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United States Department of Housing and Urban Development

# NEIGHBORHOOD STRATEGY AREAS

## A GUIDEBOOK FOR LOCAL GOVERNMENT

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT

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WASHINGTON, D.C. 20410





United States Department of Housing and Urban Development



U.S. Conference of Mayors



National Community Development Association

## INTRODUCTION & ACKNOWLEDGEMENTS

The Neighborhood Area Strategy (NSA) program is a demonstration effort by HUD to provide local governments with a special set-aside of Section 8 Substantial Rehabilitation funds for use in designated neighborhood areas. It represents the first real attempt by HUD to give local governments control over the distribution of federal housing subsidies, in accordance with approved, locally conceived development strategies. The purpose of this Guidebook is to give local officials assistance in understanding the program's goals, requirements, and constraints, and to help them prepare applications for participation in the program. The Guidebook was prepared by the Housing Action Council of White Plains, NY, with John R. Nolon, Michael M. Ehrmann, and Stephen Grathwohl the contributing authors. The cover illustration is by Bissell and Wells, Architects, through the courtesy of the City of Hoboken Community Development Administration. The project could not have been completed without the strong support of HUD Deputy Assistant Secretary for Assisted Housing Nancy S. Chisholm and her Special Assistant, Jack P. Kerry, funding from the HUD policy development and research program of Assistant Secretary Donna E. Shalala, and the invaluable administrative assistance of Cynthia R. Woodruff, USCM Housing Assistance Staff. Overall editorial responsibility for the Guidebook rests with Barry Zigas, Director of the Housing Assistance Staff.

John J. Gunther  
Executive Director  
U.S. Conference of Mayors

John A. Sasso  
Executive Secretary  
National Community Development Association

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## A GUIDEBOOK FOR LOCAL GOVERNMENT

Prepared for  
Office of Policy Development and Research  
U.S. Department of Housing and Urban Development

by  
USCM NCDA

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# PART I—THE NEIGHBORHOOD STRATEGY AREA PROGRAM

## I. INTRODUCTION

Since the passage of the Housing and Community Development Act of 1974, local governments have been faced with a new responsibility. Through the mechanism of the Housing Assistance Plan, communities have been required to undertake comprehensive reviews of the housing needs of lower income persons, and to draft action plans to meet those needs with federal and local resources. In requiring the Housing Assistance Plans, Congress clearly intended that local governments take a much more visible and leading role in providing housing assistance to their lower income residents.

However, as the Community Development Block Grant program matured, it became increasingly clear that many communities were failing to live up to this new responsibility. To be sure, Housing Assistance Plans were being written, and HUD was accepting them. But communities around the country found that they were stymied in their attempts to make the HAPs actually "happen." There were many reasons for this failure, including a lack of local capacity to deal with the complex process of housing development. But another major obstacle was structural. It had to do with the way the federal government had traditionally dispensed housing aid.

Over the years, the federal government and Congress had developed a series of complex incentives to stimulate private investment in lower income housing. The trend over the years, however, was away from the locally controlled efforts begun with the low rent public housing program begun in 1937. Particularly after 1968, Congress and successive administrations relied on mortgage subsidies and insurance

to stimulate construction and rehabilitation of subsidized housing. To accomplish this, they designed programs which dealt directly with financial institutions and developers. This reflected the thinking at the time, which stressed the need to stimulate construction of new housing at lower than normal costs. It was assumed that the housing, once built, would be maintained and that the lower income families living there would be "happy ever after."

After years of only marginal success at this effort, this thinking has gone out of vogue. There is a much more sophisticated understanding now of the complex forces which govern investment in and maintenance of housing. And part of this understanding has sprung from the realization that in giving local governments the responsibility to plan for meeting the housing assistance needs of poor people, the 1974 Act had offered only half a loaf. Without any tools with which to accomplish the goals laid out, local governments were often left with little to show for all the planning efforts.

With the inauguration of the Neighborhood Strategies Area (NSA) program, HUD is offering local governments the other half of the loaf. For the first time, the federal government is in effect saying to communities, "once you plan for the use of housing assistance in a particular area, and commit your own resources to the revitalization of that area, we will commit to you the federal housing resources you need to complete the job. You will make sure that they are used to accomplish your locally set goals. You will be our program manager for those subsidy programs."

The NSA program is a demonstration effort using a special set aside of Section 8 Substantial Rehabilitation contract authority to provide local governments with a di-

rect control over housing resources. The set asides will be awarded on the basis of a national competition; in fiscal year 1978, a total of 20,000 units of contract authority will be available. In order to qualify for the funds, communities must prepare a detailed plan for dealing with a specific neighborhood area. The local government must assess the need for rehabilitation in the area, assess the prospects for accomplishing the rehabilitation, determine the need for other housing resources and plan for their provision, and develop its own plan for revitalizing the neighborhood with community development and other resources over a five year period.

For those communities which are chosen to participate in the program, award of NSA designation will mean that the local government will be given a set aside of Section 8 substantial rehabilitation funds. It will be responsible for soliciting proposals from owners and developers; evaluating the proposals and providing assistance to those potential applicants who need it; and selecting those applicants whose proposals are most feasible and in line with the community's overall development strategy in the area. HUD's review of the assistance applications from individual owners and developers will be limited in most cases to a technical evaluation, to see that the applications contain all of the necessary information, and meet the federal criteria for participation.

Although the only additional assistance provided under the NSA program is Section 8 Substantial Rehabilitation subsidy funds, the program encompasses much more than that. Participating communities will be required to devote considerable CDBG and other local resources to their neighborhood efforts, and the attraction of private financial investment in the community will be a key element in the NSA strategy. New construction may be necessary in some target neighborhoods, and the Section 8 Existing Housing Program will also be an important tool. NSA, in other words, is a comprehensive program which requires that you use a

variety of programs to effectively manage and direct the natural dynamic changes of a neighborhood area.

The value of an NSA designation for a community cannot be underestimated. For the first time, HUD is offering local governments control over housing subsidies in a particular area. Your local government will be able to negotiate directly with the private sector. You will be able to analyze proposals and determine whether they fit in with what you are trying to do in the neighborhood area. If they are not, you will have a direct say in changing the application or turning it down—this will not be a review and comment procedure, but a full scale administrative opportunity. In a very major way, your local government will be able to guide the course of development through control of the subsidies in a special neighborhood area.

As great as the advantages are, there are also major new responsibilities which must be fulfilled by NSA applicants and participants. You must engage in a full scale planning process for the neighborhood area; develop staff capacity to evaluate assistance applications; deal with financing packages on behalf of interested owners and developers; and coordinate the delivery of a wide variety of other assistance funds, such as CDBG and other local activities.

In considering whether to apply for designation under the NSA program, and in evaluating possible participating neighborhoods within your community, you should keep in mind that areas in which you are already conducting community development rehabilitation programs will be prime candidates for NSA treatment. While there may be some attraction in starting out "fresh" in a brand new area, the complexities of the NSA application process, the short time permitted for filing applications—90 days—and the comprehensive nature of the program required for designation all argue for adoption of the program in areas with on-going development efforts.

This guidebook is intended to help you

and your staff in this process. It is divided into two main parts. The first provides a comprehensive summary of what the program requires, both in the application stage and the program stage. It is heavily referenced to the program regulations, and a full copy of the regulations, as published in the *Federal Register*, is included as Appendix II for easy reference. The second part of the guidebook takes you behind the regulations and explores how a community should prepare for applying for NSA designation, and how it can use its existing resources and talents for providing the program with its greatest chance for success. The Guidebook was written by practitioners who have worked in the field with rehabilitation and community development programs for many years. It is meant to help you use your resources to their fullest as you embark on the NSA application process.

## II. HOW THE PROGRAM WORKS

The Neighborhood Strategy Area program is designed to provide local governments with special procedures for securing and processing proposals for Section 8 Substantial Rehabilitation assistance submitted by units of general local government where it is expected that concentrated community development activities will revitalize the target area within five years. (24 CFR 881.301)\*

The basic application and program process is simple. Communities will be given 90 days to submit applications for the program after notification of fund availability is published in the *Federal Register*. The program will use federal subsidy funds which have been specially set aside for this purpose; NSA applicants will not be competing with the general Section 8 allocation process in filing their applications. One half of the units set aside for the program in

\* Unless otherwise noted, all citations are to the NSA program regulations published in the *Federal Register*.

fiscal year 1978 are general Section 8 funds; that is, they can be used by any sponsor who is otherwise eligible under the Section 8 program regulations. The remaining 10,000 units are available only for projects which are financed by State Housing Finance Agencies (HFAs). (This is partly the result of Congressional appropriations actions which limit HUD's flexibility in allocating Section 8 assistance.)

### A. Who Can Apply for NSA Designation?

Any unit of general local government which is participating as an entitlement recipient in the Community Development Block Grant program may apply for NSA designation. This includes both formula entitlement and hold harmless participants with populations of at least 25,000. (24 CFR 881.301(b)) Communities which receive community development funds through another unit of government, such as an urban county, may also have an NSA located in their boundaries, if the prime CDBG recipient is the official NSA applicant.

Communities participating in the block grant program as discretionary grantees are not eligible for the NSA program. This is because the NSA program presupposes an assured source of community development funds over at least a five year period, to ensure that the other physical development needs of the area will be met satisfactorily.

### B. When Does a Community Apply for Funds Under NSA?

Applications for NSA designation must be submitted to HUD no later than 90 days after the community is notified through the *Federal Register* that funds are available in the current fiscal year.

### C. What is Required in the Application? (24 CFR 881.303)

Because the NSA program involves a close coordination of housing and commu-



nity development resources, communities are encouraged by HUD to closely coordinate the development of an NSA application with the development of Community Development Block Grant and Housing Assistance Plan documents. Applications for NSA designation and a CDBG may be submitted concurrently, if the community's block grant planning cycle permits. HUD is encouraging local governments to exercise this option where possible. In addition, other requests for development aid, such as the Urban Development Action Grant Program, and the Department of Commerce's Local Public Works Grant Program, should also be integrated with the NSA application process if possible. If appropriate activities necessary for the area's revitalization are not contained in your CDBG application, the NSA application cannot be approved by HUD.

If your CDBG plan is already filed before the notification of fund availability for NSA is published, you may amend your block grant application to provide the necessary program assistance. However, you must also comply with all relevant CDBG requirements regarding such amendments before the NSA application can be accepted.

The information which is required in an NSA request can be separated into three basic categories: an outline of existing conditions in the target neighborhood; a description of the neighborhood and housing revitalization work which will be undertaken; and a detailed description—including proposed schedules—of when, how, and in what sequence you will administer the program to ensure that the proposed activities actually take place.

Specifically, the NSA request must include the following items:

1. A detailed description of the location of the proposed NSA, including a discussion of the existing land uses and major traffic routes both within the area and for an area at least one block deep surrounding the NSA; and the location of shopping, public transportation stops, and available services.

2. A description of the NSA's demographic and physical characteristics, and an assessment of the extent to which the area currently meets HUD's site, neighborhood, and environmental standards. The description must include an evaluation of the feasibility of rehabilitation, given the condition of the buildings, and the willingness and financial capabilities of the property owners to participate in the program. In assessing this willingness, do not ignore the experience gained from ongoing rehabilitation programs financed by CDBG or other sources. A successful and well-used program of this type indicates a general willingness on the part of property owners to participate in a comprehensive rehabilitation program, and this kind of activity should be one of the factors you look for in choosing your target neighborhood.
3. An outline of a specific plan that describes how site and neighborhood deficiencies will be remedied. This includes a description of all housing and CD activities to be undertaken, including their estimated cost and source of funding, and a proposed schedule for their completion. This is the part of the application in which the community must describe what it intends to do to revitalize the area using community development resources. It is distinct and separate from the housing revitalization plan described below. Communities should pay careful attention to the development of the neighborhood revitalization plan, for a number of reasons. One is that your community development block grant program must provide for the activities proposed in this plan. Another is that the community must be fully prepared to carry out the activities described in this plan. For these reasons, communities considering the NSA program should look carefully at neighborhoods in which they are already active. While there may be a great

temptation to enter a brand new area under NSA and start out fresh, there are considerable advantages to examining those parts of your community where CD rehab activities are already underway. It will simplify coordination with the CDBG application process, and alleviate the reprogramming problems which might otherwise arise.

4. A housing revitalization program which must include the following information:

- a) all of the existing housing units in the proposed neighborhood strategy area must be separated into one of three categories: those requiring rehab, those needing no rehab, and those which must be demolished. In addition, any new units which are needed must also be included in this inventory.

In addition to the rehabilitation needs, you may also find that there are vacant lots in the neighborhood which are suitable for housing development. You may consider in-fill new construction for this land. Also, there may be properties which are not in need of renovation, but which might be suitable for participation in the Section 8 Existing Housing Program. The target neighborhood may contain conventional low-rent public housing. Does this housing need to be modernized, is it well managed?

- b) For each dwelling unit type which requires attention, an estimate of the amount and expected source of financing, rental assistance or mortgage insurance which will be needed. This is where you must state how many units of Section 8 Substantial Rehabilitation units you wish to have set aside for you in the event you are designated as an NSA participant.

If you propose to use financing for housing assistance which is provided by a State Housing Finance

and Development Agency, or a Public Housing Agency, the request shall include a letter from the appropriate agency stating that the agency agrees to cooperate with you in providing financing for projects in the NSA, and will submit applications and Proposals to HUD in accordance with your local housing revitalization program. Once again, this part of the NSA application must be closely coordinated with the development of your Housing Assistance Plan. The number of units of assisted housing which you request in the NSA application should not exceed the need figure you submitted in your HAP, unless you are prepared to revise your HAP and explain to HUD why your needs figure must increase. In most communities, of course, this will not be a great problem—most HAPs show a far greater need than current federal resources could ever begin to alleviate completely. In any case, your request for housing assistance in the NSA must be consistent with your approved HAP, or with an amendment to that HAP. You must keep in mind that the two documents—HAP and NSA application—are closely linked parts of a single strategy, and that you must be planning with this in mind.

5. An outline of how residents and property owners in the NSA have been and will continue to be involved in the development and implementation of the NSA neighborhood and housing revitalization programs. Communities must be able to show that they have at least met the requirements for citizen participation in the block grant program. If the area chosen for NSA treatment is currently one in which you are undertaking CD activities, this should be a matter of simple certification. If you are entering a new area, you will have to make sure that you comply

with the full citizen participation process. In addition, HUD expects that communities participating in the NSA program will work very closely with residents and property owners in developing and carrying out the NSA strategy. This will become particularly acute for local governments when issues like relocation are brought forward as rehabilitation of individual buildings progresses.

6. A description of the administrative structure and staff which will be responsible for implementing the NSA program. This must include a proposed schedule for completion of the neighborhood revitalization tasks, as well as the administration of the housing revitalization work. This includes conclusion of financing agreements, where they are necessary, completion of public agency actions necessary to prepare the way for housing rehab or other work, and so on. HUD does not expect you to list the staff who will be operating your program by name, but it will want to see how many persons will be working on the program, and what mix of talent you have put together to work on the NSA program.
7. Although the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [Uniform Act] does not apply to displacement that results from rehabilitation of privately-owned projects or from rehabilitation by PHAs where no acquisition takes place, HUD has determined that the local government should be responsible for providing relocation payments and services to tenants displaced under the NSA Program at a level substantially comparable to the requirements of the Uniform Act. These payments and services may be paid for with CDBG funds when they are eligible as public services under the CDBG Program. The option also exists under certain circumstances to assist affected persons under the Section 8 Existing

Program, as a means of providing relocation payments. Because of these requirements, you will have to submit a plan which discusses the expected relocation workload, identifies the financial and housing resources which can be applied to the relocation problem and the staff capacity needed to insure that the relocation activity is carefully managed.

8. A proposed schedule for the solicitation, packaging, and submission of Section 8 Substantial Rehabilitation proposals must be prepared by local government and submitted for approval to the HUD area office.
9. A statement that the locality submitted its NSA request to the relevant Circular A-95 clearinghouse, and that the clearinghouse was invited to submit comments to HUD. If an NSA application is submitted in conjunction with a community development block grant application—a practice which HUD is encouraging where possible—one A-95 review for both the documents will suffice.
10. A statement that the NSA is eligible to receive all CDBG funds and that concentrated housing and block grant physical development activities and public service activities are being, or are to be, carried out in a coordinated manner. (See 24 CFR 881.301(c).)
11. A plan for monitoring and evaluation of the NSA program by the local government.
12. A statement that the request is consistent with the Local Housing Assistance Plan (HAP).

#### **D. Special Concerns for Local Governments**

Obviously, the NSA application process requires a lot from local government. In addition to the opportunity being offered, HUD is requiring quite a few new responsibilities. These can be expensive and time consuming. Hours of planning and preparation are required to meet the application requirements. The requirements for application outlined above require some special attention to certain key areas:

#### **1. Administration**

Because it involves a considerable degree of local planning and coordination, the NSA program means that participating local governments will have to devote a considerable amount of staff time to the program's planning. In the action phase, this responsibility will shift, but not diminish. Program staff will be responsible for such tasks as neighborhood development planning; the solicitation of owners and developers for participation in the program; and rendering technical assistance to them when necessary in the course of application development. Staff will have to assist in negotiations for property acquisition, and be able to analyze real estate "deals" objectively and professionally.

This means that you will have to objectively assess your current staff and their capabilities. Can they negotiate a housing "deal" with private developers? Have they managed complicated, multifaceted development strategies before? The NSA program is not for every community, and some should avoid the hassles of applying if they can't honestly say that their staff is able to handle the load. On the other hand, you should view the NSA as an opportunity to build staff capacity in these crucial areas. The staff which can deal directly with housing developers on the intricacies of a housing assistance application will also be able to apply these skills to other development ventures in your community.

