



Public Housing Repositioning Strategies

Session 2: Section 18 and
Streamlined Voluntary Conversion

Ground Rules

- Participate in each session of the webinar series
- Avoid distractions (close email and web-browser)
- Silence your phone
- Ask plenty of questions. It is the best way to learn!

Webcast Training Agenda



Session 1

Feb 4

Introduction
to
Repositioning

RAD

Session 2

Feb 6

Section 18

Streamlined
Voluntary
Conversion

Session 3

Feb 11

Intersection
with PBV

Repositioning
Decision
Matrix

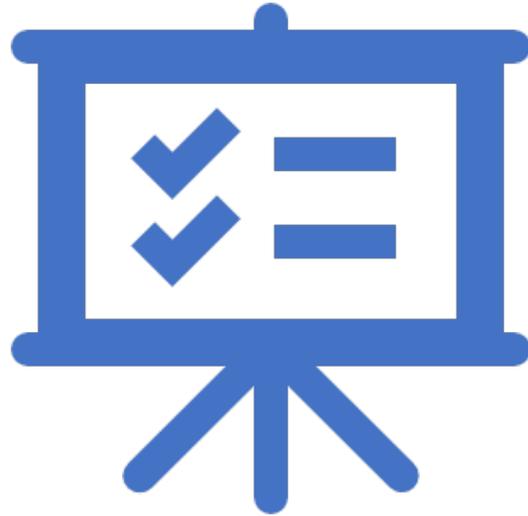
Session 4

Feb 13

Public
Housing
Close-out

Case Studies

Knowledge Check



What are some reasons why PHAs may chose to reposition?

Knowledge Check



What are some reasons why PHAs may chose to reposition?

Stabilize Revenue

Provides Access to Debt/Equity

Reduce Administrative Burden

Knowledge Check



True or False?

The RAD application process is very difficult, and a PHA is penalized if their application is approved, and they do not convert within a year.

Knowledge Check



True or False?

The RAD application process is very difficult, and a PHA is penalized if their application is approved, and they do not convert within a year.

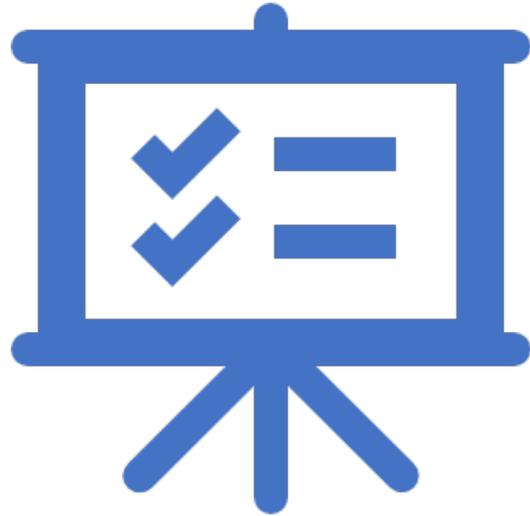
False

Knowledge Check



Under the First Component of RAD, properties that are currently funded under Public Housing may convert their assistance to long-term, project-based Section 8 contracts. PBV or PBRA are the two forms of project-based Section 8 assistance that PHAs can choose from.

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True

Here are some questions we will cover today

1. What is Section 18?
2. What are different ways a PHA can dispose of public housing property through Section 18?
3. What is an obsolescence test?
4. What is Streamlined Voluntary Conversion (SVC)?
5. What size PHAs are eligible for SVC?
6. What are the costs and benefits of Section 18 and SVC?

Section 18: Demolition/Disposition Overview?

What is Section 18?

- Section 18 of the Housing Act of 1937 authorizes demolition or disposition of public housing
- Requirements outlined in PIH 2018-04
- HUD generally approves under Section 18 if property is:
 - Physically obsolete
 - Scattered site (non-contiguous) with operational challenges
 - Owned by a PHA with 50 units or less
 - Efficient and Effective operations achieved elsewhere
- FHEO Review to ensure vouchers are feasible in the open market

Special Applications Center (SAC)

- Reviews applications for Demo/Dispo, Eminent Domain, Homeownership, Voluntary and Required Conversion, Retentions
- Processes applications nationwide for all PHAs
- Headquarters PIH Office
 - Office of Public Housing Investments (OPHI)
 - Out-stationed to Chicago, IL
 - Jane B. Hornstein, SAC Director

