



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Public and Indian Housing

Special Attention of:

Public Housing Agencies
Regional and Field Office Directors of Public
Housing
Regional Administrators

Notice PIH 2016-23 (HA)

Issued: December 7, 2016

Expires: Effective until amended,
superseded, or rescinded

Cross-References: PIH Notice 2011-61,
which extended PIH Notice 2010-44
PIH Notice 2012-32, Rev-2

Subject: Requirements for PHAs removing all public housing units and guidance on either the termination of the ACC or the continuation of the public housing program

1. Purpose. This notice provides information and guidance regarding program activities that Public Housing Agencies (PHAs) must complete regarding removal of the last of their public housing dwelling units from their public housing inventory. This notice also contains notification requirements for both PHAs seeking to develop new public housing units in the future (after removing all existing public housing dwelling units) and for PHAs seeking to closeout their public housing program. For PHAs pursuing closeout, this notice provides a framework for PHAs to timely resolve all existing grants and contracts with HUD. While much of the guidance and procedural steps contained herein is a compilation of existing requirements for individual grant closeout, the closeout process includes the submission of additional documentation, including a notification form, a board resolution, and a legal opinion. At the conclusion of the closeout process, the PHA will have no land or property under a Declaration of Trust (DOT) or Declaration of Restrictive Covenant (DoRC) and HUD will terminate its Annual Contributions Contract (ACC) with the PHA. The closeout process will ensure HUD has an accurate database of federal public housing inventory and assets to effectively monitor its portfolio and PHA compliance with the ACC and applicable federal laws and regulations.

2. Applicability. This notice applies to all PHAs that administer a public housing program under Section 9, Section 32 (formerly Section 5(h)) of the United States Housing Act of 1937 (1937 Act)), or under any of the Turnkey authorities. This notice applies to PHAs that plan to submit an application to HUD that removes all public housing units from their inventory. This notice also applies to PHAs that have already removed all public housing dwelling units from their inventory. PHAs may opt to permanently cease public housing operations or develop new public housing dwelling units. Regardless of whether they wish to continue to operate a public housing program or not, all PHAs will submit a Notification of Public Housing Closeout or Future Development (HUD Form-5837).

PHAs intending to continue operating its public housing program by developing new public housing units must first confirm eligibility to develop new public housing units based on the Quality Housing and Work Responsibility Act of 1998 (QHWRA) imposition of a statutory limit on new construction of public housing dwelling units (Faircloth Limit) in Section 9(g)(3)(A) of the 1937 Act. Please note that any public housing units removed from a PHA's inventory through RAD will reduce a PHA's Faircloth Limit. Upon receiving HUD's confirmation that the authority to build new dwelling units exists, the PHA must follow the notification requirement in Section 5, "Notification Submission" of this notice. PHAs should note that by developing more public housing units, the PHA is electing to remain subject to standard public housing reporting and compliance policies.

This notice does not address the transfer or consolidation of a PHA's public housing units with another PHA. If a PHA wishes to pursue a transfer or consolidation, it is important that the PHA comply with all the requirements outlined in [PIH Notice 2014-24: Process for Public Housing Agency Voluntary Transfers and Consolidations of the Public Housing Program](#) (or subsequent guidance). If a PHA elects to transfer or consolidate with another PHA, their Faircloth Limit will also transfer or consolidate.

3. Background. PHAs operate public housing under Section 9 of the 1937 Act and pursuant to the terms and conditions of a Public Housing ACC. With HUD approval, including the receipt of environmental clearance under 24 CFR Part 50 or 58, a PHA may remove public housing property in its Public Housing portfolio through one of the following mechanisms:

- a. Section 18 of the 1937 Act, Demolition and Disposition of Public Housing;
- b. Section 22 of the 1937 Act, Authority to Convert Public Housing to Tenant-Based Assistance (voluntary conversion);
- c. Section 32 (formerly Section 5(h)) of the 1937 Act, Resident Homeownership Programs, and other predecessor homeownership programs;
- d. Section 33 of the 1937 Act, Required Conversion of Distressed Public Housing to Tenant-Based Assistance;
- e. Section 24 of the 1937 Act, Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Projects (i.e., HOPE VI and Choice Neighborhoods Demolitions);
- f. Eminent Domain (see Notice 2012-8 or subsequent guidance);
- g. The Rental Assistance Demonstration Program (RAD) (authorized by the Consolidated and Further Continuing Appropriations Act of 2012); and
- h. Any other HUD approved action that will remove public housing units from the PHA inventory.