#### **2. Housing program coordination**

Since the diversity of housing types and ownership patterns in an NSA may mean that one type of assistance, such as Section 8 Substantial Rehabilitation, will not suffice to encourage the volume of housing rehabilitation required to solve the problems of housing deterioration in an NSA, participating local governments must be acquainted with other resources. The ability to

blend different programs to maximize their effectiveness will be a very valuable asset in the NSA program. When approaching the NSA program, communities should keep in mind prior experience with locally funded rehab programs, as well as such efforts as the Section 312 rehabilitation loan program.

#### **3. Financing**

Similarly, participating communities will find themselves called upon to provide a considerable amount of help to prospective owners and developers in the securing of financing packages for housing rehab. Conventional lenders are not all familiar with housing rehabilitation, and are frequently reluctant to lend money to owners and developers for this purpose. In addition, the areas in which you will be working will probably have experienced some degree of "disinvestment" by local lenders. This may range from hesitation to lend because of legitimate fears about the neighborhood's stability and long-range profitability to irrational—and illegal—withholding of credit strictly on the basis of geographic location. In either case, the local government will be responsible for breaking up this logjam. Without financing, the NSA program—or any other rehab program—is dead in the water. This means that you will have to deal with local lenders. Participating governments may have to use some of their own money to subsidize private investments in the NSA or to guarantee private loans. This is a task which will take enormous amounts of time, and must be considered before an application is developed.

You will also have to familiarize yourself with two other sources of financing which will be crucial to NSA program success. The first of these is financing which is insured by HUD-FHA. There are a wide variety of insurance programs, designed to fit nearly



every kind of financing situation. The value of this mortgage insurance is that it will often permit lenders to finance construction or purchase of housing in areas where the risk would be judged too great without it. But HUD-FHA processing is a difficult procedure. Many lenders are wary of the insurance programs, and many owners will not get involved with insured loans because of the paperwork requirements. This is why you must be prepared to assist in the development of HUD-FHA financing packages by working with owners, developers, and lenders. Over 60 percent of all Section 8 Substantial Rehabilitation projects financed to date have used HUD-FHA mortgage insurance, so it's a very major source of financing for your NSA program.

The other financing source is the State Housing Finance and Development Agency (HFDA) programs. Since 10,000 of the units available under NSA this fiscal year are earmarked for these agencies, you must begin to work with them now to develop financing packages and cooperative processing arrangements. Not every state has an active HFDA, or one which has full financing powers. You should check on your own state's situation and act accordingly. If you plan to use state financing, you must secure certain agreements from the agency beforehand, as explained in the preceding section.

#### 4. Relocation

As noted earlier, HUD has determined that tenants displaced as a result of Section 8 Substantial Rehabilitation in Neighborhood Strategy Areas will receive relocation payments and services equal to those required under the Uniform Act. All communities interested in participating in the NSA program should closely examine 24 CFR 881.309 of the NSA program regulations. Your attorneys should review

the Uniform Act and the regulations issued pursuant to it (24 CFR 42). You should also plan to undertake a thorough analysis of the local housing market to identify potential relocation resources. A very valuable resource in this endeavor will be your local Public Housing Authority (PHA). These agencies, through experience with the conventional low-rent public housing program, and their administration of the Section 8 Existing Housing Program, are familiar with local housing resources. The PHA can also work with the local government to target Section 8 Existing Program funds for displaced persons in the NSAs, because HUD will consider participation in the Section 8 Existing Program an acceptable form of assistance for eligible families in lieu of relocation payments.

#### 5. Displacement

An issue which is related to relocation is displacement. It will arise in a number of contexts, and your NSA program must be sensitive to it. The most obvious displacement question which you will face involves people who may be forced out of current housing or the neighborhood altogether. You must provide relocation benefits to these people, and your program planning should include some estimate of the magnitude of your problem.

Although your most common problem may be the one you create yourself, some communities will find that they are already facing a displacement problem because of a central city neighborhood's natural process of rejuvenation. This phenomenon is occurring in a number of cities, and the NSA program should not be discounted as a possible tool to use in taking advantage of this trend. Where you have a neighborhood which is beginning to turn around, with a new influx of middle or upper income families, the NSA program can be helpful in making it possible for

those who have lived in the neighborhood longer, and may have lower incomes, to remain there and enjoy the newly revitalized area. A common problem in areas undergoing rehabilitation by private interests is the gap between escalating rent and property values and the incomes of those residents who have lived in the neighborhood during its less attractive periods. As this gap widens, older residents are often forced out of the area. Through NSA, you can combine Section 8 rehabilitation with the other tools you will be assembling to help alleviate this problem. An obvious advantage of this approach is that you will be "hitching your wagon" to a process of private reinvestment which is already underway. This makes the entire process of marshalling private investment a lot easier. A possible disadvantage of using NSA in this context, however, is that the designation of the area for NSA purposes may dampen the private reinvestment drive because of the unfavorable connotations which your actions may include. This is a political problem which you must take into consideration.

Generally, this approach to NSA highlights an important point: *the program is not limited to areas which have declined or are deteriorating*. Neighborhoods are always undergoing change, and the point of the NSA process is to enable you to better manage this change and reap the greatest benefits possible from it. This, in turn, is an important reason to pay close attention to analyzing the neighborhoods you are considering and making certain that you understand their dynamics before you make a final decision. An understanding of the nature and direction of the neighborhood's change is vital to a comprehensive NSA program.

#### 6. Multiple Applications

Communities may submit requests for designation for more than one

neighborhood as an NSA. Each application must be separate, however. Because of the heavy planning and administrative burdens placed on local governments by the program, however, it is not recommended that any but the most prepared communities attempt this.

#### E. HUD Review of NSA Applications (24 CFR 881.304)

All requests for NSA designation will be submitted to the local Area Office, where they will be reviewed and forwarded, with any comments, to HUD's Washington office. The Area Office will review the request in order to determine that:

1. it is consistent with the community's Housing Assistance Plan;
2. there are a sufficient number of units suitable for rehabilitation that are located on sites which either meet the site and neighborhood standards (as modified for the NSA program) or where proposed activities will remedy any existing deficiencies;
3. the area contains no major environmental problems;
4. the proposed relocation plan is acceptable;
5. the proposed NSA activities can be expected to result in a neighborhood with a suitable living environment;
6. local program administration is adequate;
7. the housing revitalization program, the plan to correct site and neighborhood deficiencies, and the schedule for submission of Section 8 proposals are all feasible and can be completed as scheduled;
8. the citizen participation plan is adequate; and
9. the NSA is eligible to receive all CD Block Grant funds.

In addition, the Area Office will also take into consideration any comments received through A-95 review, and, when necessary,

may require that additional information be supplied by the local government.

When the review is complete, all NSA requests will be forwarded to HUD's Washington office, where final selection of the applications will take place. After the selections are made, HUD will notify the local government whether its request has been approved or rejected. If rejected, HUD will explain the reason(s) why. If approved, HUD's notification will identify the approved NSA, give the amount of Section 8 discretionary contract authority which will be set aside for the area, state that, for the purposes of making underwriting determinations under the National Housing Act HUD-FHA insurance programs, the improvements pledged in the request shall be considered as though they were now complete and that HUD-FHA mortgage insurance will be generally available in the NSA, subject to individual review of each application for mortgage insurance; and give the approved schedule for submission of Section 8 proposals.

#### **F. Additional Selection Criteria (24 CFR 881.304(e))**

With only 20,000 units available in fiscal year 1978, HUD assumes that there will be more demand for the units than it can satisfy. In the likely event that applications are received for more units than can be provided, HUD will use an additional set of selection criteria to choose NSA recipients from among those otherwise eligible. Priority will be given to applicants meeting the following selection criteria:

**1. Degree of Local Public Commitment:** Priority will be given to applications showing the greatest amount of CDBG and other federal, state, and local funds and programs designated for use in the NSA. The more concentrated funding your application shows, the better your chances for designation.

**2. Degree of Private Commitment:** Priority will be given to applications showing the greatest amount of existing or pro-

posed private commitment, such as low cost financing, reduced wage rates for rehabilitation work, or mortgage loan pools to ensure adequate amounts of financing for the proposed rehabilitation work. HUD will also give priority to those applications which include evidence of specific proposals by qualified rehabilitation developers in undertaking the projected work, or evidence of interest on the part of present owners to participate in the program. If you make a point of involving lenders, builders, developers, and present owners in your community in the planning of your NSA application, your chances of securing these vital assurances will be enhanced.

One indication of such private commitment would be prior experience by your community in the NSA area through CDBG or other rehabilitation and development programs. This is another good reason to focus on areas with on-going programs when selecting your target neighborhood. If you have successfully worked with owners and developers in the past through your own programs, you will have clear evidence of private sector interest in your redevelopment plans.

**3. Guaranteed Supportive Services:** Priority will be given to applications which can show the greatest current extent of supportive services in the neighborhood; services included in an approved or amended CDBG application; or improvements and activities to be financed from other, assured funding sources.

**4. Overall Quality:** Priority will be given to applications showing the highest overall quality and feasibility.

**5. Displacement:** Priority will be given to those applications which anticipate the least amount of permanent displacement of area residents.

**6. Demonstrated Local Capacity:** Priority will be given to those applications from communities which have demonstrated the ability to complete assisted housing projects of similar magnitude within a reasonable amount of time following designation of an NSA. Generally, HUD will be

anxious to approve applications from communities which will be able to show results under the NSA program within a year after program award.

**7. Progress in Equal Opportunity and Fair Housing:** Priority will be given to applications from communities which can demonstrate progress in fostering and achieving equal opportunity and fair housing goals.

### **III. CARRYING OUT THE NSA STRATEGY**

Once a community has been awarded NSA designation, it must begin the action phase of the program. Obviously, this means that the community development expenditures which were planned for in the application must begin to be arranged, and public commitments made good on. This section of the Guidebook will focus on the housing part of your action plan.

#### **A. The Housing Assistance Application Process**

The central feature of the NSA program is the control which your local government will have over the administration of the Section 8 Substantial Rehabilitation funds which are set aside for you upon NSA designation. In many cases, the local government will not be able to solicit proposals until a significant amount of groundwork has been laid. If your application was well prepared, however, many of the processes necessary to start the rehab development should already have been started in motion. This includes preliminary discussions with private lenders, owners and residents in the neighborhood, and prospective rehabilitation developers. When your community has reached the stage where it is ready to commence actual rehabilitation work, you will have to be ready to start acting as HUD's program manager for the rehabilitation funds.

**1. Technical Assistance to Owners and Developers:** One of the first tasks with

which you will be confronted is providing technical assistance to owners and prospective developers who may wish to participate in the program. You must be prepared to provide this assistance; the NSA regulations require that it be available (24 CFR 881.305(c)). This technical assistance may include assisting in the preparation of Section 8 applications; identifying and negotiating with financing sources; negotiating rent levels with owners and developers; and assisting in the negotiations for property acquisition. You will also be confronted with citizens who are faced with displacement, and you should have a mechanism in place for dealing with their relocation needs. Once again, communities which will succeed in the NSA effort are those which either already have or are able to obtain the professional capability to review each proposal thoroughly and competently, and to render the necessary assistance to prospective program participants. You will be the direct link between your NSA and HUD funds—you must be able to broker them quickly and efficiently.

**2. Understanding the Section 8 Leased Housing Program:** Another primary prerequisite to making your NSA program work will be a thorough understanding of how the Section 8 program works.

First, the Section 8 program *does not* provide mortgage financing—although it may facilitate the acquisition of such financing—or mortgage insurance. It does not pay for acquisition or rehabilitation of housing. The funds which are needed to complete a rehabilitation or to acquire the property in the first place must come from another source. It is your community's job in the NSA program to help arrange that source of financing if necessary.

The Section 8 program also is *not* a source of funds during the rehabilitation phase of a project. The developer or owner of the property must be sufficiently well-capitalized to complete the project once begun. Section 8 funds become available only after the owner has tenants living in the building.

The Section 8 program, as presently structured, *does not* provide assistance for homeowners. It is not a program for providing assistance to lower income persons who own a home and need assistance in rehabilitating it. Section 8 funds may be used by a person who owns an apartment building and lives in one of the units, but only to subsidize the rents of his or her tenants.

Section 8 is a rental assistance program for lower income persons living in privately owned dwellings. In gross form, the program operates this way: HUD solicits proposals from interested owners and developers in a market area by announcing that a certain amount of assistance is available. These proposals are evaluated and ranked in a competition, and a preliminary commitment is made to as many developers or owners as there is money available to assist on the basis of their proposals' relative merits. This commitment is redeemable upon completion of the project. Once the developer or owner has completed the project, be it new construction or rehabilitation, he or she returns to HUD for a final commitment of subsidy funds. At this point, HUD inspects the property, and then agrees to provide to the owner a rental subsidy on behalf of lower income persons living in the property. (Eligible tenants, in most cases, may not earn more than 80 percent of the median income for the area.) HUD will provide, for a period not to exceed 30 years, a subsidy which equals the difference between a federally approved "fair market rent" for the unit, and between 15 percent and 25 percent of the tenant's income. (The exact amount varies depending on family circumstances.) The owner of the property thus receives two payments every month: one from the tenant, and another from HUD. The latter is an amount equal to the difference between the approved rent and the tenant's payment. The approved rent is subject to increases based on annual reviews. If an owner's legitimate costs go up, so may the rent. Unless the tenant's income also rises, however, its payment remains the same. HUD's subsidy payment

covers the rent increase. The private owner retains all of the responsibility for managing the property, selecting tenants, and functioning as the owner of the building. The owner may contract with someone else to complete these tasks, but the final responsibility is his or hers. If HUD finds that the owner is not fulfilling this responsibility, or that the units are not decent, safe, and sanitary, it may cancel its contract to provide rental assistance payments. The owner must then find other tenants who are not being assisted, or repair the building to meet HUD's standards, or try to sell it. When normal vacancies occur, HUD will pay the full approved rent for 60 days; for another year thereafter it will pay enough to cover the debt service attributable to a vacant unit if the owner can prove it is making a good faith effort to fill the unit with an eligible tenant.

In return for its subsidy, HUD requires that tenants be afforded certain rights in their leases, and certain conditions are prohibited in the leases.

*All communities which are applying for NSA designation should know the Section 8 program thoroughly. Program regulations can be found in the Code of Federal Regulations under 24 CFR 881. This thumbnail summary is only that—you must know the program well to administer it.*

**3. Soliciting Proposals:** In developing your application for NSA designation, you had to provide a proposed schedule for soliciting proposals for Section 8 assistance from private owners and developers. After NSA designation, you must start the process of solicitation in motion. Although few communities have ever done this before, most communities have had extensive experience through other programs with the nuts and bolts of seeking proposals. If you have conducted a Section 312 rehabilitation loan program, or a CDBG funded rehab loan program, you have probably gone through many of the steps already. *Don't overlook this reservoir of knowledge about the solicitation process—it is very valuable*

*and should be relied upon heavily in planning your NSA strategy.*

There are a number of methods for soliciting proposals from developers and owners. One is to follow HUD's example and publish a Notice of Fund Availability (NOFA), informing the general public that there are assistance funds available and requesting proposals. Another would be to enter into direct negotiations with owners and developers. Other methods may be allowed if pre-approved by HUD. Again, your own local experience in other rehab loan programs may be the best guide on how to proceed in your community.

Certain information and materials must be available to interested owners and developers once you begin the solicitation process (24 CFR 881.305(b)). This information is similar to that provided in the Developers' Packet used by HUD. It includes:

- a copy of the Section 8 Substantial Rehabilitation program regulations;
- the necessary Section 8 application forms;
- a notation of where the HUD Minimum Property Standards (MPS) can be found;
- information about local zoning codes;
- information about potential financing sources, mortgage insurance, and other housing assistance;
- a description of the NSA neighborhood and housing revitalization plans.

**4. Processing Applications for Section 8 Assistance:** there are two principal categories of assistance which will be sought under the NSA program. One is for projects which will be needing HUD-FHA mortgage insurance, and the other is for those which will not.

**a. Applicants not seeking HUD-FHA mortgage insurance (24 CFR 881.305(g))**

For housing assistance applications in an NSA which do not anticipate using federal mortgage insurance, owners and developers must submit the following information to the local government:

- i. address of the property;
- ii. identity of the principal people in-

volved in the project and their previous participation, if any, in HUD projects;

- iii. an "as is" description of the property;
- iv. a complete description of the proposed rehabilitation;
- v. the proposed number of units by size (the number of bedrooms) and type (family, large family, elderly);
- vi. a description of the existing and proposed utility combination;
- vii. whether the services of a registered architect will be required;
- viii. the proposed contract rent for each unit;
- ix. the equipment, utilities, and services to be included in the rent and those not included, with an estimate of their cost;
- x. the proposed term of the Housing Assistance Payments Contract between the Owner and HUD;
- xi. identification of the current tenants who must be relocated; if any;
- xii. evidence of management capacity and a management plan;
- xiii. certification of compliance with applicable non-discrimination, equal opportunity, fair housing and equal employment requirements;
- xiv. an affirmative fair housing marketing plan;
- xv. sample of the proposed lease;
- xvi. time required to complete the rehabilitation; and
- xvii. the proposed method of financing, evidence of interest by lenders, and whether the Housing Assistance Payments Contract will be pledged as security for the mortgage loan.

**b. Proposals Seeking HUD-FHA Mortgage Insurance (24 CFR 881.307)**

When an owner or developer indicates a desire to seek HUD-FHA mortgage insurance when making the application for Section 8 assistance, the following procedures apply:

- **Prefeasibility meeting:** before a proposal can be submitted to HUD, a prefeasibility meeting must be held between the owner

or developer and HUD Area Office staff. The objective of this meeting is to ensure that there are no major obstacles to the approval of HUD-FHA mortgage insurance.

