

HUD, however, does not believe it would be appropriate to identify by regulation all “actual and reasonable” relocation expenses. HUD believes that it is more appropriate to leave the definition of whether a relocation cost is “actual and reasonable” to the individual PHAs, who are more familiar with local circumstances and housing conditions. The final rule, therefore, clarifies that the PHA must reimburse a family for “actual and reasonable” relocation expenses, as determined by the PHA that the family incurs as a result of the conversion.

Comment: Relocation requirements should be split off and set forth in a separate section. One commenter made this recommendation.

HUD Response. HUD does not believe it would be reader-friendly to adopt the commenter’s suggestion. It might be confusing to separate the required elements of the conversion plan into separate regulatory sections. Accordingly, the final rule continues to set forth all of the necessary components of the conversion plan, including the relocation requirements, in a single section (§ 972.230). The relocation requirements are all contained in paragraph (g) of § 972.230.

Comment: Final rule should reference applicability of URA. One commenter suggested that the final rule should provide that URA applies to families displaced pursuant to a voluntary conversion.

HUD Response. HUD has adopted the commenter’s suggestion. The final rule adds a new § 972.215, which affirms that, 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 final rule, the requirements of URA and the implementing regulations issued by the Department of Transportation at 49 CFR part 24, apply. Further, for purposes of clarity, HUD has revised the proposed rule to more closely conform to the notice requirements of the URA and the implementing regulations. As required by 49 CFR 24.203, if a voluntary conversion is subject to the URA, PHAs must provide families scheduled to be displaced with a General Information Notice, a Notice of Relocation Eligibility or Notice of Non-displacement (as applicable), and a 90-day advance notice of the earliest date by which a resident may be required to move.

F. Comments Regarding HUD Actions With Respect to Conversion Plans (§ 972.223 of the Proposed Rule; § 972.239 of This Final Rule)

The proposed rule at § 972.223 described the standards that HUD will use to review a conversion plan submitted by a PHA, and the grounds for HUD disapproval of a conversion plan. (The corresponding provisions of this final rule are located at § 972.239.)

Comment: HUD grounds for disapproval should be expanded. Two commenters suggested that the final rule should provide additional reasons for HUD to disapprove a proposed voluntary conversion. Specifically, the commenters suggested that a conversion plan not be approved:

1. Unless converted housing is replaced on a one-for-one basis.
2. Unless the PHA has financing commitments in place for redevelopment of the housing to be converted.
3. If conversion will result in reduction in fair housing choice.
4. Unless the conversion plan is consistent with the Consolidated Plan.

HUD Response. HUD does not believe it is necessary to revise the rule to adopt the suggestions made by these commenters. The regulatory provisions regarding HUD disapproval of conversion plans are identical to the statutory language of section 22 of the 1937 Act. Section 22 provides that “[t]he Secretary shall disapprove a conversion plan only if (1) the 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 plan otherwise fails to meet the requirements of this section.”

HUD believes that the statutory language is sufficiently flexible to permit HUD to address the concerns raised by the commenters. The PHA is already required to consider most of the issues raised by the commenter (such as the impact of the conversion on fair housing choice and the availability of replacement housing) as part of the conversion assessment process. The broad disapproval authority granted to HUD by section 22 will allow it to disapprove a conversion plan that fails to adequately address these concerns when they rise to the level contemplated by the statute.

G. Comments Regarding the Timing of Voluntary Conversion (§ 972.225 of the Proposed Rule; § 972.212 of This Final Rule)

The proposed rule at § 972.225 provided that a PHA may proceed to

convert a development covered by a conversion plan only after receiving written approval of the conversion plan from HUD. Once a conversion plan is approved, tenants may be relocated using tenant-based assistance. A PHA must apply for Section 8 tenant-based assistance, and the PHA will be given a priority for receiving tenant-based assistance. As the development is removed from the public housing inventory, public housing operating subsidy and modernization funding will phase out under the usual process. HUD might require that funding for the initial year of tenant-based assistance be provided from the public housing Capital Fund, Operating Fund, or both.

Comment: HUD should not require that funding for the first year of tenant-based assistance be provided from the Capital or Operating Funds. Three commenters objected to this provision of the proposed rule. The commenters agreed that “[t]he effect of siphoning off and further reducing public housing funds for tenant-based assistance will be the continued deterioration of public housing.” “[O]perating and capital funds are appropriated to ensure the preservation of public housing as an affordable housing resource and, as such, any funds attributable to developments identified for conversion should be re-invested in the public housing stock.” One of the commenters wrote that this provision contradicts the statutory language of section 533 of QHWR, which provides that “the funds used by the [PHA] to provide tenant-based assistance shall be added to the annual contributions contract administered by the [PHA].”

HUD Response. HUD has not adopted the change requested by the commenter. The final rule does not mandate that the initial year of tenant-based assistance be provided from the Capital and Operating Funds. Rather, the final rule, as did the proposed rule before it, merely provides for this possibility. HUD continues to believe that the flexibility provided by this provision is necessary to ensure that adequate funding is available for voluntary conversions. HUD disagrees with the commenter who wrote that this provision contradicts the language of section 533 of QHWR. The statute provides that the necessary funds will be added to the annual contributions contract only “[t]o the extent approved by the Secretary.” Nothing in the statutory language prohibits the use of the Operating and Capital Funds for such purposes.

Comment: HUD should provide additional guidance regarding post-conversion funding. One commenter