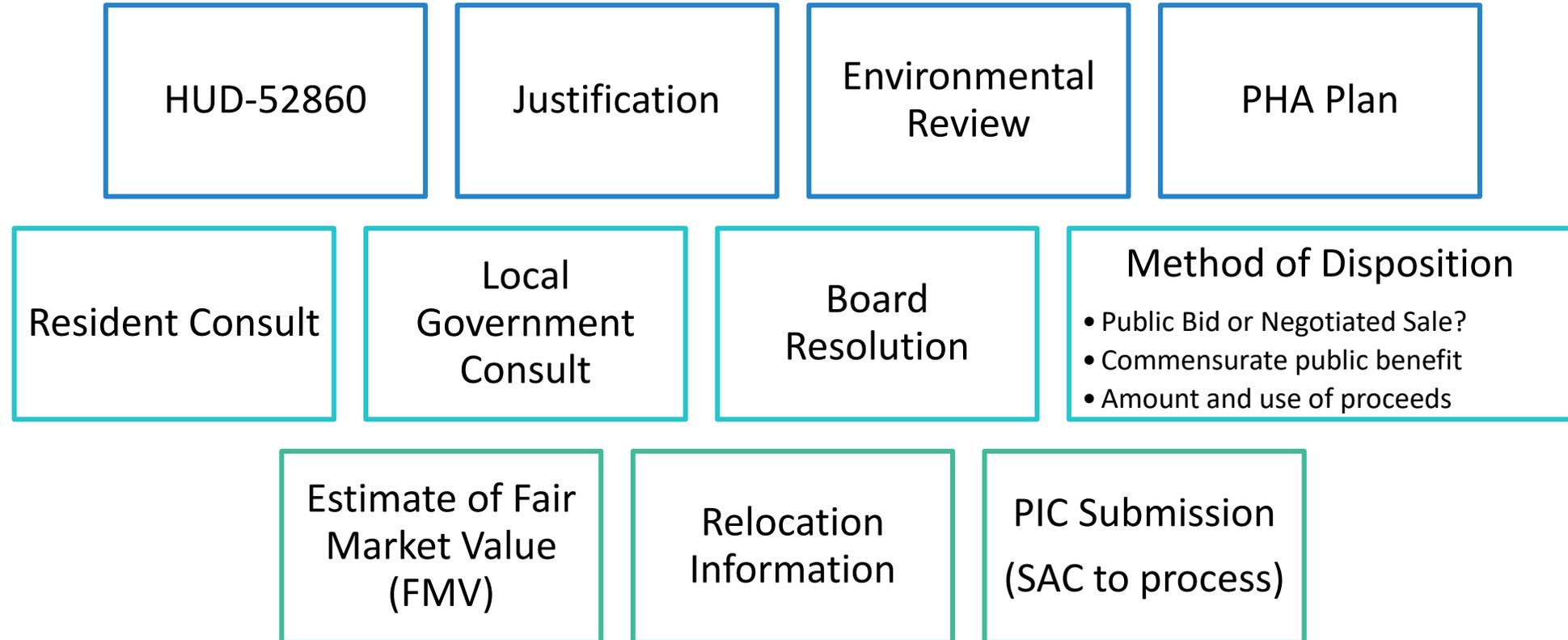
Section 18 Background

- 1998: Under QHWRA amendments, the 1-1 replacement requirement is removed with enhanced authority to PHAs to demolish/dispose
- Old PIH Notice 2012-7 required finding of physically obsolete
- New PIH Notice 2018-04 expands Section 18 to reposition to a more sustainable platform and access private capital

Section 18 Disposition is used to:

- Reposition/preserve the asset with Negotiated Disposition:
 - Rehab with other financing (LIHTC)
 - Project-Based Vouchers (PBVs)
- Dispose in the open market when asset is beyond repair
 - Current location is undesirable/isolated
 - Generate proceeds to develop new housing
 - Voucher-out residents using tenant-based assistance
 - Need to end public housing to streamline operations

SAC Application Requirements



Justifications

Demolition

- Obsolescence: physical, location or other factors
- De Minimis

Disposition

- Physical obsolescence
- Surrounding Area
 - Health and safety
 - Infeasible operation
- Scattered-site
- Non-dwelling property
- RAD and Section 18 repositioning
- More efficient/effective repositioning
- 50 units or less total inventory

Demolition, Disposition, or Both

- **Demolition Only Approval.** PHA can use PH funds to pay for demo of buildings and subject Section 3, Davis-Bacon. Land remains under Declaration of Trust (DOT). PHA can later submit a S18 dispo or Part 200 retention for land only.
- **Disposition Only Approval.** PHA disposes of property in “as is” condition. HUD releases DOT. If approved by SAC, new owner may demolish after transfer.
- **Demolition and Disposition Approval.** PHA demolishes building under PH requirements and then immediately disposes of vacant land.