• **Submission requirements:** the initial submission for these assistance applications must include the following information:

- i. the owner or developer's application for a feasibility letter;
- ii. a submission identical to that required under Section a (1) (vi), (ix), (x), (xi), and (xiii) of the preceding summary;
- iii. the certifications from the local government as specified in Section 6 below.

Each Section 8 proposal which includes a request for simultaneous HUD-FHA mortgage insurance processing will be evaluated by HUD to determine that it is acceptable for the insurance and that it contains all required submissions and certifications. In addition, the proposed rents and contract term must be acceptable; previous experience of the development team adequate; the rehabilitation plans satisfactory; and the relocation plans, if needed, adequate.

Because underwriting of applications for HUD-FHA insurance is expected to cause some problems due to the physical condition of NSAs, HUD will be using special underwriting procedures. These procedures will be somewhat more relaxed than those which apply to HUD-FHA's standard programs, and should permit wide use of the mortgage insurance in NSA neighborhoods.

**5. Community Review of Housing Proposals:** After you have solicited and received applications for housing assistance under Section 8 substantial rehabilitation, you will have to analyze and rank them in order of funding priority. Some applications may be infeasible, or undesirable. You must have the staff capacity to analyze all the applications and make judgments about their soundness and feasibility. You may have to negotiate with the assistance applicants. This is an important role which you

will be able to play under the NSA program. Since you hold the housing subsidies which are so important to those seeking them, you will have a certain advantage in any negotiating sessions. You should use this advantage as fully as possible.

After the solicitation process, you may find that certain owners whose properties are key in the NSA did not seek to participate in the program. You must be prepared to approach these owners and work with them in completing your housing revitalization plan. This may require certain amounts of coercion and negotiation on your part, but you must fulfill the goals laid out in your NSA application in order to continue receiving the subsidy set asides to complete the total project. HUD has provided NSA designees with a considerable degree of latitude in working with owners and developers; you should use this freedom as fully as possible.

**6. Submitting the Proposals to HUD:** After the local government has reviewed the applications and chosen those it wishes to fund, the community must submit the application for Section 8 assistance to HUD with the following certification enclosed:

- the property is located within the NSA;
- the proposal is consistent with the local approved HAP and the NSA housing revitalization strategy;
- the owner has legal control over the property;
- the proposal is permissible under local zoning, building, and housing codes;
- if demolition is required, the proposed reuse of the site is consistent with local zoning and land use codes and will help to revitalize the area;
- the proposed rents are within the fair market rent levels established for the area by HUD. If they are above this level, a certification from the local government that it is aware of this and finds the proposed level reasonable.

The local government is also responsible for identifying those properties in the NSA which have historic value, and must assess any proposal's impact on those properties.

Once this package is submitted to the Area Office, it is equivalent to a Final Proposal under the regular Section 8 processing route.

**7. HUD Area Office Review of Section 8 Proposals:** The Area Office will review the applications for Section 8 assistance to ensure that:

- all submission requirements have been met;
- the proposed contract rents are reasonable and, together with utility costs, do not exceed the Fair Market Rents;
- the proposed contract term is acceptable;
- the sample lease meets HUD's requirements;
- the previous experience of the owner and other principals in the development is acceptable;
- proposed management is acceptable;
- the Affirmative Fair Housing Marketing Plan is acceptable;
- the relocation plan is adequate; and
- the rehabilitation design and plan are acceptable.

HUD will also do an environmental review of the proposal and consider comments received through the A-95 review and comment procedure. After its review, the Area Office will notify the local governments whether the proposal is approved, approved only if certain changes are made or deficiencies corrected, or that it is not approved, with reasons for its rejection included.

#### IV. PROCEDURES FOR OTHER TYPES OF HOUSING ASSISTANCE

The special procedures outlined above apply only to the special set asides of Section 8 Substantial Rehabilitation funds

available to NSA communities. Where other types of federal assistance are anticipated as part of the NSA strategy—such as Section 312 rehabilitation loans, Section 8 new construction, Section 202 housing for the elderly, etc.—regular processing procedures must be followed.

##### A. Subsequent Year Allocations and Reallocations of NSA Set Aside Funds

If all of the available NSA set aside funds under Section 8 Substantial Rehab have not been used by the established deadline during the fiscal year, the Area Office will reallocate the funds in one of the following ways:

1. authorize the locality to submit other proposals for projects within the NSA;
2. if a Notification of Fund Availability (NOFA) for regular Section 8 funds has already been published, process proposals submitted in response to the NOFA for which there were insufficient funds to approve;
3. issue a new NOFA for the community in which the NSA is located; or
4. reallocate the unused contract and budget authority to another allocation area. (24 CFR 881.308)

From time to time, HUD may make additional Section 8 funds available for existing NSAs or consider the submission of requests for additional NSAs. If such a determination is made, HUD will publish a notice in the *Federal Register* indicating the amount of housing assistance funds available, criteria for selection of additional or supplementary participants, and a submission deadline. Such requests will be reviewed and commented on by Area Offices and forwarded to Washington for final selection.



# PART II—NEIGHBORHOOD STRATEGY PLANNING AND IMPLEMENTATION

## I. INTRODUCTION

Neighborhoods do not spring fully formed from the urban fabric; they are constantly in transition, affecting and being affected by their communities and their regions. A neighborhood may serve generations of one ethnic group and then, suddenly, half generations of a succession of ethnic groups. When HUD launches a "neighborhood strategy area" program, it catches a thousand eligible neighborhoods in various stages of change. The Federal government has immodestly proposed that local officials identify areas that can be "revitalized" in five years. Any attempt to respond seriously to such an invitation requires a thorough understanding of the larger community and a carefully developed revitalization plan which respects the complexity of that particular piece of urban turf. It requires a wedding of planning, policy and programming.

HUD's interest in the NSA program stems from its concern with the quality of housing in urban neighborhoods, and its desire to promote the development and maintenance of a high quality of life in those neighborhoods. Housing preservation is a top priority agenda item for the Department, and the NSA program focuses heavily on this issue. Historically, housing and quality of life in urban neighborhoods has been difficult to maintain because of a number of mitigating factors. Perhaps the most devastating of these factors has been the consistent trend of disinvestment in central city areas.

This disinvestment has been practiced by many: banks, savings and loan associations, homeowners, insurance companies, merchants, and often, the municipality itself. Except in those cases where outright discrimination against residents because of their race or ethnic origin is the cause, disinvestment is an undesirable but natural phenomenon. It is natural in the sense that it is a reaction to the blend of facts and myths which attend a neighborhood's changing cycles. No successful NSA strategy can be developed without a firm understanding of the forces which lead to this disinvestment, and the interrelationships which have been forged over the years between different elements of urban life.

In developing a workable approach to housing and community development strategies, it is useful to conceive of a community as comprised of three basic components: people, housing, and jobs. Of course, there are other fundamental community elements which cannot be ignored, such as land-use policies and priorities, transportation policies, etc. For our purposes, however, the first three will suffice.

A properly functioning community, using this analysis, is one where a balance exists between these three components: the number of jobs and the quantity and quality of housing is adequate to serve the needs of the population and to accommodate changes in the level or characteristics of the population as they occur over time.

Given that housing is but one of three components in this model, it is clear why housing strategies should not be developed

in isolation from the others. A housing strategy, when implemented, can substantially influence these complementary elements within the system.

The process of developing a strategy first involves gaining an understanding of the numerous factors—economic, social, and political—which affect the “use of housing” within a community. Secondly, the process involves determining what housing conditions are today and what they are likely to be tomorrow, both for the community at large and for the individual neighborhoods. Finally, the process requires the selection of goals which translate knowledge of the operation of the housing system and housing conditions within the community into effective policies and programs.

What this means for NSA applicants is that you must understand the decision making chain which leads to widespread financial disinvestment in declining urban areas. You must develop a working knowledge of housing management, particularly for smaller multi-family buildings, which are not generally amenable to professional, contract management arrangements. You must fully appreciate the linkage between the social, economic, and political forces at work in the neighborhood, and the individual investment decisions of numerous homeowners and property investors.

With very few exceptions, communities which apply for NSA designation will have to design new data gathering systems to provide answers to the perplexing riddle of disinvestment. You will need statistics which can give you an objective understanding of the economic, demographic, and physical trends within a target neighborhood. You will also need to develop information about the actors whose continued or anticipated economic presence in the neighborhood is crucial to its survival. The information you collect in preparation for NSA development must address all of the interrelated facets of urban decline, because unless your strategy is de-

signed to comprehensively tackle these problems, the program will have little chance of success.\*

Communities which are awarded NSA designation must agree to “manage” the revitalization of the target area to a very great extent. With data gathered and analyzed, the task is understood, goals and objectives developed, the cost estimated. To actually carry out the program, however, the community must assume a great share of the responsibility for making all the pieces of the strategy happen. This means that your local government will have to invest a lot of time and energy in managing the development process in your NSA. You will have to manipulate, cajole, or coerce private sector participants who are reluctant to get involved in the program. You must assemble a management team that contains or coordinates with all of the relevant decision makers in the process. This means the lenders, the owners, contractors, insurance companies, merchants, municipal departments, neighborhood residents, and anyone else in your community who has a role to play in your neighborhood strategy. This includes current and potential investors in the area.

Your local government will assume the role of program manager in the NSA for a variety of reasons. It alone has been entrusted by the people with the police power to regulate private conduct and property and to protect the public health, safety, morals and welfare. Its leadership role is legitimate. The local government has a history of dealing with each of the other actors through code enforcement, tax assessment and collection, deposit of public monies, rent control or fair housing programs, capital project bidding and construction, and the like. If the management calls a meeting, wide attendance is likely. Finally, the

\* For a more complete discussion of comprehensive housing strategies, see *Developing a Local Housing Strategy: A Guidebook for Local Governments*, published by the U.S. Conference of Mayors and HUD, May, 1977.

municipal corporation controls an impressive amount of public resources that can be used as seed money or inducements to use to leverage the long term investment of the private sector. Its operating agencies are critical to the neighborhood's day-to-day desirability for residents. Its capital budget can begin and help sustain a pattern of long term private reinvestment; it can attract state and federal discretionary dollars for further capital investments, public improvements and services. Local government can coordinate the expenditure of social agency funds on the neighborhood, and, it may, one day, bring a set aside of NSA Section 8 housing assistance funds to the bargaining table.

The ebb and flow of neighborhood change, as noted, is a complex, and, at times, unruly process. Having conscientiously gathered and analyzed data, planned a program and assembled a management team, there remains the task of actually starting the revitalization process. Neighborhood decline is itself evidence that existing institutions are not always up to the task of restoring or maintaining urban neighborhoods on their own. The local government has several options to explore in its search for alternative or reorganized institutions:

- It can reorganize an existing public entity like a department, renewal agency, or housing authority and hire competent staff to undertake this particular project.
- It can contract directly with the private sector to effect neighborhood revitalization through a variety of means, including lead lenders, a bank consortium, a private sector joint venture, and the like.
- It can establish a not-for-profit revitalization corporation to coordinate private and public activities and investments in the area. Such a corporation could have public, private and neighborhood leaders on the Corporate Board of Directors to insure the proper management of the implementation process.

With this in mind, we turn to a detailed discussion of how communities interested

in the NSA program can proceed to select neighborhoods, line up contracts, and implement their programs.

The NSA application requires the collection of extensive data regarding the proposed target neighborhood. Although these requirements may, in some cases, force you to undertake new surveys or information-generating exercises, don't forget that your on-going community development planning process should be providing a considerable amount of this information for you on a continuing basis. As mentioned earlier, you will save much time and duplicated effort if you make a point of coordinating your NSA application with your CDBG program development and application schedule. In many instances, communities will find that they have already completed much of the work required by NSA in developing a CDBG program.

Even with this concentrated program development going on, however, each community applying for NSA must understand that the 90-day application period will place heavy demands on planning staff and program personnel. You must be prepared to assign at least one staff person full-time to managing the application process. You may also want to consider retaining outside assistance to help in developing the application, but keep in mind that you will have to administer it once NSA designation has been made. The more “home grown” your application, the easier it will be to integrate into your on-going programs.

Once a community has received NSA designation from HUD, the need for extensive public agency staff involvement will continue, or even increase. As will be noted throughout the remainder of this Guide, there are a variety of roles which government officials must play if an NSA program is to be effectively implemented. Successful applicants should consider the appointment of one or more full-time coordinator-expeditors for their NSA effort. Sufficient time must be reserved in the schedules of local agency rehabilitation specialists.



In addition to these administrative considerations, NSA communities must also be prepared to reserve substantial CDBG and other funds for use in the NSA areas on such activities as relocation payments, supportive public improvements and services, and interest subsidies on loans and mortgages for properties to be rehabilitated through both the Section 8 process and local target area rehabilitation activity.

Once the commitment has been made, HUD designation obtained, and program start-up announced, local agencies will not be able to cut back or eliminate their plans. To do so would mean breaking promises to target area property owners, who are being asked to put new funds into their structures; to tenants, who will be substantially inconvenienced during rehabilitation activity; and financial institutions, which will be committing funds based on an overall plan. HUD regards the entire NSA process as a series of a "quid-pro-quo" relationships between partners in the revitalization effort. Your community should not initiate an NSA effort unless it is willing to accept these consequences and to follow through on promises made during the planning stage.

## II. SELECTING NSA NEIGHBORHOODS

### A. Threshold Requirements

Your first job in moving ahead with your NSA application will be to select the target neighborhood. All eligible cities will find that they have a multitude of areas which could be candidates. Your job will be to narrow this choice down so that you have the best candidate possible, one in which you will be able to complete a program within the required time, and where your investment will have a noticeable and lasting impact. All neighborhoods considered for NSA must meet certain basic threshold requirements, and these are a good starting point for evaluating the candidates you have on hand.

The first threshold your neighborhood will have to meet is that it be eligible for a concentrated investment of community development funds. Other public funds will be invested in the area too, but if you cannot spend CDBG money in the neighborhood, your application will be denied. The reason for this threshold is HUD's belief that the revitalization of declining neighborhoods requires a sustained, overall redevelopment effort. Only CDBG provides this kind of on-going funding for revitalization work. Your neighborhood must be an eligible area for CD expenditures, and you must be able to certify to HUD that the properties within the area are eligible for rehabilitation funded by CD under the provisions of the Housing and Community Development Act of 1977.

Environmental conditions in the proposed target neighborhood will also have an important bearing on the success of an application. Although HUD has not published any firm standards with regard to environmental problems, it is clear that an area which suffers from severe environmental problems such as flooding, excessive pollution, or a high level of noise will require commensurately more investment of public time and money than other, less blighted areas. Your community should keep these factors in mind when screening various candidates for NSA applications. A neighborhood which will require a substantial amount of physical development to alleviate environmental hazards places that much greater burden on the community in undertaking the work. In some cases, an environmental problem such as excessive noise from a nearby airport will be very difficult to remove. This will further reduce the area's chances for NSA designation, and will incidentally make private investment that much harder to secure.

Where your planning process results in the choice of a neighborhood which does have environmental problems, be sure that the physical development plan which you develop will deal with these problems, and ensure that they are substantially corrected

during the course of the NSA program. To do otherwise could result in a failure.

A final threshold requirement to be kept in mind involves HUD's requirement that NSA areas be amenable to substantial revitalization within a five-year period. Some will point out that this means the hardest hit, most depressed urban neighborhoods will be counted out of the program, and they will be right. The purpose of the NSA effort is not to concentrate large amounts of physical development aid on the most blighted urban areas. Rather, it is meant as a tool to foster neighborhood revitalization where a concentrated, largely locally financed effort can result in significant change over a short period of time. This means that communities will have to make tough political choices in screening city neighborhoods for participation in the program.

A convenient, although by no means comprehensive, system of neighborhood evaluation has been developed by the Federal Home Loan Bank Board's Urban Reinvestment Task Force. It is being used in the Neighborhood Housing Services program in over 40 cities around the country. If NHS is operating in your community, you may have an invaluable resource to draw upon in selecting your NSA neighborhood. If not, there may be an NHS program operating nearby, and the staff for that effort should be consulted on the criteria used by that program in choosing participating neighborhoods.

As a general rule, HUD officials have offered the following "unofficial" guidance in characterizing those neighborhoods which will be most suitable for NSA treatment: "not too big, not too bad, and not too many properties."

What all of these threshold requirements point to is the fact that communities which focus on neighborhoods which have ongoing CDBG housing and neighborhood revitalization programs will have a jump on those which don't. This is so for a variety of reasons. For one thing, an area with an ongoing program provides hard evidence of

private sector interest in the revitalization program. If you're already making loans and grants to owner-occupants, then you know for sure that some people are willing to work with you on your program. Similarly, if you choose an area where you're already working, you can capitalize on the reputation you've already developed with local residents. You will have established an ongoing citizen participation program under CDBG. This can be used for your NSA and provide a continuing liaison with your CD work.

No NSA application will be successful if you ignore these basic threshold requirements in the program regulations. You should be able to make an initial cut of your neighborhoods by applying the criteria. The following discussion of housing, ownership, and neighborhood settlement patterns should help you refine your choices and narrow the field even further.

### B. Housing and Ownership Patterns

All neighborhoods are distinct, with individual mixes of housing and ownership patterns which are peculiar to their location, history of development, and current status. As a general matter, however, the types of housing and ownership which are likely to be found in NSA neighborhoods can be broken down into three broad categories:

- Small property dwellings, with between one and four residential units per structure.
- Smaller multiple family dwellings, with between five and 20 residential units per structure.
- Larger multifamily buildings, with more than 20 units.

