

part 970 of this chapter, with appropriate justification for a negotiated sale and for sale at less than fair market value, if applicable.

(3) HUD will not process an application for demolition or disposition unless the PHA provides the Department with one of the following:

(i) Where no resident management corporation, resident council or resident cooperative exists in the affected development and the residents of the affected development have not formed a new organization in accordance with paragraph (b) of this section, a certification from either the executive director or the board of commissioners stating that no such organization(s) exists and documentation that a reasonable effort to inform residents of their opportunity to organize has been made; or

(ii) Where a resident management corporation, resident council or resident cooperative exists in the affected development one of the following, either paragraph (i)(3)(ii)(A) or paragraph (i)(3)(ii)(B) of this section:

(A) A board resolution or its equivalent from each resident council, resident management corporation or resident cooperative stating that such organization has received the PHA letter, and that it understands the offer and waives its opportunity to purchase the project, or portion of the project, covered by the demolition or disposition application. The response should clearly state that the resolution was adopted by the entire organization at a formal meeting; or

(B) A certification from the executive director or board of commissioners of the PHA that the thirty (30) day timeframe has expired and no response was received to its offer.

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

[60 FR 3721, Jan. 18, 1995, as amended at 64 FR 50229, Sept. 15, 1999]

#### §970.14 Reports and records.

(a) After HUD approval of demolition or disposition of all or part of a project, the PHA shall keep the appropriate HUD Field Office informed of significant actions in carrying out the demolition or disposition, including any significant delays or other prob-

lems. When demolition or disposition is completed, the PHA shall submit to the Field Office a report confirming such action, certifying compliance with all applicable requirements of Federal law and regulations and, in the case of disposition, accounting for the proceeds and costs of disposition.

(b) The PHA shall be responsible for keeping records of its HUD-approved demolition or disposition sufficient for audit by HUD to determine the PHA's compliance applicable requirements of Federal law and this part.

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[50 FR 50894, Dec. 13, 1985. Redesignated at 53 FR 30987, Aug. 17, 1988. Redesignated at 60 FR 3721, Jan. 18, 1995]

## PART 971—ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW

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

AUTHORITY: Pub. L. 104-134; 42 U.S.C. 3535(d).

SOURCE: 62 FR 49576, Sept. 22, 1997, unless otherwise noted.

#### §971.1 Purpose.

Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub.L. 104-134, approved April 26, 1996) ("OCRA") requires PHAs to identify certain distressed public housing developments that cost more than Section 8 rental assistance and cannot be reasonably revitalized. Households in occupancy that will be affected by the activities will be offered tenant-based or project-based assistance (that can include other public housing units) and will be relocated, to

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other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory.

#### §971.3 Standards for identifying developments.

(a) PHAs shall use the following standards for identifying developments or portions thereof which are subject to section 202's requirement that PHAs develop and carry out plans for the removal over time from the public housing inventory. These standards track section 202(a) of OCRA. The development, or portions thereof, must:

(1) *Be on the same or contiguous sites.* (OCRA Sec. 202(a)(1)). This standard and the standard set forth in paragraph (a)(2) of this section refer to the actual number and location of units, irrespective of HUD development project numbers.

(2) *Total more than 300 dwelling units.* (OCRA Sec. 202(a)(2)).

(3) *Have a vacancy rate of at least ten percent for dwelling units not in funded, on-schedule modernization.* (OCRA Sec. 202(a)(3)). For this determination, PHAs and HUD shall use the data the PHA relied upon for its last Public Housing Management Assessment Program (PHMAP) certification, as reported on the Form HUD-51234 (Report on Occupancy), or more recent data which demonstrates improvement in occupancy rates. Units in the following categories shall 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 stated in the law;

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

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

(4) *Have an estimated cost of continued operation and modernization of the developments 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).* (OCRA Sec. 202(a)(5)).

(i) For purposes of this determination, the costs used for public housing shall be those necessary to produce a revitalized development as described in the paragraph (a)(5) of this section.

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

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

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

(5) *Be identified as distressed housing that 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.* (OCRA Sec. 202(a)(4)). [See §971.5.]

(b) Properties meeting the standards set forth in paragraphs (a)(1) through (3) of this section will be assumed to be "distressed" unless the PHA can show that the property fails the standard set forth in paragraph (a)(3) of this section for reasons that are temporary in duration and are unlikely to recur.

(c) Where the PHA will demolish all of the units in a development, or the portion thereof, that is subject to section 202, section 202 requirements will be satisfied once the demolition occurs and its standards will not be applied further to the use of the site.

(d) PHAs will meet the test for assuring long-term viability of identified housing only if it is probable that, after reasonable investment, for at least twenty years (or at least 30 years for rehabilitation equivalent to new construction) the development can sustain structural/system soundness and full occupancy; will not be excessively