Regardless of the removal mechanism chosen, the process to remove public housing units and other public housing real and personal property from a PHA's inventory by releasing it from either a DOT or a DORC and removing it from the ACC results in a status change in IMS/PIC to "Removed from Inventory." Prior to removal, PHAs must operate and maintain all public housing real and personal property, including dwelling and non-dwelling property, in accordance with all applicable public housing requirements (and must only use such property for public housing purposes).

Removing all public housing units from a PHA's inventory is a major policy decision for PHAs. Thus, it is essential that PHAs conduct a strategic assessment regarding the future of their public housing program prior to submitting any public housing Inventory Removal Application to HUD for approval. PHAs should consider with its removal application whether the PHA will develop new public housing units; transfer/consolidate with another PHA; or permanently cease operating and developing public housing under a Public Housing Program and cease receiving funding under Section 9 of the 1937 Act. In making this decision, PHAs should balance the value of developing new public housing units under the Faircloth Limit with the amount of Public Housing funds available to develop new dwelling units and the optimal use of these funds. HUD will deem closeout is required if a PHA fails to notify HUD of other action.

4. Definitions.

- a. *1937 Act.* The United States Housing Act of 1937.
- b. *Annual Contributions Contract (ACC).* The ACC means the written grant agreement between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the public housing program.
- c. *Declaration of Trust (DOT)/ Declaration of Restrictive Covenant (DoRC).* The DOT is a legal instrument that grants HUD an interest in public housing property. It provides public notice that the property must be operated in accordance with all public housing federal requirements, including the requirement not to convey or otherwise encumber the property unless expressly authorized by federal law and/or HUD. The DORC is a legal instrument that ensures that PHAs and Owner Entities to develop mixed-finance project in compliance with Public Housing Requirements. The DORC restricts disposition of the property, including transfers, conveyances, assignments, leases, mortgages, pledges, and other property encumbrances.
- d. *Closeout of Public Housing Program.* A closeout of public housing occurs when the PHA's public housing ACC is terminated. The closeout process includes, but is not limited to, the submission of a Notification of Public Housing Closeout or Future Development (HUD Form-5837), quarterly Federal financial reports, public housing audit, PHA board resolution, and legal opinion as well as HUD's approval of these submissions. HUD will closeout a PHA's public housing program when it determines that all applicable administrative actions have been completed by the PHA.
- e. *Inventory Removal Application.* The Inventory Removal Application (HUD Form 52860) is a required submission for PHAs seeking HUD approval to remove public housing property from their public housing inventory. The form indicates how the PHA proposes to remove public housing property from its public housing inventory (e.g., through one of the removal mechanisms described in Section 3, "Background" of this notice).
- f. *Public Housing.* "Public Housing" means low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C.

1437f of the 1937 Act (section 8). The term “public housing” includes dwelling units in a mixed-finance project that are assisted by a public housing agency with public housing Capital Fund or Operating Fund assistance, including Operating Reserves. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvement of any such housing. Public housing real and personal property includes all real and personal property, tangible and intangible, including equipment, supplies that were acquired developed, modernized, operated or maintained with 1937 Act Funds. This includes property that: (i) does not have an identification number in IMS/PIC; (ii) does not have (but should have) a valid DOT/DORC recorded against it; and/or (iii) was acquired with 1937 Act funds without prior HUD approval (even if later transferred).