#### 1. Small properties

In some parts of the country, the first category—small property dwellings—dominates central city neighborhoods. Often, these properties are occupied by their owners, but there is a significant amount of investor-owned properties of this kind in

some of the larger cities. Generally, the smaller property dwellings are also the older stock in the community. They were often built as tenements for immigrants of one period or another, and they have been maintained to widely differing standards in and among cities. Over the years, this stock has been the target of a variety of federal and locally-funded rehabilitation and subsidy efforts. The Section 312 rehabilitation loan program was heavily used in this stock, as was HUD-FHA mortgage insurance and locally-funded CDBG rehab loan programs. Unless they have been allowed to deteriorate severely, small properties normally require only minimum or moderate levels of rehabilitation.\* (Such general rules, of course, are noted for their exceptions, and only a thorough inventory of housing conditions in your candidate NSA neighborhoods will show whether your community is the exception or the rule.)

Up until now, these small properties have not been an appropriate target for the Section 8 program. Neither the number of rental units in each structure nor the level of rehabilitation normally required will attract the kind of private investment necessary to make a Section 8 venture fly. Remember that privately undertaken Section 8 rehab is burdened with a considerable amount of paperwork and complicated financial arrangements. Most owner-occupants of small single family or three-flat buildings are not willing or able to undertake this kind of effort. However, under the NSA program, local government technical assistance may make Section 8 a feasible vehicle for financing the rehabilitation of such structures. Participation by such owners should not be ruled out. You must understand, however, that such owners will require considerably more local investments of time and energy than those with larger properties and greater financial resources.

All of the traditional subsidy mecha-

\* See Appendix I for a definition of the levels of rehabilitation work used in this guidebook.

nisms which have been used in these buildings to date will remain applicable, of course, and Section 312 loans, CDBG loan funds, and other devices can and should be used in an NSA effort.

## 2. Small multifamily buildings

The second structure type, smaller multiple dwellings, is found in virtually every community and, in numbers of units, is often the predominant housing type for the nation's low and moderate income tenant. In fact, over 70 percent of existing rental housing units in America's central cities will be found in such buildings. Most smaller multiple dwellings are investor-owned. But in some communities, there are 5-12 unit owner occupied structures. The investor owners are of various types, including residents of the immediate neighborhood, owners living in the same municipality where their property is located, and "absentee" owners. A majority of the owners in this sector are "local", living in the same target area or community as their properties.

Smaller multiple dwellings often require moderate or substantial levels of rehabilitation. Most of these structures are now quite old. As a result of age, limited rents, difficulties in obtaining new financing, and a variety of neighborhood factors, many of these structures exhibit advanced deterioration. The lack of rehabilitation funding has been a particularly serious problem. Neither private financial institutions nor past HUD-FHA administrations have been aggressive lenders in this area. Also, many of the owners of these structures have been unwilling or unable to cope with HUD-FHA paperwork requirements.

Smaller multiple dwellings occupied by low and moderate income tenants deserve close attention in your NSA planning. The NSA neighborhood context and the direct involvement of public agency staff in processing housing assistance applications can be immensely helpful in gaining sympathetic HUD review of these smaller projects and in providing assistance to appli-

cant owners. Rehabilitation of these structures often requires some relocation.

## 3. Large multifamily structures

Finally, most larger cities and some mid-sized communities have a number of larger multiple dwellings. In virtually all cases, these are investor owned. Generally, these larger structures are either recently constructed and occupied by middle income tenants, or are old investor-owned properties which are deteriorating, and tenanted by low and moderate income residents. The latter category of structures frequently requires extensive levels of rehabilitation. Some core cities have entire areas occupied by larger multiple dwellings. In most communities a limited number of the larger structures are mixed in with smaller multi-unit properties.

Large multiple dwellings may be an appropriate focus of NSA activity. However, the level of deterioration frequently found in these types of structures may necessitate extensive relocation planning and payments. If you are interested in assisting this type of property, you must be prepared to provide the necessary resources.

## 4. Property owners

Property size categories and ownership types are closely related. As you evaluate your potential NSA neighborhoods, you may find that selection of a particular type of structure for Section 8 assistance will involve you with a new type of owner. For example, a great deal of CDBG activity around the nation to date has been targeted on owner occupied structures in the small property sector. This focus has been politically popular and has made good sense in communities with limited housing experience. However, most of the properties most appropriate for Section 8 substantial rehabilitation activity are not owner-occupied. Indeed, many of these structures are controlled by investor-owners who have been regarded with a fair amount of concern by public officials. However, if you plan on assisting the tenants of these structures and

stimulate property rehabilitation, you may have no choice but to work with current investor owners. Where current owners show no interest in the revitalization effort, you may also have to work with investors wishing to purchase the building.

It is recommended that local officials make current, local investor owners the prime focus of their initial NSA rehabilitation activity. Work with these owners will afford you a number of benefits. Many of these investors own one or a limited number of structures, usually of the smaller multiple-dwelling type. They have moderate profit expectations, good actual or potential relationships with their tenants, and they will probably require public agency assistance in planning and undertaking property revitalization strategies. Furthermore, many of these individuals have lived in the community for a long time, and may have been involved in various community activities. Work with local owners represents a logical next step for agencies which have been working primarily with owner-occupants in the past. This approach, if feasible, will also involve the least amount of actual and perceived neighborhood change.

Of course, a successful 5 year revitalization strategy will also have to include work with current absentee owners and new developer-investors for properties which are suitable for rehabilitation but owned by individuals with little interest in revitalization. In some cases, the absentee investors may be large real estate firms with substantial expertise in the field. Joint activity with such companies can add strength to the effort.

Generally, you should be aware that cooperation with all current owners, local or absentee, has one significant advantage over any efforts to involve new developers. The process of obtaining properties at realistic prices is often difficult, particularly after public announcement of designation for a special program, which can in itself lead to increased prices. You can develop strategies designed to counter these

price jumps, but these efforts may require substantial time before owners are convinced that they will be unable to sell at higher levels.

At the same time, you should not rule out working with new developers or investors. On many occasions, this will be the only source of interest or adequate financial capacity to complete the job which must be done. You must weigh the pros and cons of each situation carefully.

In summary, the presence of a large number of interested local investor-owners should be an important, positive factor in a community's evaluation of a particular neighborhood's appropriateness for the NSA program.

### C. Neighborhood Categories

As you examine various neighborhoods for participation in the NSA program, you will begin to see that the housing ownership types described above occur in all kinds of mixes. Some neighborhoods will be dominated by one kind, while others will be a potpourri of different types. In narrowing your focus for the NSA program, you must begin to make certain decisions regarding the type of neighborhood in which you can work most profitably.

Generally, neighborhoods can be characterized in the following manner:

- small property area, with some multiple-dwelling properties.
- mixed areas, with a relative balance between small property and middle-sized multiple dwellings and, possibly, a limited number of larger multi-unit structures.
- multiple dwelling areas, with a very limited number of small properties. Municipalities that have older, larger multiple dwellings are likely to find them concentrated in this type of neighborhood.

#### 1. Small property areas

The smaller property areas generally do not have either the numbers of rental units

or levels of deterioration suitable for use of Section 8 assistance. Local governments are urged to continue serving these areas with CDBG or Section 312 rehabilitation funds. However, for neighborhoods which have extensive absentee owned small structures, occupied by low and moderate income tenants and needing rehab work, the NSA program offers some potential for activity, provided that certain difficulties can be worked out.

It may be very difficult to use Section 8 in these small property areas. If you choose to try this route, you should be aware that the process will require a considerable amount of "hand-holding" by the city with owners and with the HUD Area Office personnel. This means a consequently greater investment of time and energy by your staff.

#### 2. Mixed property areas

The second type of neighborhood, with a mixture of small properties and multiple dwellings, is probably the most appropriate of all for NSA activity. The level of deterioration of these areas generally requires rehabilitation financing and supportive resources which are realistic, given the five year period projected for revitalization. In many such neighborhoods CDBG funds will already be committed to small property rehabilitation, along with public improvements. If not, it would be appropriate for a local agency to commit itself to such an effort as part of its NSA program. In any case, the presence of a small property stock and efforts for its revitalization can provide effective support for the multiple dwelling rehabilitation to be assisted through new NSA commitments.

These mixed areas involve other considerations regarding required NSA programming. The level of rehabilitation is usually particularly appropriate for Section 8 support. Furthermore, many of the properties are middle sized and owned by local investors. The benefits of working with these types of owners have already been outlined. It's also worth noting that these individuals have had particular difficulties

finding private sector financing in the past, and have been generally unwilling or unable, due to lack of technical expertise, to take advantage of Federal resources. Now NSA offers these owners an opportunity to get assistance from local officials and to gain HUD's sympathetic processing of their applications in the context of an overall neighborhood plan.

Areas with a mix of small properties and multifamily dwellings also generally have a need for a small property rehabilitation effort, and supplemental activities which can be realistically carried out by local agencies during the five year period. Furthermore, the relocation case loads in such areas usually will be low enough to be successfully supported through local CDBG resources.

#### 3. Multifamily areas

The final category involves neighborhoods where multiple dwellings predominate, and where deterioration is a serious problem. Although the Section 8 Substantial Rehabilitation rental assistance program is certainly an appropriate resource for the upgrading of individual structures in this type of neighborhood, there are many impediments to focusing an NSA on these areas. First, with the level of deterioration so advanced, it will be extremely difficult to gain many owners' willingness to invest in their structures. Second, even if the owners are willing to proceed, the level of available HUD-FHA assisted units will not be sufficient to upgrade the number of units required for revitalization. Third, the level of local public resources available to meet relocation and other improvements, services, and facility needs will probably not be adequate to meet the heavy neighborhood requirements.

This Guide does not suggest that communities write off the most heavily deteriorated neighborhoods of our urban communities. If your community finds that resources available now or in the near future are sufficient to immediately implement an NSA plan in such an area, you should go forward. In most cases, however,

local governments will benefit from an incremental approach in their efforts to revitalize their neighborhoods. Having begun with small property areas, the NSA program offers public agencies the opportunity to move heavily into their mixed property size areas. Then, as the process of revitalization gains momentum, and new resources become available, the most difficult challenges can be undertaken.

### D. Evaluating Neighborhood Interest

The neighborhood which you choose must be one in which there is a significant amount of interest on the part of current citizens and property owners, as well as the local financial institutions on whom you will be relying for financing of some of your rehab work. This is a key requirement, for if you designate an area for NSA work, make the application, and then find out that there is not sufficient interest in the program to carry it off, you will be facing an unpleasant failure.

One way of determining the level of interest and making sure that it is adequate is to focus your attention on areas in which you are already undertaking neighborhood and housing revitalization efforts. If you have been using CDBG money to finance rehabilitation, and have an active program in a neighborhood, you can assume that there is interest on the part of owners to participate in a public effort like NSA. Similarly, if you have a rehab loan program which involves local lenders in a particular neighborhood, this too shows interest in the effort.

A high level of citizen support, active or potential, is crucial to NSA's eventual success. Unless residents are directly involved in planning and carrying out the program, your policy choices are likely to reflect your ideas about the neighborhood, rather than the resident's. The resultant disputes which will arise as you try to carry out the program will take up more of your time than the technical tasks which should be your primary concern. Citizen involvement will

also be an important factor in getting local owners to participate in the program. If there is pressure from tenants and neighbors to improve properties and upgrade an area, your job will be easier.

Finally, you must involve the residents in buildings which you have slated for rehabilitation or demolition. These people are going to bear the brunt of inconvenience throughout the process, and will stand the most to lose unless they are made an integral part of your process. Therefore, in choosing a neighborhood, you must carefully and realistically evaluate your ability to work constructively with these residents to gain their confidence and cooperation.

### E. Strategic Concerns

The preceding conditions should enable you to narrow down your choices. Once you have reduced the choices as far as you can through these objective tests, you should step back and consider the strategic issues which will be involved in designating an area. Earlier, we pointed out that housing strategies must be part of a larger endeavor, and coordinated with a variety of urban policies. In choosing your NSA area, you must think in these terms. What effect, for instance, will the program have on the overall trends in the neighborhood? If people have been moving out of the proposed target area, where have they been moving to? What has forced them to move? Will the NSA actions you are proposing address these problems? Or will they simply put a gloss over a process which your program won't stop or ameliorate?

In asking these questions, you should come to some conclusions about the dynamics of the neighborhoods you are looking at for NSA programs. Too often in the past, communities have grabbed programs because they were there, picked neighborhoods for largely political reasons, and thrust the programs upon them. Occasionally, this worked out, and the program was a success. Other times, the intervention had a counterproductive effect, ac-

celerating an unfavorable process, or running counter to natural trends. NSA will be a wasted opportunity if it is used in this fashion. It will be successful only in areas where the ingredients for revitalization are present, if only in a latent way.

The NSA program is not for everyone. It requires a great deal of local staff time and planning, and the action phase is a very intensive program operation. You must carefully assess your neighborhoods and the housing stock within them to see if you have areas which would truly benefit from the NSA program. This step is crucial in the development of your application, and a realistic appraisal now may save you a lot of grief and disappointment further down the road.

The hardest part of your application process will be making these decisions. Once they have been made, you will be able to move on to the actual application requirements, which the rest of the Guidebook addresses.

## III. THE NEIGHBORHOOD INVENTORY: INFORMATION RESOURCES

### A. Introduction

Regulations for the NSA require local governments to develop a detailed inventory of proposed target area needs and resources. In many cases, communities will have to undertake new data collection activities to supplement information currently available. Following is a list of suggested elements in a neighborhood evaluation.

### B. Properties

A neighborhood property inventory should gather information regarding the:

- Number of structures, by block.
- Size of structures, i.e. number of units, by

block, and aggregated according to size categories.

- Uses in individual structures, i.e. residential, commercial, or mixed, by block and aggregated.
- Property conditions, on structure by structure as well as aggregated basis.
- Previous new construction and rehabilitation activity.
- Publicly supported housing activity already taking place, including the impact of Federal, State or municipal housing programs on the target area.
- Rehabilitation needs to assist in developing a revitalization plan. This will require evaluating the level of appropriate activity for each structure. (See Appendix II for a description of rehabilitation types.) These categories can serve as a guide for the preliminary judgments on each structure. The key objective of this analysis will be to identify the overall number of properties which require the moderate or substantial rehabilitation supported under the Section 8 Substantial Rehabilitation program.
- Assessed values on structures.
- Financial status, i.e. mortgages, liens, etc., of all or a selected group of structures in area. If a comprehensive survey is impossible, then the focus should be on properties most likely to be serviced by Section 8 substantial rehabilitation.

### C. Owners

The inventory should continue by investigating:

- Ownership types in each structure, and within each size category, i.e., owner occupied or investor owner.
- Investor owner locations: are they target area residents, residents of the community, out of town absentee owners.
- Owner incomes, within each type category.
- Racial composition of owners.
- Ownership transfers over the past ten years.

### D. Financial Institutions

You should assemble a list of mortgages and loans placed in the area by lending institutions, and develop a pattern of the private sector financing which has been made available during the previous decade. Under the provisions of the Home Mortgage Disclosure Act of 1976, all federally-insured lending institutions—both banks and savings and loans—must compile this information on a census tract or zip code basis. Be sure to use this resource in compiling your neighborhood housing inventory.

### E. Construction and Rehabilitation Resources

Your NSA strategy will be nothing more than a paper document if there is insufficient rehabilitation and construction contracting capacity in your community. You should take the following steps to assess the potential for rehab in the NSA:

- Survey firms in your community and your region with experience in rehabilitation activity, or a track record in construction which is appropriate to NSA requirements.
- Establish the level of interest and capacity among these firms and their subcontractors to participate in the NSA effort.

This facet of the NSA program can provide a unique opportunity to foster the development of minority-owned firms. Although many communities have run into serious problems with inexperienced or under-capitalized firms of this type, the NSA program promises a certain level of locally-controlled resources which could help in developing your local rehab and construction industries.

### F. Tenants

The following information should be gathered about renters:

- The number of tenanted units, per structure, block-by-block, and on aggregated basis.



- Tenant incomes, per structure, so that an estimate of Section 8 eligible residents can be established.
- The racial mix of tenants, on an aggregated basis;
- The amount of rent being paid by residents, on an apartment-by-apartment basis;
- The level of tenant organizations in individual structures, along with an evaluation of their willingness to work with public agencies and owners in the overall revitalization strategy;
- If available, the number of residents in the neighborhood and its structures receiving public assistance, and an analysis of shelter payment levels. Also, there should be a review of the changes in the number and percentage of such recipients in and during the past ten years.

## G. General Demographics

This portion of the inventory should include:

- Employment/unemployment levels, and trends in the area.
- Population levels and trends for the neighborhood. The anticipated five and ten year population growth or decline should be projected.

## H. Commercial Development

Your analysis of neighborhood commercial development should focus on:

- Inventory of current commercial facilities.
- An evaluation of commercial market conditions, for the current period, five years, and ten years in the future. If the commercial sector occupies a significant portion of the area, the community may wish to carry out a detailed market study. (Note: Many residential target areas will have only a scattering of commercial facilities, which can be easily inventoried and need not be a prime focus of NSA planning. However, in other communities, significant business sectors are

located within key residential areas. Failure to develop strategies for revitalization of these areas will be a serious flaw in the overall rehabilitation strategy.)

- A preliminary evaluation of future needs, both in types of commercial facilities and space required for business expansion.

## I. Public Resources

This inventory should include:

- A specific inventory of all public improvements, facilities, and services serving the NSA target area. Evaluate the conditions and status of each of these elements.
- A definition of the neighborhood level of need for each type of facility, improvements, and service which might be provided through public and/or voluntary agencies.

## J. Citizen Involvement

An inventory should be conducted to:

- Develop a list of organizations and agencies which serve, or have relevance to, the projected neighborhood. Identify leadership and activities.
- Based on contacts during the planning process, evaluate citizen interest in the revitalization strategy and the willingness to participate in a neighborhood organization(s) or committee(s) supportive of the public effort throughout the five year revitalization process.

## K. Data Services

The information required for completion of an effective NSA application and program plan is extensive. How can your local agency effectively gather this data and complete an application in the 90 day period being allowed? Hopefully, aspects of this information will have already been collected in connection with local preparation of your yearly Community Development Block Grant and Housing Assistance Plan

submissions. In addition, the following information resources will yield important material.