Tenant Protection Vouchers (TPVs)

- Separate Application Process (HUD-52515 to Field Office)
- PHA must offer to (qualifying) families as relocation resource
- Normal HCV requirements apply
- PHA can offer as tenant-based or project-based assistance
- Replacement TPVs added to PHA's HCV Baseline
- Currently, PHAs receive TPVs for units occupied within previous 24 months of SAC approval date?
- Public Housing Only PHAs partner with Voucher PHAs
- Appropriations (HUD may establish priority order if needed)

Obsolescence – Physical Condition (Demo or Dispo Based on this Justification)

- Scope of work: rehab needs
 - Capture immediate needs; repairs or replacement within next 3 years
 - Third-party report (structural, environmental)
 - International Building Code (IBC)
- Cost Estimates
 - R.S. Means Cost-Index
 - Total cost estimates (TDC) published annually
 - 57.14% of TDC for non-elevator building (62.5% for elevator building)

Obsolescence – Location (Demo only)

- Area poses serious health or safety risks to residents
Flooding, contaminated soils, noise, air quality, Superfund site, conditions that cannot be cured/mitigated cost effectively
- Third-party documentation (environmental review)
- PHAs generally sell property at Fair Market Value (FMV)

Obsolescence – Other Factors (Demo only)

- Impact marketability, usefulness, or management of units
- Seriously impede operations for residential use
- Third party documentation required
- Cost-test based PHA's cost to cure the cause

De Minimis Demolition

- 5-year period, lesser of 5 units or 5% of units (PHA-wide)
Space used for resident needs; or Unit(s) beyond repair
- Obsolescence not required
- HUD approval not required
SAC Application required (PIC recordkeeping)
- Environmental Review required

Disposition-Health or Safety

- Conditions in the area (density, industrial/commercial uses) adversely affect the health or safety of the residents
- Serious obstacles in maintaining units as healthy or safe (third-party documentation)
- PHA cannot cure or mitigate cost effectively
- Generally sell property at Fair Market Value (FMV)

Disposition-Infeasible Operation

- No demand based on location; extended vacancies
- Supportive documentation:
 - Census tract
 - No waiting list for bedroom size of units
- Market analysis may be required
- Generally sell property at Fair Market Value (FMV)
- Efforts to mitigate (i.e. marketing incentives, etc.)

Disposition: Scattered Site Units

- Buildings are non-contiguous with 4 or fewer units
- Unsustainable to operate and/or maintain
- Must have a Relocation Plan with option for residents to remain using PBV or voucher out
- Flexibility in structuring disposition
 - Sell at FMV on the open market with proceeds generated
 - Partner with related entity to sell at below FMV so units can be used as affordable rental housing, including PBV
 - Create local homeownership program

Disposition: Very Small PHA

- 50 or fewer public housing units
- Must close-out Public Housing program via Consolidation/Transfer or ACC Termination
- Flexibility in structuring disposition
 - Sell at FMV (generate proceeds)
 - Partner with related entity to sell at below FMV, to retain affordable rental housing (including PBV)
- Must have a Relocation Plan with option for residents to remain using PBV or voucher out
- Find Voucher PHA to administer TPVs If Public Housing-Only PHA

RAD-Section 18 Blend (75/25)

When major repair/construction is needed under RAD, HUD allows Tenant Protection Vouchers (TPVs) for 25% of units under Section 18, which can then project-base

- Project cannot have 9% LIHTC and construction costs must meet 60% of Hard Construction Cost (HCC) limits
- PHA may apply by submitting a standard RAD application for all units

Example: 100-unit project; HCC limits = \$160,000/unit

Minimum construction costs = \$96,000/unit

RAD units = 75

Section 8 TPVs = 25

Financing type = 4% LIHTC and Bonds or private financing, not 9% LIHTC

Note: PHA makes Section 18 application via RAD (simultaneous processing)

RAD-Section 18 Blend (Close-Out)

If a PHA has more than 50 units (including in the same project), it can simultaneously convert some units under RAD and remaining 50 or fewer option under Section 18

Example: PHA has one 70-unit public housing property

- PHA can convert 20 units via RAD
- PHA can dispose of remaining 50 units through the Section 18 "50 and Fewer" provision
- PHA eligible to receive TPVs for 50 units under Section 18
- PHA typically project-bases all 70 units (at 2 different rent/HAP levels)

Note: PHA makes Section 18 application via RAD (simultaneous processing)

Creation of more efficient or effective units

Disposition where replacement units are more efficient/effective

- PHA receives TPVs for only 25% of occupied units
- No obsolescence test
- Replace on or off-site as public housing or Section 8
- PHA determines number of replacement units

Example: Fully occupied 40-unit project located in undesirable area and in need of rehab, but does not meet the standard Section 18 “obsolescence” test

- PHA proposes to sell the land and use proceeds to build elsewhere
- PHA is eligible for 10 TPVs (25%)
- Using 4% LIHTC, PHA proposes a mixed-income property with 10 PBV units and 10 as standard tax credits

Disposition: Non-Dwelling Property

Incidental to, or does not interfere with, the continued operation of the remaining portion of the project

- Central PHA office building
- Excess remaining from RAD deal
- Excess at current project

Disposition to Whom?

