

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 972

[Docket No. FR-4475-P-01]

RIN 2577-AC01

**Required Conversion of Developments
From Public Housing Stock**

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements a recent revision to the statute that authorizes the public housing and Section 8 housing assistance programs. The revision requires Public Housing Agencies (PHAs) to identify distressed public housing developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then it must develop and carry out a five-year plan to remove the development from its public housing inventory, and convert it to tenant-based assistance.

DATES: *Comments Due Date:* September 21, 1999.

ADDRESSES: Submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Please refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-0713. (This is not a toll-free telephone number.) Persons with hearing or speech disabilities may access this number via TTY by calling the free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Statutory Basis

Section 202 of the Departments of Veterans Affairs and Housing and Urban

Development and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note) provided for a program of required conversion of distressed public housing. HUD implemented that statute by issuing the regulations now found at 24 CFR part 971. Section 33 of the United States Housing Act of 1937 (hereafter Section 33), added by the Quality Housing and Work Responsibility Act of 1998 (hereafter the Public Housing Reform Act), adds provisions for required conversion of distressed public housing to tenant-based assistance. In addition to creating new section 33, section 537 of the Public Housing Reform Act repealed section 202. However, developments that were identified by PHAs or by HUD—before the enactment of the Public Housing Reform Act—for conversion, or for assessment of whether such conversion is required, continue to be subject to the requirements of section 202 and the part 971 regulations implementing that section.

To implement the provisions for required conversions established by the new section 33 of the 1937 Act, this rule would place implementing provisions in a new 24 CFR 972, subpart A.

II. Relationship of Voluntary Conversions to Required Conversions

The same statute that revised this program of required conversions created the provisions for voluntary conversions. Section 533 of the Public Housing Reform Act revised section 22 of the United States Housing Act of 1937, entitled "Authority to Convert Public Housing to Vouchers." A separate rulemaking is underway to implement those provisions through a new 24 CFR 972, subpart B.

III. Description of Specific Sections

A. Identification of Developments Subject to Required Conversion

Under this proposed rule, PHAs are required to identify developments that must be converted to tenant-based assistance. Under the Public Housing Reform Act, developments are subject to required conversion if they are (1) on the same or contiguous sites; (2) are distressed, in accordance with guidelines established by HUD that take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (hereafter, "the Commission") published in August 1992 by the Government Printing Office; and (3) are either identified as distressed housing for which the PHA cannot assure long term viability, or are

more expensive than tenant-based assistance.

In this proposed rule, HUD has repeated portions of the regulations from 24 CFR 971. In identifying units as distressed for which the PHA cannot assure long term viability, the standard used to make this determination remains the same. In addition, the cost test (the methodology for comparing the cost of public housing with the cost of tenant-based assistance) is basically the same test as that used in the current regulation (part 971). The cost test methodology is found in the Appendix to this part, Part 972. HUD is considering the use of a web-based cost comparison calculator on HUD's internet homepage that would reduce the calculation burden on PHAs. HUD is also considering a refinement of the existing cost calculation in the appendix to part 972 to include a more precise net present value calculation.

In this rule, HUD has established certain criteria that a development has to meet in order to be identified as "distressed." In shaping these criteria, HUD took into account the guidelines established by the Commission (see Appendix B of its final report, referenced above). Under this proposed rule, a distressed development is defined as a development predominantly occupied by families that has 250 units or more and has a vacancy rate of at least 10 percent for each of the last three years, where the vacancy rate has not significantly decreased over these years.

Under the superseded provision for required conversion (section 202), only developments with over 300 units were affected. Under the new section 33, there is no such size limit on what developments are subject to required conversion. To reflect this change, this proposed rule decreases the number of units that a development must have in order to be subject to required conversion to 250 dwelling units. HUD invites public comment on the inclusion at a later date of developments smaller than 250 units and developments not predominantly occupied by families. Some of these developments may be suitable for required conversion, even though the incidence is less than with respect to large family developments. HUD did not include such developments in this proposed rule, so that the large family developments would continue to receive HUD's administrative resource priority. We believe that the smaller and not predominantly family developments are more likely to be found viable after conversion assessments and that they do not raise financial issues of the same

magnitude as the larger family developments. We also believe that serious problems with respect to the smaller and not predominantly family developments are more likely to be addressed locally, without enforcement action by HUD.