1. **Census Information**, which is broken down to the census tract level for all communities and census blocks in larger cities. The Census Bureau\* has issued the following special runs since 1970 which may be particularly useful to local officials developing NSA plans:

### Housing Census Reports

#### Volume I.

#### HOUSING CHARACTERISTICS FOR STATES, CITIES, AND COUNTIES

This volume consists of 58 "parts"—number 1 for the United States, numbers 2 through 52 for the 50 States and the District of Columbia in alphabetical order, and numbers 53 through 58 for Puerto Rico, Guam, Virgin Islands, American Samoa, Canal Zone, and Trust Territory of the Pacific Islands, respectively. Each part, which is a separate clothbound book, contains two chapters designated as A and B. Each chapter (for each of the 58 areas) is issued as an individual paperbound report in two series designated as HC(1)-A and B, respectively.

##### ■ Series HC(1)-A.

#### GENERAL HOUSING CHARACTERISTICS

Statistics on tenure, kitchen facilities, plumbing facilities, number of rooms, persons per room, units in structure, mobile home, telephone, value, contract rent, and vacancy status are presented for some or all of the following areas: States (by urban and rural residence), standard metropolitan statistical areas (SMSA's), urbanized areas, places of 1,000 inhabitants or more, and counties.

##### ■ Series HC(1)-B.

#### DETAILED HOUSING CHARACTERISTICS

Statistics are presented on a more detailed basis for the subjects included in the Series HC(1)-A reports, as well as on such additional subjects as year moved into unit, year structure built, basement,

\*The results of the 1970 Census of Population and Housing are being issued in the form of printed reports, microfiche copies of the printed reports, computer summary tapes, computer printouts, and microfilm. More detailed information on the reports summarized above can be obtained by writing to the Publications Distribution Section, Social and Economic Statistics Administration, Washington, D.C. 20233.

heating equipment, fuels, air conditioning, water and sewage, appliances, gross rent, and ownership of second home. Each subject is shown for some or all of the following areas: States (by urban, rural-nonfarm, and rural-farm residence), SMSA's, urbanized areas, places of 2,500 inhabitants or more, and counties (by rural and rural-farm residence).

#### Volume II.

#### METROPOLITAN HOUSING CHARACTERISTICS

These reports, also designated as Series HC(2), cover most of the 1970 census housing subjects in considerable detail and cross-classification. There is one report for each SMSA, presenting data for the SMSA and its central cities and places of 50,000 inhabitants or more, as well as a national summary report.

#### Volume III.

#### BLOCK STATISTICS

One report, under the designation Series HC(3), is issued for each urbanized area showing data for individual blocks on selected housing and population subjects. The series also includes reports for the communities outside urbanized areas which have contracted with the Census Bureau to provide block statistics from the 1970 census.

#### Volume IV.

#### COMPONENTS OF INVENTORY CHANGE

This volume will contain data on the disposition of the 1960 inventory and the source of the 1970 inventory, such as new construction, conversions, mergers, demolitions, and other additions and losses. Cross-tabulations of 1970 and 1960 characteristics for units that have not changed and characteristics of the present and previous residence of recent movers will also be provided. Statistics will be shown for 15 selected SMSA's and for the United States and regions.

#### Volume V.

#### RESIDENTIAL FINANCE

This volume will present data regarding the financing of privately owned nonfarm residential properties. Statistics will be shown on amount of outstanding mortgage debt, manner of acquisition of property, home-owner expenses, and other owner, property, and mortgage characteristics for the United States and regions.

#### Volume VI.

#### ESTIMATES OF "SUBSTANDARD" HOUSING

This volume will present counts of "substandard" housing units of counties and cities, based on the number of units lacking plumbing facilities combined with estimates of units with all plumbing facilities but in "dilapidated" condition.

#### Volume VII.

#### SUBJECT REPORTS

Each report in this volume will concentrate on a

particular subject. Detailed information and cross-classifications will generally be provided on a national and regional level; in some reports, data for States or SMSA's may also be shown. Among the subjects to be covered are housing characteristics by household composition, housing of minority groups and senior citizens, and households in mobile homes.

## Population Census Reports

### Volume I.

#### CHARACTERISTICS OF THE POPULATION

This volume will consist of 58 "parts"—number 1 for the United States, numbers 2 through 52 for the 50 States and the District of Columbia in alphabetical order, and numbers 53 through 58 for Puerto Rico, Guam, Virgin Islands, American Samoa, Canal Zone, and Trust Territory of the Pacific Islands, respectively. Each part, which will be a separate clothbound book, will contain four chapters designed as A, B, C, and D. Each chapter (for each of the 58 areas) will first be issued as an individual paperbound report in four series designated as PC(1)-A, B, C, and D, respectively. The 58 PC(1)-A reports are specially assembled and issued in a clothbound book, designated as Part A.

##### ■ Series PC(1)-A.

#### NUMBERS OF INHABITANTS

Final official population counts are presented for States, counties by urban and rural residence, SMSA's, urbanized areas, county subdivisions, all incorporated places, and unincorporated places of 1,000 inhabitants or more.

##### ■ Series PC(1)-B.

#### GENERAL POPULATION CHARACTERISTICS

Statistics on age, sex, race, marital status, and relationship to head of household are presented for States, counties by urban and rural residence, SMSA's, urbanized areas, county subdivisions, and places of 1,000 inhabitants or more.

##### ■ Series PC(1)-C.

#### GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

Statistics are presented on nativity and parentage, State or country of birth, Spanish origin, mother tongue, residence 5 years ago, year moved into present house, school enrollment (public or private) years of school completed, vocational training, number of children ever born, family composition, disability, veteran status, employment status, place of work, means of transportation to work, occupation group, industry group, class of worker, and income (by type) in 1969 of families and individuals. Each subject is shown for some or

all of the following areas: States, counties (by urban, rural-nonfarm, and rural-farm residence), SMSA's, urbanized areas, and places of 2,500 inhabitants or more.

##### ■ Series PC(1)-D.

#### DETAILED CHARACTERISTICS

These reports cover most of the subjects shown in Series PC(1)-C, above, presenting the data in considerable detail and cross-classified by age, race, and other characteristics. Each subject is shown for some or all of the following areas: States (by urban, rural-nonfarm, and rural-farm residence), SMSA's, and large cities.

### Volume II.

#### SUBJECT REPORTS

Each report in this volume, also designated as Series PC(2), will concentrate on a particular subject. Detailed information and cross-relationships will generally be provided on a national and regional level; in some reports, data for States or SMSA's will also be shown. Among the characteristics to be covered are national origin and race, fertility, families, marital status, migration, education, unemployment, occupation, industry, and income.

## Joint Population-Housing Reports

### Series PHC(1).

#### CENSUS TRACT REPORTS

This series contains one report for each SMSA, showing data for most of the population and housing subjects included in the 1970 census.

### Series PHC(2).

#### GENERAL DEMOGRAPHIC TRENDS FOR METROPOLITAN AREAS, 1960 to 1970

This series consists of one report for each State and the District of Columbia, as well as a national summary report, presenting statistics for the State and for SMSA's and their central cities and constituent counties. Comparative 1960 and 1970 data are shown on population counts by age and race and on such housing subjects as tenure, plumbing facilities, value, and contract rent.

### Series PHC(3).

#### EMPLOYMENT PROFILES OF SELECTED LOW-INCOME AREAS

This series consists of 76 reports, each presenting statistics on the social and economic characteristics of the residents of a particular low-income area. The data relate to low-income neighborhoods in 51 cities and seven rural poverty areas. Each report provides statistics on employment and unemployment, education, vocational training, availability for work, job history, and income, as well as on value or rent and number of rooms in the housing unit.

## Additional Reports

### Series PHC(E).

#### EVALUATION REPORTS

This open series will present the results of the extensive evaluation program conducted as an integral part of the 1970 census program, and relating to such matters as completeness of enumeration and quality of the data on characteristics.

### Series PHC(R).

#### PROCEDURAL REPORTS

This open series presents information on various administrative and methodological aspects of the 1970 census, and will include a comprehensive procedural history of the 1970 census. The first report issued focuses on the forms and procedures used in the data collection phase of the census.

## Computer Summary Tapes

The major portion of the results of the 1970 census are produced in a set of six tabulation counts. To help meet the needs of census users, these counts are designed to provide data with much greater subject and geographic detail than it is feasible or desirable to publish in printed reports. The data so tabulated are generally available—subject to suppression of certain detail where necessary to protect confidentiality—on magnetic computer tape, printouts, and microfilm, at the cost of preparing the copy.

**First Count**—source of the PC(1)-A reports, contains about 400 cells of data on the subjects covered in the PC(1)-B and HC(1)-A reports and tabulated for each of the approximately 250,000 enumeration districts in the United States.

**Second Count**—source of the PC(1)-B, HC(1)-A, and part of the PHC(1) reports; contains about 3,500 cells of data covering the subjects in these reports and tabulations for the approximately 35,000 tracts and 35,000 county subdivisions in the United States.

**Third Count**—source of the HC(3) reports; contains about 250 cells of data on the subjects covered in the PC(1)-B and HC(1)-A reports and tabulated for approximately 1,500,000 blocks in the United States.

**Fourth Count**—source of the PC(1)-C, HC(1)-B, and part of the PHC(1) reports; contains about 13,000 cells of data covering the subjects in these reports and tabulated for the approximately 35,000 tracts and 35,000 county subdivisions in the United States; also contains about 30,000 cells of data for each county.

**Fifth Count**—contains approximately 800 cells of population and housing data for 5-digit ZIP code areas in SMSA's and 3-digit ZIP code areas outside SMSA's; the ZIP code data are available only on tape.

**Sixth Count**—source of the PC(1)-D and HC(2) reports; contains about 260,000 cells of data covering the subjects in these reports and tabulated for States, SMSA's, and large cities.

The tapes are generally organized on a State basis. To use the First Count and Third Count tapes, it is necessary to purchase the appropriate enumeration district and block maps.

The term "cells" used herein to indicate the scope of subject content of the several counts refers to each figure or statistic in the tabulation for a specific geographic area. For example, in the Third Count, there are six cells for a cross-classification of race by sex: three categories of race (white, Negro, other race) by two categories of sex (male, female).

In addition to the above-mentioned summary tapes, the Census Bureau, makes available for purchase certain sample tape files containing population and housing characteristics as shown on individual census records. These files contain no names or addresses, and the geographic identification is sufficiently broad to protect confidentiality. There are six files, each containing a 1-percent national sample of persons and housing units. Three of the files are drawn from the population covered by the census 15-percent sample and three from the population in the census 5-percent sample. Each of these three files provides a different type of geographic information.

One identifies individual legal SMSA's and, for the rest of the country, groups of counties; the second identifies individual States and, where they are sufficiently large, provides urban-rural and metropolitan detail; and the third identifies State groups and size of place, with each individual record showing selected characteristics of the person's neighborhood.

**2. R. L. Polk Profiles of Change** information, in municipalities where Polk is involved. This service, based upon annual samples conducted locally, provides local policy and program planners with the ability to determine neighborhood condition and direction using current data.

Of particular importance to the selection and monitoring of Neighborhood Strategy Areas is the Profiles Neighborhood Situation Rating methodology. This procedure allows the user to quickly and accurately analyze and rank the current condition of every tract. In addition, the procedure identifies the degree of positive and negative change occurring in each tract. What results is a dual-ranking, juxtaposing current



condition and degree of positive or negative change for every tract in the city.

While this methodology is most easily and productively used by cities subscribing to the Profiles Of Change service, it can also be used by non-subscriber cities utilizing available, local data resources. Copies of the methodology, entitled T.E.A.M. (Techniques for Evaluating and Monitoring—Neighborhood Situation Ratings), are available without charge from:

R. L. Polk & Co.  
Urban Statistical Division  
Suite 508  
1620 Eye Street, NW  
Washington, D.C. 20006

### 3. Other Data Services:

- Local planning department records, including any data compiled as part of a 701 project.
- Local buildings department records, including both violations and permits for new construction and rehabilitation. Local officials should review information for the previous five year period, to develop patterns of improvements or decline in specific properties.
- If available, local or county Social Services agency files, indicating the number of recipients in each structure as well as shelter allowances paid, where specific rental amounts are broken out. Again, it would be valuable to review this information for the previous five year period to establish patterns.
- Local tax assessor records, providing important information regarding ownership, property values, and recent changes in value and reasons for the modification.
- County or local property registration records, indicating current owners, and registration of mortgages and other liens.
- Data on target area investments by local lenders over a period of time. This information is available from all federally insured lenders under the provisions of the Home Mortgage Disclosure Act of 1976.
- Where relevant, rent registration data maintained by local rent regulation authorities.

- Information on tenant incomes and rent levels from local public housing authorities and/or coordinators of the Section 8 existing program, HUD, or the owners of existing subsidized housing projects in the target area or nearby.
- Chamber of Commerce Surveys of business enterprises.
- U.S. Department of Labor—Bureau of Labor Statistics information on employment. Department of Commerce information on business formations and closings and general economic conditions.
- School enrollment records, including projected levels of target area school registration during the five year revitalization period.
- Where available, additional surveys and reports on housing, economic conditions, employment, and population prepared by local and state agencies.

### L. Other Information Resources

In addition to the statistical data which the resources mentioned above will provide, you must actively engage the citizens living and investing in the USA in the planning process. For one thing, the NSA program regulations require that there be substantive citizen participation in the program. But apart from the requirement, you must involve local people because without their support and cooperation, the program will not get off the ground.

**1. Area Property Owners:** the NSA program regulations require that you inventory the entire neighborhood housing stock in the target area to determine which units need to be rehabilitated, which are sound, and which should be demolished. Some of this information will be obtainable from permit data, and windshield surveys. But in order to determine both the extent of rehab necessary, and the extent of rehab which will be possible, you will have to contact the property owners directly. Before you embark on advanced planning under NSA, you should assure yourself that there is interest among these owners in participat-

ing in your program. Do they understand the program's goals, and the manner in which you plan to execute it? Have they sufficient resources to undertake rehab by themselves, or will they need help from you? If they need help, do they understand the subsidy and assistance programs which are open to them? You must make contacts with both the owners living in the target area and those absentee owners living elsewhere.

**2. Area Property Managers:** for buildings which are absentee owned and are operated by some other individual, or for those which are investor-owned and managed by professionals, you should make sure you discuss the program with the managers. They will have a fair notion of the rehab needs of their own building, and once again, their cooperation could be crucial to your effort's success. Of course, these individuals will not in all cases be cooperative. They may be representing owners who don't want to invest in the properties, or be wary of public intervention in their business. Nevertheless, you should at least contact them to find out. If they are recalcitrant, other strategies for coercing them into the program may be necessary.

**3. Area Tenants:** an especially sticky aspect of your NSA program will involve tenants in buildings which are going to be rehabbed. In some cases, the only inconvenience which will result from the rehabilitation will be a temporary move. In others, tenants may be displaced. This can occur if fewer units are left in the rehabilitated building than were there to start with, a not uncommon event, or you may be faced with totally private rehab which displaces current tenants because subsequent rent levels are too high. In all of these cases, you must fulfill your obligations to these tenants under the Uniform Relocation Assistance Act. If tenants being affected by your program do not fully understand what their rights are before construction begins, you may find yourself facing considerable opposition to the program. If this kind of opposition develops out of ignorance, or your

failure to communicate with tenants about the program, it will be very hard to overcome. Early contact with affected tenants in the area is crucial.

**4. Local Builders:** a vital business group you should contact early in the planning process is the builders. This group will be able to give you information about local rehabilitation capacity. It knows the stock in your community and may be able to help develop data about the rehab needs in your target neighborhood. Once you enter the action phase of your NSA you will need to have this group's cooperation in order to get the rehab work done.

**5. Area Lenders:** although you can get certain information about lending patterns in your community through the disclosure provisions of the Home Mortgage Disclosure Act of 1976, you should make an effort to meet with your area lenders while planning the NSA effort. In addition to the data they can provide on lending patterns, their cooperation will be vital for financing large parts of your NSA strategy.

**6. Area Commercial Interests:** although the NSA is primarily a housing and community development program, the success of your effort may depend heavily on the vitality of neighborhood commercial enterprises located in the target area. Experience has shown that neighborhoods need these small-scale commercial enterprises. When a community has been deteriorating over the years, they are usually in a very weakened position. Lenders have probably not been extending credit at favorable rates, and retail trade is probably down. You will need different program tools to work with this group than are available under NSA, but if you contact the retailers early and keep them fully involved in the process, they should see the value in reinvesting in their own business.

**7. Working in Familiar Areas:** if the area you choose for your NSA is one in which you have been working over time with a comprehensive housing and community development program, many of these issues of citizen and interest group involvement

will have been resolved already. This is a good reason to look at areas with ongoing programs when choosing your NSA. It will reduce the amount of community education necessary to win sufficient support for your project. It will give you a firm base of experience from which to work.

#### IV. Assessing the Need for Financing in Your NSA

##### A. Relationship to the Neighborhood Inventory

One of the primary tasks facing an NSA applicant is the neighborhood inventory. The previous sections have provided a guide to information resources you can use to complete this inventory. When you are done with it, you should have a very complete notion of the condition of the housing stock in your target area. The next step you must complete is determining how much money it will take to complete the necessary repairs and rehabilitation to carry out the NSA program's goal of substantial revitalization for the area within five years.

Determining the amount of financing necessary to complete the task is a vital step, because without a firm understanding of the costs before you start the program, you may find yourself "in over your head" before you're done. It is also a requirement of the NSA application, so it must be done.

The following methodology is a suggestion only. It was developed by Jack P. Kerry for the City of Louisville, KY, and is modeled after the strategic concerns outlined earlier. Your community may find another path more successful; if so, you should follow it. This summary will show you what some of the essential elements of a finance inventory should include, however.