- Separate legal entity under state law
- PHA may retain ownership or control (consider property taxes, PBV requirements—including competition and independent entity triggers)
- May be a non-profit of PHA
- Options:
 - Open market at FMV (public bid/auction)
 - Negotiated disposition at FMV (identified buyer)
 - Negotiated disposition at below FMV (commensurate public benefit)
 - Sale or ground lease

Commensurate Public Benefit

- Required for below FMV dispositions
- HUD determines on a case-by-case basis
 - Property houses or benefits low-income families (i.e. community center)
- Use restriction required
 - Generally 30-years, but PHA can propose preferred form of use restriction
- Limitations/Restriction: Not for general public benefits, i.e., cannot be transferred to the City for a park

Property Valuation

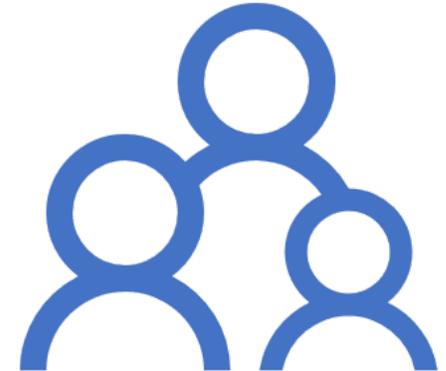
- Appraisal required if property disposed at FMV
Dated within the year application is submitted
- Tax Assessor Opinion or alternative method of valuation required if sold below FMV as commensurate public benefit (i.e. development of affordable housing)

Proceeds

- Eligible Uses:
 - Relocation and reasonable closing costs (gross proceeds)
 - Modernization or development of public housing (Cap Fund)
 - Operation of public housing (Op Fund)
 - RAD costs
 - Modernization or development of PBV units
 - Section 8 HAP shortages (if confirmed by HUD)
- SAC approval required
- Deposit under HUD-51999 (General Depository Agreement)

Resident Consultation

- In addition to consulting residents on the PHA Plan, PHAs must consult:
 - Residents of the development(s)
 - Group representing resident(s) of the development(s)
 - Group representing all residents served by the PHA
 - Resident Advisory Board (RAB)
- Residents submit written comments; PHA must provide those comments to HUD in application



Relocation

- Governed by Section 18 and 24 CFR part 970
- Not subject to URA (unless new project financing, HOME, triggers URA)
- Requirements:
 - Offer all residents comparable housing (PH, S8 voucher, PBV)
 - 90-day notice to residents
 - Counseling/advising services
 - Pay actual and reasonable moving costs
 - Compliance with fair housing (accessible units)
 - Cannot begin relocation (issue 90-day notice) until HUD approval
 - Cannot begin demolition/complete disposition until residents relocated

Comparable Housing Resources

- Public housing units (off-site)
- Project-based vouchers (PBV) as current units or elsewhere
- Tenant-based vouchers (family must be under lease to complete relocation)
- Occupancy in a unit operated or assisted by PHA at comparable rental rate (i.e. if family is over-income)



Public Housing-Only PHAs

- Apply under Section 18 Demolition/Disposition
- Must find HCV PHA to administer TPVs
- HCV PHA must have jurisdiction
- Field Office can assist finding HCV PHA
- Field Office must approve administering HCV PHA

Impact on Public Housing Funds

- PHA may only spend Cap Funds for modernization activities PRIOR to submitting a Section 18 application
- PHA may spend Op Funds for maintenance up until ACC termination (“RMI” in PIC)
- Operating Fund phases to Asset Repositioning Fee (ARF):
Change triggered on relocation start date in PIC
- Demolition Disposition Transition Funding (DDTF):
Supplement to Cap funds, triggered at RMI status in PIC

After HUD Approval

PHA Responsibilities

- Update relocations to FO for Op Funds
- Apply for TPVs
- Prepare release of DOT
- Prepare Use Agreement and/or deposit proceeds under GDA HUD-51999
- Request removal from PIC within 7 days of demo/dispo
- Comply with SAC conditions
- Request amendments to SAC for changes
- Complete PBV steps as required by Part 983 and PIHN 2017-21 (if project basing)

Local HUD Field Office Responsibilities

- Process requests for TPVs
- Facilitate partnerships with HCV PHAs
- Release DOT and approve use agreement
- Change to RMI status in IMS/PIC after demo/dispo at PHA's request
- Provide technical assistance

Laws and Guidance

- 24 CFR Part 970
- PIH Notice 2018-04
- PIH Notice 2018-09
- HUD-52860 forms
- 24 CFR 905.400 (Demo/Dispo Transition Funding, DDTF)
- PIH Notice 2017-22 (Asset Repositioning Fee)
- PIH Notice 2016-22 (Environmental Requirements)
- PIH Notice 2016-23 (Close-out Requirements)

Important Resources

Visit the Special Applications Center at:

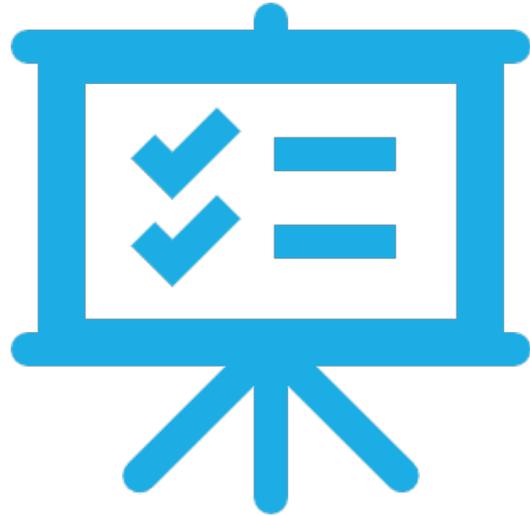
<http://www.hud.gov/sac>

Local Field Office has Staff Expeditors to help with applications.

Training videos on HUD Repositioning Website.



Knowledge Check



True or False?

The 50 and under provision supports small PHAs under Section 18?

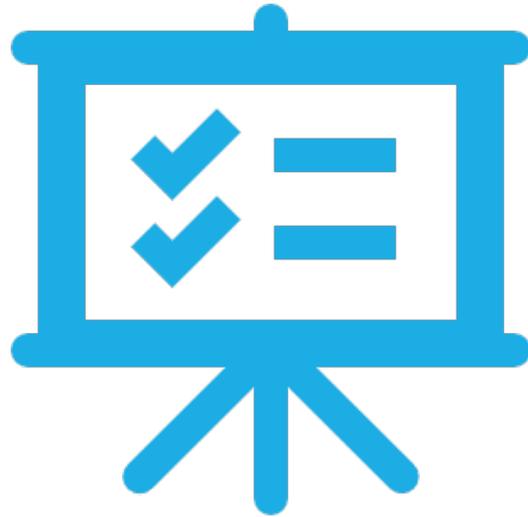
Knowledge Check



The 50 and under provision supports small PHAs under Section 18?

True. 50 and under provision allows automatic approval. PHAs can also blend RAD with the 50 and under provision. To learn more, stay with the rest of this training.

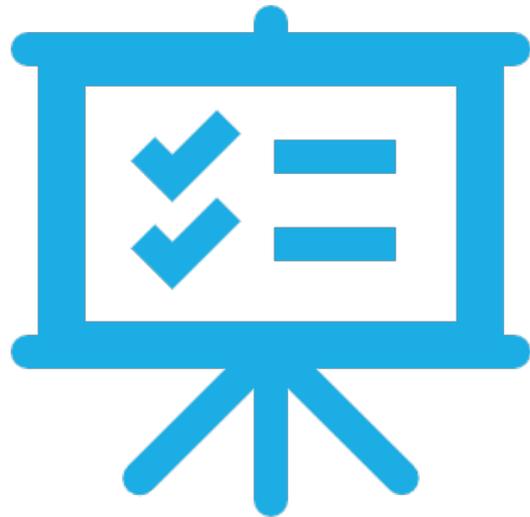
Knowledge Check



True or False?

When converting to Sec 18 or SVC PHAs are eligible for replacement TPVs for units occupied within previous 24 months.

Knowledge Check

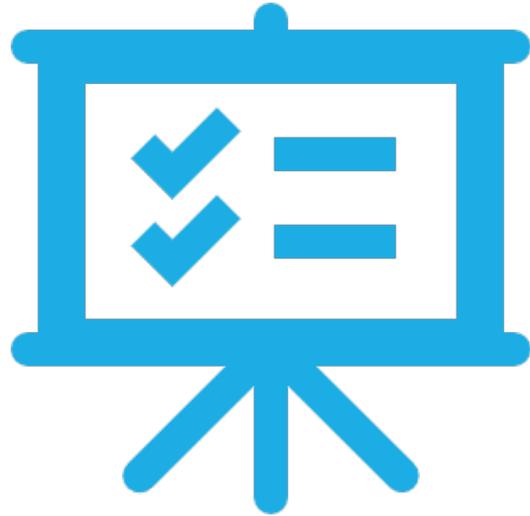


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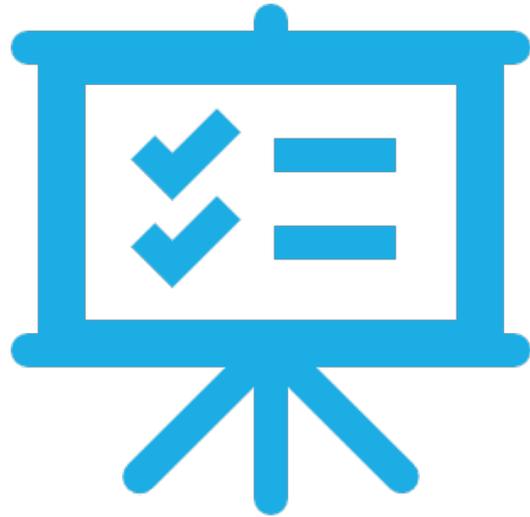
False. PHAs are eligible for replacement TPVs for units occupied within previous 24 months of SAC approval

Knowledge Check



To whom may a PHA dispose public housing property?