You are invited to comment on whether the required conversion program should be expanded later to include the developments not included in this proposed rule. If so, to what extent? Are there ways of accomplishing any necessary actions with respect to these developments in a manner that assures reasonable commitment of HUD administrative resources relative to the likely benefits?

In determining what factors to use when defining a development as distressed, HUD reviewed all of the factors identified by the Commission as having an impact on whether a development is severely distressed. The criteria that HUD uses in defining distress in this section are identified by the Commission as factors contributing to the distress of public housing—high vacancy rate, high modernization needs, predominantly family developments. Although there are other factors that the Commission identified as contributing to the likelihood of distress, many of these factors are not feasible as criteria for purposes of this section, because data is not readily available to HUD in all cases. This is the case for information such as the crime rate in the development as compared to the city crime rate and relative school dropout rates.

One factor that the Commission used to identify distressed developments was very low median income as compared to the average median income in the City. The Commission's definition gave this factor the most weight, and found that housing was at the greatest risk of being distressed where the average median income in the development was less than 20 percent of the average local median income. HUD specifically invites comments on whether a comparison of the average median income at the development with the average median income in the area (MSA), or another measure of tenant income, should be included in the identification of developments as distressed.

B. Contents of the Conversion Plan

Once a development is identified as subject to required conversion, the PHA must develop a conversion plan. This conversion plan outlines the PHA's plan to remove the units from the inventory, and to provide tenant-based or project-based assistance for the residents that

will be displaced as a result of conversion to comparable housing. In developing a conversion plan, the PHA should consider any existing consent orders.

The conversion plan is a five year plan, which may be extended by not more than an additional 5 years if HUD determines the 5-year deadline is impracticable. HUD will allow longer than five years (up to 10 years) for units to be taken out of the public housing inventory in recognition of new statutory language that indicates that the cost comparison should be based on the remaining useful life of the public housing. HUD believes that the cost test, comparing the costs of continued operation of public housing with providing tenant-based assistance, generally should continue to be based on the twenty year time frame in the existing regulation (or thirty years for rehabilitation equivalent to new construction). This conclusion is based on the statute's requirement of long-term viability if required conversion is to be avoided. However, in order to ensure that public housing that has a remaining useful life of less than twenty or thirty years, as applicable, is put to the best use, HUD will allow a PHA up to ten years to take the units out of the public housing inventory in exceptional circumstances where this would be the most beneficial means of providing subsidized housing over that time period.

A description and analysis regarding developments subject to required conversion must be submitted to HUD as part of the PHA Annual Plan. However, HUD approval of the conversion plan is separate from HUD approval of the PHA Annual Plan. A separate approval is required because the standards for approval under the PHA Plan differ from the standards for approval of a conversion plan.

C. Actions After Submission of a Conversion Plan

A PHA may not demolish or dispose of units or property until completion of the required environmental review under 24 CFR part 58 (if a responsible entity has assumed environmental responsibility for the project) or 24 CFR part 50 (if HUD is performing the environmental review). Further, HUD will not approve a conversion plan until completion of the required environmental review. However, before completion of the environmental review, HUD may approve the targeted units for deprogramming and may authorize the PHA to undertake other activities proposed in the conversion plan that do not require environmental

review (such as certain activities related to the relocation of residents), as long as the buildings in question are adequately secured and maintained.

Once a conversion plan is approved, the PHA may relocate residents using tenant-based assistance. A PHA must apply for Section 8 tenant-based assistance, and HUD will give a PHA with an approved conversion plan priority for receiving tenant-based assistance. As the development is removed from the public housing inventory, public housing operating subsidy and modernization funding will phase out under the usual process. HUD may require that funding for the initial year of tenant-based assistance be provided from the public housing Capital Fund, Operating Fund, or both.

IV. Findings and Certifications

A. Public Reporting Burden

The information collection requirements contained in §§ 972.107, 972.109, and 972.110 have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

If you have comments regarding the information collections contained in the rule, submit them by September 21, 1999. Please refer to the title of this rule and send the comments to:

Joseph F. Lackey, Jr., HUD Desk Officer,
Office of Management and Budget,
New Executive Office Building,
Washington, DC 20503;

and to
Millie Hamman, Reports Liaison Officer,
Department of Housing and Urban
Development, 451 Seventh Street,
SW, Washington, DC 20410.

