

Accordingly, HUD has not adopted the commenter's recommended change.

*Comment: Standard for extension is overly restrictive.* Generally, a conversion plan may not be more than a 5-year plan. However, HUD is authorized to provide a 5-year extension "in exceptional circumstances, where HUD determines that this is clearly the most cost-effective and beneficial means of providing housing over that same period." One commenter wrote that this is too restrictive, and inconsistent with section 33(c)(3) of the 1937 Act, which provides that HUD may grant an extension if it "determines that the deadline is impracticable."

*HUD response.* HUD does not agree that the regulatory language contradicts the statutory language of section 33. The statute provides HUD with broad authority to determine what circumstances make the 5-year deadline "impracticable" for a PHA. The final rule is consistent with the statutory goal of ensuring that most conversions be completed within the prescribed 5-year period, but grants HUD the necessary flexibility to address exceptional circumstances.

*Comment: A fair housing impact assessment should be required.* Two commenters recommended that the final rule should require the conversion plan to include an analysis of the effects of conversion on persons protected by the Fair Housing Act. The commenters wrote that even if a PHA is statutorily required to convert a particular development, HUD and the PHA have an obligation to avoid discriminatory impacts and to affirmatively further fair housing. One of the commenters suggested that the fair housing analysis should:

1. Consider the impact of conversion on each protected group: racial and ethnic minorities, persons with disabilities, and families with children;
2. Consider the impact not only on current residents, but also on persons likely to apply for housing;
3. Determine whether the proposed conversion will increase fair housing choice for each protected class, or perpetuate segregation;
4. Determine whether the proposed conversion will decrease fair housing choice (according to the commenter this would generally be true if the overall amount of assisted housing is reduced or if public housing units located outside high poverty areas with concentrations of minorities are converted);
5. Analyze the rate at which minority families and other protected groups are able to find housing under the Section 8 voucher program in areas that are

racially integrated and have low poverty rates; and

6. Analyze whether all families in housing proposed to be converted will receive housing assistance and be able to remain in the area if they choose.

*HUD response.* HUD has determined that the proposed rule adequately addressed fair housing considerations, and that a regulatory change is unnecessary. The conversion plan must be part of the PHA's Annual Plan. HUD's PHA Plan regulations require that a PHA certify that it will carry out its Annual Plan and 5-Year Plan in conformity with applicable statutory fair housing and nondiscrimination requirements and must affirmatively further fair housing. This, of course, includes any required conversion activities. As noted above, HUD has also added language to the final rule further emphasizing the need for adequate mobility counseling.

*Comment: Conversion plan should include a well funded mobility program to ensure fair housing objectives are met.* One commenter wrote that without such a program, most families will find themselves relocated to highly segregated communities with high levels of poverty.

*HUD response.* The final rule clarifies that a PHA must provide any appropriate mobility counseling in providing the required counseling to residents displaced by a conversion. The PHA may finance the mobility counseling using Operating Fund, Capital Fund, or Section 8 administrative fee funding.

*D. Comments Regarding the Public and Resident Consultation Process for Developing a Conversion Plan (§ 972.110 of the Proposed Rule; § 972.133 of This Final Rule)*

The proposed rule at § 972.110 required that a PHA consult with public officials and the residents of the affected sites in the development of the PHA's conversion plan.

*Comment: Final rule should expand the resident and public participation process.* One commenter recommended that the minimum standards for public and resident participation should be expanded. The commenter made various specific suggestions, including:

1. Requiring the PHA to consult with the development's resident council and the PHA-wide resident advisory board;
2. Requiring that the required meeting with residents take place at least 45 days before the PHA submits the conversion plan to HUD; and
3. Requiring that the consultation process include adequate notice to residents and an opportunity for

residents to comment. Further, HUD should require that a PHA give due consideration to all comments from residents and the public.

Another commenter emphasized the third suggestion made by the commenter above—that PHAs should be required to give due consideration to resident comments. The commenter wrote that this is necessary to allow the possibility that, based on resident comments, the PHA will determine that conversion is inappropriate. Further, if the PHA decides to proceed with conversion, then it should be required to consider the resident comments in the development of the final conversion plan.

*HUD response.* HUD agrees that meaningful public and resident input is essential to the success of the required conversion process. HUD does not believe that it is necessary to revise the proposed rule to adopt the suggestions made by these commenters. Existing regulatory requirements already ensure meaningful and timely public input in the development of the conversion plans. For example, the conversion plan must be part of the PHA's Annual Plan. The conversion plans, therefore, are subject to the extensive public participation requirements for the development of the PHA Annual Plans (see 24 CFR part 903). The consultation procedures established by this final rule supplement the PHA Plan consultation requirements; they do not replace them.

Among other requirements, the PHA Plan regulations require that PHAs establish Resident Advisory Boards to assist and make recommendations in the development of the PHA Annual Plans (see 24 CFR 903.13). PHAs are also required to conduct a public hearing in developing their Annual Plans, and to conduct reasonable outreach activities to encourage broad public participation in the PHA Plans (see 24 CFR 903.17). Considered in their totality, the consultation procedures contained in both the required conversion and PHA Plan regulations require that a PHA undertake good faith efforts to ensure that residents understand and have a voice in the implementation of required conversions.

For purposes of clarity, HUD has made two changes to the consultation requirements of the rule. Specifically, the final rule clarifies that the PHA must hold at least one meeting with the residents of the affected sites. The language of the proposed rule would have required one meeting between the PHA and residents, but was silent regarding the possibility of the PHA sponsoring additional meetings. The final rule also clarifies that the public