

wrote that it would be helpful for HUD to clarify the timing of the phased process for substituting assistance and, particularly, whether local funding would be applied before or after deducting subsidy for the units being converted.

**HUD Response.** Converted public housing would be phased out using currently applicable procedures. Subject to appropriations, new Section 8 funding would be committed and provided to PHAs for the provision of tenant-based voucher assistance.

#### *H. Comments on Issues Highlighted for Public Comment*

Although HUD welcomed public comment on all aspects of the July 23, 1999, proposed rule, the preamble to the proposed rule specifically invited comments on the following issues (see 64 FR 40242, beginning on the middle column):

1. Whether the voluntary conversion process should be used to promote deconcentration; and
2. Whether a description should be required, as part of a full conversion assessment, of the proposed conversion's impact on racial and ethnic minorities and persons with disabilities.

In addition, the preamble solicited comments on a third issue regarding the cost methodology used for conversions. Specifically, HUD solicited comments on whether it is more appropriate to use a housing construction cost component of Total Development Cost (TDC) for purposes of calculating accrual. As noted above, HUD is issuing a separate proposed rule, published elsewhere in today's **Federal Register**, regarding the cost methodology. The proposed rule addresses the public comments received on whether PHA capital costs should be included as part of the cost-comparison between public housing and vouchers.

#### **1. Comments Regarding Deconcentration**

**Comment: Voluntary conversion process should not be used to promote deconcentration.** Two commenters opposed the use of the voluntary conversion process to promote deconcentration. The commenters wrote that promoting deconcentration is not authorized by section 533 of QHWR and that "conversion to Section 8 vouchers decreases the amount of needed hard units for low-income tenants." One of the commenters also wrote that "PHAs across the country have successfully used the mixed finance provisions to achieve income mix and improve public housing sites." This commenter believes that use of the voluntary conversion process to achieve

the same goals "will only complicate and confuse the HUD approval process."

**HUD Response.** After careful consideration, HUD has decided not to revise the proposed rule to specifically address the use of voluntary conversions to promote deconcentration. The rule provides PHAs with the flexibility to use the conversion process as a tool in their deconcentration efforts.

**Comment: Final rule should establish safeguards if HUD decides to use conversion to promote deconcentration.** One commenter suggested that if HUD decides to use conversion to promote deconcentration, it should require that, "at the very least," the conversion plan specify how deconcentration will occur. Further, the commenter wrote that the conversion plan should include a "realistic mobility project, adequate funding for the project, and monitoring to make sure that the promised deconcentration actually occurs." The commenter suggested that HUD impose appropriate sanctions if the promised deconcentration does not occur, including the "withdrawal of the approval for voluntary conversion, or a cessation of the conversion process until there is a substantial measurable progress on deconcentration."

**HUD Response.** HUD has not adopted the suggestions made by the commenter. As noted in the response to the previous comments, HUD has not revised the rule to specifically address the use of the voluntary conversion process to promote deconcentration.

#### **2. Comments Regarding Fair Housing Assessment**

Two commenters opposed the preparation of a fair housing impact assessment. One of the commenters noted that no such analysis is required for mandatory conversions under section 537 of QHWR. The commenter also wrote that much of the information generated by such an analysis would already have been captured in the neighborhood impact portion of the conversion assessment. The second commenter wrote that the "statutory requirements for public notice and consultation, along with existing housing discrimination law, sufficiently protects vulnerable groups."

Two other commenters, however, recommended that the final rule should require the preparation of a fair housing impact analysis. The commenters wrote that HUD and PHAs have an obligation to avoid discriminatory impacts and to affirmatively further fair housing. One commenter suggested that the fair housing assessment and supporting data

should be made available to the residents and the public for comment.

The commenters suggested that the fair housing analysis should:

1. Consider the impact of conversion on each protected class: racial and ethnic minorities, persons with disabilities, and families with children;
2. Consider the impact not only on current residents, but also on persons likely to apply for housing;
3. Determine whether the proposed conversion will increase fair housing choice for each protected class, or perpetuate segregation;
4. Determine whether the proposed conversion will decrease fair housing choice (according to the commenter this would generally be true if the overall amount of assisted housing is reduced or if public housing units located outside high poverty areas with concentrations of minorities are converted);
5. Analyze the rate at which minority families and other protected groups are able to find housing under the Section 8 voucher program in areas that are racially integrated and have low poverty rates;
6. Analyze whether all families in housing proposed to be converted will receive housing assistance and be able to remain in the area if they choose;
7. Analyze the need and cost for higher payment standards in non-poverty areas; and
8. Analyze the availability of participating Section 8 landlords. The commenter suggested that a PHA should be required to provide an advance list of landlords willing to participate.

**HUD Response.** After careful consideration, HUD has determined that the proposed rule adequately addresses fair housing considerations, and that a regulatory change is unnecessary. As part of their conversion assessments, PHAs are required to evaluate the rental market conditions for residents of the converted development, including "any particular characteristics of the specific residents of the public housing which may affect their ability to be housed."

This assessment should take into consideration the rental market conditions for ethnic and racial minorities and for persons with disabilities. PHAs are also required to analyze the impact of conversion on the neighborhood, which should include the potential impacts relevant to fair housing.

Further, other regulatory requirements help to ensure that PHAs consider the fair housing implications of their conversion activities. As noted above, the conversion plan must be part of the PHA's Annual Plan. HUD's PHA Plan