- g. *Removal of Public Housing Real Property from Inventory.* PHAs may remove dwelling units, non-dwelling units, dwelling buildings, non-dwelling buildings, and land in their inventory from federal restrictions. Removing property from federal restrictions includes removing it from the ACC and releasing the property from the associated DOT/DORC (or demolishing the property). Regardless of the removal mechanism chosen, the process to remove a property results in a status change in IMS/PIC to “Removed from Inventory.” For administrative purposes, HUD considers a unit or building to be removed on the date listed as the “Transaction Date” in IMS/PIC. For additional information on the PIC Removed from Inventory process, refer to the IMS/PIC User Manuals.

5. Notification Submission. When a PHA submits an application to HUD that will remove its final public housing unit, the PHA must concurrently submit a Notification of Public Housing Closeout or Future Development (HUD Form-5837) as an attachment to the IMS/PIC removal application. HUD will use this information to provide targeted technical assistance, to identify potential issues, and to assess risk areas.

HUD may require resubmission or request clarifying explanations with the PHA if its Notification of Public Housing Closeout or Future Development is incomplete or deficient. HUD must approve the notification submission before the PHA can proceed with closeout or development activities. HUD will reject the notification submission if it does not comply with HUD regulations, statutes, or HUD guidance. If, prior to termination of the ACC, a PHA decides to pursue a different option, it must submit a revised Notification of Public Housing Closeout or Future Development (HUD Form-5837) to its local public housing field office and include the form as an attachment to the approved Inventory Removal Application that removes the final public housing dwelling unit from the PHA’s inventory, and all provisions of this notice shall apply.

PHAs submitting a notification of future development and electing to build new dwelling units must keep HUD apprised of its plans and identify development activities in an approved PHA Annual Plan, in accordance with 24 CFR 903.21. In addition, if a PHA plans to use Capital Funds or any secured financing, the PHA must also identify and provide a description of the planned activities in the 5-Year Action Plan. If a PHA fails to submit a development proposal to HUD in accordance with 24 CFR part 905 (mixed-finance or conventional) by the next fiscal year end date after the Transaction Date removing all Public Housing Real Property, HUD may require the PHA to begin closeout (i.e., termination) of the public housing program.

6. Funding Considerations. A PHA must budget sufficient funds to cover closeout activities; this analysis should be completed prior to removing the last public housing unit from its inventory. In addition to non-federal funds and program income¹, a PHA can continue to spend existing public housing funds on eligible activities (e.g. costs related to closeout activities described in this notice, and costs related to the maintenance and operation of their Public Housing Personal Property Public Housing and Public Housing Real Property, including non-dwelling property), in accordance with applicable program rules, until HUD terminates its ACC with the PHA. RAD reserves may also be used to cover the cost of closeout activities, so long as it is specified that the reserve shall be available to fund any public housing closeout costs related to the RAD conversion. Any unused funds would stay in the covered project reserve and may be used by the Covered Project(s).

Once all of a PHA's public housing units have been removed from its inventory, in accordance with 24 CFR parts 970, 990 and 905, the PHA is no longer eligible to receive new public housing funding. Submission of a Notification of Public Housing Closeout or Future Development (HUD Form-5837) indicating intention to closeout will serve as a PHA's written rejection of DDTF funding for all future fiscal years (see 24 CFR 905.400(j)(4)(i)).

Any remaining Program Income or other funds derived from participating in the Public Housing program (e.g., public housing rental and non-rental income, insurance proceeds) that the PHA receives shall be deemed public housing funds. Unless the funds are subject to an existing HUD use agreement, the PHA must report the receipt of such funds to its local public housing field office within 30 days of receipt. If the PHA intends to use the program funds for activities supported by HUD or another federal award, then the PHA may retain the program income. Otherwise, all program income must be returned to HUD via wire transfer. A PHA's local public housing field office will provide wiring instructions upon request.

7. Closeout Activities. PHAs that intend to closeout from the public housing program must comply with the following requirements as part of their closeout activities. However, not all closeout requirements will require action from every PHA; for example, a PHA may not have any non-dwelling public housing real property to address. Appendix A to this notice contains a closeout checklist to assist PHAs to complete the closeout process in accordance with the guidance herein.

