

of such program exceed 90 percent of total development cost (TDC). Major problems indicative of obsolescence are—

(1) As to physical condition: Structural deficiencies (e.g. settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), substantial deterioration (e.g., severe termite damage or damage caused by extreme weather conditions), or other design or site problems (e.g., severe erosion or flooding);

(2) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with part 50 of this title, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use;

(3) Other factors which have seriously affected the marketability, usefulness, or management of the property.

(b) In the case of demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project (e.g., to reduce project density to permit better access by emergency, fire, or rescue services).

[60 FR 3719, Jan. 18, 1995]

§ 970.7 Specific criteria for HUD approval of disposition requests.

(a) In addition to other applicable requirements of this part, HUD will not approve a request for disposition unless HUD determines that retention is not in the best interests of the tenants and the PHA because at least one of the following criteria is met:

(1) Developmental changes in the area surrounding the project (e.g., density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA.

(2) Disposition will allow the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as lower income housing projects, and that will preserve the total amount of lower income housing stock available to the

community. A PHA must be able to demonstrate to the satisfaction of HUD that the additional units are being provided in connection with the disposition of the property.

(3) There are other factors justifying disposition that HUD determines are consistent with the best interests of the tenants and the PHA and that are not inconsistent with other provisions of the Act. As an example, if the property meets any of the criteria for demolition under § 970.6, it may be disposed of under this criterion (§ 970.7(a)(3)), subject to conditions that HUD may impose (e.g., demolition to follow disposition in order to assure abatement of a threat to safety or health).

(b) In the case of disposition of property other than dwelling units, (1) the property is determined by HUD to be excess to the needs of the project (after EIOP), or (2) the disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the project.

[50 FR 50894, Dec. 13, 1985, as amended at 53 FR 30988, Aug. 17, 1988; 60 FR 3719, Jan. 18, 1995]

§ 970.8 PHA application for HUD approval.

Written approval by HUD shall be required before the PHA may undertake any transaction involving demolition or disposition. To request approval, the PHA shall submit an application to the appropriate HUD Field Office which includes the following:

(a) A description of the property involved;

(b) A description of, as well as a timetable for, the specific action proposed (including, in the case of disposition, the specific method proposed);

(c) A statement justifying the proposed demolition or disposition under one or more of the applicable criteria of § 970.6 or § 970.7;

(d) If applicable, a plan for the relocation of tenants who would be displaced by the proposed demolition or disposition (see § 970.5). The relocation plan must at least indicate:

(1) The number of tenants to be displaced;

(2) What counseling and advisory services the PHA plans to provide;

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(3) What housing resources are expected to be available to provide housing for displaced tenants;

(4) An estimate of the costs for counseling and advisory services and tenant moving expenses, and the expected source for payment of these costs (see §§ 970.9); and

(5) The minimum official notice that the PHA will give tenants before they are required to move;

(e) A description of the PHA's consultations with tenants and any tenant organizations (as required under § 970.4(a)), with copies of any written comments which may have been submitted to the PHA and the PHA's evaluation of the comments;

(f) A replacement housing plan, as required under § 970.11, and approved by the unit of general local government which approval shall be provided by the chief executive officer of the jurisdiction in which the project is located (e.g., the mayor or the county executive), indicating approval of the replacement plan.

(g) Evidence of compliance with the offering to resident organizations, as required under § 970.13.

(h) A certification regarding relocation of residents, in accordance with § 970.5(h)(1).

(i) Appropriate certifications regarding site and neighborhood assessment, in accordance with §§ 970.11(h) (2), (3), and (4).

(j) Appropriate certification regarding compliance with environmental authorities, where required in accordance with § 970.4(c).

(k) The estimated balance of project debt, under the ACC, for development and modernization;

(l) In the case of disposition, an estimate of the fair market value of the property, established on the basis of one independent appraisal unless, as determined by HUD, (1) more than one appraisal is warranted, or (2) another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data;

(m) In the case of disposition, estimates of the gross and net proceeds to be realized, with an itemization of esti-

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mated costs to be paid out of gross proceeds and the proposed use of any net proceeds in accordance with § 970.9;

(n) A copy of a resolution by the PHA's Board of Commissioners approving the application;

(o) If determined to be necessary by HUD, an opinion by the PHA's legal counsel that the proposed action is consistent with applicable requirements of Federal, State, and local laws; and

(p) Any additional information necessary to support the application and assist HUD in making determinations under this part.

(Approved by the Office of Management and Budget under control number 2577-0075)

[50 FR 50894, Dec. 13, 1985, as amended at 60 FR 3719, Jan. 18, 1995]

§ 970.9 Disposition of property; use of proceeds.

(a) Where HUD approves the disposition of real property of a project, in whole or in part, the PHA shall dispose of it promptly by public solicitation of bids for not less than fair market value, unless HUD authorizes negotiated sale for reasons found to be in the best interests of the PHA or the Federal Government, or sale for less than fair market value (where permitted by State law), based on commensurate public benefits to the community, the PHA or the Federal Government justifying such an exception. Reasonable costs of disposition, and of relocation of displaced tenants allowable under § 970.5, may be paid by the PHA out of the gross proceeds, as approved by HUD.

(b) Net proceeds, including any interest earned on the proceeds, (after payment of HUD-approved costs of disposition and relocation under paragraph (a) of this section) shall be used, subject to HUD approval, as follows:

(1) For the retirement of outstanding obligations, if any, issued to finance original development or modernization of the project; and

(2) Thereafter, to the extent that any net proceeds remain, for the provision of housing assistance for low-income families, through such measures as modernization of low-income housing