

## §971.7

## 24 CFR Ch. IX (4-1-03 Edition)

be considered. The concerns these measures would address generally are greater as the site's size and number of dwelling units increase.

### **§971.7 Plan for removal of units from public housing inventories.**

(a) *Time frames.* Section 202 is a continuing requirement, and the Secretary will establish time frames for submission of necessary information annually through publication of a FEDERAL REGISTER notice.

(b) *Plan for removal.* With respect to any development that meets all of the standards listed, the PHA shall develop a plan for removal of the affected public housing units from the inventory. The plan should consider relocation alternatives for households in occupancy, including other public housing and Section 8 tenant-based assistance, and shall provide for relocation from the units as soon as possible. For planning purposes, PHAs shall assume that HUD will be able to provide in a timely fashion any necessary Section 8 rental assistance. The plan shall 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 CIAP, modernization, or major reconstruction funds for the distressed development and PHA 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, in a timely fashion, that the development shall be removed from the public housing inventory; informing such families that they will receive tenant-based or project-based assistance; providing any necessary counselling with respect to the relocation, including a request for

any necessary counseling funds; and assuring that such families are relocated as necessary to other decent, safe, sanitary and affordable housing which is, to the maximum extent possible, housing of their choice;

(7) The displacement and relocation provisions set forth in 24 CFR 970.5.

(8) 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 §971.9.

(c) Section 18 of the United States Housing Act of 1937 shall not apply to demolition of developments removed from PHA inventories under this section, but shall apply to any proposed dispositions of such developments or their sites. HUD's review of any such disposition application will take into account that the development has been required to be removed from the PHA's inventory.

(d) For purposes of determining operating subsidy eligibility under the Performance Funding System (PFS), the submitted plan will be considered the equivalent of a formal request to remove dwelling units from the PHA's inventory and ACC and approval (or acceptance). The PHA will receive written notification that the plan has been approved (or accepted). 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 chapter and also will be provided the phase-down of subsidy pursuant to §990.114 of this chapter.

(Approved by the Office of Management and Budget under control number 2577-0210)

### **§971.9 Tenant and local government consultation.**

(a) PHAs are required to proceed in consultation with affected public housing residents. PHAs must provide copies of their submissions complying with §§971.3(a) (1) through (3) to the appropriate tenant councils and resident groups before or immediately after these submissions are provided to HUD.

(b) PHAs must:

(1) Hold a meeting with the residents of the affected sites and explain the requirements of section 202 of OCRA;

(2) Provide an outline of the submission(s) complying with §971.3(a) (4) and (5) to affected residents; and

(3) Provide a reasonable comment period for residents and must provide a summary of the resident comments to HUD.

(c) PHAs must prepare conversion plans in consultation with affected tenants and must:

(1) Hold a meeting with affected residents and provide draft copies of the plan; and

(2) Provide a reasonable comment period for residents and must provide a summary of the resident comments to HUD.

(d) The conversion plan must be approved by the local officials as not inconsistent with the Consolidated Plan.

#### §971.11 HOPE VI developments.

Developments with HOPE VI implementation grants that have approved HOPE VI revitalization plans will be treated as having shown the ability to achieve long-term viability with reasonable revitalization plans. Future HUD actions to approve or deny proposed HOPE VI implementation grant revitalization plans will be taken with consideration of the standards for section 202. Developments with HOPE VI planning or implementation grants, but without approved HOPE VI revitalization plans, are fully subject to section 202 standards and requirements.

#### §971.13 HUD enforcement authority.

Section 202 provides HUD authority to ensure that certain distressed developments are properly identified and removed from PHA inventories. Specifically, HUD may:

(a) Direct a PHA to cease additional spending in connection with a development which meets or is likely to meet the statutory criteria, except as necessary to ensure decent, safe and sanitary housing until an appropriate course of action is approved;

(b) Identify developments which fall within the statutory criteria where a PHA has failed to do so properly;

(c) Take appropriate actions to ensure the removal of developments from

the inventory where the PHA has failed to adequately develop or implement a plan to do so; and

(d) Authorize or direct the transfer of capital funds committed to or on behalf of the development (including comprehensive improvement assistance, comprehensive grant 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.

#### APPENDIX TO PART 971—METHODOLOGY OF COMPARING COST OF PUBLIC HOUSING WITH COST OF TENANT-BASED ASSISTANCE

##### I. PUBLIC HOUSING

The costs used for public housing shall be those necessary to produce a revitalized development as described in the next paragraph. These costs, including estimated operating costs, modernization costs and costs to address accrual needs must be used to develop a per unit monthly cost of continuing the development as public housing. That per unit monthly cost of public housing must be compared to the per unit monthly Section 8 cost. The estimated cost of the continued operation and modernization as public housing shall be calculated as the sum of total operating, modernization, and accrual costs, expressed on a monthly per occupied unit basis. The costs shall be expressed in current dollar terms for the period for which the most recent Section 8 costs are available.

##### A. OPERATING COSTS

1. The proposed revitalization plan must indicate how unusually high current operating expenses (e.g. security, supportive services, maintenance, 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 development, by relating those operating costs to the expected occupancy rate, tenant composition, physical configuration and management structure of the revitalized 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 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 (PILOT) or some other comparable