

## **Public Housing Repositioning: Wednesday Webinar Series**

### **You Have SAC Approval - What Now? - 9/28/22**

KRISTINA SMITH: Good afternoon. We are going to get started now. I see a number of attendees were able to join and connect to audio. I wanted to welcome you all today. Thank you for joining today's installment of the Wednesday webinar series.

Today's topic is what to do once you receive SAC approval. My name is Kristina Pam Smith, I'm one of your hosts today, along with Jane Hornstein and several others from HUD. Before I pass it over to Jane, I have a few housekeeping items.

Our speakers will share their knowledge with us for the first part of the presentation and we will reserve the remaining time for any questions that you might have. You may ask questions in two ways. In the right-hand navigation panel, you'll see a hand shaped icon. If you'd like to verbally share your question, select the hand icon and I will unmute your line so you can ask a question aloud.

Or if you'd like to send us your question, feel free to type your question in the chat box in the lower right-hand navigation panel. I'll read your question aloud in the order received. If we're unable to address all questions, we will send an email reply after the webinar.

All webinar participants are muted upon entry. If you'd like to notify our team of any technical difficulties, please send us a message in the chat box. Today's webinar is being recorded and will be available on HUD Exchange shortly following the webinar.

Immediately following the webinar, you will receive an invitation to complete a survey on today's webinar and we ask that you please complete this survey with any feedback that you might have for us. With that, I'd like to pass it over to Jane to kick us off.

JANE HORNSTEIN: Kristina, thank you. And I want to welcome everybody today. So today, we're going to be talking about you have SAC approval, what now? Next slide please. This is one in a series of topics that we've been covering pretty much since March of 2020, and hoping we find these helpful for you all.

So this is, again, one in a long list. These are all available on the [HUDexchange.info](http://HUDexchange.info) website. So if you want to go back and look at other ones, they're available. Next slide, please. Okay.

The goal of today's webinar is to look at the legal documents that cover the transaction once SAC has approved a transaction, preparing the units for new use, including PBV tenant protection vouchers and resident relocation, operating and capital funding changes, PIC reporting requirements, proceed requirements, inspection requirements and informing HUD of delayed and changed plans.

So we going to, but it's a lot to cover today. So hoping we can get a lot out of that. Next slide. Our presenters today, we have Melissa West, who is here as a representative of the Office of Field Operations. Matthew Bruno and Daniel Kaplan are going to be representing the Office of Field Operations Field Council. So they can answer all your legal questions.

Nathaniel Johnson will be representing the Office of Public Housing and Voucher Programs and he's going to talk about a lot what happens with the vouchers, how you apply for them and how you use them. And then Kathleen Szybist and myself are also on from the Special Application Center if there's additional questions and we'll cover additional topics. Okay, I'm going now turn this over to Melissa.

MELLISSA WEST: Hello everyone. So we're going to talk a little bit here about timing. And first off, congratulations on your approval from the SAC. We might say half the battle is over, you know, go ahead and pat yourself on the back. Maybe more than half in some transactions.

But with that said, each transaction is unique and the SAC approval often includes conditions and required next steps. So we wanted to talk a little bit here about the fact that many circumstances of your transaction may require some additional legwork on the part of a PHA.

And some of these need to be taken even prior or immediately after SAC approval is received, and we just want to note that this process is not always linear. So some of these things, you know, you really need to plan for in advance and now that you have your approval letter, go back and make sure that you've dotted your Is and cross your Ts and take those next steps.

So this is not an exhaustive list, but just a few of the ones to keep in mind that can take a little bit of extra time. If your transaction includes the development with an energy performance contract in place, those need to be evaluated at times and need to be resolved even prior to receiving SAC approval. But sometimes the SAC approval will include conditions that need to be met just prior to closing.

So that's always something to make sure if you have any PC, review your approval letter and make sure that you've complied with any requirements prior to closing. There's some more info that we're going to provide later on in the presentation about tenant protection vouchers as well as project based vouchers.

But just to note here that your SAC approval is not actually providing you with tenant protection vouchers. It is not giving you blanket approval to project base your units without following the normal PBV process.

So just reminders again here that you need to keep it on your radar that you'll need to apply for those TPVs and that if you planned a project base, you need to make sure that you follow all of the regulations at 24 CFR part 983 and as outlined and updated through PIH Notice 2017-21 that implemented many of the changes brought on by HOTMA.

Another consideration on timing is ensuring that your relocation and your environmental review requirements are all met. Sometimes relocation plans can change. Sometimes environmental

reviews can change. You did speak to each of those in your application, and the SAC provided a general approval, but it's not blank and ongoing, it's pieces of the puzzle move as you go forward, so just making sure that any mitigation that you were required to do under your environmental review, any steps that you need to take on your relocation plan, you want to make sure that you meet those as you had included in your application.

And then we'll talk a little bit more about this later on too, but just a reminder, we can't remind enough. Make sure that you keep HUD informed of any changes as the process goes on in order to determine if you need additional approval prior to closing.

And then last but not least, you do need to prepare for that closing. Just a reminder that your SAC approval letter is just giving you the authority to move forward if you choose to. You are not required, generally speaking, from receipt of your SAC approval letter for a section 18 transaction or a streamlined voluntary conversion action, for example, to move forward.

But if you do, you have to make sure that, again, you dot those Is and cross those Ts on things like use agreements, securing releases from declarations of trust prior to closing.

All right. We're going to talk a little bit about relocation here, and like we said, this is not a linear process, so our presentation jumps around a little bit because since it's not linear, you know, these things aren't happening in a specific order, but relocation is one of the most important topics that you consider very early on.

That's how you are going to best support the families that you serve. So obviously you put up a lot of thought and effort into your relocation plan when you submitted your application to the SAC. With that said, there's still a lot of considerations once you get that SAC approval letter in hand.

