(3) and 24 CFR § 972.133, the PHA must consult with appropriate public officials in developing its required conversion plan. To satisfy this consultation requirement, the PHA may obtain a certification from the appropriate government official that the required conversion plan is consistent with the applicable Consolidated Plan. This may be the same certification as required for the PHA Plan that includes the required conversion plan, so long as the certification specifically addresses the required conversion plan.
4. Evidence of Consultation with Residents. Pursuant to 24 CFR § 972.130(3) and 24 CFR § 972.133, the PHA must consult with appropriate public housing residents in developing its required conversion plan and provide a record indicating that it has complied with all applicable requirements. PHAs are reminded that the residents are the PHAs customers and should therefore play a significant role in contributing to the conversion plan. To satisfy this consultation requirement, IN ADDITION to the public participation requirements for the PHA Plan, the PHA must do AT LEAST the following:

- ✓ Hold AT LEAST one meeting with the residents (including the duly elected Resident Council of the development, if any) in which the PHA explains the requirements of required conversion, particularly as the requirements apply to the residents of the development. In most cases, PHAs should meet numerous times with the residents of the affected developments to ensure that they fully understand the reasons for the conversion, understand the PHAs anticipated approach to the conversion, have a meaningful opportunity to discuss options, and make suggestions related to the conversion plan;
- ✓ Provide draft copies of the required conversion plan to the residents of the development to facilitate this resident review and input process;
- ✓ After it has held the required meeting(s) with the residents and provided the draft required conversion plan to the residents, ensure that a reasonable period for the residents to comment on the draft required conversion plan is provided; and
- ✓ Document and summarize the resident comments and submit these comments to to the SAC as part of this element of the required conversion plan. The final required conversion plan should show that the PHA considered resident comments to the draft required conversion plan.



#### **Evidence of Consultation and Resident Comments**

PHAs should take an active role to engage residents in the process and consider the comments provided by the residents in the final analysis. The comments may help the PHA and provide valuable insight into the final strategy.

5. Description of PHAs Proposed Future Use of the Development. The PHA must describe how it proposes to use the development after the required conversion as well as the means and timetable for accomplishing any planned demolition, disposition, or redevelopment of the development. Section 18 of the Act does not apply to the demolition of developments implemented in connection with a required conversion. Section 18 of the Act, however, does apply to the disposition of a development implemented in conjunction with a required conversion. Therefore, to dispose of a development as part of a required conversation, the PHA must meet all of the disposition requirements of Section 18 of the Act and 24 CFR Part 970, including environmental review requirements.



#### **Removal of ACC, but still subject to DOT**

Although a required conversion action will remove the converted units from the Annual Contributions Contract (ACC) between the PHA and HUD, the underlying land of the development will continue to be subject to a Declaration of Trust (DOT) until HUD releases the DOT, either through a Section 18 removal action, an action under 24 CFR 85, or another authorized means. Thus, if a PHA decides to convert the units now but retains the property, and then later decides to sell the land (to a developer to do a mixed-finance transaction, for example), the PHA must apply to the SAC for a Section 18 disposition at that time. HUD intends to provide additional guidance on this subject in the future.

6. Relocation Plan. The PHA must develop and implement a Relocation Plan that meets the requirements of 24 CFR § 972.130, including fair housing and civil rights requirements. All Relocation Plans must include the following components:

- ✓ The number of households to be relocated, by bedroom size, and by the number of accessible units;
- ✓ A description of relocation resources that will be needed, including any necessary Section 8 funding requests, as well as, a description of actual or potential public or other assisted housing vacancies that can be used as relocation housing and a budget for carrying out relocation activities;
- ✓ A schedule for relocation *and removal of units from the public housing inventory (including the schedule for providing actual and reasonable relocation expenses, as determined by the PHA, for families displaced due to conversion); and*
- ✓ Proof that residents of the affected development were provided with timely written notice of the required conversion pursuant to the timing requirements set forth at 24 CFR § 972.130(b):
  - If the required conversion is not subject to the URA, the PHA must provide families with copies of the Notice at least 90 days before displacement.
  - If the required conversion is subject to the URA, the PHA must provide families with copies of the required General Information Notice (GIN) no later than the date the conversion plan is submitted to the SAC.