A. **Quarterly Federal Financial Reports.** Ninety days following the Transaction Date removing its final public housing dwelling unit, a PHA must submit a Quarterly Federal Financial Report (SF-425) and continue to submit this report on a quarterly basis to its local public housing field office until HUD terminates the ACC with the PHA. The reporting is limited to the Public Housing program, and should not include the HCV program. Additionally, the requirements of 2 CFR 200.344 (post-closeout adjustments and continuing responsibilities) and 2 CFR 200.345 (collection of amounts due) apply.

¹ Proceeds from the sale of Public Housing Real and Personal Property are not program income, but is subject to proceeds requirements as applicable in section 18 of the 1937 Act (24 CFR part 970), HUD regulations or 2 CFR part 200 on disposition and proceeds of the sale of real and personal property acquired with Federal grants.

B. Non-Dwelling Public Housing Real Property. Public housing real property (including non-dwelling property) that was acquired, developed, modernized, operated or maintained with public housing funds is covered under the ACC and, thus, still subject to public housing requirements and the ACC. The ACC dictates that all Public Housing Real Property (including non-dwelling property) must facilitate the PHA's operation of public housing dwelling units and its Public Housing program. Thus, when a PHA removes all of its public housing dwelling units from its inventory and the PHA has no intent to carry out future development of new public housing units, then the PHA must take steps to remove all of its non-dwelling Public Housing Real Property from its inventory as well. PHAs must develop a strategy for future use of all remaining Public Housing Real Property that is consistent with their PHA Plan and will maximize the benefits to the community.

Examples of non-dwelling public housing real property include: (i) administrative buildings, central warehouses, garages, community buildings, day-care buildings, or other non-dwelling structures that served the PHA's public housing inventory; (ii) vacant land that once comprised public housing dwelling units that have been demolished under HOPE VI, Choice Neighborhoods, or Section 18; (iii) vacant buildings that once contained public housing dwelling units that were assisted under Section 9 of the 1937 Act and are now vacant and no longer receiving the benefit of any Section 9 assistance because of conversion to Section 8 assistance through RAD Transfer of Assistance authority, when the DOT/DORC was not released as part of the transaction; (iv) excess non-dwelling property that was acquired by the PHA with funds from the 1937 Act but never developed as low-income housing; or (v) any other non-dwelling property such as playgrounds, gardens or parks. If the PHA owns public housing property that is not in IMS/PIC, the PHA must work with its PIC coach, located in the applicable HUD field office, to record that property in IMS/PIC.

PHA requests to remove non-dwelling Public Housing Real Property may take the form of:

- i. Disposition application under Section 18 of the 1937 Act;
- ii. Retention application to release federal restrictions under 2 CFR 200.311, in accordance with PIH Notice 2016-20: 2 CFR 200.311(c)(1) Disposition Instructions for the Public Housing Agency (PHA) Retention of Certain Public Housing Real Property (that is no longer used or was never used for public housing dwelling purposes) Free from Public Housing Use Restrictions, or subsequent guidance;
- iii. Transfer of its assets, operations and management to another PHA, in accordance with [PIH Notice 2014-24: Process for Public Housing Agency Voluntary Transfers and Consolidations of the Public Housing Program or subsequent guidance](#); or
- iv. Section 30 of the 1937 Act for security interests.

PHAs must also determine if any Public Housing Real Property is subject to agreements such as telecommunication leases or other leases (e.g., office space, day-care, and community facilities). If so, the PHA must address these issues with the Special Applications Center (SAC). The DOT/DoRC prohibits a PHA from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering public housing real property (except as permitted under the ACC) until it obtains HUD approval to do so under Section 18 or Section 30 of the 1937 Act (or another federal authority).