Although the information collections are largely specified by section 33 of the United States Housing Act of 1937, we are nonetheless interested in receiving comments on the most efficient way to collect information necessary to reviewing the necessary elements of this conversion program. We invite comments that do the following: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of HUD's functions, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the

information to be collected; and (4) Minimize the burden of the information collection on the PHAs, including use of appropriate automated collection

techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The burden of the information collections in subpart A of part 972 is estimated as follows:

Section number	Number of respondents	Number of Responses per respondent	Number of hours per response	Burden hours
972.107 Conversion Plan	330	*1.5	*8	3,960
972.110 Consultation	330	*1.5	20	9,900

* The number of responses and times estimated are averages.

The total burden hours for new information collections contained in this rule is 13,860 hours.

B. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), HUD is required to determine whether this rule will have a significant economic impact on a substantial number of small entities. If the rule would have such impact, the Department is obligated to perform an initial regulatory flexibility analysis to consider alternative ways of achieving the objective of the rule. The entities that are subject to this rule are public housing agencies that administer public housing. PHAs protected by the Act are those that are organizationally part of a city or county political jurisdiction with less than 50,000 in population.

This rule requires PHAs to determine whether any of their developments must be converted to tenant-based assistance. If a development is distressed and not viable in the long term or is more expensive for the PHA to operate as public housing as compared to providing tenant-based assistance, a PHA may be required to develop a conversion plan for removal of the development. Ultimately, the goal of the rule is to promote more efficient delivery of affordable housing to residents of current public housing developments. This efficiency should benefit small PHAs and large PHAs alike. HUD concludes that this rule will not have a significant economic impact on a substantial number of small entities.

HUD anticipates that no more than 10 percent of all PHAs will be subject to the requirements of required conversion. A large portion of the PHAs that will be subject to required conversion will be large, troubled PHAs. This is a result of the statutory direction to identify units subject to the requirements based on the criteria established by the National Commission on Severely Distressed Public Housing, which focused on large troubled agencies.

The conversion plan will involve a one-time cost, and this cost can vary from development to development, depending on the scope of the assessment, location of the property, and other factors. A mitigating factor concerning the cost for PHAs whose properties are potentially subject to the requirements of required conversion is that they may request assistance from HUD in conducting the required analyses in order to offset the costs. HUD has provided such assistance in the past and intends to continue to do so, if resources are available. Therefore, the cost burden on small entities is not likely to be great.

Despite HUD's determination that the rule does not have a substantial impact on a significant number of small entities, we specifically invite comments regarding alternatives to provisions of this rule that would meet the statutory objectives, while mitigating the impact on small entities.

C. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Regulations Division at the above address.

D. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not have substantial direct effects on the States or on the relationship, or the distribution of power and responsibilities, between the Federal government and the States. The rule merely states the conditions under which a PHA is required to convert a public housing development to tenant-based assistance.

E. Unfunded Mandates Reform Act

This rule does not impose a Federal mandate that will result in the expenditure by State and local governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

F. Regulatory Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, Regulatory Planning and Review. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the Regulations Division of the Office of General Counsel, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

G. Catalog

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.850.

List of Subjects in 24 CFR 972

Grant programs—housing and community development, low and moderate income housing, public housing.

Accordingly, HUD proposes to add part 972, subpart A, to title 24 of the Code of Federal Regulations as follows:

PART 972—CONVERSION OF PUBLIC HOUSING TO TENANT-BASED ASSISTANCE

Subpart A—Required Conversion of Public Housing Developments

- Sec.
- 972.101 What is the definition of "conversion"?
- 972.102 What is the purpose of this subpart?
- 972.103 To what developments is this subpart applicable?
- 972.104 What are the standards for identifying which public housing developments must be converted?

- 972.105 How does a PHA determine if a property is viable in the long term?
- 972.107 What does a conversion plan contain?
- 972.109 When does a PHA submit a conversion plan to HUD?
- 972.110 What is the public and resident consultation process for developing a conversion plan?
- 972.112 What is the effect of conversion on operating subsidy?
- 972.113 How does the conversion plan relate to a demolition/disposition plan?
- 972.114 How are HOPE VI developments treated?
- 972.116 How does a PHA obtain funding to assist residents of the units being converted?
- 972.118 What actions can HUD take with respect to required conversion?
- 972.120 What environmental reviews are required?
- 972.122 When may a PHA proceed with converting a public housing development?

