

housing residents with whom the PHA must meet include any duly elected resident council that covers the development in question.

*Comment: Consolidated Plan requirements are inconsistent with statute.* The proposed rule provided that a PHA “may satisfy the requirement for consultation with public officials by submitting a certification from the appropriate government official that the conversion plan is consistent with the applicable Consolidated Plan.” The rule also provided that “[t]his may be the same certification as is required for [the] PHA Annual Plan that includes the conversion plan.” According to one commenter this contradicts the statutory language of section 33. According to the commenter, section 33(c)(2)(B) requires that the PHA submit a separate certification from the relevant local official that specifically addresses the conversion plan. This certification is in addition to the certification that is part of the PHA Annual Plan (which is already required under section 33(c)(2)(A)).

*HUD response.* The final rule clarifies that if a PHA elects to satisfy the consultation requirements by certifying that its conversion plan is consistent with the Consolidated Plan, this certification may be the same certification as is required for the PHA Annual Plan that includes the conversion plan, so long as the certification specifically addresses the conversion plan.

*E. Comments Regarding Relationship Between Required Conversion and Demolition/Disposition Requirements (§ 972.113 of the Proposed Rule; § 972.112 of This Final Rule) Application*

The proposed rule at § 970.113 described the applicability of the demolition/disposition requirements of section 18 of the 1937 Act to the required conversion process.

*Comment: PHAs should be permitted to submit the conversion plan and disposition application at a later date than the PHA Annual Plan.* One commenter wrote that requiring a PHA to simultaneously submit a PHA Annual Plan, conversion plan, and disposition application is unnecessarily burdensome and will not produce the best results. The commenter recommended that a PHA be allowed to submit the conversion plan and the disposition application at a later date than the PHA Annual Plan—either as a separate submission or as addenda to the Annual Plan.

*HUD response.* HUD has not revised the proposed rule to adopt the

commenter’s suggestion. The regulatory language closely tracks the statutory requirements of section 33. Specifically, section 33(h)(2) provides that the disposition requirements of section 18 of the 1937 Act apply to required conversions. Further, section 33(c)(2)(A) requires that a conversion plan be submitted as part of the PHA’s Annual Plan. However, neither section 33, or this final rule, requires a PHA to submit any required disposition application as part of the conversion plan or the Annual Plan. A PHA may elect to submit any disposition application subsequent to submission of the conversion plan. HUD may approve the conversion plan, even if the PHA has not yet submitted the required disposition application under section 18. However, the PHA may not proceed with the disposition until the required disposition application has been approved by HUD.

*Comment: PHAs should not be required to submit separate disposition approval request.* One commenter questioned the requirement for a separate disposition approval for required conversion, when HUD does not require it for voluntary conversions under section 533 of QHWR. In particular, the commenter objected to the requirement in those cases where: (1) The development has had its debt forgiven; (2) there have been no additional capital investments; and (3) the subsidy has been removed in the conversion process. “It would seem that under the circumstances, the property would be the PHA’s to deal with as it sees fit.”

*HUD response.* As noted in HUD’s response to the preceding comment, section 33 provides that the disposition requirements of section 18 of the 1937 Act apply to the required conversion program. The regulatory language of this final rule tracks this statutory requirement.

*The final rule should clarify that HUD’s approval of a conversion plan is contingent on HUD’s approval of any disposition application for the converted units.* One commenter wrote that it is unclear whether the proposed rule permits HUD to approve a conversion plan if the PHA’s disposition application does not comply with the requirements of section 18 of the 1937 Act. The commenter suggested that, to encourage compliance with section 18, the final rule should clarify that HUD’s approval of a conversion plan is contingent on approval of the PHA’s disposition application.

*HUD response.* As noted above, a PHA may elect to submit any disposition application subsequent to

submission of the conversion plan. HUD may approve the conversion, even if the PHA has not yet submitted the required disposition application. However, the PHA may not proceed with the conversion until its disposition application has been approved by HUD.

*F. Comments Regarding the Relationship Between Required Conversion and HOPE VI Developments (§ 972.114 of the Proposed Rule; § 972.115 of This Final Rule)*

The proposed rule at § 972.114 described the applicability of the required conversion requirements to HOPE VI developments.

*Comments: HOPE VI recipients without an approved revitalization plan should not be required to conduct a viability assessment.* HOPE VI developments without an approved revitalization plan are fully subject to the required conversion standards of 24 CFR part 972. One commenter objected to this requirement. The commenter wrote that requiring these HOPE VI developments to conduct a viability assessment is “extraordinarily redundant” because “each HOPE VI recipient was approved based on an application [that] included the number of units removed.” “Another evaluation is unnecessary, redundant, and impedes the implementation of HOPE VI.”

*HUD response.* Section 33 does not exempt HOPE VI developments from the required conversion requirements. Accordingly, HUD does not have the statutory authority to adopt the commenter’s suggestion. HUD will only approve HOPE VI revitalization plans that satisfy the conversion plan requirements.

*G. Comments Regarding Funding To Assist Residents of Units Being Converted (§ 972.116 of the Proposed Rule; § 972.109 of This Final Rule)*

The proposed rule at § 972.116 described how a PHA obtains funding to assist the residents of public housing developments converted to tenant-based assistance.

*Comment: HUD should not require that funding for the first year of tenant-based assistance be provided from the Capital or Operating Funds.* Two commenters objected to this provision. One of the commenters wrote that it would be unfair for HUD to expect PHAs to pay for one year of tenant-based assistance from the Capital and Operating Funds, since formula funding will have been reduced subsequent to the removal of the development from public housing inventory. The second commenter wrote that “[t]he effect of siphoning off and further reducing