So one of the first things just to note is that you can do your relocation in house or you can hire a consultant or a relocation specialist. And that's something to always consider, you know, it's an eligible use of your funds and if you have a particularly complex scenario, let's say lots of over income families or residents with disabilities that need to be accommodated, so on and so forth, you might want to consider taking that route of hiring some additional support for implementing your relocation plan.

Another big note right off the bat is that the Uniform Relocation Act does not apply generally to relocations under section 18. So PHAs need to go directly to the regulations at 24 CFR 970.21. We won't cover everything under that in this brief amount of time, but just a couple of key provisions to keep in mind is that you need to maintain an open dialogue with your families.

And again, like we said, particularly plan in advance for any over income families, residents with disabilities; your goal should be to strive to provide families with comparable housing as their choice when and if possible.

Another thing to consider here is that although generally the URA does not apply if the families are being relocated as a direct result of a section 18 transaction. If home or CBBG funds are

used, the project may be subject to one of 4D of the Housing and Community Development Act of 1974.

And if there are things like demolition or something else other than the section 18 transaction that's actually maybe taking place and displacing the families, you just want to make sure that if there are other funding sources triggering other requirements, you're paying attention there and not just staying in that, you know, kind of keeping blinders on, staying in that section 18 lane, if you will.

So timing also really matters. And just a note that once you get that SAC approval in your hand, that's the earliest that you can give your families their 90-day notice regarding relocation. Another important note here is that even if there's no physical displacement or relocation, termination of the public housing lease in and of itself is considered a relocation.

So you do need to issue that 90-day notice if you plan on disposing, demolishing, moving forward with your SAC approval, and you cannot issue that notice until after SAC approval is received.

Just a note real quick on comparable housing options, under section 18 they can include tenant based assistance under the HCB program. It can also include project based assistance, another public housing unit, or sometimes for your over income families, maybe another unit that's operated or assisted by the housing authority at a comparable rental rate.

One note under streamlined voluntary conversion, there is a statutory requirement that the offer of comparable housing be tenant based assistance. So that's a little nuance of that program, just to keep in mind.

As we mentioned a minute ago and we'll talk more in depth about housing authorities can apply for tenant protection vouchers is a resource to help assist with that relocation and the cost of relocation can -- we'll talk a little bit more about proceeds in a bit, but the cost of relocations can be considered, you know, if they're actual and reasonable, those can be one of the uses of your funds, both your public housing funds and your proceeds.

I think that's about it for our relocation slide here. Again, I think we'll talk a little bit more going forward about the process itself for indicating that you're terminating the assistance under the public housing program and how you'll implement that on the voucher side if that's the route that you're taking. We'll turn it over to the tenant protection vouchers next.

**NATHANIEL JOHNSON:** Thank you, Melissa. My name is Nathaniel Johnson in the Office of Public Housing -- Public Housing Voucher Program within the Housing Voucher Management and Operations Division under the leadership of Ryan Jones.

What I want to just say in relationship to the tenant protection vouchers, HUD does not automatically issue tenant protection vouchers. PHAs must submit an application, which is a HUD-52515 and a leasing schedule to their local HUD field office.

And it's very important that this application be submitted within 30 to 60 days before the start of relocation and is consistent with the starter relocation in the time table. SAC approval is determined by the max of tender protection vouchers based on the current appropriations law.

Looking back 24 months, assisting units only, not dwelling units. SAC approval is to also determine the type, whether it be relocation or replacement of tenant protection vouchers, depending upon the development plan. For example, if the public housing units are back on site.

PHAs without a housing choice voucher program must partner with another public housing authority to administer the TPVs. Financial management division make the final determination of the tenant protection award based on the housing choice voucher funding notice and availability of funds when those applications are submitted.

Because of the recent funding shortage, HUD may only provide funding for occupied units at the time of removal. And just to add this tidbit, given the current tendered protection funding situation of only occupying units if a PHA has vacant units and is unclear if the PHA will be better off when applying for tenant protection of vouchers now and getting in the queue or yet for later tenant protection funding for vacant units or it can hold off on submitting the TPV application to HUD until HUD is funding vacant units based on the back look again, hopefully in early 2023.

And for more information, because this is just a quick overview, please go to [www.hud.gov/hcv](http://www.hud.gov/hcv) and just look up on the top where you can probably find tenant protection where it has a wealth of information that you will be able to read up more on tenant protection vouchers. Next slide, please.

Project based vouchers. As it was previously mentioned, SAC approval doesn't necessarily constitute tenant protection voucher approval. If the PHA plans to attach PBV assistance to the units in question, the housing authority must take the necessary steps to enter into a PBV HAP contract for the units with the new entity, in accordance to PIH notice 17-21 and regulations that are pertaining to 24 CFR part 983.

And lastly, the housing opportunity through the moderation that is better known as HOTMA provides certain exemptions for PBV requirements if the PBV units are placed on a public housing site and an example of that can be either 20% program cap, the project cap, and overall competition.

Lastly, and I'd just like to add, if you want to get more information on project based vouchers, please click on, again, to [www.hud.gov/hcv](http://www.hud.gov/hcv), and again, just click on and find project based vouchers to find more information, program guidance, tons of web Tas, questions and answers and other training materials.

And with that being it on my end, I'm going to turn it over to field legal counsel to do their part on section 18 disposition process. Thank you.

MATTHEW BRUNO: Thank you Nathaniel. Hi everyone. My name is Matthew Bruno. I'm an attorney in HUD's Office of General Council in the San Francisco regional office in region 9. And so, the next couple of slides I'm going to talk to you about are just kind of going over the steps you have to take to finish the disposition to have HUD release the declaration of trust from your public housing property.

