



Public Housing Repositioning  
Wednesday Webinar Series:

# Options for Scattered-Site Units

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June 3, 2020

# Presenters

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# Why are we here?

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The goal of this webinar series is to help explain and discuss common issues in the repositioning process.

Today's call will focus on:

## Options for Scattered Site Units

- ✓ Section 18 Application Requirements
- ✓ Selling the Units at Fair Market Value
- ✓ Establishing a Homeownership Program
- ✓ Placing the Units under a PBV HAP Contract
- ✓ Common Questions and Considerations





<b>Webinar Topics</b>	<b>Date</b>
Developing a Repositioning Strategy	May 13, 2020
Options for Scattered-Site Units	June 3, 2020
Options for 50-and-Under PHAs	June 24, 2020
RAD and Section 18 Blends	July 22, 2020
Resident Considerations	August 12, 2020
Streamlined Voluntary Conversion	September 2, 2020
Options for Obsolete Units	September 30, 2020
Common PHA Board Questions	October 28, 2020
PHA Closeout	November 11, 2020

**All webinars will be recorded and posted at [www.hudexchange.info](http://www.hudexchange.info)**



# What is Section 18?

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- “Section 18” refers to a section of the U.S. Housing Act of 1937.
- Commonly referred to as “demo/dispo,” Section 18 is one of the tools a PHA may use to remove a property from the public housing program.
- As the name suggests, the property may be removed via demolition or by disposition to another entity – or both (demolition by PHA and disposition of underlying land).
- Applies to all property under a Declaration of Trust.
- Controlling guidance: 24 CFR 970, PIH Notice 2018-04.



# Why would a PHA reposition scattered sites through Section 18?

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- Reduce administrative burden
- Remove units with high operating costs
- Potentially receive higher rent through conversion to Project Based Voucher
- Provide additional affordable homeownership options
- Generate proceeds to promote additional redevelopment



# Repositioning Options for Scattered Sites

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Today's call focuses on Section 18 Disposition

Other options we are not talking about today...

- RAD
- Section 32 Homeownership
- De Minimis Demolition



# Criteria for Section 18 disposition of scattered sites

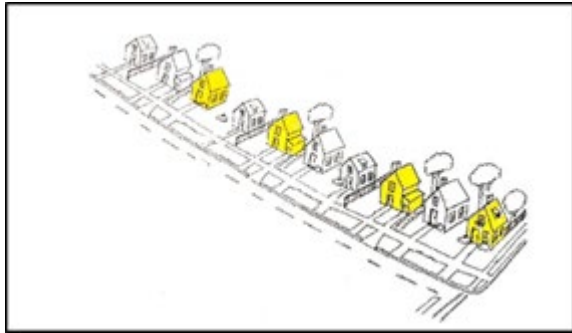
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- Controlling guidance: PIH Notice 2018-04
- Must meet definition of scattered sites established in Notice
  - 4 units or less on non-contiguous sites
  - Can be on separate parcels as long as no more than 4 sit on contiguous sites
    - 4 single family homes on contiguous sites—yes.
    - 2 duplexes—yes.
    - 1 four-unit building—yes.
    - 3 single family homes and one duplex—no.
- Must be unsustainable to operate/maintain
  - Distance between units
  - Lack of uniformity of systems

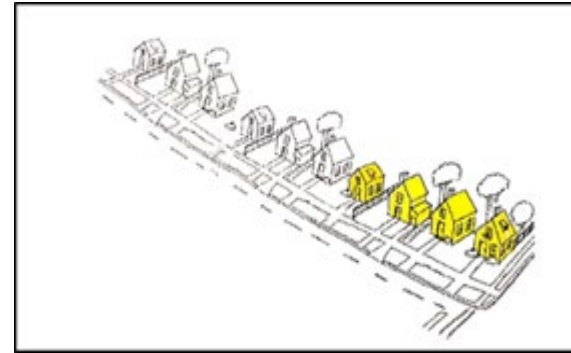




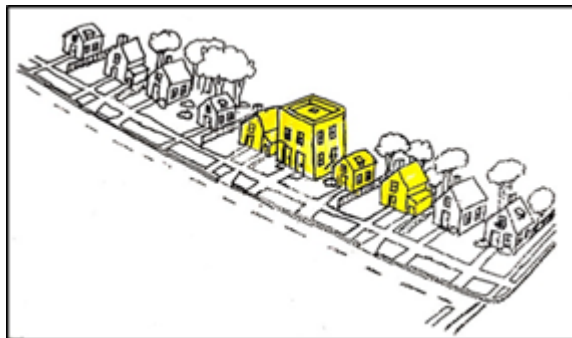
# What qualifies as a scattered site?