##### B. Working with the Inventory

Once you have completed the neighborhood housing inventory, you will know what the total need for rehabilitation in the

neighborhood is. Your survey should have shown which houses needed very extensive work, and which houses needed only superficial, cosmetic changes to bring them up to the established local standards. But this survey has provided you only with the raw information about the current state of the housing stock. In order to accurately gauge your financing needs, you will have to make a series of further decisions. First, you will have to set aside the units requiring rehabilitation and establish the standard to which you intend to renovate them. Will you be expecting all units to meet the local building code? Is there a residency code which is different? Does your community or your state have a rehabilitation code? Keep in mind that when you are using Section 8 or any other HUD-FHA program, you will have to bring the units at least up to HUD's Minimum Design Standards for Rehabilitation for Residential Properties (HUD Handbook 4940.4).

A convenient way to show the decisions which must be made would be the following:

NEED	GOAL	OBJECTIVE
4,000 units needing rehab	Conserve housing stock	Rehabilitate to city codes, except for Section 8, which is to HUD standards.

You may further subdivide your objective to show how many units are for owner-occupants, or for rental units currently occupied and in need of rehab, and for vacant units.

Once you have set the standard to which you want to rehabilitate the housing stock, you must decide how many you can rehabilitate within a given period of time. There are certain natural constraints on this number, the most important of which will be your staff capacity to process and oversee the rehabilitation. Ideally, of course, you would complete all 4,000 units shown in the breakdown above. But realistically, with limited staff, you may only be able to complete a fraction of that, regard-

less of the resources available to you. So the next step is to figure out what your goal is, and this will be a function of the urgency of need, the amount of money which is realistically available for the work, and the amount of staff time you can devote to the project.

Another important factor will be the amount of work which realistically can be handled by the private sector builders and contractors in your community. You should involve them closely in this process to gain a good estimate of the amount of work which it will be possible to complete within a given period of time.

Your analysis might look like this:

OBJECTIVES		
Type	Standard	Number
1. Owner occupied		
2. Rental units, occupied	City code	180
3. Vacant units	+ HUD	

The number used here is arbitrary, for illustration only. You obviously will have to pick your own.

Your next step is estimating the cost of completing the tasks you have laid out for your NSA program. This will be an estimate only, and you should avoid trying to develop precise costs at this point. Experience in the CDBG program can be a good guide to rehab costs, as can the Section 312 program. These will give a rough "ballpark" figure for you to work with. If you are anticipating other kinds of rehab with which you have had experience, you should apply your actual cost figures to your goals for a cost estimate.

Type	Standard	Number	Cost
Rehab for owner occupants	City Code	60	X \$ 5,000-\$300,000
Rehab of rental units—occupied	City Code and MPS	60	X \$ 8,000-\$480,000
Rehab of vacant units	MPS	60	X \$15,000-\$900,000
<b>TOTAL</b>		<b>180</b>	<b>\$1,680,000</b>

The total of \$1.68 million is very important. It represents the *minimum* amount of capital you will need to complete your projected NSA rehabilitation program. If it

cannot reasonably be assured before you start the effort, you should seriously consider changing the goals, changing the standards, or reassessing the costs. If you don't know you're going to be able to raise the capital, you run the risk of not reaching your goals.

Another concern which you must address at this point is whether the owners whose properties you wish to treat during the program will be able to afford financing the kinds of repairs you have proposed. Also, although you may find that the capital you need is available as a total target sum, it may not be feasible on a unit-by-unit basis. For instance, there may not be enough interest on the part of private lenders to finance 60 loans in the neighborhood of \$5,000 apiece for the homeowners. Unless you have the resources to cover this and plan accordingly, you may have to revise your estimates to reflect the financing situation more realistically.

Once you have established how much it's going to cost you to run your program, you naturally will have to decide where the money's going to come from. This step will have important consequences for your CDBG application, insofar as CD funds will be earmarked for some of the work.

NUMBER	COST	SOURCES
180	\$1,680,000	1. CDBG \$500,000
		2. Sec. 312 \$200,000
		3. State HFA \$600,000
		4. Private \$400,000
		<b>\$1,700,000</b>

In this hypothetical example, there is more anticipated financing than is needed. You may find that it is necessary to secure agreements for a higher figure in order to ensure that the work will be finished. If costs outstrip your estimates, you don't want to be caught short.

Identifying sources is not the same thing as getting commitments for them. This is the reason that you should organize this process early in your application phase so that you can begin canvassing anticipated sources and garnering whatever commitments you can.

The final step in this process is to establish a series of "strategy packages." These short outlines will show exactly what programs you plan to undertake, what goals they will be designed to reach, which objectives that achievement will fulfill, its cost, and the person(s) responsible for carrying it out. This will be your master plan for NSA completion, and the component parts are all necessary steps in developing your application.

Objective	Program
Rehabilitate 180 units up to the standard of the city housing code	1. Rehabilitation of owner-occupied units in selected areas.
	2. Public improvements in the same selected areas.
	3. Employment and training program.
	4. Section 8 existing rehabilitation

#### Strategy Packages

Package A	Description (1)	Impact (2)	Cost (3)	Responsible Party (4)
Program 1				
Program 2				
Program 3				
Program 4				
Totals				

- (1) Description. Identify the purpose or end product of the program.
- (2) Impact. What number of people or units will be affected. The total for all programs should be the same as the objective, in this case, 180 units.
- (3) Cost. Should include the best estimate of all costs—capital and operating.
- (4) Responsible Party. Identify who is responsible for funding the program and who will actually carry out the program.

For each objective, it will be necessary to develop the same type of information:

- What types of rehab are proposed?
- How will it be paid for?
- Who will do it?
- How many of each type will be done in the first year?

## V. Finding Financial Resources

### A. Introduction

Once the neighborhood inventory is completed, or while it is being conducted,

local agencies must begin to explore a key issue: the availability of financing resources which are suitable for potential target area needs. This section of the Guide summarizes major financing tools relevant to NSA area rehabilitation. Local officials should review this summary presentation and, having identified the most appropriate financing elements, begin to meet with relevant institutions to determine how available the desired resources are.

### B. Section 8—Substantial Rehabilitation, Existing Housing, and New Construction Housing Payments

The Section 8 program was briefly described in Part I of the Guide. It is appropriate here to repeat a critical point made in the earlier discussion. Section 8 is *not* a financing mechanism. Rather, HUD payments or rental assistance on individual units help provide a property income stream which supports debt service, taxes and insurance, operating costs, and owners' rates of returns. Thus, HUD's commitment of Section 8 is only one step in the process of putting a financing package together for individual structures.

### C. State Housing Agency Financing

There are now more than 30 state housing financing agencies throughout the nation. Each of these institutions has the power to issue bonds covering the cost of constructing or rehabilitating residential properties. This financing is generally secured by the revenue of the property and may also be insured through HUD-FHA or a private insurance firm. These bonds are tax exempt, with an effective interest rate as low as 7 percent, substantially below private sector insured or uninsured charges. Furthermore, repayment terms on state financing are generally for 30-40 years, exceeding private repayment periods by a wide margin. These two benefits could be particularly helpful in the financing of smaller multiple dwellings, where the rela-

tively limited number of units results in a very tight financial situation. The reduced monthly payments made possible as a result of lower rates and longer terms may mean the difference between a workable and impossible rehabilitation project.

The state agency connection is very important in the NSA program, because 10,000 of the Section 8 substantial rehabilitation units available for the fiscal year 1978 special set asides are available only if financed by state housing finance and development agencies. This means that at least one-half of all units available must be financed through this route, and that means that a considerable amount of negotiating will have to take place between local governments and the state agencies. If your state has not got a housing finance agency, then this option is not open to you. If you are in a state with an active agency which has been involved in the Section 8 program, then you should contact your agency at once and begin negotiating your program options with it.

A major obstacle to participation by state agencies in the NSA program will be the lack of experience among most state agencies with rehabilitation financing. With some notable exceptions, the state agencies have shied away from rehab, except for single family, owner occupied houses. There are a number of reasons for this reluctance. For one thing, the rehabilitation process remains difficult to accurately cost out. Often, a contractor will not know the complete extent of the repair work necessary until after the walls have been knocked down and the work begun. This represents an additional risk to the lender, who may be asked to "up the ante" in the middle of a project in order to ensure its completion.

Another problem faced by state agencies in the rehab area is the position of bond underwriters. Since state agencies cannot borrow funds without the assistance and approval of these professionals, their cooperation is vital. However, underwriters generally feel that no bond-financed new construction or substantial rehabilitation

projects ought to contain fewer than 50 units. In most cases, they prefer projects with over 100 units. The underwriters argue, with some justification, that bond purchasers—the ultimate investors in the rehab venture—will not buy obligations backed only by the limited revenues of smaller buildings. In addition, the paperwork involved in processing a bond issue is the same whether 50 or 500 units are involved, thus making the cost relatively excessive for smaller projects.

Although HUD will be working with state agencies to overcome some of these obstacles, local governments will also have to undertake long and hard negotiations with the state agencies in order to gain their confidence and cooperation. You may find that state agency financing is only available for the larger projects in your area, or only for certain types of projects. Whatever the case may be, you must contact the agency early on, because your NSA application must include assurances from the state agency that it will work with you in the area and devote its resources according to your plan if you contemplate using any of the 10,000 state agency units.

### D. Public Housing Authorities

An invaluable resource in the NSA process will be your local Public Housing Authority (PHA). These agencies are usually set up under state enabling legislation, and every state in the Union has such legislation on the books. PHAs were originally set up to finance and construct conventional low-rent public housing under the U.S. Housing Act of 1937. Over the years, however, they have taken on other tasks, including the Section 23 leased housing program and its successor, the Section 8 Existing Housing program.

PHAs can be valuable to NSA communities for a number of reasons. For one, Congress has set aside for them a large amount of Section 8 contract authority in the fiscal year 1978 appropriation. This means that a certain amount of the total

Section 8 contract authority total must be provided for projects which will be owned by PHAs. Thus, some part of your NSA Section 8 needs, beyond rehabilitation, may be met by using your community's part of this set aside.

PHAs also have the primary responsibility for administering the Section 8 Existing Housing program. As mentioned earlier, Section 8 Existing Housing funds can be used in a coordinated relocation strategy in your NSA, and they may prove a valuable tool generally in your target area. These funds are particularly useful for assisting people living in standard housing, but who are paying more than 25 percent of their income for rent.

Yet another resource provided by PHAs is their ability to finance the construction of lower income housing projects, particularly Section 8 projects. Under the conventional public housing program, local PHAs issued tax-exempt bonds which were guaranteed and amortized by the federal government. These bonds sold at interest rates substantially below the market, and were easy to sell to investors because of the federal support. These bonds are still occasionally issued to finance the construction, rehabilitation, or acquisition of public housing. Under a new section of the 1937 Act, however, PHAs may now issue tax exempt bonds for the financing of Section 8 projects. Section 11 (b) of the Act provides that PHAs may issue these obligations for the acquisition, rehabilitation, or construction of Section 8 projects owned either by itself or by private entities. (Where a private, profit-motivated entity is the owner of the PHA-financed housing, the amount of the mortgage on the property may not exceed 90 percent of the HUD-approved development cost.) HUD has issued regulations governing the use of this financing mechanism (24 CFR 811), and any community considering the NSA program should become familiar with them.

A final resource offered by PHAs is their management experience over the years. Through the management of public hous-

ing and other lower income housing in your community, the PHA has established a track record in management. If it is a good one—and not every PHA has been successful in this area—you may be able to tap it to facilitate your own NSA plans. Housing management will be a particularly thorny problem in the smaller projects you undertake in an NSA, and the PHA experience in this area should not be overlooked.

If your community does not have a PHA, you still may establish one in a number of ways. Your state has enabling legislation which would permit the organization of a traditional PHA. Another route would be to establish the PHA as part of your local government. HUD has recognized this for some time, and the Housing and Community Development Act of 1974 also recognized PHAs which are instrumentalities of local governments. Check with your Area Office for details on PHA establishment.

PHAs should provide an important source of financing, management expertise, and Section 8 subsidies for your NSA effort. Keep in mind, however, that if you plan to use any PHA Section 8 funds in the NSA, you must submit evidence of PHA support and cooperation as part of your application for NSA designation. This means that you should contact your PHA as early as possible in the NSA planning phase.

### E. Municipal Financing

Most local governments have some authority to issue bonds for a variety of purposes, and housing construction or rehabilitation may be one of them. Now that the municipal financing crisis of the last few years has quieted down, and communities are being accepted once again by investors in the bond market, you may want to consider this alternative for financing some of your housing work in the NSA. Keep in mind, however, that this route can become very expensive in terms of administration, and it will make your local government liable for the debts incurred.

### F. Local Resources—Community Development Block Grant Funds

In addition to their use for payment of administrative and relocation costs, and various kinds of facilities, services, and improvements in NSA target areas, CDBG monies may be an appropriate direct financing resource for housing rehabilitation, or to provide insurance for private sector investment. During the past three years, local agencies throughout the country have been using CDBG funds for direct rehabilitation loans and grants, interest subsidies on lender loans and mortgages, premium reduction payments on private sector loans, and insurance on bank mortgages. Although small properties have been the primary focus of these activities to date, in at least one city, Hoboken, N.J., CDBG financed interest subsidies and mortgage guarantees have been used in conjunction with multiple dwelling rehabilitation projects with a cost of up to \$70,000.

CDBG monies may have several financing roles in NSA rehabilitation. Local agencies, particularly those with ongoing revolving loan programs in the property sector, may wish to provide direct loans, 100% publicly financed, to owners of smaller multiple dwellings. However, this approach will tie up significant amounts of CDBG funds in individual properties, involve a substantial amount of local administrative paperwork, and in many ways duplicate the Federal Section 312 loan resource discussed below. Although processing time for the local effort may be somewhat shorter than for the Federal program, steps are now being taken to reduce paperwork for the 312 program. Furthermore, it is difficult to imagine that local agencies financially or politically could justify financing more than a very limited number of the \$100,000-plus rehabilitation projects which will probably constitute a significant part of the NSA effort.

Interest reduction subsidies and, possibly, mortgage insurance funds are the most

appropriate financing uses of CDBG monies in conjunction with an NSA effort. In order to gain HUD approval of an NSA application, communities must obtain private sector commitments to the revitalization effort. However, local officials should recognize that private sector interest rates are too high to allow financial feasibility on many smaller multiple dwelling structures. Using various financing formulas, local governments may use CDBG monies to reduce interest rates to an acceptable cost. In Hoboken and other cities, the communities' participating absentee investor owners have received effective 6% interest rate loans. Based on a \$150,000 rehabilitation cost and a required 4-5% interest reduction on private financing, the local agency may have to expend \$40,000-\$50,000 of its CDBG monies in a similar program. This is a considerable sum, but a good use of funds if the result is to produce 15-25 good quality housing units in the community.

Before committing CDBG funds subsidizing private financing, you should carefully explore the other financial resources enumerated in this section. First, you should attempt to negotiate with private lenders to gain commitments without insurance. Secondly, HUD-FHA is committed to making Federal mortgage insurance resources support the NSA effort effectively. As part of HUD's commitment to the program, the regulations include liberalized appraisal standards and accelerated FHA processing procedures. Nevertheless, local agencies may wish to include a contingency plan for the use of CDBG funds for insurance if it is found that some structures are better serviced in this manner, or if any processing delays in the FHA system threaten to discourage individual applicants. Local officials may be able to get lenders to accept 10-50% coverage on individual mortgages for this back-up system. It should be noted that with Federal insurance programs offering 90-100% coverage, the private institution will generally opt for the FHA route, all else being equal.



## G. Federal Resources:

### 1). Direct Loans

#### a. The Section 312 Loan Program

For many years the Federal Section 312 loan program was the primary public resource for rehabilitation activity. Financed through United States Treasury notes, 312 loans provide direct, 20 year, 3% federal financing to property owners interested in upgrading their structures. Under this program, costs of \$27,000 per unit are allowed. Significantly, up to 80% of each loan may be used for refinancing of existing indebtedness. Before the advent of Community Development Block Grants, 312 loans were used primarily in conjunction with 1-4 unit dwellings. Now, as CDBG programs prove an appropriate vehicle for the upgrading of these structures, public officials and HUD are turning to the 312 program for financing of rehabilitation in smaller and middle-range multiple dwellings. This new emphasis will be facilitated as HUD takes steps to reduce the processing requirements heretofore associated with 312 loans.

The 312 loan program represents one of the primary financing sources to be used in conjunction with an NSA effort. Many municipalities already have personnel with experience in processing these loans. Fair share communities will be receiving allocations of 312 monies in early 1978 and will be free to reserve all or part of these monies to use in NSA areas. Other municipalities with NSA designation will be able to draw down on Area Office 312 loans funds on a case by case basis.

#### b. The Section 202 Program For Senior Citizens and Handicapped Housing

Although the Section 202 loan program is a specialized funding resource limited to senior citizens and handicapped housing, it may be useful for rehabilitation of one or more structures in an NSA target area.

Eligible sponsors under Section 202 receive construction and permanent financ-

ing, as well as a set-aside of Section 8 housing assistance to subsidize on going operations. Only private non-profit corporations and cooperatives may be sponsors. Newly constructed or substantially rehabilitated single-family homes, multifamily structures, and congregate housing are all eligible. Tenants may be individuals who are at least 62 years of age or who are handicapped, or may be households of two or more persons the head of which or spouse is either 62 years old or handicapped. Eligible tenants must also meet Section 8 income limits.

Financing is provided at an interest rate approximately equal to the current United States Treasury borrowing rate. Each HUD Area Office will receive a special pool of Section 8 funds to be used only with the 202 program. In response to a periodic advertisement published in the *Federal Register*, non-profit sponsors apply directly to HUD in Washington, D.C., or to Area Offices, depending on HUD's changing policy, for a reservation of Section 202 loan authority. If this application is approved, sponsors must then meet the regular two-stage Section 8 processing requirements at the HUD Area Office. Upon receipt of Section 8 approval, loan funds are then disbursed and construction is started.