And this is all after you've received your SAC approval letter. And just as kind of like an overview, once you have your SAC approval letter, it's then the field office that the public housing HUDs public and Indian housing field office that's going to actually sign the release of declaration of trust, possible use agreement, but actually release the public housing from the declaration of trust and essentially, you know, approve the disposition.

And where field council gets involved is basically when the public housing authorities go to the local office of the public housing. They say they're ready to move forward with the disposition, then obviously they're going to submit their documents and obviously that's when field council for HUD gets involved to make sure that everything is correct, the legal descriptions are right, we're only releasing the property that was approved for you disposition by the SAC, that all, you know, terms and conditions requirements and the SAC approval letter are being complied with.

So the one thing I want to really drive home with everyone here is that the highlighted language right there is once you have your SAC approval letter, that's not it. Disposition is not complete. You know, all the SAC approvals are conditional and what we've seen in the field a lot of times is public housing authority will come in and they'll say they have their SAC approval letter and they'll say, hey, my closing is in three days from now, I just need you to release the DOT?

And that's not what we want to see. We want you to be coming in earlier than that, obviously. The SAC really says that the major part of doing all disposition, but there is a little bit on the back end as well that, again, makes sure everything's being complied with and confirming the property that's being released.

So again, your SAC approval letter is conditional. When you're ready to actually move forward with the closing, a little bit ahead of that, maybe a month, maybe six weeks, you want to then approach probably a little more than a month would be better, more in the six weeks range.

You want to approach your field office and check in with them and say you want to request the release. And it varies from HUD field office to field office, region to region. Many regions and field offices though, do have model documents. So they'll have a model, partial release of declaration of trust.

If your SAC approval letter requires a use agreement, which it most likely will if it's a disposition at below fair market value, those offices will have a model use agreement for you to sign. They're also going to have a disposition submission checklist. We're going to want to get a narrative from you guys describing the disposition.

We're also going to want to get a title report. We want to know if there's nothing else odd on title, we want to see the declarations of trust on title that we're going to be releasing. So again, it's not just, you have a SAC approval letter and then we sign a release and that's it.

There's going to be a process. You need to contact the field office. The field office will provide a model document and sometimes not every field office, like I said, will have those, but they'll still give you direction about what needs to be submitted. Again, title report, copies of the exception, the recorded documents on title, like the declarations of trust.

And even if they do have model documents, housing authority or council still is going to be responsible for filling those out, getting the right parties in there, getting the correct legal description in there. So again, the overall process is you have your SAC approval letter, then when you're getting ready to do the closing and with a good amount of lead time ahead of your actual closing date, contact the local HUD office, field office, public housing office, request the disposition submission checklist, ask about and request any model disposition documents that field office might have.

Obviously, once you get those, and you're going to have to, again, insert the legal descriptions, fill everything out, make sure you get that title report exception to documents, and then you're going to submit those all to the field office. And once that happens that's where I'll get involved or my counterparts around the country and we'll work with our office, the field office, public housing to review your submission.

Sometimes there's a little back and forth. Sometimes there's questions about the legal description that should be attached to the release, questions on the use agreement. So again, just when you're thinking about when to submit your request to HUD, just provide yourself ample lead time, because there may be a little bit of back and forth, just to make sure to get those documents in the right place.

And also, just to mention is the field office, public housing field office, director is going to need to sign those documents at the end of the day too, once we get them all finalized and they don't, you know, sometimes they're traveling, their busy schedules, so just providing ample lead time to get the documents and final order working with HUD council and also to have time for the public housing field director to sign those documents.

And a quick note about that, we used to have more kind of mobile notary -- I should not say mobile notaries. We used to have a lot of notaries in HUD offices, especially now with increased telework. That's not always available to us.

So we may request the housing authority to provide a mobile notary once those documents are finalized so that the field office directors signature can be notarized, which obviously is requirement to record documents such as a released declaration of trust or a use agreement.

And then just one final note on there, on the bullet point number five, obviously there's also post closing requirements in terms of removing the properties from PIC, any reporting on possible

disposition proceeds, and again, that can work with the public housing field office on that and obviously look to the SAC approval in terms of what its requirements are as well.

Could we go to the next slide please? Thank you. And so, this just talks about the use agreement, and again, for any below fair market value disposition, a use agreement will most likely be required based on the commensurate public benefit. And generally, you're going to have a third year term for the use agreement.

And, again, that's just going to require the properties to be operated, as affordable to 80% AMI households and you're never going to see a use agreement with the term less than 30 years. It is possible it could be more, but generally about the 30-year term is what it is.

And again, there's just, there's no national standard form of use agreement. Again, some of the different HUD regions have model use agreements and we should request those, but not all of them do.

And the PHA can be responsible for monitoring the use agreement, and again, HUD encourages PHA to annually report to its board of directors to confirm the properties following the use agreement.

And let me see here, just one other point on the use agreement too, is just it'll say this in your SAC approval letter, but the use agreement always got to be recorded in a first priority position. So if there's going to be additional financing or even just additional, layers of different encumbrances on there, use agreement got to be number one.

So obviously as public housing existing right now, you have HUDs declaration of trust on there and that's prior to everything else. With the disposition, there could be financing or different needs of trust on there, what have you. And the use agreement has always got to be recorded in the first priority position.

And again, that should be spelled out in the SAC approval letter, but that's just, going to always be the case. So with that, I will pass it over to Dan Kaplan.

DANIEL KAPLAN: Thanks Matt. Let's talk DOT releases. Here we say as soon as possible, but again, we really mean the sooner, the better process timeline that matches laid out. And the first thing I note when it comes DOT is again, housing authorities and their council are responsible for preparing the draft form of the release of the declaration of trust, but as Matt has spoken to, some OGC offices may have template releases or they may have preferred samples.

