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or 500 times \$600 plus 500 times \$800 with the sum divided by 1,000; plus \$46 for the administrative fee; plus \$28 for the amortized cost of demolition and tenant relocation (including any necessary counseling), or \$5000 per unit divided by 180 in this example). This Section 8 cost would then be compared to the cost of revitalized public housing development—in the example of this section, the revitalized public housing cost of \$868 monthly per occupied unit would exceed the Section 8 cost of \$774 monthly per occupied unit by 12 percent. The PHA would have to prepare a conversion plan for the property.

III. DETAILING THE SECTION-8 COST COMPARISON: A SUMMARY TABLE

The Section 8 cost comparison methods are summarized, using the example provided in this section III.

A. Key Data, Development: The revitalized development has 1000 occupied units. All of the units are in walkup buildings. The 1000 occupied units will consist of 500 two-bedroom units and 500 three-bedroom units. The total current operating costs attributable to the development are \$300,000 per month in non-utility costs, \$100,000 in utility costs paid by the PHA, and \$50,000 in utility allowance expenses for utilities paid directly by the tenants to the utility company. Also, the modernization cost for revitalization is \$60,000,000, or \$60,000 per occupied unit. This will provide standards for viability but not standards for new construction. The cost of demolition and relocation of the 1000 occupied units is \$5 million, or \$5000 per unit, based on recent experience.

B. Key Data, Area: The unit total development cost limit is \$70,000 for two-bedroom walkups and \$92,000 for three-bedroom walkups. The two-bedroom Fair Market Rent is \$600 and the three-bedroom Fair Market Rent is \$800. The applicable monthly administrative fee amount, in column B of the March 12, 1997 FEDERAL REGISTER Notice, at 62 FR 11826, is \$46.

C. Preliminary Computation of the Per-Unit Average Total Development Cost of the Development: This results from applying the location's unit total development cost by structure type and number of bedrooms to the occupied units of the development. In this example, five hundred units are valued at \$70,000 and five hundred units are valued at \$92,000 and the unit-weighted average is \$81,000.

D. Current Per Unit Monthly Occupied Costs of Public Housing:

1. Operating Cost—\$450 (total monthly costs divided by occupied units: in this example, the sum of \$300,000 and \$100,000 and \$50,000—divided by 1,000 units).

2. Amortized Modernization Cost—\$333 (\$60,000 per unit divided by 180 for standards less than those of new construction).

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3. Estimated Accrual Cost—\$85 (the per-unit average total development cost minus half of the modernization cost per unit, times .02 divided by 12 months: in this example, \$51,000 times .02 and then divided by 12).

4. Total per unit public housing costs—\$868.

E. Current per unit monthly occupied costs of section 8:

1. Unit-weighted Fair Market Rents—\$700 (the unit-weighted average of the Fair Market Rents of occupied bedrooms: in this example, 500 times \$600 plus 500 times \$800, divided by 1000).

2. Administrative Fee—\$46.

3. Amortized Demolition and Relocation Cost—\$28 (\$5000 per unit divided by 180).

4. Total per unit section 8 costs—\$774.

F. Result: In this example, because revitalized public housing costs exceed current Section 8 costs, a conversion plan for the property would be required.

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

Subpart A—Required Conversion of Public Housing Developments

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APPENDIX TO PART 972—METHODOLOGY OF COMPARING COST OF PUBLIC HOUSING WITH THE COST OF TENANT-BASED ASSISTANCE

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

SOURCE: 66 FR 33618, June 22, 2001, unless otherwise noted.

Subpart A—Required Conversion of Public Housing Developments

SOURCE: 68 FR 54608, Sept. 17, 2003, unless otherwise noted.

PURPOSE; DEFINITION OF CONVERSION**§ 972.100 Purpose.**

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 annually re-

view 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 (ACC) 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 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 units that are being removed. The term “conversion,” as used in this subpart, does not necessarily mean the physical removal of the public housing development.

REQUIRED CONVERSION PROCESS**§ 972.106 Procedure for required conversion of public housing developments to tenant-based assistance.**

(a) A PHA must annually review its public housing inventory and identify developments, or parts of developments, which must be converted to tenant-based assistance, in accordance with §§ 972.121–972.127.

(b) With respect to any public housing development that is identified under paragraph (a) of this section, the PHA generally must develop a 5-year plan for removal of the affected public housing units from the inventory, in accordance with §§ 972.130–972.136.

(c) The PHA may proceed to convert the development if HUD approves the conversion plan.

§ 972.109 Conversion of developments.

(a)(1) The PHA may proceed to convert the development covered by a conversion plan after receiving written approval from HUD. This approval will be separate from the approval that the PHA receives for its Annual Plan.

(2) HUD anticipates that its review of a conversion plan will ordinarily occur

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within 90 days following submission of a complete plan by the PHA. A longer process may be required where HUD's initial review of the plan raises questions that require further discussion with the PHA. In any event, HUD will provide all PHAs with a preliminary response within 90 days following submission of a conversion plan.

(b) The PHA 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 removal from the PHA's inventory and may authorize the PHA to undertake other activities proposed in its 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.

(c) For purposes of determining operating subsidy eligibility, HUD will consider the conversion plan the PHA submits to be the equivalent of a formal request to remove dwelling units from the PHA's inventory and ACC. HUD will notify the PHA 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 any phase-down of subsidy to which the PHA is entitled pursuant to §990.114 of this title.

(d) The PHA may apply for tenant-based assistance in accordance with Section 8 program requirements, and HUD will give the PHA 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. HUD may require that funding for the initial year be provided from the public hous-

ing Capital Fund, Operating Fund, or both.

§972.112 Relationship between required conversion and demolition/disposition requirements.

(a) Section 18 of the United States Housing Act of 1937 does not apply to demolition of developments removed from the inventory of the PHA under this subpart. Demolition of these developments is therefore not subject to section 18(g), which provides an exclusion from the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (URA). Accordingly, the URA will apply to the displacement of tenants as the direct result of the demolition of a development carried out pursuant to this subpart, in accordance with §972.118. With respect to any such demolition, the PHA must comply with the requirements for environmental review found at part 58 of this title.

(b) Section 18 of the United States Housing Act of 1937 does apply to any disposition of developments removed from the inventory of the PHA under this subpart. Therefore, to dispose of property, the PHA 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.

§972.115 Relationship between required conversions and HOPE VI developments.