*NSA designation will not eliminate the need for developers to go through normal 202 processing procedures, but support by the local government could prove a big help in securing Section 202 awards. Section 202 may provide a very valuable housing resource for old or handicapped residents for NSA, and permit you to better utilize housing now occupied by these groups.*

### 2. Federal Insurance Programs

The major role of HUD-FHA in housing financing over the past decade has been in the insuring of private sector loans and mortgages. These programs have included insurance of property improvement loans, home mortgages, and mortgages on multifamily rental properties with a total value of \$200 billion since the Federal Housing

Agency was established in 1934. The insurance programs, particularly in the multifamily mortgage area, are expected to play a significant part in any NSA program. HUD-FHA will consider all neighborhood improvements planned for the NSA as though they were now complete for underwriting purposes. However, all individual insurance applications will be reviewed on an individual basis to determine eligibility.

Following is a brief description of the major HUD-FHA insurance programs which may be helpful in carrying out an NSA effort. More detailed information is available from your Area Office. Use of each of these insurance categories requires local officials to seek out lending institutions which have been approved for insurance participation. HUD can provide CDBG agencies with lists of such lenders in their areas.

#### a. Title I Property Improvement Loans

This is the basic insured property improvement loan program of HUD-FHA. The Title I Program was the first of all Federal insurance efforts. Title I loans provide up to 90% insurance to participating lenders. Borrowers may obtain loans of up to \$15,000 on 1-3 unit structures or up to \$25,000 for multiple dwellings, with a limit of \$5,000 per apartment. Title I lending is limited to rehabilitation costs only; these loans can be the second obligation placed on a property. The maximum interest rate is 12%, and repayment must be in 15 years or less. On obligations below \$15,000, individual lenders make credit determinations on applications. As a result, approvals are often forthcoming in a week or less. On loans of \$15,000-\$25,000, HUD Area Office review is required, and processing may take up to a month.

Title I has frequently been used in conjunction with local CDBG small property rehabilitation efforts. Insofar as small property efforts take place in an NSA area, use of this program should be explored. The low

lending amount limits will not allow extensive use of the Title I program in conjunction with multiple dwelling rehabilitation under the NSA program. However, Title I may be adequate for moderate rehabilitation activity in 2-6 unit structures.

#### b. Title II—Major Home Improvement Loan Insurance Section 203(k) and 220(h)

These larger scale property improvement programs may be useful for financing of rehabilitation in some of the smaller multiple dwellings in an NSA target area. Following is a brief summary of their key provisions:

- **Eligible properties:** Section 203(k) loans can be used for improvements to properties of up to four dwelling units, without restriction on the location of the property. Section 220(h) loans can be used for improvements to properties of up to 11 dwelling units but may only be used in an FHA-approved urban renewal, redevelopment, or concentrated code enforcement area. In general, the property must be at least 10 years old. Newer properties can be improved with an insured loan only if in need of major structural improvements, damaged by fire, flood, or other casualty, or defective in a way not known at the time of completion.
- **Eligible borrowers:** Any owner or leasee under a lease for a term at least 10 years longer than the loan term is eligible, whether an occupant of the property or not.
- **Eligible improvements:** Loans under both programs are to be used for improvements to the real estate to make the property more livable and adequate. That includes new work, structural alterations and reconstruction, planning and changes for improved functions and modernization, and changes for aesthetic appeal and elimination of obsolescence. There are certain restrictions on nonessential or luxury work items. Properties

improved under 220(h) must be brought into conformance with property standards adopted for the project area.

- **Maximum loan amounts:** Generally, \$12,000 per family unit, or up to \$17,400 per unit in high cost areas. Under 220(h), the total amount is limited to \$40,000. These ceilings are also subject to limits on maximum property debt, including old and new obligations, according to formulas established under the program.
- **Repayment Term:** 20 years or three-quarters of remaining economic life, whichever is less.

These Title II insurance programs have interest rates currently set at or below FHA mortgage rates. At the present time these loans are not in particularly active use.

### c. Single Family Mortgage Insurance Programs

HUD-FHA's single family mortgage insurance programs will have limited relevance to Section 8 rehabilitation properties.

However, local governments may find that several of these insurance resources may be useful in efforts to support small property homeownership and rehabilitation in the target area. Following is a brief description of the key programs:

- **Section 235 Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation**—insures mortgages and provides payments to lenders to reduce the interest rate to as low as 5%. Homeowners must contribute 20% of their adjusted income to monthly mortgage payments and make a 6% downpayment on the cost of the home. Dollar limits on loans and sales prices are included in HUD's regulation 24 CFR 235.25. The family income limit for initial occupancy is 95% of the area median income. (There is only a limited amount of funding available for this subsidy program.)
- **Section 221(d) (2) Homeownership for Low- and Moderate-Income Families**—insures lenders against loss on mortgage

loans to finance rehabilitation, construction, or purchase of low-cost 1-4 family housing. Maximum insurable loan amounts are the same as for Section 235. Mortgagors must have adjusted incomes which are no higher than 95% of the area median income.

- **Section 203(b)**—insurance for one to four family dwellings homeownership. This is HUD-FHA's "flagship" single family insurance program. Mortgages can be made for up to 97 percent of the first \$25,000 of the appraised value of the property, and for 95 percent of any excess up to the loan limits. Current loan limits are \$60,000 for single family residences, \$65,000 for two and three family homes, and \$75,000 for four family residences. All mortgagors must "establish that his income is and will be adequate to meet the periodic payments required in the mortgages." Eligible units include new, existing, or rehabilitated properties in any part of the country which meet the HUD-FHA Minimum Property Standards.

The Section 203(b) program can be useful for owners who have no special characteristics which would necessitate using one of the special purpose mortgage insurance programs. The program historically has been most closely connected with suburban development, but there is no programmatic reason it can't be used in NSAs.

### d. Multi-family Insurance Programs

The HUD-FHA multi-family insurance programs are expected to play a key role in financing of NSA rehabilitation projects. The availability of insurance may be critically important to municipal efforts to gain private sector mortgage investments in the target areas. As noted above, HUD-FHA has included special provisions in the NSA program regulations to increase the applicability of the insuring resources to Section 8 substantial rehabilitation projects from the

NSA neighborhoods. Following are the major multi-family insurance programs with a summary of their provisions:

- **Section 207 Multifamily Rental Housing Mortgage Insurance**—provides insurance for loans to public or private developers to construct or rehabilitate multifamily rental housing. Projects must contain at least eight rental units, and be located in areas where market conditions indicate a need for such housing. Investors, builders, or developers seeking such insurance should first consult their local FHA insuring office.
- **Section 221(d) (3) and (4) Mortgage Insurance for Multi-family Rental Housing for Low- and Moderate Income Families**—provide insurance to finance the construction or rehabilitation or rental (5 or more units) or cooperative housing for low- and moderate-income or displaced families. Detached, semi-detached, row, walk-up, and elevator structures are eligible. Both programs have mortgage limits set by statute and use the FHA ceiling interest rate. Projects using either of these programs may qualify for Section 8 leased housing assistance.  
The Section 221(d) (3) program insures mortgages up to 100% of the project value for cooperative nonprofit organizations, and up to 90% for limited-dividend groups.  
The Section 221(d) (4) program insures mortgages up to 90% of the project value for profit motivated sponsors.  
The 221(d) (4) multi-family insurance program has provided the bulk of the financing assistance for Section 8 projects—both newly constructed and substantially rehabilitated—over the last several years. It is an extremely popular program, and one with which developers and HUD Area Office staff are equally familiar.
- **Section 236 Mortgage Insurance for Rental and Cooperative Housing for Lower-Income Families**—provides mortgage insurance, interest reductions,

and operating subsidies to nonprofit or limited profit sponsors for long term (40 years) low interest rate (as low as 1%) mortgages for rehabilitating multi-family housing for lower-income families. Tenants contribute no more than 25% of adjusted income to rent. Since 1974, HUD has paid additional subsidies to cover the difference between the tenant's contribution and the actual cost of operating the project. *No new commitments are being made by HUD under this program, however.*

- **Section 223(f) Mortgage Refinancing for Existing Multi-family Rental Housing**—can be used to refinance existing indebtedness in projects undergoing moderate renovation. Major rehabilitation would not be eligible. The property owner, through refinancing, can extend the terms of the mortgage and increase the principal amount without increasing the debt service, thereby providing a margin of capital for renovation.
- **Section 223(e) Miscellaneous Housing Insurance**—despite HUD's intention to relax its normal FHA underwriting standards in NSA areas to allow for the concentrated CD-related investments which will be taking place as part of your strategy, there may still be situations where the Area Office will not approve insurance applications under the standard Title II procedures. In this case, the Area Office may waive the provisions which are causing trouble and grant the insurance application "pursuant to Section 223(e)." This provision can be brought into play if the Area Office decides that the property is in a location which is reasonably viable, is needed for low- and moderate-income housing, and is insured with the objective of upgrading a neighborhood. Mortgagees may not request this special processing; it is granted at the discretion of the Area Office. Under NSA, however, you should make a point of discussing this program with your local HUD-FHA representatives.



## H. Additional Federal Assistance

The foregoing are the major financing sources for housing rehabilitation. Other potential public resources relevant to an NSA effort in many cases are the Section 810 Urban Homesteading Program by which HUD may transfer federally-owned properties to a local government at nominal cost; the Economic Development Administration's Small Business Administration, for commercial properties in NSA areas; and the Neighborhood Housing Services program run by the Urban Re-Investment Task Force of the Home Loan Bank Board.

## I. The Private Financial Sector

As noted above, HUD's NSA regulations place a great deal of importance on municipal efforts to obtain private sector commitments. There are also a number of substantial reasons for local agencies to involve local private sector lenders in their NSA efforts. First, direct governmental lending sources will rarely, if ever, be sufficient to meet the revitalization needs of a particular neighborhood. Second, as noted, private sector financial institutions must be tied into an NSA effort even if HUD-FHA insurance is involved in every case. Third, and most significantly, involvement of lenders in the overall re-investment effort will not only increase the resources available for rehabilitation, but also help stimulate additional private sector investments for single and multiple family purchases, and for the refinancing of existing debts. Finally, the involvement of lending officials in the planning and action phases of an NSA program will bring valuable private sector technical skills to this effort.

Private lenders can provide property improvement loans, permanent mortgages, and construction financing. Property improvement loans, insured under the Title I or Title II program, or unsecured, will have

only limited relevance to Section 8 rehabilitation. But bank commitments in this area can be extremely helpful to other, supportive CDBG funded small property improvement efforts. For larger structures, construction financing should not be difficult to obtain; note that there is room for creative negotiation here regarding terms. The most significant area for private sector involvement is permanent mortgage financing. Key issues to be resolved regarding this funding source are: availability of funds, the need for FHA insurance, and lending terms. Note that many NSA areas suffering disinvestment have had limited private sector investment in the recent past, so that lenders' general willingness to become involved in these areas is not a foregone conclusion.

You should seek involvement of all the private sector financial institutions serving your community in the NSA effort. The more lenders who participate, the more chance to negotiate desirable interest rates and repayment periods. As indicated earlier, these terms can be a significant factor in the feasibility of specific rehabilitation projects, even when Section 8 housing payments are available. Furthermore, the joint participation of a number of lenders in placing individual mortgages on Section 8 rehabilitation properties may eliminate the need for back-up insurance. With a guaranteed income stream from the Section 8 payments and participation by a number of financial institutions, you may be able to convince individual lenders that their risks are minimal and do not require mortgage insurance coverage. Substantial processing delays for FHA insurance, or the commitment of CDBG monies for local insurance, can be avoided if this agreement is successfully made.

To summarize, private sector investors should be heavily involved in the NSA efforts. The extent of private sector commitments will be used as one of the key elements in HUD's ranking of applications for NSA designation.

## J. Additional Incentives

There are many other financial incentives which may also be relevant to local NSA efforts. One is local property tax abatement, which can be granted according to a variety of formulas. Section 8 payments have been calculated at 100% taxation levels, so that property tax relief does not have to be the core element of an NSA effort. This is fortunate, since officials in many municipalities are unwilling or politically unable to start abatement systems. However, some communities may wish to offer some tax abatement benefits, both as a symbol of municipal commitment to the NSA effort and to increase the margin of financial feasibility for individual projects.

If local officials believe that current or future developer-investors should play a significant role in the NSA effort, then several other tax incentive opportunities will be important in gaining their involvement. First, if there are historic properties in the proposed NSA area, Section 2124 of the Tax Reform Act of 1976 allows redevelopers of such projects a 60 month amortization of capital expenditures and other favorable depreciation. More generally relevant, Section 167(k) of the Internal Revenue Code offers owner-developers a tax advantage by allowing them to depreciate on a straight-line basis over a period of five years any expenditures incurred to rehabilitate low-income rental housing, if the taxpayer spent at least \$3,000 in improvements over a two year period. The maximum expenditures that can be amortized are \$20,000 per unit. Low-income housing is defined as that rented to Section 8 eligible tenants, generally 80% of area median income.

Local officials working with developers motivated in part by these tax incentives are urged to negotiate investor commitments in two key areas. First, it is important that these developer-investors plan and implement an effective management plan for their structures. Secondly, the owners should assure public officials of

their continued interest in their properties once the tax benefits expire.

## VI. CARRYING OUT THE NSA PROGRAM

Once NSA designation has been awarded, participating communities will be ready to move forward with their plan. As part of your application, you prepared a schedule for HUD's approval, and you will have to be ready to move quickly to carry it out once you have won your designation. The following discussion will focus on key steps which must be taken to carry out your program effectively. HUD officials will be working closely with the participating communities to assist in overcoming the program problems which inevitably will arise.

### A. Identifying the Properties

You should have begun the process of identifying prospective properties for NSA treatment during your application process. Hopefully, you opened discussions with current owners about the program and their role in it. Immediately after NSA designation, you should contact all owners of properties with a rehab potential in the target neighborhood. This can be done through mailings, general meetings with interested parties, specific interviews, or a combination of these approaches. Owners should be given detailed information about your complete program at this time. It will be additionally helpful if you can provide details about the Section 8 program and other subsidy approaches you are applying in the NSA. These meetings can also include local lenders whose participation you will be expecting in the area. It would certainly be appropriate to discuss with owners the varied financing resources you have inventoried through the application process at this point.

During your inventory of properties for NSA, you almost certainly identified a larger number of buildings than you could realistically treat in one program year. There will be a temptation to restrict your selection of properties to a number which can be easily accommodated with the resources available. However, you should make a point of selecting a group of units large enough to provide a guaranteed reserve of potential rehabilitation sites during the program. The reason for this is simple. During your program year, some owners will decide, for any number of reasons, to back out of their commitments, or not to enter into them in the first place. Some may wish to defer participation until a later date. There is little that you can do about this natural fall-out, but you can plan and be prepared for it. Be sure you have sufficient staff set aside to work closely with the owners. Make sure that your reserve units are ready to be brought "on line" quickly if they're needed. Remember that the worst thing that can happen with a reserve group of units is that you will be so successful that you will have to seek additional funding to complete them. If you are "plagued" with this problem, your program will have been a great success. On the other hand, if you have scheduled a certain amount of work for your program, and find that the natural loss of interested participants leaves you short, you will have fallen behind in your program schedule, and you'll have to deal with disappointed area residents and a series of questions about capability from HUD.

If new investor owners are going to be involved in the first cycle of your program, a number of special tasks will have to be undertaken. The task of identifying appropriate owners and sites, begun during the application process, will have to be completed. Then, option agreements and eventual sales prices compatible with Section 8 financing will have to be negotiated. The possibility of sharp jumps in property costs due to the announcement of NSA designation has been mentioned before. *Do not*

*discount this problem.* If potential developer-investors cannot reach workable agreements with current owners because of this price inflation, the local public agencies involved in your program may have to step in as a party without direct financial interest. One possible strategy for you here would be to make a well-publicized announcement that no property transfer to be financed through Section 8 will take place above a certain ceiling limit per unit on acquisition cost. HUD limits can be used as the basis for such a move. It may also be necessary to let the market "settle down." Rehabilitation activity in these properties can take place during later cycles of Section 8 reservations for the five year plans, after current owners have time to realize that their initial price expectations were unrealistic.

## B. Starting the Process

Once a group of interested owners or potential owners has been identified, local officials and the developers will have to work closely together on the steps leading to HUD approval of specific applications for Section 8 assistance and the carrying out of rehab projects.

1. **Define and advertise city services:** one of the key elements of the NSA program is the heavy involvement by your local agencies in the development of housing proposals for assistance. The program regulations require you to provide technical assistance to owners and developers who request it, so you must be prepared for this step. The services which you might be prepared to provide in your role as manager of the NSA program can include:

- preparation of HUD applications. Remember that many of the owners you will want to involve in the program will have never worked with a HUD program before. The paperwork requirements can be very intimidating, and you should be prepared to help filling these out.
- HUD-FHA mortgage insurance negotiations. Similarly many of the owners will

not have worked with HUD-FHA mortgage insurance programs before. You should be prepared to assist in preparing for negotiations in the pre-feasibility meetings, and afterwards.

- development of cost estimates. Particularly if you have been running CD rehab programs in the past, the availability of trained rehab work estimators will be of great help to many owners. You can provide the technical expertise to make reasonable judgments about the amount of work necessary, whether for a Section 8 job or some other kind of rehab work.

2. **Identify financing sources and assistance you are prepared to offer.** Potential owners should be given a clear understanding of what their options in this area are, and you should present a clear summary of your plans to provide such incentives and subsidies as land write-downs for any new construction that's required, interest rate subsidies, necessary public improvements, second mortgages, and the like.