So you're always welcome to reach out to the assigned HUD council for copies of these to inform and help you in drafting the release. The release may take the form of a full DOT release, in which case the DOT is being terminated and all property subject to the original declaration of trust is being released there from, or it may be a partial declaration of trust release in which only a portion of those properties are subject to the declaration of trust are being released.



For instance, you could have a declaration of trust covering a half dozen public housing properties, but the SAC approval just relates to one property or a portion of a property, in which case we'll just want to make sure it's a partial release to ensure the declaration of trust will survive and remain applicable with regard to the remaining properties.

Again, the release must be limited to that specific property approved by the SAC and the DOT release legal description should reflect that. And I would note here we often see properties that, you know, title shows five DOTs, they might have a bunch, but we don't necessarily need separate releases for each.

They can be bundled together as appropriate, whether they're such that there's just one full release or one partial release or one of each. Now sometimes DOT legal descriptions can be very old, out of date, street names may have changed, you know, different surveyors have different methods.

But we're due to this or other discrepancies, sometimes we cannot easily determine that a full release of a DOT is appropriate in lieu of a partial release limited specifically to what the SAC has clearly agreed to. So in those instances, we may require a survey platter or other visual depiction just so that we can get comfortable with the site and that we can confirm, yes, a full release is appropriate here.

Now, as Matt has touched on with regard to the use agreement and disposition process, we're really reviewing a bundle of documents together. We're reviewing the release, use agreement, other disposition documents, and we're doing that to ensure that any release is occurring consistent with the conditions of the SAC approval.

And so, the field office may request confirmation from the housing authority that relocation is complete and has been done in accordance with the applicable requirements prior to releasing the DOT.

Now, one last thing I would note is that obviously whether it's just a demo and not a dispo, we would not see a release of the declaration of trust in connection with the SAC approval. And with that, let's move to the next slide.

All right, so we're moving forward from the review and approval of the release. The field office has now signed the release. They've approved the use restriction, the use agreement, and signed it, and relocation is complete. Now the housing authority can move forward with the disposition.

This disposition may take the form of either a public bid or a negotiated sale disposition. So in a public bid context, we're looking at a fair market value sale on the open competitive market that generally expects PHAs to accept the highest monetary offer for the property.

However, provided the offers at least 80% of the appraised fair market value, the housing authority has local discretion to accept data other than the highest bid, such as permission related purposes, for instance, selling to a family instead of an investment entity.

If the highest offer is less than that 80% of appraised FMB amount, you would need to return to the HUD for permission approval to move forward with that sale. Now, the alternate, which we see more commonly would be a negotiated disposition was that fair market value or at an amount below fair market value.

The property must be disposed to that entity identified in the disposition application and SAC approval. Again, we often see these at below FMV. In conjunction with this disposition, we would now see the reporting of the DOT release and use restriction and any related documents in the appropriate recording order to ensure the first priority position of the use agreement.

And it's worth remembering, disposition transactions and timeline may vary greatly depending on the number of units and tracks involved, again, whether it's a public bid or a negotiated sale with an identified acquiring entity, whether there's an option already in place for site control. And if the PHA has previously entered into an option agreement for the sale or ground lease property, again, potentially for LIHTC tech site control reasons, and that's conditioned on HUD approval.

Obviously, if it's the disposition application, the PHA is now able to execute that sale agreement or ground lease and move forward with the disposition. And with that, I'll pass the baton onto Melissa.

MELISSA WEST: Thanks, Dan, I appreciate it.

KRISTINA SMITH: Great. You're -- okay, Melissa. Sorry.

MELISSA WEST: Thanks. Okay. So kind of transitioning from that discussion to the next step of actually removing your public housing property from inventory. So you just heard a lot about the closing process. Sometimes the step that's overlooked is that once you finish that closing process and your DOTs are released, there's still another step in PIC to actually go in and get the public housing property removed from our HUD systems.

And so, the good news is, again, pat yourself on the back that you got your approval and you made it to closing. And then don't forget about this next process. So once the application has a status of headquarters approved, and your housing authority has taken all the steps to remove it from the inventory, you need to go in and create what we call a removal transaction in PIC to reflect what inventory was removed and tell us when it was removed, like when was the date of closing.

The housing authority must report both the property and that includes acreage, non-dwelling units, and your dwelling units is removed from inventory. We refer to that as RMI and our IMS PIC system within seven days of the disposition, and just to note that could include a ground lease or it could be an actual sale or transfer, and should always include the release of the DOT. That's on the disposition side.

On the demolition side, it should be done within seven days of the last payment on the demolition contract. A lot of times on the demo side, particularly if any redevelopment is taking place, you might demolish well before you dispose of and close on a sale of the property.

So just a reminder, if you're going the demolition route, you need to make sure that you're not waiting for closing if that's taking place beyond a week longer. So the field office will review that removal transaction that you created in PIC and ultimately when they approve it, they'll mark the units as removed from inventory.

But a few notes there. So one is that I know we're focusing primarily on SAC approvals here, but just to note that SAC TA removes dwelling units if it's a RAB transaction. And then also, like we talked about, if it's a disposition the field office is going to want to look at evidence generally to support its approval of your request to remove everything from inventory.

On the disposition side, generally the field office will probably have the evidence that it needs based upon what was provided to get to closing and release the video key. So those type of things are generally transactional documents, like your ground lease, maybe your sale agreement, a deed, the DOT release itself, use agreements, so on and so forth.

On the demolition side, though, the field office may require additional evidence and some examples of that would be showing final payment to the demolition contractor. And they do that to verify that there aren't any outstanding liens remaining against the property. They might request title to show that to, a title report to show that as well; photos, maybe like satellite images to show that the units were in fact demolished, as well as it's important that you know the actual demolition date because you need to enter that as one of the fields in your removal transaction in PIC.