HUD actions to approve or deny proposed HOPE VI revitalization plans must be consistent with the requirements of this subpart. Developments with HOPE VI revitalization grants, but without approved HOPE VI revitalization plans, are fully subject to required conversion standards under this subpart.

§972.118 Applicability of Uniform Relocation Act.

To the extent that tenants are displaced as a direct result of the demolition, acquisition, or rehabilitation of federally-assisted property converted pursuant to this subpart, the requirements of the Uniform Relocation Assistance and Real Property Acquisition

Policies Act of 1970 (42 U.S.C. 4601) (URA), and the implementing regulations issued by the Department of Transportation at 49 CFR part 24, apply.

IDENTIFYING DEVELOPMENTS SUBJECT TO REQUIRED CONVERSION

§ 972.121 Developments subject to this subpart.

(a) This subpart is applicable to any development not identified before October 21, 1998, 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). Developments identified before October 21, 1998, continue to be subject to the requirements of section 202 and part 971 of this chapter until these requirements are satisfied. Thereafter, the provisions of this subpart apply to any remaining public housing on the sites of those developments.

(b) 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).

(c) 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.

§ 972.124 Standards for identifying public housing developments subject to required conversion.

The development, or portions thereof, must be converted if it is a general occupancy 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 a specified 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.* (1) For a conversion analysis performed on or before March 16, 2009, the speci-

fied vacancy rate is 15 percent. For a conversion analysis performed after that date, the specified vacancy rate is 12 percent.

(2) For the determination of vacancy rates, the PHA must use the data it relied upon for the PHA's latest Public Housing Assessment System (PHAS) certification, as reported on the Form HUD-51234 (report on Occupancy). Units in the following categories must not be included in this calculation:

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

(ii) 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;

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

(iv) Units that are occupied by employees of the PHA and units that are used for resident services; and

(v) Units that HUD determines, in its sole discretion, are intentionally vacant and do not indicate continued distress.

(c) *The development either is distressed housing for which the PHA cannot assure the long-term viability as public housing, or more expensive for the PHA to operate as public housing than providing tenant-based assistance.* (1) The development is distressed housing for which the PHA cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income. (See § 972.127)

(i) Properties meeting the standards set forth in paragraphs (a) and (b) of this section will be assumed to be "distressed," unless HUD determines that the reasons a property meets such standards are temporary in duration and are unlikely to recur.

(ii) A development satisfies the long-term viability test only if it is probable that, after reasonable investment, for at least 20 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 other

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similar rental (typically family) housing in the community; can achieve a broader range of family income; and has no other site impairments that clearly should disqualify the site from continuation as public housing.

(2) The development is more expensive for the PHA 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 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) The cost methodology necessary to conduct the cost comparisons for required conversions has not yet been finalized. PHAs are not required to undertake conversions under this subpart until six months after the effective date of the cost methodology, which will be announced in the FEDERAL REGISTER. Once effective, the cost methodology will be codified as an appendix to this part.

§ 972.127 Standards for determining whether a property is viable in the long term.

In order for a property to meet the standard of long-term viability, as discussed in § 972.124, 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 substan-

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tially less than, 90 percent of HUD's total development cost (TDC) 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 the PHA's most recent Annual Plan or 5-Year Plan is to be used for this purpose, unless the PHA demonstrates, 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 the PHA, it 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 to that which prevails in or is appropriate for assisted rental housing or for other similar types of housing in the community (typically family).

(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. Measures to achieve a broader range of household incomes must be realistic in view of the site's location. Appropriate evidence typically would include census or other recent statistical evidence demonstrating 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.

CONVERSION PLANS

§ 972.130 Conversion plan components.

(a) With respect to any development that is identified under §§ 972.121 through 972.127, the PHA generally 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, the PHA 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) Identification and obligation status of any previously approved modernization, reconstruction, or other capital funds for the distressed development and the PHA's recommendations concerning transfer of these funds to Section 8 or alternative public housing uses;

(3) 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 § 972.133;

(4) A description of the plans for demolition or disposition of the public housing units; and

(5) A relocation plan, in accordance with paragraph (b) of this section.

(b) *Relocation plan.* The relocation plan must incorporate all of the information identified in paragraphs (b)(1) through (b)(4) of this section. In addition, if the required conversion is subject to the URA, the relocation plan must also contain the information identified in paragraph (b)(5) of this section. The relocation plan must incorporate the following:

(1) The number of households to be relocated, by bedroom size, and by the number of accessible units.

(2) The relocation resources that will be necessary, including a request for any necessary Section 8 funding and a description of actual or potential public or other assisted housing vacancies that can be used as relocation housing and budget for carrying out relocation activities.

(3) A schedule for relocation and removal of units from the public housing inventory (including the schedule for providing actual and reasonable relocation expenses, as determined by the PHA, for families displaced by the conversion).

(4) Provide for issuance of a written notice to families residing in the development in accordance with the following requirements:

(i) *Timing of notice.* If the required conversion is not subject to the URA, the notice shall be provided to families at least 90 days before displacement. If the required conversion is subject to the URA the written notice shall be provided to families no later than the date the conversion plan is submitted to HUD. For purposes of a required conversion subject to the URA, this written notice shall constitute the General Information Notice (GIN) required by the URA.

(ii) *Contents of notice.* The written notice shall include all of the following:

(A) The development must be removed from the public housing inventory and that the family may be displaced as a result of the conversion;

(B) The family will be offered comparable housing, which may include tenant-based or project-based assistance, or occupancy in a unit operated or assisted by the PHA (if tenant-based assistance is used, the comparable housing requirement is fulfilled only upon the relocation of the family into such housing);

(C) Any necessary counseling with respect to the relocation will be provided, including any appropriate mobility counseling (the PHA may finance the mobility counseling using Operating Fund, Capital Fund, or Section 8 administrative fee funding);

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

(E) If the development is used as housing after conversion, the PHA must ensure that each resident may choose to remain in the housing, using tenant-based assistance towards rent, and

(F) Where section 8 voucher assistance is being used for relocation, the family will be provided with the vouchers at least 90 days before displacement.