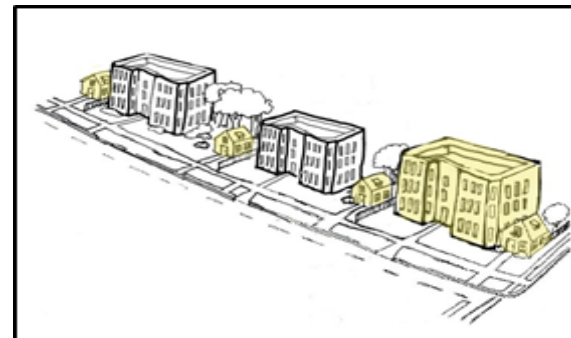
A: Single family homes on non-contiguous parcels—YES.



B: Four Single family homes on contiguous parcels—YES.



C: Three single family, two duplexes on contiguous parcels—NO.



D: Multifamily building and two single family homes on contiguous parcels—NO. Single family homes on non-contiguous parcels—YES.

# Two Key Elements of ALL Section 18 Removals

**DDTF/ARF:** The PHA will receive Demolition Disposition Transition Fees (DDTF) and Asset Repositioning Fees for all units removed via Section 18. DDTF is equivalent to 5 more years of Capital Fund Allocation for the units removed and ARF provides a reduced Operating subsidy (75% year one, 50% in year two).

For more information, check out:

<https://www.hud.gov/sites/dfiles/PIH/documents/DDTF%20and%20ARF%20Summary%20.pdf>

**TPV:** The PHA will be eligible for Tenant Protection Vouchers for all units occupied within 24 months of the SAC Application Approval.

For more information on TPVs, check out the TPV FAQs:

<https://www.hud.gov/sites/dfiles/PIH/documents/DDTF%20and%20ARF%20Summary%20.pdf>



# Requirements for all Section 18 Scattered Site Applications

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- Property Description
- PHA Plan or Significant Amendment to Plan
- Property Description
- Environmental Review
- Local Government Consultation
- Resident and Resident Group Consultation
- Board Resolution
- Estimated Property Value

## Tips:

- NO Physical Obsolescence Forms required
- Estimated Property Value must be a recent appraisal for FMV Sale
- Local Field Offices can help you put this together

For more, check out the Section 18 Application Checklist:

<https://www.hud.gov/sites/dfiles/PIH/documents/Section18ApplicationChecklist.pdf>



# Disposition options for scattered sites

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**Controlling question: What do you want to do with the asset?**

**Two primary options:**

- **Option One: Sell the asset**
- **Option Two: Preserve the asset as affordable housing**

# Disposition options for scattered sites

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## **Option One: Sell the Asset—Disposition at Fair Market Value (FMV)**

- Generally will not be used as low-income housing
- Sale via negotiated sale or public bid
- Generate proceeds to use for affordable housing purposes

## **Option Two: Preserve as Affordable Housing—Disposition at less than FMV**

- Must transfer ownership to separate entity (can be wholly controlled nonprofit instrumentality)
- Use agreement placed on the property
- Can project base tenant protection vouchers immediately
- Can sell units to low-income families via a local homeownership program

**Note: You can combine approaches**



# Steps for selling units at Fair Market Value (FMV)

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1. Complete the Section 18 Application
2. Upon approval, PHA requests Tenant Protection Vouchers through the Local Field Office
3. Begin resident relocation
4. Remove units from inventory
5. Use proceeds

## **Tips:**

- Appraisal must be within a year
- PHA must ensure residents find replacement housing
- PHA must budget for relocation costs
- Change in use of proceeds must be approved by the Special Application Center

For more information on proceeds, check out this document:  
<https://www.hud.gov/sites/dfiles/PIH/documents/Section%2018%20Proceeds%20Overview%20.pdf>



# Steps for setting up a local homeownership program

1. Complete the Section 18 Application
2. Upon approval, PHA requests Tenant Protection Vouchers through the Local Field Office
3. Begin resident relocation
4. Sell property to Ownership Entity
5. Remove units from inventory
6. Use proceeds