**Resources for Relocation:** If the PHA intends to use housing choice vouchers as the form of comparable housing, it should indicate if it will use existing resources (turnover) or will rely on HUD issuing future tenant-protection public housing relocation vouchers pursuant to the applicable HUD Notice. If the PHA is relying on existing resources, the PHA should prepare a realistic analysis of unit turnover in the process. For example, if a PHA is converting 300 units and the average turnover in the other programs and units are 100 per year, then it would be unrealistic, without other housing resources, to complete the process of relocation in less than 3 years. If the PHA is relying on future vouchers, see Section 2-15 of this chapter.

**Contents of Notice to Residents: Pursuant to 24 CFR § 972.130(b)(ii), the written Notice to Residents about the required conversion must contain the following information:**

- ✓ The development must be removed from the PHA's public housing inventory and may no longer be used as public housing. Therefore, the family may be displaced;
- ✓ Each family displaced as a result of the conversion will be offered comparable housing. (These units must meet HUD's applicable housing quality standards and should be located in an area that is generally not less desirable than the unit that is being vacated.) This comparable housing may include: (a) actual relocation into tenant-based housing, (b) housing with project-based assistance, or (c) housing to another PHA-owned or operated property;

- ✓ Actual and reasonable moving costs will be paid, and any necessary counseling, including any appropriate mobility counseling, will be provided by the PHA. (The PHA may finance mobility counseling provisions using Operating Fund, Capital Fund, or administrative fee funding);
- ✓ Each family will be relocated to other decent, safe, sanitary and affordable housing that is, to the maximum extent possible, the housing of their choice;
- ✓ If the PHA retains the development to use as housing after the required conversion, each family displaced by such action will be given a choice to remain in the housing, using tenant-based assistance towards rent; and

If tenant-based assistance is being used for relocation, each family will be provided with assistance (e.g. tenant protection public housing relocation vouchers) at least 90 days before displacement.

**If the Required Conversion is subject to the URA, the Notice must also contain the following:**

- ✓ No family will be required to move without at least a 90-day advance written notice of the earliest date by which the family is required to move, and that the family will not be required to move permanently until the family is offered comparable housing;
- ✓ Persons who are aliens not lawfully present in the United States are ineligible for relocation payments or assistance under the URA, unless such ineligibility would result in an exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as provided in the URA regulations at 49 CFR § 24.208;
- ✓ A family has a right to appeal the PHA's determination as to the family's application for relocation assistance for which the family may be eligible under required conversion and the URA;
- ✓ Families residing in the development will be provided with the URA Notice of Relocation Eligibility or Notice of Non-displacement (as applicable) as of the date the SAC approves the required conversion plan. (Note: The date of SAC approval of the required conversion plan shall be the "date of initiation of negotiations" as termed and used in the URA and implementing regulations at 49 CFR §24); and
- ✓ Any family moving into the development after the PHA submits the required conversion to the SAC will be eligible for relocation assistance, unless the PHA issues a written move-in notice to the family prior to leasing and occupancy of the unit advising the family of the development's possible conversion, the impact of the conversion on the family, and that the family will not be eligible for relocation assistance.

**2-13 Required Conversion Submission Requirements**

PHA Plan or MTW Plan

If a development appears on the report on the SAC website, the PHA must address the situation as part of its next PHA Plan (or MTW Plan). This does not necessarily mean that the PHA must describe its plans to convert the units. It need only address the appearance of the property on the SAC website. Please refer to Section 2-7

of this Guide for reasonable timeframes for including the required conversion information in the PHA Plan (or MTW Plan).

If a PHA determines that a development is subject to a required conversion, it must describe its conversion as part of its next PHA Plan (or MTW Plan). The description must confirm that the PHA's required conversion plan addresses each of the six required conversion plan components.



### **Describing Required Conversion Plans in the PHA Plan or MTW Plan**

PHAs must address the appearance of a property on the SAC website as part of its next PHA or MTW Plan. PHAs must also describe any plans to implement a required conversion in a PHA Plan or MTW Plan\*. The HUD PHA Plan template (HUD-50075) (2008) provides that the following information must be submitted for any required conversions: (1) a description of any building(s) (including project numbers and units count) the the PHA is required to convert; (2) an analysis of the projects or buildings required to be converted; and (3) a statement of the amount of assistance received under this chapter to be used for rental assistance in connection with such conversion. PHAs may use the table provided in this Guide to fulfill the requirements at Part 7(C) of the PHA Plan template.