(5) If the required conversion is subject to the URA, the written notice described in paragraph (b)(4) must also provide that:

(i) The family will not be required to move without at least 90-days advance written notice of the earliest date by which the family may be required to move, and that the family will not be required to move permanently until the family is offered comparable housing, as provided in paragraph (b)(4)(ii)(B) of this section;

(ii) Any person who is an alien not lawfully present in the United States is ineligible for relocation payments or assistance under the URA, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as provided in the URA regulations at 49 CFR 24.208;

(iii) The family has a right to appeal the PHA's determination as to the family's application for relocation assistance for which the family may be eligible under this subpart and URA;

(iv) Families residing in the development will be provided with the URA Notice of Relocation Eligibility or Notice of Non-displacement (as applicable) as of the date HUD approves the conversion plan (for purposes of this subpart, the date of HUD's approval of the conversion plan shall be the "date of initiation of negotiations" as that term is used in URA and the implementing regulations at 49 CFR part 24); and

(v) Any family that moves into the development after submission of the conversion plan to HUD will also be eligible for relocation assistance, unless

the PHA issues a written move-in notice to the family prior to leasing and occupancy of the unit advising the family of the development's possible conversion, the impact of the conversion on the family, and that the family will not be eligible for relocation assistance.

(c) The conversion plan may not be more than a 5-year plan, unless the PHA applies for and receives approval from HUD for a longer period of time. HUD may allow the PHA up to 10 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.

§972.133 Public and resident consultation process for developing a conversion plan.

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

(b) The PHA may satisfy the requirement for consultation with public officials by obtaining a certification from the appropriate government official that the conversion plan is consistent with the applicable Consolidated Plan. This may be the same certification as is required for the PHA Annual Plan that includes the conversion plan, so long as 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, the PHA must:

(1) Hold at least one meeting with the residents of the affected sites (including the duly elected Resident

Council, if any, that covers the development in question) at which the PHA 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.

§ 972.136 Timing of submission of conversion plans to HUD.

The requirements of this section are on-going requirements. If the PHA must submit a plan for conversion, it must submit the conversion plan as part of the PHA's Annual Plan, beginning with PHA fiscal years that commence six months after the effective date of HUD's final rule establishing the cost methodology for required conversions.

**HUD ACTIONS WITH RESPECT TO
REQUIRED CONVERSIONS**

§ 972.139 HUD actions with respect to required conversions.

(a) HUD will take appropriate steps to ensure that distressed developments subject to this subpart are properly identified and converted. If a PHA fails to properly identify a development for required conversion, or does not submit a conversion plan for a development in the PHA Annual Plan following the Annual Plan in which the development was identified as subject to required conversion, HUD will take the actions described in paragraph (b) of this section, and may also take any or all of the actions described in paragraph (c) of this section.

(b) If a PHA fails to take the conversion activities described in paragraph (a) of this section, HUD will:

- (1) Disqualify the PHA from HUD funding competitions; and
- (2) Direct the PHA 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.

(c) If a PHA fails to take the conversion activities described in paragraph (a) of this section, HUD may also take any or all of the following actions:

(1) Identify developments that fall within the statutory criteria where the PHA has failed to do so properly;

(2) Take appropriate actions to ensure the conversion of developments where the PHA has failed to adequately develop or implement a conversion plan;

(3) Require the PHA to revise the conversion plan, or prohibit conversion, where HUD has determined that the PHA has erroneously identified a development as being subject to the requirements of this section;

(4) 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; and

(5) Any other action that HUD determines appropriate and has the authority to undertake.

Subpart B—Voluntary Conversion of Public Housing Developments

SOURCE: 68 FR 54619, Sept. 17, 2003, unless otherwise noted.

PURPOSE; DEFINITION OF CONVERSION

§ 972.200 Purpose.

This subpart implements section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t). The purposes of this subpart are to:

(a) Require PHAs to perform an assessment which considers developments for which conversion of public housing may be appropriate; and

(b) Provide a basis for a PHA to take action for conversion on a voluntary basis.

§ 972.203 Definition of "conversion."

For purposes of this subpart, the term "conversion" means the removal

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of public housing units from the inventory of a Public Housing Agency (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 from the site.

REQUIRED INITIAL ASSESSMENTS

§ 972.206 Required initial assessments.

(a) *General.* A PHA must conduct a required initial assessment (which consists of the certification described in paragraph (b) of this section), in accordance with this section, once for each of its developments, unless:

(1) The development is subject to required conversion under 24 CFR part 971;

(2) The development is the subject of an application for demolition or disposition that has not been disapproved by HUD;

(3) A HOPE VI revitalization grant has been awarded for the development; or

(4) The development is designated for occupancy by the elderly and/or persons with disabilities (*i.e.*, is not a general occupancy development).

(b) *Certification procedure.* For each development, the PHA shall certify that it has:

(1) Reviewed the development's operation as public housing;

(2) Considered the implications of converting the public housing to tenant-based assistance; and

(3) Concluded that conversion of the development may be:

(i) Appropriate because removal of the development would meet the necessary conditions for voluntary conversion described in § 972.224; or

(ii) Inappropriate because removal of the development would not meet the necessary conditions for voluntary conversion described in § 972.224.

(c) *Documentation.* A PHA must maintain documentation of the reasoning with respect to each required initial assessment.

(d) *Timing of submission.* Consistent with statutory submission requirements, the results of each required ini-

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tial assessment (consisting of the certification described in paragraph (b) of this section) must be submitted to HUD as part of the next PHA Annual Plan after its completion.

VOLUNTARY CONVERSION PROCEDURE

§ 972.209 Procedure for voluntary conversion of public housing developments to tenant-based assistance.

A PHA that wishes to convert a public housing development to tenant-based assistance must comply with the following process:

(a) The PHA must perform a conversion assessment, in accordance with §§ 972.218–972.224 and submit it to HUD as part of the next PHA Annual Plan submission.

(b) The PHA must prepare a conversion plan, in accordance with § 972.227–972.233, and submit it to HUD, as part of its PHA Annual Plan, within one year after submitting the conversion assessment. The PHA may submit the conversion plan in the same Annual Plan as the conversion assessment.

(c) The PHA may proceed to convert the development if HUD approves the conversion plan.

§ 972.212 Timing of voluntary conversion.

(a) A PHA may proceed to convert a development covered by a conversion plan only after receiving written approval of the conversion plan from HUD. This approval will be separate from the approval that the PHA receives for its PHA Annual Plan. A PHA may apply for tenant-based assistance in accordance with Section 8 program requirements and will be given priority for receiving tenant-based assistance to replace the public housing units.