## Tips:

- SAC will put a use restriction on the property (usually 30 years)
- PHA must ensure residents find replacement housing
- PHA must budget for relocation costs
- Ownership Entity must be recognized by the State
- PHA may allow the tenants to use TPV for homeownership

For more information on Ownership Entities, check out this document:

<https://www.hud.gov/sites/dfiles/PIH/documents/Establishing%20an%20Owner%20Entity%20.pdf>



# Steps for placing units under PBV HAP contract

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1. Complete the Section 18 Application
2. Upon approval, PHA requests Tenant Protection Vouchers through the Local Field Office
3. Sell property to new Owner Entity
4. Enter into PBV HAP contract with new owner entity (subject to PBV requirements)
5. Remove units from inventory

## Tips:

- SAC will put a use restriction on the property (usually 30 years)
- PHA must ensure residents find replacement housing
- PHA may need to budget for relocation costs
- Ownership Entity must be recognized by the State
- Units must meet PBV requirements

For more information on PBV program requirements, check out the PBV program FAQs:

[https://www.hud.gov/sites/dfiles/PIH/documents/PBV\\_FAQs\\_05\\_27\\_2020\\_VERSION.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PBV_FAQs_05_27_2020_VERSION.pdf)





# Many PHAs may increase their per-unit subsidy from HUD if they convert to PBV

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PHAs should check out their local Fair Market Rents (published annually by HUD)

For a rough comparison of public housing funding versus Fair Market Rents, check out the 2018 RAD Rents

table: [https://www.hud.gov/sites/dfiles/Housing/documents/2018 RAD Rents.xlsx](https://www.hud.gov/sites/dfiles/Housing/documents/2018_RAD_Rents.xlsx)

# Using PBVs

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- May be eligible to receive an award of Tenant Protection Vouchers (TPVs)
- Must identify TPVs as “comparable housing”
- TPVs must be offered to affected families
- TPVs may be categorized as a replacement or relocation
- Replacement TPVs may be project-based under Project-Based Voucher (PBV) program requirements

More information on TPVs:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/tenant\\_protection\\_vouchers](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/tenant_protection_vouchers)

More information on PBVs:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/project](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/project)

# PBV Benefits

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- Specifically vis-à-vis public housing:
  - Long-term, “extendable” contract, with funding based on contract rents – predictability
  - No Declaration of Trust -- can be used to leverage capital
  - Typically, PBV contract rents are higher than public housing formula funding
- Generally:
  - Can be used to improve (rehabilitate) or increase the supply of housing
  - In tight markets, assures voucher-eligible families have access to units (i.e., helps with utilization)

# Disposition Considerations

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## Definitions:

- PBV definition of project
- PBV definition of PHA-owned

## Award of PBVs:

- Competitive process
- Noncompetitive selection

## Contract Administrator (Voucher Agency):

- PH-only agency as owner
- PBV HAP contract signatories



# PBV Definition of “Project”

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A project is a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

“Contiguous” in this definition includes “adjacent to,” as well as touching along a boundary or a point.

The significance of the definition is that a single PBV HAP contract cannot include properties that do not meet the PBV definition of project.

Stated another way, if a PHA wants to place several properties under a single HAP contract, it can do so only if the properties meet the PBV definition of a project.

Reminder of Section 18 criteria for scattered sites:

- Can be on separate parcels as long as no more than 4 sit on contiguous sites
  - 4 single family homes on contiguous sites—yes.
  - 2 duplexes—yes.
  - 1 four-unit building—yes.

# Definition of “PHA-owned”

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Owned by a PHA means:

- Owned by the PHA (fee simple)
- Owned by an entity wholly controlled by the PHA
- Owned by an entity in which the PHA holds a controlling interest

“Controlling interest” basically means more than 50 percent control.

See Notice PIH 2017–21, Attachment A, for the complete definition, with examples.