And then last, but not least, just a note on this slide. There is a guidance piece and there's a link to it here and it's specific for housing authorities to kind of walk you through the process, and it's great. It has screenshots of what the process looks like in PIC, so I'd encourage anyone who's going to need to take that step to take a look at the link here on removing buildings, units and land from inventory.

All right, proceeds. So you've disposed of your property and now you have, you're flushed with cash with all this money in the bank. So we want to talk a little bit about what you can do with those proceeds earned on the sale of public housing property.

So there are two types of proceeds, gross and net and under gross proceeds, you can use those for expenses incurred both during, relocating their residence and also just the cost of the actual disposition itself. In your application to the SAC, you include an itemized list of those approved costs and you include that in your application in the SAC, who use it.

Just to give some examples of some of those things for relocation expenses that can come out of gross proceeds, things like counseling and advisory services to residents including mobility, counseling, moving expenses, including housing searches, application fees, payments of security

and/or utility deposits at their comparable housing units, any cost of necessary reasonable accommodations for residents with disabilities.

And then under the category of cost of dispositions, lots more eligible expenses there too. The cost of preparing your SAC application and so some of those things that are included in there are your environmental reviews, engineering costs, appraisal fees, your transactional costs. So things like realtor fees, attorney's fees we could go on and on, but you know, all of your closing costs, recording your deeds, your DOT releases, notary fees, title insurance, you know, all of those things are generally considered reasonable cost of disposition that can come out of gross proceeds.

So once you get to the finish line, you've subtracted those out, then you're looking at what we call net proceeds and a few notes on net proceeds. One, you are required to report those on the FDS under receipts and expenditures. Those funds do need to be held in a GDA. We included the HUD form there, the general depository agreement, just as you have to hold your public housing funds.

So that should be a familiar form and process to everyone, but just a reminder that's where you need to keep your disposition proceeds. As we said earlier, in your application, you are going to note your intended use of your net proceeds and the fact will acknowledge that in the SAC approval letter.

We'll talk a little bit more about this later on slide as well, but just a general note here that post approval, post-closing, if a housing authority determines that it wants an alternate use, then what was acknowledged in the SAC approval for those net proceeds, the housing authorities are no longer required to come into HUD for express approval on the new use, but that doesn't mean that you can use it for anything.

You still have to use it for the statutorily eligible uses and there's a great PIH notice 2020-23, that walks through the use of disposition proceeds and requirements, and just a reminder that your field office will be monitoring the use of proceeds, so you want to make sure that you use those in accordance with the with the allowable uses.

All right. Next slide there. Inspections. We just want to talk a little bit about the timing of inspections. So once you've applied to the SAC to remove your units from inventory, and you're waiting on your SAC approval, your units are still subject to inspection. Once you've received SAC approval, your units are still subject to inspection, and sometimes we get questions about why this is the case.

And again, as we noted earlier, your SAC approval is not a requirement for you to move forward on disposing or demolishing or converting your housing. It's allowable once you have your SAC approval in hand, as long as you dot all your Is and cross all your Time sharing, but it's not a requirement.

And because of that the housing and the property is still public housing property until you take those next steps. So just a reminder that you are still subject to inspections right up until that

removal from inventory. The same goes for RAD, but we'll just note that under RAD, although you're still subject to inspections, generally scores won't be issued under FOS for those units that are subject to a chap.

But we just want to make sure that everyone's on the same page here, that during your review period and once you receive SAC approval, those units are still subject to inspection. And I think we can move on to the next slide. And Kathy, I think you're up.

KATHLEEN SZYBIST: Great. Thank you, Melissa. Good afternoon everyone. So I'm going to talk a minute about spending public housing funds at the property. So the basic rule of thumb is the housing authority can generally spend public housing funds at the property up until DOT release.

The expenses must be reasonable, necessary and allocable to the public housing units for capital funds. It's usually and can include some form of modernization. For operating funds, it's generally maintenance and general operations. The exception to spending public housing funds at the property is if the units are obsolete, and the justification or reason why you received the SAC approval was based on obsolescence.

In this case, we don't want you modernizing the project with public housing funds, especially to the extent that it would undo the obsolescence or make it so you no longer met the obsolescence cost. So just keep that in mind.

Also, want to note that this is about spending public housing funds at the property. So you can still spend public housing funds for closing expenses and general PHA wide expenses after DOT release and removing the property, just not at the property.

So there could still be legitimate ways to spend your public housing funds even after removing the last of your public housing units.

Okay, we can go onto the next. Okay. Asset repositioning fee. So asset repositioning fee is an add on to operating funds. It generally lacks about two years for disposition and three years for demolition. The trigger for when you start phasing out normal operating funds and receiving this add on is the first move out after the start of relocation field in the SAC and DDA application.

So there are some nuances if all units are vacant, but generally that's what HUD is looking at, to transition you to asset repositioning fee. HUD automatically populates the HUD 52723 operating fund forms based on this PIC data. So it's really important to keep this PIC data current. And this could involve steps after SAC approval.

We want to make sure the operating fund is correct and that you're not inadvertently triggering this ARF payment prematurely. So we get it. We understand plans to start relocation can become delayed and that you're just estimating the start date in your SAC application. You also don't know exactly when SACs going to issue the approval.

And that's okay, but if your relocation becomes delayed other than what you told us in the DDA application, please follow the steps of PIH notice 2021-37 and let your field office know. That notice nicely outlines even the email title that you have to send the field office to inform them that your relocation has become delayed.

Final point on asset repositioning fee is this money gets rolled into your normal operating funds. So it can be used for any eligible OP funds purpose. It doesn't necessarily need to be used for operating expenses based on the SAC approval. It's just extra money for the housing authority to use for operating fund eligible purposes.