(b) A PHA 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 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.

(c) For purposes of determining operating subsidy eligibility, the submitted conversion plan will be considered the equivalent of a formal request to remove dwelling units from the PHA's inventory and Annual Contributions Contract (ACC). Units that are vacant or are vacated on or after the written notification date will be treated as approved for deprogramming under § 990.108(b)(1) of this title, and will also be provided the phase down of subsidy pursuant to § 990.114 of this title.

(d) 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.

§ 972.215 Applicability of the Uniform Relocation Act.

To the extent that tenants are displaced as a direct result of the demolition, acquisition, or rehabilitation of federally-assisted property converted under this subpart, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (URA), and the implementing regulations issued by the Department of Transportation at 49 CFR part 24, apply.

CONVERSION ASSESSMENTS

§ 972.218 Conversion assessment components.

The conversion assessment contains five elements, as described below:

(a) *Cost analysis.* A PHA must conduct a cost analysis comparing the cost of providing Section 8 tenant-based assistance with the cost of continuing to operate the development as public housing for the remainder of its useful life. The cost methodology necessary to conduct the cost comparisons for voluntary conversions has not yet been finalized. PHAs may not undertake conversions under this subpart until the effective date of the cost method-

ology, which will be announced in the FEDERAL REGISTER. Once effective, the cost methodology will be codified as an appendix to this part.

(b) *Analysis of the market value.* (1) A PHA must have an independent appraisal conducted to compare the market value of the development before and after rehabilitation. In both cases, the market value must be based on the use of the development as public housing.

(2) In addition, the appraisal must compare:

(i) The market value of the development before rehabilitation, based on the use of the development as public housing, with the market value of the development after conversion; with

(ii) The market value of the development after rehabilitation, based on the use of the development as public housing, with the market value of the development after conversion.

(3) A copy of the appraisal findings and the analysis of market value of the development in the conversion assessment must be provided in the conversion assessment.

(c) *Analysis of rental market conditions.* (1) A PHA must conduct an analysis of the likely success of using tenant-based assistance for the residents of the public housing development. This analysis must include an assessment of the availability of decent, safe, and sanitary dwelling units rented at or below the applicable Section 8 payment standard established for the jurisdiction or designated part of the FMR area in which the development is located.

(2) In conducting this assessment, a PHA must take into account:

(i) Its overall use of rental vouchers under lease and the success rates of using Section 8 tenant-based assistance in the community for the appropriate bedroom sizes, including recent success rates for units renting at or below the established payment standard; and

(ii) Any particular characteristics of the specific residents of the public housing which may affect their ability to be housed (such as large household size or the presence of an elderly or disabled family member).

(d) *Impact analysis.* A PHA must describe the likely impact of conversion

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of the public housing development on the neighborhood in which the public housing is located. This must include:

(1) The impact on the availability of affordable housing in the neighborhood;

(2) The impact on the concentration of poverty in the neighborhood; and

(3) Other substantial impacts on the neighborhood.

(e) *Conversion implementation.* If a PHA intends to convert the development (or a portion of it) to tenant-based assistance, the conversion assessment must include a description of any actions the PHA plans to take in converting the development. This must include a general description of the planned future uses of the development, and the means and timetable for accomplishing such uses.

[68 FR 54619, Sept. 17, 2003, as amended at 89 FR 38293, May 7, 2024]

§ 972.221 Timing of submission of conversion assessments to HUD.

(a) *Submission with PHA Plan.* A PHA that wishes to convert a public housing development to tenant-based assistance must submit a conversion assessment to HUD with its next PHA Annual Plan.

(b) *Updated conversion assessment.* Where a PHA proposes to convert a development to tenant-based assistance, it must submit an updated conversion assessment if the conversion assessment otherwise would be more than one year older than the conversion plan to be submitted to HUD. To update a conversion assessment, a PHA must ensure that the analysis of rental market conditions is based on the most recently available data, and must include any data that have changed since the initial conversion assessment. A PHA may submit the initial cost analysis and comparison of the market value of the public housing before and after rehabilitation and/or conversion if there is no reason to believe that such information has changed significantly.

§ 972.224 Necessary conditions for HUD approval of conversion.

(a) *Conditions.* In order to convert a public housing development, the PHA must conduct a conversion assessment

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that demonstrates that the conversion of the development:

(1) Will not be more expensive than continuing to operate the development (or portion of it) as public housing;

(2) Will principally benefit the residents of the public housing development (or portion thereof) to be converted, the PHA, and the community; and

(3) Will not adversely affect the availability of affordable housing in the community.

(b) *Evidence—(1) Relative expense.* The relative expense of continuing operation as public housing or conversion to tenant-based assistance may be demonstrated by the cost analysis and market value analysis.

(2) *Benefit to residents, PHA, and the community.* (i) The benefit to residents, the PHA, and the community may be demonstrated in the rental market analysis, the analysis of the impact on the neighborhood, the market value analysis, and the proposed future use of the development. In determining whether a conversion will principally benefit residents, the PHA, and the community, HUD will consider whether the conversion will conflict with any litigation settlement agreements, voluntary compliance agreements, or other remedial agreements signed by the PHA with HUD.

(ii) In making the determination of whether a conversion would principally benefit residents, the PHA, and the community, the PHA must consider such factors as the availability of landlords providing tenant-based assistance, as well as access to schools, jobs, and transportation.

(iii) To determine the benefit to residents, the PHA must hold at least one public meeting with residents of the affected site (including the duly elected Resident Council, if any, that covers the development in question). At the meeting, the PHA must:

(A) Explain the requirements of section 22 of the United States Housing Act of 1937 and these regulations, especially as they apply to residents of affected developments;

(B) Provide draft copies of the conversion assessment to the residents; and

(C) Provide the residents with a reasonable period of time to submit comments on the draft conversion assessment.

(iv) The conversion assessment submitted to HUD must contain a summary of the resident comments, and the PHA responses to any significant issues raised by the commenters.

(3) *Impact on affordable housing.* The impact on affordable housing may be demonstrated in the rental market analysis and the analysis of the impact of conversion on the neighborhood.

CONVERSION PLANS

§ 972.227 Public and resident consultation process for developing a conversion plan.

(a) A conversion plan must be developed in consultation with appropriate public officials and with significant participation by residents of the development.