# Competition

General rule: request proposals (RFP)

Exception: previous competition

PBVs not considered in previous competition

Prior selection occurred within 3 years of PBV selection

Exception: no competition

HCV PHA has any ownership interest

Improve, develop, or replace public housing property/site (\$25k cost threshold if new/rehab)

# Public Housing–Only Agency

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- Must partner (i.e., have a written agreement) with a voucher agency:
  - The voucher agency will apply for TPVs
  - The voucher agency will award the TPVs to the project for project-basing
- The voucher agency must:
  - Be authorized under state law to administer voucher assistance in the geographic location in which the former public housing project is located
  - Either have or must establish a PBV program, adopting PBV policies in its Administrative Plan (Appendix II to Notice PIH 2017–21)
- Waiting list considerations (question 23 in PBV FAQs dated 5/27/20)





# PBV HAP Contract Signatories

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The voucher agency will sign as the contract administrator; another entity will sign as the owner.

The voucher agency may enter into an agreement with a separate entity that has the authority under state law to lease the project's units; that separate entity may then sign as the owner.

The same person (for example, a guy named Bob Smith) may sign for both the contract administrator and the owner if the criteria below are met:

- Bob Smith has signing authority for the contract administrator.
- Bob Smith has signing authority for the owner.
- The contract administrator and the owner are two distinct legal entities.

# PBV Program Features

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## General Considerations

- Percentage limitation (program cap)
- Income-mixing requirement (project cap)
- Rent-setting

## Considerations Specific to Demo/Dispo

- Over-income families
- Over-housed families

# Percentage Limitation

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- Generally, a PHA may project-base up to 20 percent of its authorized voucher units; an additional 10 percent of specific types of units may be project-based.
  - Units serving the homeless, veterans, or that provide supportive housing to persons with disabilities or elderly persons
  - Units located in a Census tract with a poverty rate that does not exceed 20 percent
- Units that are project-based following a Section 18 approval are generally exempt from the percentage limitation, if they meet the criteria spelled out in Notice PIH 2017–21, Attachment F

# Income-Mixing Requirement

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Generally, the greater of 25 units or 25 percent of the units in a project may be project based.

Certain units are excepted, meaning that they do not count toward the income-mixing limit:

- Units serving elderly families
- Units housing families who are eligible for supportive services

Up to 40 percent of the units in a project may be project-based if the project is located in a Census tract with a poverty rate that does not exceed 20 percent.

Units that are project-based following a Section 18 approval are generally exempt from the income-mixing requirement, if they meet the criteria spelled out in Notice PIH 2017–21, Attachment F



# Criteria for Exemption from Both PBV Caps

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1. Units previously received HUD assistance (such as public housing operating or capital funding)
2. Units were previously subject to certain federal rent restrictions
3. Units meet the following conditions:
  - Existing/rehabilitated units:
    - Covered under a PBV HAP contract that first went into effect on or after April 18, 2017
    - Unit met standard 1. or 2., above, within 5 years of RFP issuance or selection based on a prior competition
  - Newly constructed units:
    - Unit being replaced met standard 1. or 2., above, with 5 years of RFP or date of PHA written notice of owner selection
    - Unit is on same site as unit being replace (some flexibility here)
    - One of primary purposes of new unit is to provide replacement housing
    - HAP contract first went into effect on or after April 18, 2017
4. See Notice PIH 2017-21, Attachment F, for additional criteria



# PBV Contract Rent Caps

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The Contract Rent may not exceed the lowest of:

- Reasonable rent
- Owner-requested rent
- PHA-determined amount (up to 110 percent of applicable FMR or approved Exception Payment Standard, minus utility allowance)

Caps for LIHTC-financed projects are slightly different, depending on whether the project is located in a Qualified Census Tract (i.e., an area of relatively high poverty).

# Over-Income Family

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If family is not income-eligible under PBV requirements:

- Family may not receive PBV assistance
- PHA still responsible for meeting Section 18 relocation requirements
- Family may be relocated using another form of comparable housing
- And TPV may be used to project-base the unit (unless family stays in unit at a comparable rental rate)