Knowledge Check

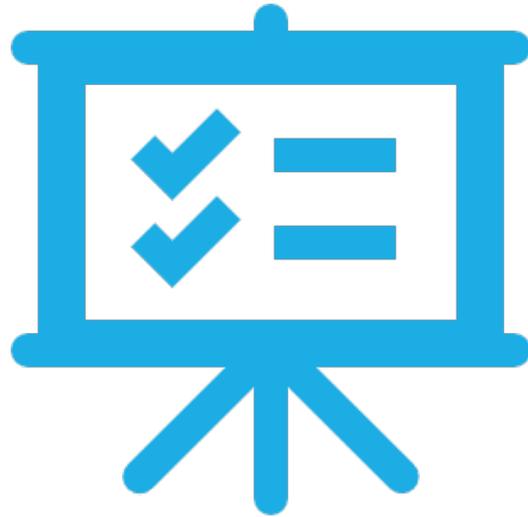


To whom may a PHA dispose public housing property?

Separate legal entity under law:

- **PHA may retain ownership or control**
- **May be a non-profit of PHA**

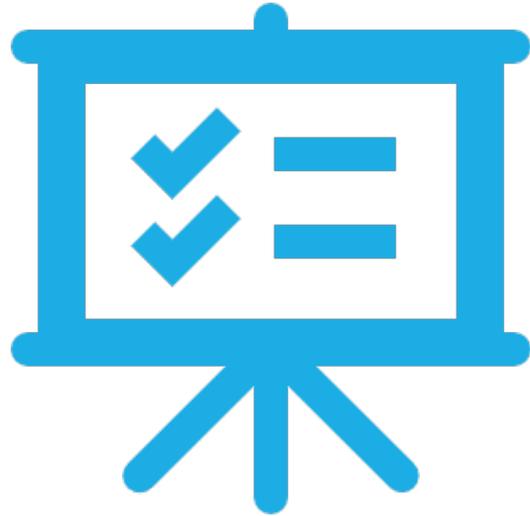
Knowledge Check



True or False?

Section 18 Relocation Requirements allow a PHA to begin demolition/disposition before residents are relocated.

Knowledge Check



True or False?

Section 18 Relocation Requirements allow a PHA to begin demolition/disposition before residents are relocated.

False

Section 18 – Key Takeaways

- **What do you want to do?** PHA has discretion to structure the disposition. Section 18 options can preserve, reposition same units to Section 8 platform, acquire more/better units, or provide tenant-based mobility assistance.
- **Transfer required, but not loss of control** - A Section 18 disposition requires PHA to transfer to a separate legal entity, but PHAs can structure the new entity as independent but still wholly controlled non-profit or single-asset LLC, retaining fee title and long-term ground lease.
- **Future Affordable Housing** - If project continues as affordable housing, HUD generally approves disposition below FMV (i.e., \$1) based on “commensurate public benefit”. To release DOT, record a 30-year first-priority use restriction.

Section 18 – Key Takeaways (continued)

- **Section 18 requirements** - A complete application has:
 - board approval
 - PHA Annual Plan inclusion
 - resident consultation
 - environmental review
 - local government consultation
 - disposition description (to whom, for how much, future use)
 - valuation of property
 - relocation plan and timetable
 - use of proceeds (if applicable)
- **Tenant-Protection Vouchers (TPVs)** - TPVs are Section 8 assistance authorized and funded by Congress. TPVs are permanently added to a PHA's HCV baseline, renewed, and available then to new families. PHAs are eligible for TPVs for all Section 18 units occupied within previous 24-months. See TPV allocation methodology in [Notice PIH 2018-09](#). PHA must have an HCV program or partner with Voucher PHA.

Streamlined Voluntary Conversion (SVC)

The Need

Streamlined Voluntary Conversion (SVC) allows small PHAs to convert their inventory to vouchers and closeout their ACC.

Eligibility

- Small PHA
 - 250 or fewer Section 9 public housing units under a Consolidated Annual Contributions Contract (CACC)
 - Public Housing Only PHAs (no HCV Program) can partner with an HCV PHA that has jurisdiction
- Convert all remaining units
- Close-out public housing program after all units are converted
By transfer, consolidation, or ACC termination. See PIH Notices 2014-24 and 2016-23

Threshold Requirements

- Conversion benefits residents, the PHA and the community
- Conversion has no adverse impact on affordable housing in the community
- PHA's Conversion Plan demonstrates:
 - Proposed future use of property
 - Location of property and mobility options to families
 - Availability of housing for HCV tenant-based assistance
 - Family access to schools, jobs, and transportation

Resident Protections

- Conversion Plan developed with “significant participation” by residents
- **Civil Rights Review** by HUD’s Office of Fair Housing and Equal Opportunity (FHEO)
- **Resident Mobility**; must be given the option of tenant-based HCV assistance
- **Right to Remain.** If a property is used as rental housing after conversion, residents who qualify for HCV cannot be required to move.