(b) The requirement for consultation with public officials may be satisfied by obtaining a certification from the appropriate state or local officials that the conversion plan is consistent with that jurisdiction's Consolidated Plan. This may be the same certification as is required for the PHA Annual Plan that includes the conversion plan, so long as the certification specifically addresses the conversion plan.

(c) To satisfy the requirement for significant participation by residents of the development, in addition to the public participation requirements for the PHA Annual Plan, a PHA must:

(1) Hold at least one meeting with the residents of the affected sites (including the duly elected Resident Council, if any, that covers the development in question) at which the PHA must:

(i) Explain the requirements of section 22 of the United States Housing Act of 1937 and these regulations, especially as they apply to residents of affected developments; and

(ii) Provide draft copies of the conversion plan to them.

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

(3) Summarize the resident comments (as well as the PHA responses to the significant issues raised by the commenters) for HUD, and consider

these comments in developing the final conversion plan.

§ 972.230 Conversion plan components.

A conversion plan must:

(a) Describe the conversion and future use or disposition of the public housing development. If the future use of the development is demolition or disposition, the PHA is not required to submit a demolition or disposition application, so long as the PHA submits, and HUD approves, a conversion plan that includes a description of the future uses of the development.

(b) Include an impact analysis of the conversion on the affected community. This may include the description that is required as part of the conversion assessment.

(c) Include a description of how the conversion plan is consistent with the findings of the conversion assessment undertaken in accordance with § 972.218.

(d) Include a summary of the resident comments received when developing the conversion plan, and the PHA responses to the significant issues raised by the commenters (including a description of any actions taken by the PHA as a result of the comments).

(e) Confirm that any proceeds received from the conversion are subject to the limitations under section 18(a)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(5)) applicable to proceeds resulting from demolition or disposition.

(f) Summarize why the conversion assessment for the public housing project supports the three conditions necessary for conversion described in § 972.224.

(g) Include a relocation plan that incorporates all of the information identified in paragraphs (g)(1) through (g)(4) of this section. In addition, if the required conversion is subject to the URA, the relocation plan must also contain the information identified in paragraph (g)(5) of this section. The relocation plan must incorporate the following:

(1) The number of households to be relocated, by bedroom size, by the number of accessible units.

(2) The relocation resources that will be necessary, including a request for

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any necessary Section 8 funding and a description of actual or potential public or other assisted housing vacancies that can be used as relocation housing and budget for carrying out relocation activities.

(3) A schedule for relocation and removal of units from the public housing inventory (including the schedule for providing actual and reasonable relocation expenses, as determined by the PHA, for families displaced by the conversion).

(4) Provide for issuance of a written notice to families residing in the development in accordance with the following requirements:

(i) *Timing of notice.* If the voluntary conversion is not subject to the URA, the notice shall be provided to families at least 90 days before displacement. If the voluntary conversion is subject to the URA the written notice shall be provided to families no later than the date the conversion plan is submitted to HUD. For purposes of a voluntary conversion subject to the URA, this written notice shall constitute the General Information Notice (GIN) required by the URA.

(ii) *Contents of notice.* The written notice shall include all of the following:

(A) The development will no longer be used as public housing and that the family may be displaced as a result of the conversion;

(B) The family will be offered comparable housing, which may include tenant-based or project-based assistance, or occupancy in a unit operated or assisted by the PHA (if tenant-based assistance is used, the comparable housing requirement is fulfilled only upon relocation of the family into such housing);

(C) Any necessary counseling with respect to the relocation will be provided, including any appropriate mobility counseling (the PHA may finance the mobility counseling using Operating Fund, Capital Fund, or Section 8 administrative fee funding);

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

(E) If the development is used as housing after conversion, the PHA

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must ensure that each resident may choose to remain in the housing, using tenant-based assistance towards rent;

(F) Where Section 8 voucher assistance is being used for relocation, the family will be provided with the vouchers at least 90 days before displacement;

(5) *Additional information required for conversions subject to the URA.* If the voluntary conversion is subject to the URA, the written notice described in paragraph (g)(4) must also provide that:

(i) The family will not be required to move without at least 90-days advance written notice of the earliest date by which the family may be required to move, and that the family will not be required to move permanently until the family is offered comparable housing as provided in paragraph (g)(4)(ii)(B) of this section;

(ii) Any person who is an alien not lawfully present in the United States is ineligible for relocation payments or assistance under the URA, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as provided in the URA regulations at 49 CFR 24.208.

(iii) The family has a right to appeal the PHA's determination as to the family's application for relocation assistance for which the family may be eligible under this subpart and URA.

(iv) Families residing in the development will be provided with the URA Notice of Relocation Eligibility or Notice of Non-displacement (as applicable) as of the date HUD approves the conversion plan (for purposes of this subpart, the date of HUD's approval of the conversion plan shall be the "date of initiation of negotiations" as that term is used in URA and the implementing regulations at 49 CFR part 24).

(v) Any family that moves into the development after submission of the conversion plan to HUD will also be eligible for relocation assistance, unless the PHA issues a written move-in notice to the family prior to leasing and occupancy of the unit advising the family of the development's possible conversion, the impact of the conversion on the family, and that the family

will not be eligible for relocation assistance.

§ 972.233 Timing of submission of conversion plans to HUD.

A PHA that wishes to convert a public housing project to tenant-based assistance must submit a conversion plan to HUD. A PHA must prepare a conversion plan, in accordance with § 972.230, and submit it to HUD, as part of the next PHA Annual Plan within one year after submitting the full conversion assessment, or as a significant amendment to that Annual Plan. The PHA may also submit the conversion plan in the same Annual Plan as the conversion assessment.

§ 972.236 HUD process for approving a conversion plan.

Although a PHA will submit its conversion plan to HUD as part of the PHA Annual Plan, the conversion plan will be treated separately for purposes of HUD approval. A PHA needs a separate written approval from HUD in order to proceed with conversion. HUD anticipates that its review of a conversion plan will ordinarily occur within 90 days following submission of a complete plan by the PHA. A longer process may be required where HUD's initial review of the plan raises questions that require further discussion with the PHA. In any event, HUD will provide all PHAs with a preliminary response within 90 days following submission of a conversion plan. A lack of a HUD response within this time frame will constitute automatic HUD approval of the conversion plan.

§ 972.239 HUD actions with respect to a conversion plan.