**\* A PHA must describe its required conversion plans in its PHA Plan or MTW Plan submitted to the HUD Field Office. This may be the PHA Annual Plan, the 5-Year PHA Plan, or as a Significant Amendment to its 5-year PHA Plan (depending on if the PHA is a qualified or non-qualified PHA under the Housing and Economic Recovery Act of 2008 or HERA, Public Law 110-289).**

To help ensure PHAs provide sufficient information in its PHA Plan document to inform stakeholders and the HUD Field Office of the required conversion plan, a sample table has been developed. This sample table is presented on the following page. **Use of this table is not required, but it is recommended.** This sample table can be inserted in Part 7(C) of the PHA Plan template (HUD-50075).

### **Required Conversions Plan Descriptions for PHA Plan**

The following developments or portions of developments have been identified by the SAC or the PHA as potential properties for a required conversion per 24 CFR 972.124.

<b>Required Conversion of Public Housing Activity Description</b>
1a. Development(s) name(s):
1b. Development(s) (project) number(s):
1c. Asset Management Project (AMP) Number(s):
1d. The specific public housing units that are (or may be) involved in the required conversion if only a portion of a development listed above is to be converted
2. Has the PHA completed the Cost Analysis comparing the costs of continuing to operate the units as public housing to the

cost of providing tenant-based assistance? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is a Conversion Plan required? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Yet Determined (If yes, go to block 4; if no or not yet determined, explain below.)
4. Status of Required Conversion Plan (select the statement that best describes the current status)  <input type="checkbox"/> Conversion Plan is in development  <input type="checkbox"/> Conversion Plan has been completed and is being submitted as part of this Plan (if this is the status, complete blocks 5 through 9 below)  <input type="checkbox"/> Conversion Plan was submitted to SAC on: (DD/MM/YYYY) <input type="checkbox"/> Conversion Plan was approved by OPHI on: (DD/MM/YYYY) <input type="checkbox"/> Activities pursuant to the HUD-approved Conversion Plan are underway
5. Has the PHA identified the obligation status of modernization, reconstruction, or other capital funds for the distressed development(s), and has the PHA made recommendations concerning the transfer of these funds to alternative public housing uses? <input type="checkbox"/> Yes <input type="checkbox"/> No
6. Has the PHA consulted with appropriate public officials in developing the required conversion plan? <input type="checkbox"/> Yes <input type="checkbox"/> No  Has the PHA obtained the required certification? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Has the PHA consulted with the residents in the development of the conversion plan? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Does not apply because the site is vacant      Does the PHA have documentation to support the consultation? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Has the PHA described how it proposes to use the development after the conversion as well as the means and timetable for accomplishing any planned demolition, disposition, or redevelopment of the development? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. Has the PHA developed a resident Relocation Plan that complies with 24 CFR 792.130? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Does not apply because the site is vacant

Required Conversion Plan and Application to the SAC

If a PHA determines that it is required to convert the units to tenant-based assistance, in addition to describing the conversion in a PHA Plan (or MTW Plan), it must submit a required conversion plan to the SAC via form HUD-52860 and HUD-52860-D through PIC, for official approval of the conversion action. The PHA may not proceed with implementation of a required conversion until it has received written approval from the HUD Office of Public Housing Investments (OPHI), via the SAC.

Also, the PHA must retain a complete copy of its required conversion plan, including all supporting documentation, shall remain on file in the central office of the PHA so that this material is available for resident, public and HUD review.

## **2-14 Possible HUD Actions: Required Conversions**

If a PHA fails to properly identify a development for required conversion, or does not address the appearance of a development on the SAC website in its next PHA Plan (or MTW Plan), the SAC may recommend that the authorized HUD Office or official take any of the following actions:

- ✓ Disqualify the PHA from HUD funding competitions;
- ✓ Direct the PHA to cease additional spending in connection with a development that meets, or is likely to meet the statutory criteria, except to the extent that failure to expend such amounts would endanger health and safety;
- ✓ Identify developments that the PHA has failed to include as falling within the statutory criteria for required conversion;
- ✓ Ensure a conversion is carried out in cases where the PHA has failed to develop or implement a required conversion plan;
- ✓ Require the PHA to revise the conversion plan, or prohibit conversion, where the SAC has determined that the PHA has erroneously identified a development as being subject to Section 33 of the Act;
- ✓ Authorize or direct the transfer of capital or operating funding associated with a development that is being removed from the public housing stock for use instead for tenant-based assistance or appropriate site revitalization for the agency; and
- ✓ Any other action that HUD determines appropriate and has the authority to undertake.