Subpart B—[Reserved]

Authority: 42 U.S.C. 1437t, 1437z-5, and 3535(d).

Subpart A—Required Conversion of Public Housing Developments

§ 972.101 What is the definition of “conversion”?

For purposes of this subpart, the term “conversion” means the removal of public housing units from the inventory of a PHA, and the provision of tenant-based or project-based assistance for the residents of the public housing that is being removed. The term “conversion,” as used in this subpart, does not necessarily mean the physical removal of the public housing development.

§ 972.102 What is the purpose of this subpart?

The purpose of this subpart is to implement section 33 of the United States Housing Act of 1937 (42 U.S.C. 1437z-5), which requires PHAs to review their public housing inventory and identify developments, or parts of developments, which must be removed from its stock of public housing operated under an Annual Contributions Contract with HUD. This subpart provides the procedures a PHA must follow to develop and carry out a conversion plan to remove the units from the public housing inventory, including how to provide for the transition for residents of these developments to other affordable housing.

§ 972.103 To what developments is this subpart applicable?

(a) This subpart is applicable to developments not considered for conversion or for assessment for conversion before October 21, 1998, for

conversion or for assessment of whether such conversion is required. The developments to which this subpart is applicable are subject to the requirements of section 33 of the United States Housing Act of 1937 (42 U.S.C. 1437z-5).

(b) The provisions of this subpart cease to apply when the units in a development that are subject to the requirements of this subpart have been demolished.

(c) This subpart is not applicable to any development identified before October 21, 1998 by HUD or a PHA for conversion or for assessment of whether such conversion is required (in accordance with section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996, 110 Stat. 1321-279—1321-281)). See part 971 of this title for regulations applicable to such a development.

§ 972.104 What are the standards for identifying which public housing developments must be converted?

The development, or portions thereof, must be converted if it is a predominantly family development of 250 or more dwelling units and it meets the following criteria:

(a) *The development is on the same or contiguous sites.* This refers to the actual number and location of units, irrespective of HUD development project numbers.

(b) *The development has a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization, for each of the last three years, and the vacancy rate has not significantly decreased in those three years.* For the determination of vacancy rates, you must use the data you relied upon for your last Public Housing Assessment System (PHAS) or Public Housing Management Assessment Program (PHMAP) certification, as reported on the Form HUD-51234 (report on Occupancy). Units in the following categories must not be included in this calculation:

(1) Vacant units in an approved demolition or disposition program;

(2) Vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit for some period of time, and only for the period of time stated in the law;

(3) Vacant units that have sustained casualty damage, but only until the insurance claim is adjusted; and

(4) Units that are occupied by your employees and units that are used for resident services; and

(c) *The development either is distressed housing for which you cannot assure the long-term viability as public housing, or more expensive for you to operate as public housing than providing tenant-based assistance.*

(1) The development is distressed housing that you cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income. (See § 972.105)

(i) Properties meeting the standards set forth in paragraphs (a)(1) and (2) of this section will be assumed to be “distressed.”

(ii) A development satisfies the long-term viability test only if it is probable that, after reasonable investment, for at least twenty years (or at least 30 years for rehabilitation equivalent to new construction) the development can sustain structural/system soundness and full occupancy; will not be excessively densely configured relative to standards for similar (typically family) housing in the community; will not constitute an excessive concentration of very low-income families; and has no other site impairments that clearly should disqualify the site from continuation as public housing.

(2) The development is more expensive for you to operate as public housing than to provide tenant-based assistance if it has an estimated cost, during the remaining useful life of the project, of continued operation and modernization of the development as public housing in excess of the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(i) For purposes of this determination, the costs used for public housing must be those necessary to produce a revitalized development as described in the paragraph (c)(1) of this section.

(ii) These costs, including estimated operating costs, modernization costs and accrual needs must be used to develop a per unit monthly cost of continuing the development as public housing.

(iii) That per unit monthly cost of public housing must be compared to the per unit monthly Section 8 cost.

(iv) Both the method to be used and an example are included in the Appendix to this part.

§ 972.105 How does a PHA determine if a property is viable in the long term?

