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with respect to a project, the PHA remains obligated to maintain and operate the project in accordance with the provisions of the ACC related to project operation so long as those ACC provisions remain in effect.

§ 969.106 ACC extension in absence of current operating subsidy.

Where Operating Subsidy under an ACC is not approved for payment during a time period which results in extension of the term of the ACC provisions related to project operation, with respect to a particular project, pursuant to § 969.105, the PHA shall, at least one year before the anticipated ACC Expiration Date for the project, notify HUD as to whether or not the PHA desires to maintain a basis for receiving Operating Subsidy with respect to the project after the anticipated ACC Expiration Date. This notification shall be submitted to the appropriate HUD Field Office in the form of a resolution of the PHA’s Board of Commissioners. If the PHA does not desire to maintain a basis for Operating Subsidy payments with respect to the project after the anticipated ACC Expiration Date, the resolution shall certify that no Operating Subsidy shall be utilized with respect to the project after the effective date of this rule and that all financial records and accounts for such a project shall be kept separately. If the PHA does desire to maintain a basis for such Operating Subsidy payments, the resolution shall include the PHA’s request for extension of the term of the ACC provisions related to project operation, for a period of not less than one nor more than 10 years. Upon HUD’s receipt of the request, HUD and the PHA shall enter into an ACC amendment effecting the extension for the period requested by the PHA, unless HUD finds that continued operation of the project cannot be justified under the standards set forth in 24 CFR part 970 (HUD’s regulation on demolition or disposition of public housing).

§ 969.107 HUD approval of demolition or disposition before ACC expiration.

This part is not intended to preclude or restrict the demolition or disposition of a project pursuant to HUD approval in accordance with 24 CFR part 970. Subject to the requirements of 24 CFR part 970, HUD may authorize a PHA to demolish or dispose of public housing at any time before the ACC Expiration Date.

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

Sec. 970.1 Purpose.

970.3 Applicability.

970.5 Definitions.

970.7 General requirements for HUD approval of a PHA demolition/disposition application.

970.9 Resident participation—consultation and opportunity to purchase.

970.11 Procedures for the offer of sale to established eligible organizations.

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970.15 Specific criteria for HUD approval of demolition requests.

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970.19 Disposition of property; use of proceeds.

970.21 Relocation of residents.

970.23 Costs of demolition and relocation of displaced tenants.

970.25 Required and permitted actions prior to approval.

970.27 De minimis exception to demolition requirements.

970.29 Criteria for disapproval of demolition or disposition applications.

970.31 Replacement units.

970.33 Effect on Operating Fund Program and Capital Fund Program.

970.35 Reports and records.

AUTHORITY: 42 U.S.C. 1437p and 3535(d).

SOURCE: 71 FR 62362, Oct. 24, 2006, unless otherwise noted.

§ 970.1 Purpose.

This part states requirements for HUD approval of a public housing agency’s application for demolition or disposition (in whole or in part) of public housing developments assisted under Title I of the U.S. Housing Act of 1937 (Act). The regulations in 24 CFR part 85 are not applicable to this part.

§ 970.3 Applicability.

(a) This part applies to public housing developments that are owned by public housing agencies (PHAs) and
that are subject to annual contributions contracts (ACCs) under the Act.

(b) This part does not apply to the following:

(1) PHA-owned section 8 housing, or housing leased under former sections 19(c) or 23 of the Act;

(2) Demolition or disposition before the date of full availability (DOFA) of property acquired incident to the development of a public housing project (however, this exception shall not apply to dwelling units under ACC);

(3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower-income families under sections 21 and 32 of the Act (42 U.S.C. 1437s and 42 U.S.C. 1437z–4, respectively), the homeownership program under former section 5(h) of the Act (42 U.S.C. 1437c(h)), or other predecessor homeownership programs;

(4) The leasing of dwelling or non-dwelling space incidental to the normal operation of the project for public housing purposes, as permitted by the ACC;

(5) Making available common areas and unoccupied dwelling units in public housing projects to provide HUD-approved economic self-sufficiency services and activities to promote employment of public housing residents;

(6) The reconfiguration of the interior space of buildings (e.g., moving or removing interior walls to change the design, sizes, or number of units) without “demolition,” as defined in §970.5. (This includes the conversion of bedroom size, occupancy type, changing the status of unit from dwelling to non-dwelling.)

(7) Easements, rights-of-way, and transfers of utility systems incident to the normal operation of the development for public housing purposes, as permitted by the ACC;

(8) A whole or partial taking by a public or quasi-public entity (taking agency) authorized to take real property by its use of police power or exercise of its power of eminent domain under state law. A taking does not qualify for the exception under this paragraph unless:

(i) The taking agency has been authorized to acquire real property by use of its police power or power of eminent domain under its state law;

(ii) The taking agency has taken at least the first step in formal proceedings under its state law; and

(iii) If the taking is for a federally assisted project, the Uniform Relocation Act (URA) (42 U.S.C. 4601 et seq.) applies to any resulting displacement of residents and it is the responsibility of the taking agency to comply with applicable URA requirements.

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under Title III of the Cranston-Gonzalez National Affordable Housing Act (HOPE I) (42 U.S.C. 1437aaa note);

(10) Units or land leased for non-dwelling purposes for one year or less;

(11) A public housing property that is conveyed by a PHA prior to DOFA to enable an owner entity to develop the property using the mixed-finance development method;

(12) Disposition of public housing property for development pursuant to the mixed-finance development method at 24 CFR part 941, subpart F;

(13) Demolition under the de minimis exception in §970.27, except that the environmental review provisions apply, including the provisions at §§970.7(a)(15) and (b)(13) of this part.

(14) Demolition (but not disposition) of severely distressed units as part of a revitalization plan under section 24 of the Act (42 U.S.C. 1437v) (HOPE VI) approved after October 21, 1998;

(15) Demolition (but not disposition) of public housing developments removed from a PHA’s inventory under section 33 of the Act, 42 U.S.C. 1437z–5.


§970.5 Definitions.

ACC, or annual contributions contract, is defined in 24 CFR 5.403.


Appropriate government officials means the Chief Executive Officer or officers of a unit of general local government.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing at HUD.

Chief Executive Officer of a unit of general local government means the elected