Once a PHA determines a method for removal of its non-dwelling public housing real property, it must submit an Inventory Removal Application to HUD within six months of the Transaction Date removing its final public housing dwelling unit, unless the PHA provides good cause for an extension and receives approval from the local public housing field office.

C. Equipment, Supplies, and Intangible Property (Personal Property). Public Housing Personal Property includes any equipment, supplies and intangible property acquired, developed, and/or operated with 1937 Act funds. Examples of Personal Property include: service and maintenance vehicles, lawnmowers, snow-blowers, light fixtures and office furniture, office supplies, lease agreements (e.g., telecom leases), and debt instruments (e.g., notes). This does not include personal property connected to specific buildings and units that was disposed as part of a prior HUD approval (e.g., office or reception area furniture at a RAD project).

This notice serves as “disposition instructions” under 2 CFR 200.313, 200.314, and 200.315. A PHA must develop a master list of all Public Housing Personal Property where HUD is entitled to compensation along with a plan for how it intends to dispose of the property. A PHA must submit the master list and proposed method of disposition or indication that no such Personal Property exists to its local public housing field office within six months of the Transaction Date removing its final public housing unit. In accordance with 2 CFR 200.313, 200.314, and 200.315, the following applies:

- a. If all Personal Property is intended for use by the PHA for other activities supported by HUD or another federal award (e.g., to support projects removed through RAD), the PHA may retain all Personal Property without compensation to HUD.
- b. For items of equipment with a current per unit market value of \$5,000 or less, the PHA may retain, sell or otherwise dispose of them without any further obligation to HUD;
- c. For items of equipment with a current per-unit market value in excess of \$5,000, the PHA may retain, sell, or transfer them, but HUD is entitled to compensation in an amount calculated by multiplying the current market value or proceeds from sale by HUD’s percentage of participation in the cost of the original purchase. If the equipment will be sold, HUD may permit the PHA to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses;
- d. For supplies, if the total aggregate value of all unused supplies in the PHA’s residual inventory has a value of \$5,000 or less, the PHA may retain, sell or otherwise dispose of them without any further obligation to HUD; and
- e. For supplies with an aggregate value of over \$5,000, the PHA may retain, sell, or transfer them, but HUD is entitled to compensation in an amount calculated by multiplying the current market value or proceeds from sale by HUD’s percentage of participation in the cost of the original purchase. If the equipment will be sold, HUD may permit the PHA to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- f. For intangible Personal Property, the PHA may generally retain, sell, or transfer the property as it would retain, sell, or transfer equipment. *See* 2 CFR 200.315. However,

for certain intangible property (e.g., debt notes), the PHA must follow the terms of the agreement to dispose of the intangible Personal Property.

If a PHA needs to return funds to HUD, the funds must be returned to HUD via wire transfer. A PHA's local public housing field office will provide wiring instructions upon request. Records for Personal Property disposition must be retained for three years after final disposition.

D. Impact on Cooperative Agreements and Local Government. PHAs should determine if removing all public housing units from their inventory and closeout of its public housing program will result in a material change or automatic termination of any cooperative agreements, contracts and associated obligations between the PHA and state and/or local municipalities. PHAs may be subject to local and State laws and regulations related to the termination of its public housing program. In consultation with local PHA counsel, HUD strongly recommends that PHAs review these agreements and laws prior to engaging in the closeout process and engage and consult with local government officials about their closeout plans. For RAD projects, these agreements generally need to stay in effect.

E. Review of Outstanding Litigation, Claims, Audits, and Civil Rights Matters. PHAs must determine, in consultation with their counsel, HUD counsel and the public housing field office, if they have or reasonably anticipate any outstanding litigation, claims, compliance reviews, monitoring reviews, PHA or MTW Plan reviews, audits (including General Accountability Office, Office of the Inspector General, and program audits), and/or fair housing and civil rights matters associated with their Public Housing program. Fair housing and civil rights matters may include charges, cause determinations, lawsuits, letters of findings, outstanding voluntary compliance agreements or consent decrees, and remedial orders or agreements with unfulfilled requirements. HUD will determine if actions to resolve the items listed above are sufficient to resolve the matter. All outstanding matters must be resolved prior to ACC termination. For RAD transactions, these matters must be the subject of the outside legal opinion and reviewed by Field Counsel.