Okay, next slide. Demolition disposition transition funding. So like asset repositioning fee, this is also an add on to capital funds. It lasts a little longer. It generally lasts up to five years. And like ARF, PHAs automatically receive it based on the section 18 SAC approval. It's included in the PHA annual capital fund formula grant, so there's nothing the housing authority has to do to request it, like tenant protection vouchers.

I will note the trigger date is different. What asset repositioning fee as we talked, it's based on the start of relocation, the first move out after the start of relocation field in the DDA. With DDTF, the trigger date is the unit must be actually removed. Removed from PIC, removed from, as Melissa said, removed from PIC through the system and removed from DOT.

And then in the next year that capital fund formula gets issued. You get this add-on fee. And like asset repositioning fee, capital funds can be used for any eligible purpose. So there's no separate planning requirements. PHA can just use it for any eligible capital fund purpose.

So when housing authority figures out what activity it wants to use, this special add on of DTF funds for, it just includes it in its annual five-year CFP plan, along with its plan for spending its other capital funds. Okay, we can move.

MELISSA WEST: All right. So now we're going to talk a little bit about keeping HUD informed. We've been talking about all your next steps once you have your SAC approval, but we know that things change. It's probably one of the only certainties in life, right?

So these next two slides go hand in hand, but the big takeaway is just make sure that you are talking to HUD when plans change. When in doubt, reach out to your field office about any changes in plans.

So first off, as you know, field office approval was required -- well, in your SAC approval, you indicated when your relocation was going to start in your timetable. And this is a really important one that you have to make sure that you notify your field office about if there are any changes in plans.

As Kathy just talked about, there are these trigger dates for your funding. And that can be a big deal if there's a change there that HUD doesn't find out about. Some of the other key areas where we frequently see changes or more frequently see changes, one of them is environmental review updates.

So sometimes when a housing authority completes their initial review, the scope of the review might not have contemplated some change in circumstance down the line. And you always want to be going back and revisiting your ER to make sure that as plans change, it includes everything.

One somewhat common example is maybe at the start of your disposition planning you didn't intend a project base or maybe you didn't think there would be any demolition. Both of those are things that require environmental review, and you need to make sure that if you didn't have those in your original scope of work, that you go back and either do an update or a new environmental review is needed.

SAC approval is required for some technical changes. So examples are if you're changing the name or the entity to which the property will be disposed to the length of your ground lease, you know, for example you're either disposing or granting a ground lease.

There are other things that are not required and when we call these technical changes, sometimes the SAC will issue a new letter if you want that to evidence that everyone's on the same page about what exactly is happening in the transaction.

There are other areas where HUD approval is required as well, such as changes to either the releases from declaration of trust, sometimes we find out that post approval it is removing towards closing that maybe things that were submitted covered more property or less property or this side or the other. Changes with use agreements sometimes in the nuances of the transaction, like let's say it's going to be a tax credit deal, but maybe it's not going to fall under that tax credit for another, nine months and what's going to happen in the interim.

And sometimes these things just aren't really fleshed out until the initial SAC approval was given. And in those cases, when things change, we need to make sure that if there was a disposition at less than fair market value and there was this requirement to show a commencer at public benefit that required a use agreement, we need to make sure that the terms of the use agreement that were required in the SAC approval letter are met.

So it's not super uncommon for those things to kind of come to light and be negotiated as you move towards closing. And you just want to make sure that you're frequently referring back to your SAC approval letter and any changes that are needed, you're coming in and requesting through the field office.

Okay. We can hop to the next slide. So again, as I said, these two slides kind of go hand in hand here, you know, tongue and cheek here, we sort of said HUD amendments, you know, scratch that out and said approval, you know, as our processes kind of changed over time. SAC approval is required for material changes and, again, we're talking here after you've received your initial approval, but prior to closing and DOT relief and removing the public housing from property.

So again, the types of things that you need HUD approval for are changes to the method of disposition. Let's say your original application had said that you wanted to sell your scattered site

public housing at public bid on the open market. But now you decided that you want to instead sell them via a negotiated sale to one particular buyer.

That's something that requires HUD approval. Other things like change to the commensurate public benefit that we just talked about that justified a below fair market value disposition changes to your redevelopment plan. Other examples here, public bid sales where the offer, you know, maybe you go out to market the units and you get an offer that will pull it below 80% of the appraised value, but maybe it's the best that you've gotten and you want to come into SAC and see what they think about that offer.

Those are all examples of things that do require HUD approval. A few examples of things that don't require HUD approval include, like we mentioned earlier, a change in the use of proceeds, but again, that reminder that they have to comply with both the statute and the regs cited here, you know, the disposition regs, the 970, as well as that PIH notice 2020-23, which is a great guidance on the use of proceeds overall.

Changes in milestones generally that you provided in your timetable in section 5 of your application to the SAC do not require HUD approval. But another note here, on relocation, you want to make sure that you're still complying with all of those requirements on relocation found at 970.21 and you want to make sure that the field office is aware of it.

This is just kind of an another plug there about the fact that when you submit your application to the SAC and you include your relocation plan, you were talking about your counseling description, your plan, comparable housing sources, your anticipating funding sources, all those things, and sac, that's part of your application, but SAC isn't reviewing it and approving every detail of the relocation plan for compliance with 970.21.

Instead, they're accepting your certification that you're going to comply with all of those requirements in 970.21. So you have flexibility in implementing your relocation plans as long as they comply with 970.21. The one big exception and it's right at the bottom of the slide is that, again, as Kathy was just talking about, funding start and end dates really do turn on that start of the relocation date.

And so, if there is a change in the start of relocation as you indicate in your timetable, that is one of the things that does require approval. So you need to make sure that you are providing that change in the start date to your field office for approval.

