

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 substantially 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 assist-

ance, 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);

(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