# Overhoused Family

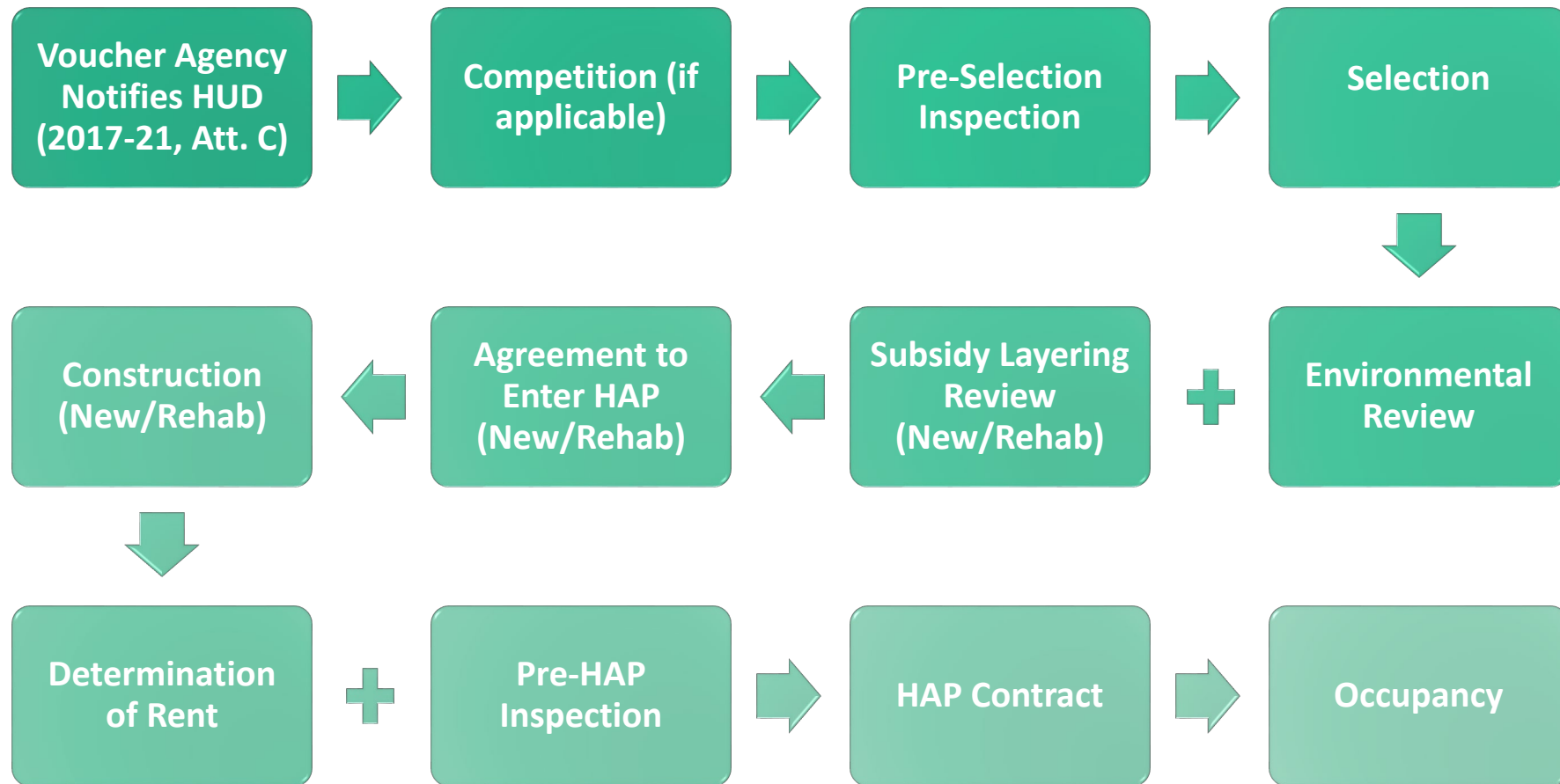
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If family is in wrong-sized unit:

- Family may not stay in unit and receive PBV assistance
- PHA may:
  - Move the family to an appropriately sized PBV unit in the project and PBV original unit with TPV; or
  - Family may be relocated using another form of comparable housing and TPV may be used to project-base the unit (unless family stays in unit at a comparable rental rate)



# PBV Process (Simplified)



# Still want more?

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- **Check out the Public Housing Repositioning Website.**  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/repositioning](https://www.hud.gov/program_offices/public_indian_housing/repositioning)
- **Contact your Local Public Housing Field Office.**  
PIH Field Offices can help you complete your Section 18 application, and provide additional assistance explaining the conversion options.
- **Review the PBV Repositioning FAQs**  
[https://www.hud.gov/sites/dfiles/PIH/documents/PBV\\_FAQs\\_05\\_27\\_20\\_20\\_VERSION.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PBV_FAQs_05_27_20_20_VERSION.pdf)
- **Email [Repositioning@hud.gov](mailto:Repositioning@hud.gov)**



# Questions?

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