Okay, next slide. So closeout planning, now we say it's applicable here because many housing authorities apply to the SAC and get approval for inventory removals that without a plan to close out their public housing program, but we also have many small and very small PH units that are closing out their public housing programs.

So there is an entire other webinar on the program closeout process. You can see a reference to that link here at the bottom of the page, and we highly recommend that if you're in the circumstance that you review that. But just a few notes here. We can't recommend enough that



you start planning for the public housing closeout process as early as possible. And truly well before removing your last units of public housing from inventory.

Because there are certain things that you want to think about and plan for before you do that last removal. And one of the big ones is how are you going to use any remaining public housing funds. Once you remove that last public housing property from inventory, you can no longer expend those funds that Kathy was talking about on the capital and operating fund side.

So you want to be thinking about that well in advance. Don't wait until you've taken the property out and then think, oh, now I'm going to think about closeout. And you also want to make sure that you maintain enough funding to sustain you through the closeout period. Other things to think about here are that there are certain types of SAC approvals.

And we give a couple examples here, like the 50 and under closeout under section 18, or if you're taking advantage of the opportunity for streamline voluntary conversion. Closeout is actually required. So that's definitely something to think about that if you're coming in your application under one of those justifications, you need to make sure that you have a plan for actually closing out your public housing program.

And last, but not at least, just one quick note here, that housing authority can also close out through consolidating with other housing authorities or transferring their public housing property to other housing authorities as well as just terminating your ACC and we have notices on both of those. You can get further information on those processes from your local field office as well.

Okay, next slide. one. All right, and we are nearing the end here. So this resource side slide is not an exhaustive list, and we just want to note that many of the previous slides included direct links to notices and other guidance pieces.

But on this slide, we just wanted to do a catchall for some of our more general links or links that weren't expressly referenced in the previous slides. So drawing your attention to a few of them, HUD's repositioning website is obviously one of the best resources out there. It gives you direct links to nearly all of the conversations that we have discussed here.

The same with the SAC website, which can help give some insight to the different SAC processes and further guidance. The section 18 application checklist, that's a great thing to review very, very early on, even when you're just thinking about whether you even want to consider repositioning. A lot of times we recommend, you know, show your board a copy of the section 18 application checklist so they have an idea of the type of steps that will be included.

Last, but not least we have a link here to the post-closing asset repositioning videos including for operating PBV projects post-closing. PBV can be a whole new world sometimes to our housing authorities that are converting for the first time under various avenues to their public housing to the PBV platform, and this is a super helpful video just to help set you up for success.

And last, but not least, we have a link here to our HCV funding notice. The most recent one is PIH notice 2022-14. And our final slide here is just a call for questions, so we'll turn it back over to our facilitator.

KRISTINA SMITH: Great. Thank you all for presenting. We did receive one question so far, but before I read that out, just a reminder to send questions through the chat box on the right-hand side or raise your hand using that hand shaped icon.

So our first question is, does applying for TPV happen only approval if necessary for section 18 disposition? Where can the application itself be found?

MELISSA WEST: Nathaniel or Eva, do you want to take that one?

EVA TAFOYA: Yeah. So the approval has to occur first before tenant protection voucher application. I believe you actually have to submit a copy of the approval with your application for tenant protection vouchers.

And I think that there is complete explanation of exactly what to submit and how is in our tenant protection voucher, repositioning frequently asked questions, which is on the HUD website on the tenant page. And I'll double check that really quickly right now and send a chat with that link, just to be sure that everybody has that.

JANE HORNSTEIN: So there is one other exception to what Eva just said in terms of whether or not you have to have SAC approval to get the tenant protection vouchers. And the only exception for that is in case there's an emergency.

In other words, your building just got hit by the hurricane and it knocked out all the power and it's a senior building and you've got seniors that can't get through the elevator. That's the kind thing we will give you the vouchers early, but we need to know upfront if you're planning to take the building down because it's no longer a viable building.

So don't come even asking for those because FEMA has resources. This is not to replace the FEMA resources that you will be given in those emergencies. So just making people aware of that.

KRISTINA SMITH: And Jane, just to confirm, that would have to be in a case where a section 18 application has already been submitted.

JANE HORNSTEIN: There has to be. Yes, we will require you to put in some kind of an application. It doesn't have to be complete, but we will need to see either photographed or an insurance record or something. The building burned down.

So send us the insurance records that show that it's completely gone and you needed to relocate records and you needed to use a voucher, and we can give you those vouchers, but those are only in cases of emergency. And you need to just to show that you're planning to fully submit the

application that you're just missing some items and we can go and ahead and get those vouchers out early.

But otherwise, yes, you do need SAC approval and that should be part of your submission, which includes, form 5480 or something like that, or 5840, I forget what it is.

MELISSA WEST: Say it again, Jane. What was the question?

JANE HORNSTEIN: The form number for the TPV application.

MELISSA WEST: The 52515.

JANE HORNSTEIN: Okay. Okay.

MELISSA WEST: Yeah. And I did put that in the chat. The FAQs and the TPV repositioning FAQs is what you want to look for.

KRISTINA SMITH: Okay, great. We have a couple more questions here. The next one is there a schedule of activities to be done listed in order from start to finish? In other words, do we do the environmental plans for relocation, etcetera, prior to applying or approval?

KATHY SZYBIST: Sorry, it was environmental review and what else?

KRISTINA SMITH: So environmental plans for relocation were the specific steps.

KATHY SZYBIST: Okay. Environmental absolutely needs to be done prior to SAC application submission. SAC is not going to approve a SAC application until the environmental review is complete under part 58 or part 50 when doing it.