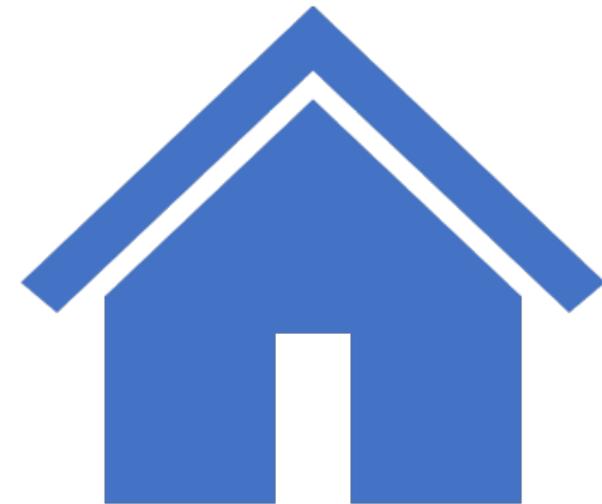
Relocation and Comparable Housing Resources

Governed by Section 22 and 24 CFR part 972

- URA generally does not apply
- PHA pays for moving costs

Comparable Housing Resources (including through TPVs)

- Tenant-based vouchers (in current of off-site units)
- Project-based vouchers (PBV) in current units (with tenant consent)
- Occupancy in a unit operated or assisted by PHA at comparable rental rate (i.e. if family is over-income)



Future Use of Property

- Retain or Dispose?
- Method of Disposition?
- Fair Market Value? Or below?
- Attach PBV assistance?
 - Permissible, but separate process
 - All applicable PBV requirements apply; See PIH Notice 2017-21
 - Mandatory written consent by families for PBV assistance, followed by mandatory briefing attended by HUD staff

Application to HUD

- Submit Conversion Plan in the Inventory Removals Submodule of the IMS/PIC under “Streamlined VC”
- Upload completed Forms HUD-52860 and HUD-52860-E (question 2 only)

Sufficiency of Conversion Plan

- PHA Plan: Include in PHA Annual or Moving To Work (MTW) Plan
- Significant resident participation
- Resident meeting
- Board approval
- Local government review
- Future use description
- Environmental Review
- Impact analysis: availability of housing and concentration of poverty
- Relocation activities: summary of relocation plan
- Close-out information: include Form HUD-5837
- HCV administrator agency: must obtain Field Office for a partner HCV PHA

HUD Processing

Special Applications Center processes complete applications with inputs from Field Office and FHEO

Timing: Initial SAC findings within 90 days.
Longer to resolve 24 CFR 972.236 requirements.

HUD Approval Required. Do not start implementation. TPVs approvals are separate.

Impact on Public Housing Funds

- PHA may spend Cap Funds for modernization activities up until removal from PIC (i.e., Unlike Section 18, PHAs can continue spending Cap Fund for SVC properties after submitting a PIC application)
- Properties removed under SVC are not eligible for Asset Repositioning Fee (ARF), or Demolition Disposition Transition Funding (DDTF)

Tenant Protection Vouchers (TPVs)

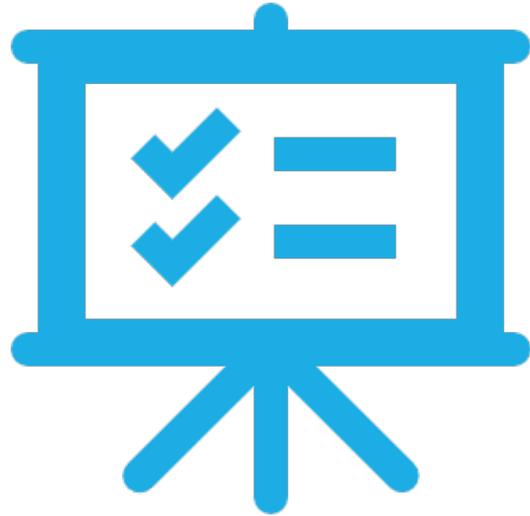
- **Eligibility:** Replacement TPVs for units occupied within the previous 24 months. (subject to change)
- **Timing:** PHAs apply for TPVs:
 - After written SAC approval of conversion plan; and
 - PHA is ready to provide TPVs to residents