(a) When a PHA submits a conversion plan to HUD, HUD will review it to determine whether:

(1) The conversion plan is complete and includes all of the information required under § 972.230; and

(2) The conversion plan is consistent with the conversion assessment the PHA submitted.

(b) HUD will disapprove a conversion plan only if HUD determines that:

(1) The conversion plan is plainly inconsistent with the conversion assessment;

(2) There is reliable information and data available to the Secretary that contradicts the conversion assessment; or

(3) The conversion plan is incomplete or otherwise fails to meet the requirements under § 972.230.

APPENDIX TO PART 972—METHODOLOGY OF COMPARING COST OF PUBLIC HOUSING WITH THE COST OF TENANT-BASED ASSISTANCE

I. PUBLIC HOUSING-NET PRESENT VALUE

The costs used for public housing shall be those necessary to produce a viable development for its projected useful life. The estimated cost for the continued operation of the development as public housing shall be calculated as the sum of total operating cost, modernization cost, and costs to address accrual needs. Costs will be calculated at the property level on an annual basis covering a period of 30 years (with options for 20 or 40 years). All costs expected to occur in future years will be discounted, using an OMB-specified real discount rate provided on the OMB Web site at <http://www.whitehouse.gov/OMB/Budget>, for each year after the initial year. The sum of the discounted values for each year (net present value) for public housing will then be compared to the net present value of the stream of costs associated with housing vouchers.

Applicable information on discount rates may be found in Appendix C of OMB Circular A-94, "Guidelines and Discount Rates for Benefit Cost Analysis of Federal Programs," which is updated annually, and may be found on OMB's Web site at <http://www.whitehouse.gov/OMB>. All cost adjustments conducted pursuant to this cost methodology must be performed using the real discount rates provided on the OMB Web site at <http://www.whitehouse.gov/OMB/Budget>. HUD will also provide information on current rates, along with guidance and instructions for completing the cost comparisons on the HUD Homepage (<http://www.hud.gov>). The Homepage will also include a downloadable spreadsheet calculator that HUD has developed to assist PHAs in completing the assessments. The spreadsheet calculator is designed to walk housing agencies through the calculations and comparisons laid out in the appendix and allows housing agencies to enter relevant data for their PHA and the development being assessed. Results, including net present values, are generated based on these housing agency data.

A. Operating Costs

1. Any proposed revitalization or modernization plan must indicate how unusually

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high current operating expenses (*e.g.*, security, supportive services, maintenance, tenant, and PHA-paid utilities) will be reduced as a result of post-revitalization changes in occupancy, density and building configuration, income mix, and management. The plan must make a realistic projection of overall operating costs per occupied unit in the revitalized or modernized development, by relating those operating costs to the expected occupancy rate, tenant composition, physical configuration, and management structure of the revitalized or modernized development. The projected costs should also address the comparable costs of buildings or developments whose siting, configuration, and tenant mix is similar to that of the revitalized or modernized public housing development.

2. The development's operating cost (including all overhead costs pro-rated to the development—including a Payment in Lieu of Taxes (P.I.L.O.T.) or some other comparable payment, and including utilities and utility allowances) shall be expressed as total operating costs per year. For example, if a development will have 375 units occupied by households and will have \$112,500 monthly non-utility costs (including pro-rated overhead costs and appropriate P.I.L.O.T.) and \$37,500 monthly utility costs paid by the PHA, and \$18,750 in monthly utility allowances that are deducted from tenant rental payments to the PHA because tenants paid some utility bills directly to the utility company, then the development's monthly operating cost is \$168,750 (or \$450 per unit per month) and its annual operating cost would be \$5,400 (\$450 times 12). Operating costs are assumed to begin in the initial year of the 30-year (or alternative period) calculation and will be incurred in each year thereafter.

3. In justifying the operating cost estimates as realistic, the plan should link the cost estimates to its assumptions about the level and rate of occupancy, the per-unit funding of modernization, any physical reconfiguration that will result from modernization, any planned changes in the surrounding neighborhood, and security costs. The plan should also show whether developments or buildings in viable condition in similar neighborhoods have achieved the income mix and occupancy rate projected for the revitalized or modernized development. The plan should also show how the operating costs of the similar developments or buildings compare to the operating costs projected for the development.

4. In addition to presenting evidence that the operating costs of the revitalized or modernized development are plausible, when the projected initial year per-unit operating cost of the renovated development is lower than the current per unit cost by more than 10 percent, then the plan should detail how the revitalized development will achieve this reduction in costs. To determine the extent to

which projected operating costs are lower than current operating costs, the current per-unit operating costs of the development will be estimated as follows:

a. If the development has reliable operating costs and if the overall vacancy rate is less than 20 percent, then the development-based method will be used to determine projected costs. The current costs will be divided by the sum of all occupied units and vacant units fully funded under the Operating Fund Program plus 20 percent of all units not fully funded under the Operating Fund Program. For instance, if the total monthly operating costs of the current development are \$168,750 and it has 325 occupied units and 50 vacant units not fully funded under the Operating Fund Program (or a 13 percent overall vacancy rate), then the \$2,250,000 is divided by 335—325 plus 20 percent of 50—to give a per unit figure of \$504 per unit month. By this example, the current costs per occupied unit are at least 10 percent higher (12 percent in this example) than the projected costs per occupied unit of \$450 for the revitalized development, and the reduction in costs would have to be detailed.

b. If the development currently lacks reliable cost data or has a vacancy rate of 20 percent or higher, then the PHA-wide method will be used to determine projected costs. First, the current per unit cost of the entire PHA will be computed, with total costs divided by the sum of all occupied units and vacant units fully funded under the Operating Fund Program plus 20 percent of all vacant units not fully funded under the Operating Fund Program. For example, if the PHA's operating cost is \$18 million, and the PHA has 4,000 units, of which 3,875 are occupied and 125 are vacant and not fully funded under the Operating Fund Program, then the PHA's vacancy adjusted operating cost is \$385 per unit per month—\$18,000,000 divided by the 3,825 (the sum of 3,800 occupied units and 20 percent of 125 vacant units) divided by 12 months. Second, this amount will be multiplied by the ratio of the bedroom adjustment factor of the development to the bedroom adjustment factor of the PHA. The bedroom adjustment factor, which is based on national rent averages for units grouped by the number of bedrooms and which has been used by HUD to adjust for costs of units when the number of bedrooms vary, assigns to each unit the following factors: .70 for 0-bedroom units, .85 for 1-bedroom units, 1.0 for 2-bedroom units, 1.25 for 3-bedroom units, 1.40 for 4-bedroom units, 1.61 for 5-bedroom units, and 1.82 for 6 or more bedroom units. The bedroom adjustment factor is the unit-weighted average of the distribution. For instance, consider a development with 375 occupied units that had the following under an ACC contract: 200 two-bedroom units, 150 three-bedroom units, and 25 four-bedroom

units. In that example, the bedroom adjustment factor would be 1.127—200 times 1.0, plus 150 times 1.25, plus 25 times 1.4 with the sum divided by 375. Where necessary, HUD field offices will arrange for assistance in the calculation of the bedroom adjustment factors of the PHA and its affected developments.