Relocation, again, you should really have a relocation plan before submitting the SAC approval. If you want to do some tweaks to it after SAC approval, that's okay as long as your tweaks are still consistent with 970.21 and the certifications you've made in the SAC application.

KRISTINA SMITH: Great, thank you. It looks like a clarification for that question came in. So those were just examples. Is there a list of, I guess is there a list of kind of all of the steps that are in order?

KATHY SZYBIST: Yeah. We do have an order of operations document. It's on the SAC website for section 18. It's part of the section 18 checklist and I can send the direct link to that checklist around.

KRISTINA SMITH: Okay, great. Next question is does the request to change the method of disposition require a whole new dispo application? Does the SAC approval expire?

KATHY SZYBIST: So a change in the method of disposition is one of these material changes that Melissa mentioned. And generally, yes, it will require a SAC updated approval. So if you're

changing from below fair market value to fair market value, public bid, or just changing the commensurate public benefit, or changing anything material or substantive, then you should come back to the staff and notify us.

If you're not sure whether it requires a SAC change, just email [sacpa@hud.gov](mailto:sacpa@hud.gov) and we can say, oh, that's a small technical change. We can do that. Or if it's a material change, it might require a little more review.

In terms of expiration, no, the SAC approval does not expire as long as you're going to be implementing it exactly as approved, it won't expire. So if your plans have just gotten delayed, but it's consistent, you're still doing the same method of disposition that you applied for and were approved for, then there's no expiration.

Please keep your field office informed, and again, if there's relocation involved, make sure you update that relocation date.

KRISTINA SMITH: Great. Thank you. Next question is, where can I find the background of the stipulation that 90-day notices of relocation cannot be sent out in advance of SAC approval (relocation itself). I understand, but I mean starting the clock on notice.

KATHY SZYBIST: So I think it's embedded within the 970 regulation and the section 18 statute. It says the 90-day notice needs to state that the public housing property and units will be removed, will be disposed of or demolished, and a housing authority cannot say that until SAC issues the approval.

So they can say we've asked HUD if we can dispose of or demolish the property, but they can't give that 90-day notice and saying this property will be disposed of until SAC issues the approval.

So that's why we are pretty adamant about housing authorities not being able to issue a 90-day notice until SAC issues the approval.

MELISSA WEST: And Kathy, one note there that I think I may have skipped over that one provision on the relocation slide is that although you can't provide that 90-day notice until you have your SAC approval letter in hand. Your families can voluntarily decide to move before the 90 days.

But you have to offer them the opportunity, you know, give them the notice to have at least 90 days. But we certainly see the scenario many times that a housing authority quickly identifies the new place that they want to move to. And I just want to make clear that you don't have to wait if it's driven by a particular family and their desire to move sooner, you're not required to make them wait until the end of the 90 days.

KRISTINA SMITH: Great, thank you. Next question we have is for 2022 23 SPV applications. I think that might be TPV applications. Are TPV vacant units less than 24 months to be funded by

TPVs in an approved building to get added to the APC, but just not to get funded until next appropriations?

EVA TAFOYA: So I think --

JANE HORNSTEIN: Go ahead Eva.

EVA TAFOYA: Yeah. Hopefully we're talking about -- currently, the applicable guidance about how tenant protection vouchers are funded for units that are vacant in the public housing building and were occupied within the previous 24 months of SAC approval.

The current guidance for that is in PIH noted 2022-14 and the current guidance is that if there are TPV funds left over at the end of calendar year 22 in chronological order of application receipt date, HUD may allocate replacement TPVs for vacant units occupied by an assisted family in 24 months. So that guidance is in PIH notice 2022-14. It's still the correct guidance, and we definitely wouldn't want to say that there's any different plan right now as far as we know. I think that there's a little bit of confusion in the question, so not quite following the project based voucher aspect of the question. So if you want to ask that again, I can get you an answer on that.

KRISTINA SMITH: Jane, did you want to add something?

JANE HORNSTEIN: No. No. Eva answered the question.

KRISTINA SMITH: Okay, great. Yeah. So the clarification for that one, feel free to send the follow up question. In the meantime, we'll go to the next one. It is if a DOT use agreement was never recorded, do you skip that step or is there some process for acknowledging HUD's intent to approve the release?

KATHLEEN SZYBIST: So if the SAC approval requires a use agreement and somehow the DOT got released without the execution and recreation of a use agreement, you should go back and do that now. I don't know if I misunderstood the question or if other people have stuff.

MATTHEW BRUNO: Hi Kathy. This is Matt. I just, yeah, you know, if there's going to be an extended period of time prior to disposition where there won't be a declaration of trust on there, then yes, you should definitely go back and record a declaration of trust, even though that will then just be released at the closing.

But there should not be any sort of extended period of time where a declaration of trust is not on the property.

KRISTINA SMITH: Great, thank you. The next question is, should there be a 30-year term or ground lease for RAD choice neighborhood repositioning?

KATHLEEN SZYBIST: Can you repeat that one more time?

KRISTINA SMITH: Yeah. Should there be a 30-year term or ground lease for RAD/choice neighborhood repositioning?

KATHLEEN SZYBIST: So if the choice replacement units are RAD, then the housing authority will follow the RAD process for bringing back those choice units. And yes, a RAD use agreement will be required. My understanding is it's beyond 30 years and it's kind of perpetual, but the choice replacement units if there are RAD, then you can follow the RAD use agreement provisions.

KRISTINA SMITH: Great. Thank you. We don't have any other questions in the queue.

JANE HORNSTEIN: Thank you everybody for joining.

KRISTINA SMITH: Yeah. I don't see any additional questions. We could go ahead and wrap up for today. As a reminder, there will be a survey that pops up on your screen as you exit the webinar. We would love your feedback for future sessions, and thank you for joining us.

(END)