In order for a property to meet the standard of long-term viability, as discussed in § 972.104, the following criteria must be met:

(a) The investment to be made in the development is reasonable. (1) Proposed revitalization costs for viability must be reasonable. Such costs must not exceed, and ordinarily would be substantially less than, 90 percent of HUD's total development cost limit for the units proposed to be revitalized (100 percent of the total development cost limit for any "infill" new construction subject to this regulation). The revitalization cost estimate used in your most recent comprehensive plan for modernization is to be used for this purpose, unless you demonstrate or HUD determines that another cost estimate is clearly more realistic to ensure viability and to sustain the operating costs that are described in paragraph (a)(2) of this section.

(2) The overall projected cost of the revitalized development must not exceed the Section 8 cost under the method contained in the Appendix to this part, even if the cost of revitalization is a lower percentage of the TDC than the limits stated in paragraph (a)(1) of this section.

(3) The source of funding for such a revitalization program must be identified and available. In addition to other resources already available to you, you may assume that future formula funds provided through the Capital Fund over five years are available for this purpose.

(b) *Appropriate density is achieved.* The resulting public housing development must have a density which is comparable that which prevails in or is appropriate for the community for similar types of housing (typically family). The PHA must consider the full range of density options and objectives, including the need to reduce density at the site and the need to confine urban sprawl.

(c) *A greater income mix can be achieved.* (1) Measures generally will be required to broaden the range of resident incomes over time to include a significant mix of households with at least one full-time worker (for example, at least 20 percent with an income at least 30 percent of median area income). Measures to achieve a broader range of household incomes must be realistic in view of the site's location. Evidence of such realism typically would include some mix of incomes of other households located in the same census tract or neighborhood, or unique advantages of the public housing site.

(2) For purposes of judging appropriateness of density reduction and broader range of income measures, overall size of the public housing site and its number of dwelling units will be considered. The concerns these measures would address generally are greater as the site's size and number of dwelling units increase.

§ 972.107 What does a conversion plan contain?

(a) With respect to any development that is identified under § 972.103, you must develop a 5-year plan for removal of the affected public housing units from the inventory. The plan must consider relocation alternatives for households in occupancy, including other public housing and Section 8 tenant-based assistance, and must provide for relocation from the units as soon as possible. For planning purposes, you must assume that HUD will be able to provide in a timely fashion any necessary Section 8 rental assistance. The plan must include:

(1) A listing of the public housing units to be removed from the inventory;

(2) The number of households to be relocated, by bedroom size;

(3) Identification and obligation status of any previously approved modernization, reconstruction, or other capital funds for the distressed development and your recommendations concerning transfer of these funds to Section 8 or alternative public housing uses;

(4) The relocation resources that will be necessary, including a request for any necessary Section 8 and a description of actual or potential public or other assisted housing vacancies that can be used as relocation housing;

(5) A schedule for relocation and removal of units from the public housing inventory;

(6) Provision for notifying families residing in the development, 90 days prior to displacement that:

(i) The development must be removed from the public housing inventory;

(ii) Such families will receive comparable housing in the form of tenant-based or project-based assistance;

(iii) Any necessary counseling with respect to the relocation will be provided;

(iv) Such families will be relocated to other decent, safe, sanitary and affordable housing that is, to the maximum extent possible, housing of their choice; and

(v) If the development is used as housing after conversion, you must ensure each resident the right to remain in the housing, using tenant-based assistance towards rent;

(7) A record indicating compliance with the statute's requirements for consultation with applicable public housing tenants of the affected development and the unit of local government where the public housing is located, as set forth in § 972.110; and

(8) A description of the plans for demolition or disposition of the public housing units.

(b) Generally, the conversion plan may not be more than a five year plan. However, HUD may allow you up to ten years to remove the units from the inventory, in exceptional circumstances where HUD determines that this is clearly the most cost effective and beneficial means of providing housing assistance over that same period. For example, HUD may allow a longer period of time to remove the units from the public housing inventory, where more than one development is being converted, and a larger number of families require relocation than can easily be absorbed into the rental market at one time, provided the housing has a remaining useful life of longer than five years and the longer time frame will assist in relocation.

§ 972.109 When does a PHA submit a conversion plan to HUD?

The requirements of this section are on-going requirements. If you must submit a plan for conversion, you must submit it as part of your Annual Plan.

§ 972.110 What is the public and resident consultation process for developing a conversion plan?

(a) You must consult with appropriate public officials and with the appropriate public housing residents in developing your conversion plan.

(b) You may satisfy the requirement for consultation with public officials by obtaining a certification from the appropriate government official that your conversion plan is consistent with the applicable Consolidated Plan. This may be the same certification as is required for your PHA Annual Plan that includes the conversion plan, if the certifying official is the same for both and the certification specifically addresses the conversion plan.