F. Resolution of Other Public Housing Grants and HUD Approvals. PHAs must ensure all terms and conditions, obligations and repayment agreements required by HUD in connection to prior public housing program approvals and grants are satisfied prior to ACC termination. PHAs are responsible for identifying all public housing grants and HUD approvals that have not been closed out and working with the respective HUD staff to bring these to resolution in compliance with applicable statutes and regulations. Grants include, but are not limited to: HOPE VI; Choice Neighborhoods; Family Self-Sufficiency (FSS); Resident Opportunities and Self Sufficiency (ROSS); and Jobs Plus.

For demolition and/or disposition approvals issued under Section 18 of the 1937 Act, or other inventory removal actions issued by the SAC, HUD may require that the PHA (or another responsible entity identified by the PHA) enter into contractual agreements with HUD to satisfy, amend and/or clarify the terms and conditions of the SAC approval documents or applicable laws, especially those related to reverter clauses, long-term use restrictions, the use of unobligated/unexpended disposition proceeds, and future monitoring, record-keeping, and reporting requirements. If a PHA's original plans at the time of the initial Section 18 approval have changed, it must request that the SAC issue an amendment to its Section 18 approval to

reflect the revised plans. PHAs should begin working with their local public housing field offices and the SAC on these issues as soon as they know they want to closeout their public housing programs so that these issues can be addressed and resolved timely.

For PHAs that operate a Family Self-Sufficiency (FSS) program or a Resident Opportunities and Self Sufficiency (ROSS) program, PHAs should note that different rules may apply to these grants depending on whether the PHA removed the public housing dwelling units through RAD or through another action, such as Section 18 demolition/disposition. Typically, the resolution of these grants are addressed at the time of the dwelling unit removal, according to HUD approval conditions and guidance. However, if these grants were not addressed as part of the public housing dwelling unit removal, PHAs must consult with their local public housing field office.

G. Capital Fund Grant Closeout. Each Capital Fund grant and/or development project is subject to fiscal closeout. Fiscal closeout includes the submission of a cost certificate, an audit, if applicable, and a final Performance and Evaluation Report, as well as receipt of HUD approval of the cost certificate (see 24 CFR 905.322). 2 CFR 200.343 requires PHAs to submit all financial and performance forms no later than 90 calendar days after the date of the End of the Period of Performance. The End of the Period of Performance for Capital Fund grants is defined as the date a PHA submits the Actual Modernization Cost Certification (AMCC), which is no later than 12 months after the expenditure deadline of the Capital Fund Grant (see 24 CFR 905.322(b)(1)(ii)).

H. Public Housing Audit. Pursuant to 2 CFR 200.501, PHAs that expend \$750,000 or more in federal funds during the PHA's fiscal year, must have an independent audit conducted no later than nine months following their fiscal year end date. Depending on the timing of the removals, there may be more than one audit between the removal of the last ACC unit and termination of the ACC. The local public housing field office will review the audit results, work with the PHA to resolve any audit findings, and, if applicable, transmit approval of the Capital Fund cost certificate. Note that following ACC termination there will be no more audits of the PHA's public housing program, but if a PHA has other HUD housing programs, including the Section 8 HCV program and the HUD Multifamily program, the PHA will still be subject to audit requirements.

I. Local Legal Opinion. The PHA must provide a legal opinion from its local counsel that (i) the PHA retains no Real or Personal Public Housing Property; (ii) no outstanding litigation, claims, audits, debt obligations, or civil rights matters exist; and (iii) there are adequate assurances (documents) in place to ensure compliance with prior HUD approvals (e.g., long-term use restrictions or use of disposition proceeds required by a HUD approval under Section 18 of the 1937 Act) (if applicable). The legal opinion must be submitted to the local public housing field office for Field Counsel review and approval no later than two years following the next fiscal year end date after the Transaction Date (in IMS/PIC) removing the final Public Housing Real Property from a PHA's inventory, unless the PHA receives an extension by its local public housing field office.