c. As an example of estimating development operating costs from PHA-wide operating costs, suppose that the PHA had a total monthly operating cost per unit of \$385 and a bedroom adjustment factor of .928, and suppose that the development had a bedroom adjustment factor of 1.127. Then, the development's estimated current monthly operating cost per occupied unit would be \$467—or \$385 times 1.214 (the ratio of 1.127 to .928). By this example, the development's current operating costs of \$467 per unit per month are not more than 10 percent higher (3.8 percent in this example) than the projected costs of \$450 per unit per month and no additional justification of the cost reduction would be required.

B. Modernization

Under both the required and voluntary conversion programs, PHAs prepare modernization or capital repair estimates in accordance with the physical needs of the specific properties proposed for conversion. There are three key assumptions that guide how PHAs prepare modernization estimates that affect remaining useful life and determine whether the 20-, 30-, or discretionary 40-year remaining useful life evaluation period are used for the cost-test. When calculating public housing revitalization costs for a property, PHAs will use a 30-year period if the level of modernization addresses all accumulated backlog needs and the planned redesign ensures long-term viability. For modernization equivalent to new construction or when the renovations restore a property to as-new physical conditions, a 40-year remaining useful life test is used. When light or moderate rehabilitation that does not address all accumulated backlog is undertaken, but it is compliant with the International Existing Building Codes (ICC) or Public Housing Modernization Standards in the absence of a local rehabilitation code, the 20-year remaining useful life evaluation period must be used.

Except for some voluntary conversion situations as explained in paragraph E below, the cost of modernization is, at a minimum, the initial revitalization cost to meet viability standards. In the absence of a local code, PHAs may refer to the Public Housing Modernization Standards Handbook (Handbook 7485.2) or the International Existing Building Codes (ICC) 2003 Edition. To justify a 40-year amortization cycle that increases the useful life period and time over which moderniza-

tion costs are amortized, PHAs must demonstrate that the proposed modernization meets the applicable physical viability standards, but must also cover accumulated backlog and redesign that achieves as-new physical conditions to ensure long-term viability. To be a plausible estimate, modernization costs shall be justified by a newly created property-based needs assessment (a life-cycle physical needs assessments prepared in accordance with a PHA's Capital Fund annual or 5-year action plan and shall be able to be reconciled with standardized measures, such as components of the PHAs physical inspection and chronic vacancy due to physical condition and design. Modernization costs may be assumed to occur during years one through four, consistent with the level of work proposed and the PHA's proposed modernization schedule. For example, if the initial modernization outlay (excluding demolition costs) to meet viability standards is \$21,000,000 for 375 units, a PHA might incur costs in three equal increments of \$7,000,000 in years two, three, and four (based on the PHA's phased modernization plan). In comparing the net present value of public housing to voucher costs for required conversion, a 30-year amortization period will normally be used, except when revitalization would bring the property to as-new condition and a 40-year amortization would be justified. On the other hand, when the modernization falls short of meeting accumulated backlog and long-term redesign needs, only a 20-year amortization period might be justified.

C. Accrual

Accrual projections estimate the ongoing replacement repair needs for public housing properties and building structures and systems required to maintain the physical viability of a property throughout its useful life as the lifecycle of building structures and systems expire. The cost of accrual (i.e., replacement needs) will be estimated with an algorithm that meets all ongoing capital needs based on systems that have predictable lifecycles. The algorithm starts with the area index of housing construction costs (HCC) that HUD publishes as a component of its TDC index series. Subtracted from this HCC figure is half the estimated modernization per unit, with a coefficient of .025 multiplied by the result to provide an annual accrual figure per unit. For example, suppose that the development after modernization will remain a walkup structure containing 200 two-bedroom, 150 three-bedroom, and 25 four-bedroom occupied units, and if HUD's HCC limit for the area is \$66,700 for two-bedroom walkup structures, \$93,000 for three-bedroom walkup structures, and \$108,400 for four-bedroom walkup structures. Then the unit-weighted HCC cost is \$80,000 per unit

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and .75 of that figure is \$60,000 per unit. Then, if the per unit cost of the modernization is \$56,000, the estimated annual cost of accrual per occupied unit is \$1,300. This is the result of multiplying .025 times \$52,000 (the weighted HCC of \$80,000) minus \$28,000 (half the per-unit modernization cost of \$56,000). The first year of total accrual for the development is \$487,500 (\$1,300 times 375 units) and should be assumed to begin in the year after modernization is complete. Accrual—like operating cost—is an annual expense and will occur in each year over the amortized period. Because the method assumes full physical renewal each year, this accrual method when combined with a modernization that meets past backlog and redesign needs justifies a 30- or 40-year amortization period, because the property is refreshed each year to as-new or almost as-new condition.

D. Residual Value (Voluntary Conversion Only)

Under the voluntary conversion program, PHAs are required to prepare market appraisals based on the "as-is" and post-rehabilitation condition of properties, assuming the buildings are operated as public or assisted, unassisted, or market-rate housing. Section 972.218 requires PHAs to describe the future use for a property proposed for conversion and to describe the means and timetable to complete these activities. HUD will permit a PHA to enter the appraised market value of a property into the cost-test in Years 1 through 5 when a PHA anticipates selling a property or receiving income generated from the sale or lease of a property.