## **2-14 Effect of Required Conversion on Operating Subsidy**

For purposes of determining operating subsidy eligibility, HUD will consider a PHA's submission of a required conversion plan to be the equivalent of a formal request to remove dwelling units from the PHA's inventory and ACC. However, pursuant to 24 CFR 990.190, a PHA that transitions projects or entire buildings out of its inventory is eligible for an asset-repositioning fee. A PHA should contact their HUD financial analyst at their local Field or Regional Office for more information on the asset-repositioning fee. HUD intends issuing additional guidance on this subject in the future.

## **2-15 Tenant-Based Assistance Funding for Units Approved for Conversion**

If a PHA plans to offer residents in the units that must be converted with comparable housing in the form of housing choice assistance vouchers (under Section 8 of the Act) and is relying on HUD's issuance of tenant-protection public housing replacement vouchers (rather than turn-over) as the source of those vouchers, the SAC will not approve the PHA's conversion plan until it verifies that HUD will be able to provide those vouchers, pursuant to the terms of the applicable voucher notice. The PHA should clearly indicate in its conversion plan that it is relying on HUD's issuance of tenant-protection vouchers.

However, notwithstanding the SAC's approval of a conversion plan that includes tenant protection public housing relocation vouchers as the form of comparable housing, PHAs must submit a separate and distinct application to HUD

for these vouchers. A PHA may submit an application for tenant protection public housing relocation vouchers as soon as the PHA receives written SAC approval of its required conversion plan.

If HUD is unable to issue the tenant protection public housing relocation vouchers that are necessary for a PHA to convert units that required to be converted, the SAC may extend the timeframe for the implementation of the conversion up.

## **2-16 Civil Rights Considerations Under Required Conversion**

Certain classes/groups of residents may be significantly adversely impacted by the application of required conversion. As always, PHAs should ensure compliance with all HUD civil rights requirements. Civil rights considerations are especially relevant when consulting with residents as part of the required conversion plan, when providing required notices to residents as part of the relocation plan, and when providing needed mobility counseling to residents displaced because of the required conversion.

When consulting with residents as part of the required conversion plan, PHAs should ensure compliance with Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964. HUD's regulations at 24 CFR Part 8 implement the nondiscrimination based on disability requirements of Section 504. PHAs should ensure that residents with disabilities have a full opportunity to participate in consultation and to provide comments in developing the required conversion plan. PHAs should consider the need for meeting accessibility and effective communication and may consult 24 CFR Part 8 for assistance (e.g. 24 CFR § 8.6). In addition, Executive Order 13166 implements Title VI of the Civil Rights Act of 1954 and seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency (LEP). Recipients of HUD funding must take reasonable steps to ensure meaningful access to their programs and activities for LEP individuals. PHAs need to consider the need for language access in consulting with residents and soliciting comments in developing the required conversion plan. For more guidance, PHAs may refer to the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Person, 72 Fed. Reg. 2732 (January 22, 2007).

When providing the required notices to residents as part of the relocation plan, PHAs must comply with 24 CFR Part 8 (especially section 8.6) and Title VI of the Civil Rights Acts of 1964. In preparing, delivering, and publicizing such notices, PHAs must consider the need for effective communication for residents with disabilities and the need for meaningful access for LEP persons.

PHAs are required to provide appropriate mobility counseling and notify residents of availability of such services under 24 CFR § 130(b)(4)(ii)(C). Residents with disabilities who have mobility, visual, or hearing limitations may be particularly impacted by conversion and relocation, and their mobility counseling needs should be given appropriated consideration by PHAs to ensure compliance with the disability nondiscrimination requirements of 24 CFR Part 8. Throughout the conversion process, PHAs must address requests for reasonable accommodations by person with disabilities in accordance with their established reasonable accommodation procedures.