J. Reconciliation of Public Housing Funds. Any remaining public housing funds must be returned to HUD via wire transfer. A PHA's local public housing field office will provide wiring instructions upon request. This includes Capital Funds and Operating Funds, and

may include program income (unless the program income will be used for activities supported by HUD or another federal award). If a PHA fails to return remaining public housing funds in accordance with 24 CFR 905.322 and 24 CFR 200.343, then the requirements at 24 CFR 200.345 (collection of amounts due) shall apply, as well as any applicable Federal debt collection statutes and regulations, including the imposition of interest on uncollected amounts.

8. PHA Board Resolution. Once a PHA has completed all of the applicable closeout activities listed in Section 7, “Closeout Activities” of this notice, the final step in the public housing closeout process is the PHA board resolution. The PHA must provide a board resolution to HUD indicating the PHA’s desire to terminate the Public Housing ACC and confirming that the PHA has followed all closeout requirements of this notice, the ACC, the 1937 Act, and 24 CFR part 200, to the best of the board’s knowledge. The PHA board resolution must be submitted to HUD no later than two years following the next fiscal year end date after the Transaction Date (in IMS/PIC) removing the final Public Housing Real Property from a PHA’s inventory, unless the PHA receives an extension by its local public housing field office. For example, if the Transaction Date was October 19th, 2016 and the PHA’s fiscal year end was December 31st, the PHA would have until December 31st, 2018 to submit the PHA Certification and legal opinion.

9. Termination of the Public Housing ACC. HUD will terminate its master ACC, and all subsequent amendments, with a PHA only when all closeout activities described in this notice have been satisfied. Once a local public housing field office has determined that a PHA has satisfied these closeout requirements, PIH will issue an ACC termination notification to the PHA. Concurrently, with the issuance of the ACC termination notification, HUD will change the status of the PHA in IMS/PIC to reflect the PHA’s new status as either “inactive” (i.e., terminated) or “Section 8 PHA.”

10. PHA Record-Keeping and Post ACC Termination Continuing Responsibilities. HUD’s termination of a Public Housing ACC does not terminate certain requirements and record-keeping obligations. Further, closeout from the Public Housing program neither acts to terminate the PHA as a legal entity, nor does it affect a PHA’s continued obligations, including pension liabilities. The following other post-ACC termination responsibilities apply:

- i. If any litigation, claim or audit is started before the expiration of a three-year period after the removal of the last of the PHA’s public housing real property, the PHA must inform its local public housing field office and must retain all records until all litigation, claims or audit findings have been resolved and final action taken. A PHA must obtain HUD’s approval before using any Federal grant funds for the purpose of instituting, defending or settling litigation or claims arising from its Public Housing program;
- ii. Beginning on the date that the PHA removes the last of its public housing real property from its inventory, and for three years thereafter, any Program Income or other funds derived from participating in the Public Housing program (e.g., public housing rental and non-rental income, insurance proceeds) that the PHA receives shall be deemed public housing funds. The PHA must report the receipt of such funds to its local public housing field office within 30 days of receipt; and

- iii. The requirements of 2 CFR 200.344 (Post-closeout adjustments and continuing responsibilities) and 2 CFR 200.345 (Collection of amounts due) shall continue to apply.

In addition to the above continuing responsibilities, the following record-keeping requirements include, but are not limited to:

- a. Full and complete records of the history of each Capital Fund grant, including Capital Fund Program 5-Year Action Plans, procurement, contracts, obligations, and expenditures for five years following HUD approval of the cost certificate (see, 24 CFR 905.326);
- b. Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report. This includes retention for three years following disposition of records for real property and equipment acquired with Federal funds (see 2 CFR 200.333); and
- c. Records for any litigation, claim or audit that started prior to termination of the ACC, until all litigation, claims or audit findings have been resolved and final action taken.
- d. For all other items, such as old tenant files, PHAs should follow their local written records retention policy.