(c) To satisfy the requirement for consultation with the appropriate public housing residents, in addition to the public participation requirements for the PHA Annual Plan, you must:

(1) Hold a meeting with the residents of the affected sites at which you must:

(i) Explain the requirements of this section, especially as they apply to the residents of the affected developments; and

(ii) Provide draft copies of the conversion plan to the residents;

(2) Provide a reasonable comment period for residents; and

(3) Summarize the resident comments for HUD, in the conversion plan, and consider these comments in developing the final conversion plan.

§ 972.112 What is the effect of conversion on operating subsidy?

For purposes of determining operating subsidy eligibility, HUD will consider the conversion plan you submit to be the equivalent of a formal request to remove dwelling units from your inventory and ACC. HUD will notify you in writing whether it has approved the conversion plan. Units that are vacant or vacated on or after the written notification date will be treated as approved for deprogramming under § 990.108(b)(1) of this title and also will be provided the phase-down of subsidy pursuant to § 990.114 of this title.

§ 972.113 How does the conversion plan relate to a demolition/disposition plan?

Section 18 of the United States Housing Act of 1937 does not apply to demolition of developments removed from your inventory under this section. However, with respect to any such demolition, you must comply with the requirements for environmental review found at part 58 of this title. Section 18 does apply to any disposition of developments removed from your inventory under this section. Therefore, you must submit a disposition application under section 18. HUD's review of any such disposition application will take into account that the development has been required to be converted.

§ 972.114 How are HOPE VI developments treated?

Developments with HOPE VI implementation grants that have approved HOPE VI revitalization plans on September 30, 1999 will not be subject to the requirements of this section. Future HUD actions to approve or deny proposed HOPE VI implementation grant revitalization

plans must be consistent with the requirements of this section.

Developments with HOPE VI planning or implementation grants, but without approved HOPE VI revitalization plans, are fully subject to required conversion standards under this part.

§ 972.116 How does a PHA obtain funding to assist residents of the units being converted?

(a) You may apply for tenant-based assistance in accordance with Section 8 program requirements, and HUD will give you a priority for receiving tenant-based assistance to replace the public housing units. It is HUD's policy to provide funds for one-for-one replacement housing with either public housing or tenant-based assistance, if funds are available.

(b) HUD may require that funding for the initial year of tenant-based assistance be provided from the public housing Capital Fund, Operating Fund, or both.

§ 972.118 What actions can HUD take with respect to required conversion?

(a) HUD will take appropriate actions to ensure that certain distressed developments are properly identified and converted.

(b) HUD may take any or all of the following actions:

(1) Direct you to cease additional spending in connection with a development that meets, or is likely to meet the statutory criteria, except to the extent that failure to expend such amounts would endanger health or safety;

(2) Identify developments that fall within the statutory criteria where you have failed to do so properly;

(3) Take appropriate actions to ensure the conversion of developments where you have failed to adequately develop or implement a conversion plan;

(4) Require you to revise the conversion plan, or prohibit conversion, where HUD has determined that you have erroneously identified a

development as being subject to the requirements of this section; or

(5) Authorize or direct the transfer of capital or operating funds committed to or on behalf of the development (including comprehensive improvement assistance, comprehensive grant or Capital Fund amounts attributable to the development's share of funds under the formula, and major reconstruction of obsolete projects funds) to tenant-based assistance or appropriate site revitalization for the agency.

§ 982.120 What environmental reviews are required?

You may not demolish or dispose of units or property until completion of the required environmental review under part 58 of this title (if a responsible entity has assumed environmental responsibility for the project) or part 50 of this title (if HUD is performing the environmental review). Further, HUD will not approve a conversion plan until completion of the required environmental review. However, before completion of the environmental review, HUD may approve the targeted units for deprogramming and may authorize you to undertake other activities proposed in your conversion plan that do not require environmental review (such as certain activities related to the relocation of residents), as long as the buildings in question are adequately secured and maintained.

§ 972.122 When may a PHA proceed with converting a public housing development?

You may proceed to convert a development covered by a conversion plan only after receiving written approval from HUD. This approval will be separate from the approval that you receive for your PHA Annual Plan.

Dated: July 16, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99-18773 Filed 7-22-99; 3:35 pm]

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