As a separate line item to be added to total public costs as a foregone opportunity cost, a PHA shall include in the voluntary cost-test calculations the appraised market or residual value (or net sales proceeds) from the sale or lease of a property that is to be voluntarily converted to tenant-based voucher assistance. The PHA must hire an appraiser to estimate the market value of the property using the comparable sale, tax-assessment, or revenue-based appraisal methods. PHAs are advised to select one or more of these appraisal methods to accurately determine the actual or potential market value of a property, particularly the comparable sales or revenue-based methods. The market or residual value is to be determined by calculating the estimated market value for the property based on the appraisal, minus any costs required for demolition and remediation. The residual value must be incorporated into the cost-test instead of the actual market value only when any demolition, site remediation, and clearance costs that are necessary are covered by the selling PHA. However, if the sum of the estimated per unit cost of demolition and remediation exceeds 10 percent of the average Total Development Cost (TDC)

for the units, the lower of the PHA estimate or a figure based on 10 percent of TDC must be used. Suppose the estimated remediation and demolition costs necessary for conversion sale are \$7,000 per unit. Also, suppose the TDC limits are \$115,000 for a two-bedroom unit, \$161,000 for a three-bedroom unit, and \$184,000 for a four-bedroom unit. Then the average TDC of a development with 200 two-bedroom units, 150 three-bedroom units, and 25 four-bedroom units is \$138,000 (200 times \$115,000, plus 150 times \$161,000, plus 25 times \$184,000, the sum divided by 375) and 10 percent of TDC is \$13,800. In this example, the estimated \$7,000 per unit costs for demolition and remediation is less than 10 percent of TDC for the development, and the PHA estimate of \$7,000 is used. If estimated expenses had exceeded 10 percent of TDC (\$13,800 in this example), demolition and remediation expenses must be capped at the lower amount.

E. Accumulated Discounted Cost: Public Housing

The overall cost for continuing to operate the development as public housing is the sum of the discounted values of the yearly stream of costs up for the amortization period, which can range from 20 to 30 to 40 years, depending on the extent of modernization relative to the current physical and redesign needs of the development. In calculating net present value for required conversion, the sum of all costs in each future year is discounted back to the current year using the OMB-specified real discount rate. For voluntary conversion, the discount rate is applied forward as a direct inflation factor. To assist PHAs in completing the net present value comparison and to ensure consistency in the calculations, HUD has developed a spreadsheet calculator that is available for downloading from the HUD Internet site. Using PHA data and property specific inputs (to be entered by the housing agency), the spreadsheet will discount costs as described above and will generate net present values for amortization periods of 20, 30, and 40 years.

II. TENANT-BASED ASSISTANCE

The estimated cost of providing tenant-based assistance under Section 8 for all households in occupancy shall be calculated as the unit-weighted average of recent movers in the local area; plus the administrative fee for providing such vouchers; plus \$1,000 per unit (or a higher amount allowed by HUD) for relocation assistance costs, including counseling. However, if the sum of the estimated per unit cost of demolition, remediation, and relocation exceeds 10 percent of the average Total Development Cost (TDC) for the units, the lower of the PHA estimate

or a figure based on 10 percent of TDC must be used.

For example, if the development has 200 occupied two-bedroom units, 150 occupied three-bedroom units, and 25 occupied four-bedroom units, and if the monthly payment standard for voucher units occupied by recent movers is \$550 for two-bedroom units, \$650 for three-bedroom units, and \$750 for four-bedroom units, the unit-weighted monthly payment standard is \$603.33. If the administrative fee comes to \$46 per unit, then the monthly per unit operating voucher costs are \$649.33, which rounds to an annual total of \$2,922,000 for 375 occupied units of the same bedroom size as those being demolished in public housing. To these operating voucher costs, a first-year relocation is added on the voucher side. For per-unit relocation costs of \$1,000 per unit for relocation, then \$375,000 for 375 units is placed on the voucher cost side of the first year.

Accumulated Discounted Cost: Vouchers

The overall cost for vouchers is the sum of the discounted values of the yearly stream of costs up for the amortization period, which can range from 20 to 30 to 40 years, depending on the extent of modernization relative to the current physical and redesign needs of the development. The amortization period chosen is the one that was appropriate for discounting public housing costs. In calculating net present value for required conversion, the sum of all costs in each future year is discounted back to the current year using the OMB-specified real discount rate. For voluntary conversion, the discount rate is applied forward as a direct inflation factor.

To assist PHAs in completing the net present value comparison and to ensure consistency in the calculations, HUD has developed a spreadsheet calculator that will be available for downloading from the HUD Internet site.

III. RESULTS OF THE EXAMPLE

With the hypothetical data used in the examples, under an amortization period of 30 years, the discounted public housing costs under required conversion sums to \$69,633,225, and the discounted voucher cost under required conversions totals \$60,438,698. The ratio is 1.15, which means that public housing is 15 percent more costly than vouchers. With this amortization and this data, the PHA would be required to convert the development under the requirements of subpart A of this part, except in a situation where a PHA can demonstrate a distressed property that has failed the cost-test can be redeveloped by meeting each of the four factors that compose the long-term physical viability test to avoid removal from the inventory. With the same data, but a 40-year amortization period, public housing is still 11

percent costlier than vouchers, and with a 20-year amortization, public housing is 25 percent costlier than vouchers. In voluntary conversion, with the same hypothetical data, but a slightly different methodology (use of residual value as a public housing cost, inflating forward the discount numbers), the ratio of public housing costs to voucher costs would be 1.16 for the 20-year amortization period, 1.03 for the 30-year amortization period, and .97 for the 40-year amortization period. Thus, in voluntary conversion, the appropriate amortization period would decide whether public housing is more costly or is slightly more costly, or less than vouchers. Under a 20-year amortization assumption and possibly under a 30-year amortization period, the PHA would have the option of preparing a conversion plan for the development under subpart B of this part. Different sets of data would yield different conclusions for required and voluntary conversion determinations.

[71 FR 14336, Mar. 21, 2006]

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

Subpart A—General Information

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- 982.1 Programs: Purpose and structure.
- 982.2 Applicability.
- 982.3 HUD.
- 982.4 Definitions.
- 982.5 Notices required by this part.

Subpart B—HUD Requirements and PHA Plan for Administration of Program

- 982.51 PHA authority to administer program.
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Subpart C—Funding and PHA Application for Funding

- 982.101 Allocation of funding.
- 982.102 Allocation of budget authority for renewal of expiring CACC funding increments.
- 982.103 PHA application for funding.
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Subpart D—Annual Contributions Contract and PHA Administration of Program

- 982.151 Annual contributions contract.
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- 982.153 PHA responsibilities.