HUD, the HUD Inspector General, the Comptroller General of the United States and any of their authorized representatives have the right of access to any documents, papers, or other records of the PHA that are pertinent to its Public Housing program in order to make audits, examinations, excerpts, and transcripts. The rights of access are not limited to the required retention period but last as long as the records are retained.

11. Remedies for Noncompliance. HUD will identify and monitor PHAs that remove all public housing units from their inventory (and, thus, no longer eligible for public housing funding) to ensure compliance with this notice. If the PHA fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, including the closeout activities described in this notice, HUD may impose additional conditions or may take any of the actions mentioned in 2 CFR 200.338, the ACC, and the 1937 Act, or any other related Federal statutes and regulations, which may include withholding Section 8 administrative fees or other cash payments, initiating debarment proceedings, or taking control of a PHA through administrative receivership pending correction of the deficiency.

12. Paperwork Reduction Act. The information collection requirements contained in this notice are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) as Notification of Public Housing Closeout or Future Development (HUD Form-5837). The OMB control number is 2577-0075. PHAs should not submit a Closeout Notification or Future Development Notification under this notice until HUD Form-5837 is published by HUD.

13. Additional Information. Questions regarding this notice may be directed to the local public housing field office.

/s/

Lourdes Castro Ramírez
Principal Deputy Assistant Secretary
for Public and Indian Housing

Appendix A: Closeout Checklist for PHAs

#	Item	Activity
1	Closeout Notification <i>No later than the submission of the removal application via IMS/PIC</i>	<input type="checkbox"/> Upload HUD-5837 as an attachment to the removal application in IMS/PIC
2	Quarterly Federal Financial Reports <i>90 days following the Transaction Date removing its final public housing dwelling unit</i>	<input type="checkbox"/> Submit an SF-425 to local public housing field office quarterly until ACC termination
3	Non-Dwelling Public Housing Real Property <i>Within six months of the Transaction Date removing its final public housing dwelling unit</i>	<input type="checkbox"/> If other Public Housing Real Property exists, submit a request for HUD approval to remove the property from its inventory
4	Personal Property <i>Within six months of the Transaction Date removing its final public housing dwelling unit</i>	<input type="checkbox"/> Submit the master list of all personal property and related disposition plan to the local public housing field office
5	Impact on Cooperative Agreements and Local Government	<input type="checkbox"/> Notify state and local municipalities and fulfill any local obligations
6	Review of Outstanding Litigation, Claims, Audits, and Civil Rights Matters	<input type="checkbox"/> Work with local public housing field office to resolve any outstanding litigation, claims, audits, and/or civil rights matters
7	Resolution of Other Public Housing Grants and Approvals	<input type="checkbox"/> Ensure all terms and conditions, obligations and repayment agreements in connection with prior HUD approvals are satisfied
8	Capital Fund Grant Closeout <i>Within 90 days following AMCC submission</i>	<input type="checkbox"/> Submit cost certificate, audit, and final Performance and Evaluation Report
10	Public Housing Audit <i>Nine months following the next fiscal year end date after the Transaction Date removing all Public Housing Real Property</i>	<input type="checkbox"/> If applicable, conduct final independent FDS audit and submit to the Field Office.
11	Local Legal Opinion <i>No later than two years following the next fiscal year end date after the Transaction Date removing all Public Housing Real Property</i>	<input type="checkbox"/> Provide a Legal Opinion
12	Reconciliation of Public Housing Funds	<input type="checkbox"/> Return unused public housing funds to HUD
13	PHA Board Resolution <i>No later than two years following the next fiscal year end date after the Transaction Date removing all Public Housing Real Property</i>	<input type="checkbox"/> Provide board resolution indicating desire to terminate the Public Housing ACC and confirming that all closeout requirements have occurred
14	Terminate ACC <i>HUD will notify PHA when ACC is terminated</i>	