Important Resource

- PIH Notice 2019-05
- Visit SAC webpage at:
<http://www.hud.gov/sac>

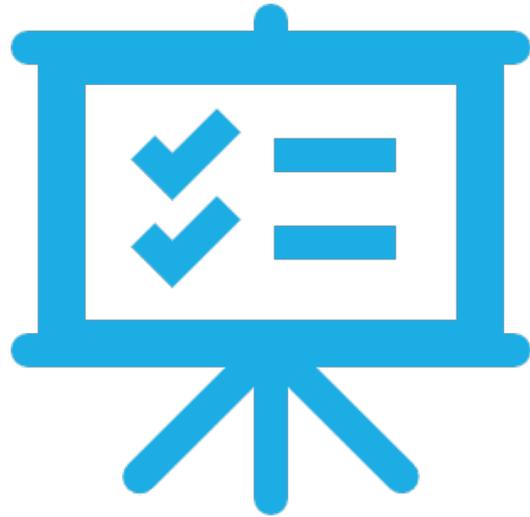


Knowledge Check



Name SVC threshold requirements:

Knowledge Check



Name SVC threshold requirements:

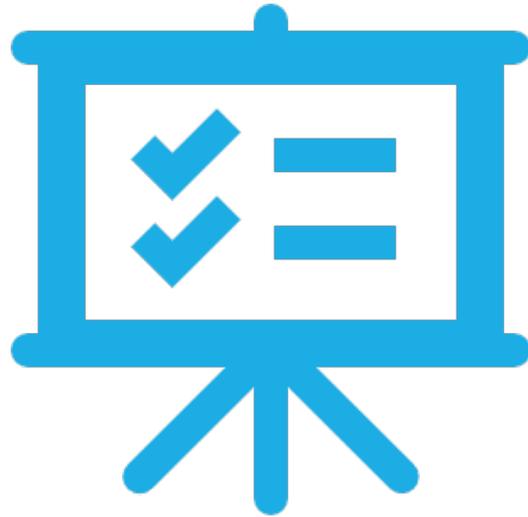
- **Conversion principally benefits residents, the PHA and the community**
- **Conversion has no adverse impact on affordable housing in the community**

Knowledge Check



If PHA has SVC approval, can the family take their voucher assistance to Hawaii?

Knowledge Check



If PHA has SVC approval, can the family take their voucher assistance to Hawaii?

- **YES. In SVC, the decision where to use the voucher stays with the tenant. They may choose to stay in place, attaching their assistance to the property as a PBV voucher, OR, they may take their voucher to move anywhere in the country. (PHA is responsible for all reasonable relocation costs.)**

SVC– Key Takeaways

- **HUD issues TPVs for Units Occupied within the Past 24 Months of SAC Approval -** Tenants have the right to relocate to a private unit or remain in place. If the tenant decides to relocate, PHA pays moving expenses. SVC does not require replacement with new hard low-income housing units. Provided there are sufficient units in the private market available for tenant-based assistance, the PHA does not have to re-use the public housing asset as affordable rental.
- **Public Housing Only PHAs must Partner with HCV Administrating Agency -** If the PHA applying for SVC does not operate its own HCV program, it must partner with an HCV PHA to administer TPVs. HUD will not establish new HCV PHAs based on the TPV award.

SVC– Key Takeaways (continued)

- **Project-basing assistance is permissible with tenant consent** - If the PHA wants to use TPVs to project-base the former public housing units, the PHA must receive tenant's informed written consent. If a tenant decides to stay without tenant-based assistance, the PHA must exclude that unit from the a PBV Housing Assistance Payment (HAP) Contract. The PHA may later amend PBV HAP Contract to add that unit using its voucher authority from existing HCV resources once the existing tenant voluntary leaves or consents to project-basing the family's assistance. If a tenant leaves with tenant-based assistance at the time of the conversion, the PHA can project-base that unit using its existing HCV resources.
- **Plan for the Use of Remaining Public Housing Funds** - A PHA may only spend public housing funds to support public housing units under a Declaration of Trust (DOT). PHAs may not spend public housing funds to rehabilitate/maintain/operate any units once removed from public housing inventory, including through SVC. PHAs either plan to use those funds prior to conversion on an eligible public housing activity or transfer funds prior to close-out to another PHA (see PIH Notice 2014-24 on public housing transfers and consolidations).

SVC– Key Takeaways (continued)

- **SVC requires a commitment to close-out the PHA's public housing program** - HUD approves SVC applications only when all remaining public housing units (up to 250 units) are included. As part of the approval, the PHA commits to closing out their public housing program pursuant to PIH Notice 2019-13. Guidance on TPV allocations in Notice PIH 2018-09. The allocation methodology is subject to change based on available funding.

End of Session 2

Things to consider:

- **Does your PHA have and Public Housing Buildings that might qualify as “obsolete” by the Section 18 Standard?**
- **What about scattered site units (i.e., 4 or less units on non-contiguous sites)?**
- **If you have 250 or fewer units, what would be your key concerns when contemplating Streamlined Voluntary Conversion?**