3. **Detail relocation requirements and benefits to owners and residents.** This step is crucial, and should take place immediately after program award. Meet with both parties and explain the mechanics of Section 8. Residents should be offered the opportunity to make their own suggestions about necessary rehab work. If relocation will be necessary either during or after the rehab work, HUD-mandated procedures for notification of affected individuals should begin at this point.

## C. Carrying out the rehab work

1. **Obtain estimates for the proposed rehabilitation work.** This can be done by private contractors, or the city can provide staff to undertake this preliminary step. Remember that good estimates are crucial to a successful rehab effort. Glossing over major problems, or underestimating the amount of work necessary are common plagues in the rehab business, and they lead to serious complications.

This can be a good point at which to work

with the owners in helping obtain local craftsmen and minority-owned businesses to carry out some or all of the work.

2. **Develop a management plan.** Management difficulties have been a critical problem in many low and moderate income multi-family projects throughout the country, particularly where a small number of units has precluded the use of professional, contract management. The area-wide scope of the NSA program and the extensive involvement of your local government in the process affords a number of opportunities in this area. You should meet with the tenants and the owners, either separately, together, or both, and discuss the management options which are available. Among some interesting options to consider are:

- self management with tenant involvement. There have been some notable successes with tenant-run housing management, but you should be aware that there have also been some notable failures, too.
- joint negotiation by a group of owners with a management firm to provide services for a group of buildings. Your CD agency could be the catalyst or organizer of this kind of effort.
- establishment of a community-based management concern financed in part with CD or other local funds.
- Contracting with the local Public Housing Authority.

3. **Complete the application forms for Section 8 or other assisted rehabilitation work and send them on to HUD.** This is the point at which you will have to step back and review the proposals for completeness and accuracy. Keep in mind that these proposals will be considered final proposals by HUD, unless they involve HUD-FHA processing. Your judgments must be professional and defensible, or your program will be set back.

4. **Monitor construction work, in the NSA.** After the papers have been filed and approval granted, you should continue to work with the owners, developers, and residents to make sure that the work proceeds

as planned, and with as few complications as possible.

5. While construction is taking place, you will have to be **overseeing the preparation of Section 8 documents** for tenants, and helping establish procedures for payments to owners.

6. **Continued monitoring of completed projects should be part of your operating plan.** The NSA effort will not be completely successful if it doesn't presage a new cooperative arrangement between area owners, tenants, businesses, lenders, and local government. You can assist in making sure that the Section 8 payments are made on time; that management plans are being fulfilled and properties maintained; that Section 8 tenants are afforded all their rights under the law and regulations; and that your ancillary efforts in the neighborhood are having the desired effect.

#### D. Continuing Responsibilities

The direct work with property owners and residents is only one facet of the NSA program. You also have your own community development effort to think about, and coordinating the delivery of this assistance will be a major, time-consuming interest during, before and after the actual rehabilitation of houses. Your general responsibilities under NSA will include:

1. **Finalizing a first stage plan** for physical improvements in the target area, particularly under the CDBG program.

2. **Development and maintenance of a target area code enforcement program.** If at all possible, the initial property inspections should be undertaken before designation or while your staff members are discussing potential participation with owners. The use of code enforcement in an NSA area to spur participation in the program should not be underestimated.

3. **Involvement of local residents in the citizen participation process.** This should include, at the very least, distribution of written materials about your program, and, as it moves along, its progress; public meet-

ings to discuss the program and get suggestions from area citizens on specific programs and policies. You should also seriously consider designating an existing representative group or establishing a new group to act as an advisory organization to the NSA program staff.

### VII. CONCLUSION

The first round of Section 8 processing by an NSA community will be extremely significant to its eventual success under the program. You should approach the first year very seriously. In an enterprise as complicated as NSA, unanticipated problems are bound to arise. The first application round should flush some of these out in such key areas as ownership motivation, citizen and tenant participation, commitment of anticipated resources, and paperwork processing by HUD-FHA. Dealing with the quirks and obstacles which arise in the first year will take a creative and flexible staff effort.

One way to minimize the potential for unpleasant surprises in the first year is to devote a lot of time to the initial application requirements in the program. Once you have completed the first cycle, spend some special time on evaluating the experience and spotlighting problems areas. Analyze why they were problems, what the elements which led to blockages were. Use this information to modify subsequent program years.

Despite its challenge, and considerable claims upon a community's time and resources, the NSA program offers you an excellent opportunity to gain supplemental resources for a comprehensive neighborhood and housing revitalization strategy. This guidebook has been prepared to encourage local officials to go forward with the NSA program, despite its considerable demands, and to make local governments aware of the many tasks which will have to be undertaken to succeed in the NSA program. The lessons you learn in carrying out NSA will be applicable in your other neigh-

borhoods, whether they are designated for special treatment on a concentrated basis, or they are the sites for selected assistance. Unless the strategies and techniques developed through the NSA program—which is as comprehensive an effort as HUD is ever likely to fund—are transferred to these other areas, and incorporated into the everyday functioning of your community development program, the value of NSA will have been lessened.

### APPENDIX I: DEFINING REHABILITATION

The term "rehabilitation" has been used to define numerous types of activity, all relating to the upgrading of property. This includes correction of code violations, removal of decay, and elimination of structural deficiencies. It can include "freshening up" of a building's facade, or the complete, historically accurate restoration of an exterior and interior. On the other hand, it can involve the gutting of a historical structure and the replacement of old architectural features with very modern interiors. For purposes of clarifying the discussion in this guidebook, the following definitions of rehabilitation will be used. They are taken from a publication entitled "The Westchester County Experience: A Report for Local Officials" produced by the Housing Action Council of White Plains, N.Y., under contract to HUD. (*This book, publication number HUD-PDR-194-1(2), December, 1976, is available from HUD's Office of Policy Development and Research.*)

#### 1. Minimum Rehabilitation

Minimum rehabilitation includes minor repairs or replacement of accessories, small-scale structural improvements, cleaning, patching, and painting. Among the activities in this category are replacement of individual plumbing fixtures, repair of electrical outlets, patch replastering,

and painting of deteriorating walls and ceilings. Minimum rehabilitation activity usually does not cost more than \$1,000 per dwelling. Minimum rehabilitation is incorporated in the "maintenance and operation" component of property budgets. With the possible exception of low-income owner occupants, property owners normally do not require governmental assistance to finance these repairs.

When property owners are committed to the operation of their structures, minimum rehabilitation activities are carried out without pressures from tenants or governmental agencies. This is particularly true in owner occupied buildings. Owners generally realize that the cost of completing minor repairs will be less than future charges for major problems which result from neglect. However, in neighborhoods which are beginning to deteriorate, owners may begin to lose confidence in the area's future and stop making such repairs.

#### 2. Moderate Rehabilitation

Moderate rehabilitation includes such major repairs as the replacement of building subsystems, extensive carpentry, plastering or painting work, and replacement of windows, doors, and roofs. Minimum rehabilitation activities also may be incorporated in moderate rehabilitation, since owners often choose to take care of all problems as part of a property improvement program. Generally, moderate rehabilitation activity does not exceed \$10,000 for a one-to-two unit structure or \$4,000 per dwelling unit in larger properties.

Moderate rehabilitation may be the result of an owner's interest or of governmental pressures. The cost of such activity creates financial problems for low- and moderate-income homeowners and their tenants, particularly if the owner must borrow funds at market rates. Generally, experience has shown that incentives are necessary to induce owners in these income groups to carry out moderate rehabilitation activity.

### 3. Gut Rehabilitation

Gut rehabilitation includes the stripping down of buildings to their joists and headers, the replacement of building subsystems, rearrangement of apartment layouts, the total replacement of accessories, carpentry, and the addition of new amenities. It requires large expenditures, with a minimum of \$20,000 for smaller structures, and at least \$10,000 per dwelling unit in large buildings.

Public financing with reduced interest rates or an equivalent benefit is a necessary element in any gut rehabilitation project designed to serve low- and moderate-income renters. The owners of many severely deteriorated buildings have allowed their properties to decline because they are unwilling or unable to commit personal

money or to borrow from the private market to rehabilitate the structure. Strong code enforcement pressures are usually not sufficient to get them to make major improvements.

Many local governments, of course, provide assistance of one kind or another to those undertaking both minimum rehabilitation and moderate rehab. The Section 8 Substantial Rehabilitation Program requires more than routine or minor repairs. Substantial Rehabilitation under the Section 8 Program may vary in degree from gutting and extensive reconstruction to cosmetic improvements coupled with the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as Substantial Rehabilitation.

## APPENDIX II

### SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM REGULATIONS

- Subpart C: Neighborhood Strategy Areas  
Special Procedures
- Subparts A, B, D, and Latest Increases in  
Maximum Allowable Rents





## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SECTION 8. HOUSING ASSISTANCE PAYMENTS PROGRAM— SUBSTANTIAL REHABILITATION

#### Special Procedures for Neighborhood Strategy Areas

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DE-  
PARTMENT OF HOUSING AND URBAN DE-  
VELOPMENT

[Docket No. R 77-387]

PART 881—SECTION 8 HOUSING ASSISTANCE  
PAYMENTS PROGRAM—SUBSTANTIAL RE-  
HABILITATION

Special Procedures for Neighborhood Strategy  
Areas

AGENCY: Department of Housing  
and Urban Development.

ACTION: Final rule.

SUMMARY: This rule sets forth poli-  
cies and procedures under which Sec-  
tion 8 Substantial Rehabilitation  
under this subpart may be used in  
identified Neighborhood Strategy  
Areas (NSAs) where it is expected that  
concentrated community development  
and other housing activities will re-  
vitalize the area within a specified  
period of time.

DATES: Effective date: January 31,  
1978. Comment date: Additional com-  
ments on this Final Rule should be  
filed with the Rules Docket Clerk by  
June 1, 1978.

ADDRESS: Rules Docket Clerk,  
Office of the General Counsel, Room  
5218, Department of Housing and  
Urban Development, 451 Seventh  
Street SW., Washington, D.C. 20410,  
202-755-7603.

FOR FURTHER INFORMATION  
CONTACT:

Richard L. Schmitz, Acting Director,  
Section 8 and Leased Housing Divi-  
sion, Office of Assisted Housing De-  
velopment, Office of Assisted Hous-  
ing, U.S. Department of Housing and  
Urban Development, Room 6254,  
202-755-5380.

SUPPLEMENTARY INFORMATION: Units of general local government eli-  
gible to utilize these special proce-  
dures are those local governments  
which are applying for or are receiving  
assistance under 24 CFR, 570.102 or  
570.103. Approval of a request from a  
unit of local government to use the  
special procedures (1) assures the gen-  
eral availability of HUD mortgage in-  
surance in the NSA, and (2) sets aside  
a specific amount of Section 8 Sub-  
stantial Rehabilitation contract au-  
thority for use in the NSA, and (3) au-  
thorizes the local government to solli-  
cit Section 8 Substantial Rehabilitation  
Proposals for up to the amount of con-  
tract authority set aside. The local  
government will then review and  
submit to HUD, which has final ap-  
proval authority, Section 8 Substantial  
Rehabilitation Proposals that it be-  
lieves are approvable together with

#### RULES AND REGULATIONS

certain certifications concerning those  
proposals.

The contract and budget authority  
available for use under these special  
procedures in this fiscal year will come  
from authority retained by the Secre-  
tary pursuant to § 891.403(b). Propo-  
sals or applications for other assisted  
housing programs will be handled  
under regular procedures except that  
appropriate waivers may be granted to  
support the NSA program pending the  
modification of the regulations and is-  
suances applicable to the other pro-  
grams.

The diversity of housing types and  
ownership patterns in a proposed NSA  
may mean that one type of assistance  
such as assistance provided under this  
Subpart will not suffice to encourage  
the volume of housing rehabilitation  
required to solve the problems of  
housing deterioration in a neigh-  
borhood. Accordingly, local governments  
should explore the use of all possible  
rehabilitation financing mechanisms  
when developing NSA requests. Simi-  
larly, when developing plans for public  
improvements and services (including  
relocation) in a proposed NSA, local  
governments should consider a variety  
of resources such as the Community  
Development Block Grants (block  
grant), including Urban Development  
Action Grants (UDAG), and local  
funds. In this regard, section  
881.301(c), which defines an eligible  
NSA area, is designed in part to ensure  
that assistance under this Subpart is  
targeted to areas in which all eligible  
block grant physical development ac-  
tivities and public services may be car-  
ried out.

On January 31, 1977, the Depart-  
ment published in the FEDERAL REGIS-  
TER (42 FR 5918) a proposed rule to  
revise 24 CFR, Part 881 of the Section  
8 Housing Assistance Payments Pro-  
gram—Substantial Rehabilitation Reg-  
ulations by adding a new Subpart C to  
create special procedures for Neigh-  
borhood Renewal Strategy Areas. In-  
terested persons had until March 2,  
1977, to submit written comments.

By the end of the comment period,  
18 written comments had been re-  
ceived. All of these comments, as well  
as several received after the comment  
period, were carefully considered.  
Changes have been made to the Regu-  
lations as published for comment. A  
discussion of the major changes and of  
the more recurrent and significant  
comments follows:

#### NEIGHBORHOOD STRATEGY AREAS

The name of the areas eligible for  
consideration under these procedures  
has been changed from Neighborhood  
Renewal Strategy Areas to Neigh-  
borhood Strategy Areas (NSAs).

#### MORE THAN ONE NSA MAY BE PERMITTED

Several comments expressed concern  
that the limitation on the use of these

special procedures to only one NSA in  
a locality was unduly restrictive. This  
may be true in certain cases. Accord-  
ingly, section 881.303(a) has been re-  
vised to provide that a local govern-  
ment may request, and HUD may ap-  
prove, more than one NSA within the  
jurisdiction of the local government.

#### LENGTH OF TIME ALLOWED FOR SUBMISSION OF PROPOSALS

Two comments expressed concern  
that the requirement that "all Propo-  
sals submitted under these special pro-  
cedures be submitted to HUD within  
six months after approval of the  
(NSA) request" allowed insufficient  
time for Proposals to be developed. It  
was suggested that the contract and  
budget authority to be used under  
these procedures be available for the  
life of the local government's program,  
with Proposals submitted according to  
a local schedule.

In response to these comments, sec-  
tion 881.304(f) is revised to allow sub-  
mission of proposals based upon a  
schedule mutually agreed upon by  
HUD and the local government. If it  
appears that the local government will  
not be able to meet the schedule, it  
may be renegotiated. However, the  
provisions of section 881.308 allow the  
Field Office to use the contract and  
budget authority set aside under this  
Subpart for other proposals under this  
Subpart or for other purposes if the  
original schedule is not met.

#### APPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY AC- QUISITION POLICIES ACT OF 1970

Two comments noted that, in the  
case of a privately owned section 8  
substantial rehabilitation project, the  
Uniform Relocation Assistance and  
Real Property Acquisition Policies Act  
of 1970 (Uniform Act) was inapplica-  
ble. It was suggested that the Uniform  
Act should apply to all proposals ap-  
proved under these special procedures.  
The Uniform Act does not apply to re-  
habilitation of privately owned pro-  
jects or to rehabilitation by PHAs  
where no acquisition takes place. How-  
ever, this final rule provides that the  
local government shall be responsible  
for relocation payments and services,  
at a level equivalent to the require-  
ments of the Uniform Act, to all ten-  
ants displaced by rehabilitation under-  
taken under this subpart. These pay-  
ments and services may be paid for  
with block grant funds. Also added is a  
provision which gives the option in  
certain cases to assist affected persons  
who would be eligible under the sec-  
tion 8 existing housing program  
through the issuance by the Public  
Housing Agency (PHA) of a Certifi-  
cate of Family Participation in lieu of  
rental assistance payments.

## RULES AND REGULATIONS

### ENVIRONMENTAL CLEARANCE REQUIREMENTS—RELATIONSHIP WITH BLOCK GRANT PROGRAM

Comments were received which addressed the environmental assessment requirement for each section 8 proposal submitted for an approved NSA. It was suggested that the process be simplified by changing this Subpart to permit the environmental clearance done under the block grant regulations to suffice for each subsequent section 8 proposal. Because the requirements of the National Environmental Policy Act of 1969 do not permit the suggested change to be made with respect to environmental review, this requirement has not been revised.

In the interest of coordinated planning by a locality, language was included in § 881.303(b) to encourage applicants to submit requests for NSA approvals simultaneously with their block grant applications.

### CONFORMITY WITH SITE AND NEIGHBORHOOD STANDARDS

A number of comments expressed a concern that the neighborhoods which would be most appropriate as NSAs do not at present comply with the site and neighborhood standards for the section 8 substantial rehabilitation program as prescribed in § 881.112. While the Department is considering a revision of these regulations which may have the effect of permitting more neighborhoods to qualify as NSAs, the standards of § 881.112 shall continue to be applicable to all section 8 substantial rehabilitation proposals.

Where the local government proposes to use other assisted housing programs, such as section 8 new construction or public housing, the site and neighborhood standards which apply to those programs also remain applicable.

### ALLOCATION OF NEW CONSTRUCTION UNITS

It was suggested that HUD consider allocating new construction units where needed in NSAs. In cases where section 8 new construction is needed as part of the overall strategy for the area, the local government may request preapproval of a site or sites within the NSA pursuant to the section 8 new construction regulations (see § 880.203(e)). However no more than 20 percent of the authority to be made available by the Secretary for set asides under these special procedures may be used for section 8 new construction. In addition, other housing programs such as public housing or the section 235 program may be utilized in the NSA.

### APPLICABILITY TO AREAS WITHOUT THE NEED FOR CONCENTRATED DEVELOPMENT

Comments were received which suggested that these special procedures

are limited to areas that receive concentrated physical redevelopment activities while some areas suitable for section 8 substantial rehabilitation may not need such activities. This limitation is intentional. These procedures are specifically designed for areas where concentrated revitalization is planned. Other substantial rehabilitation needs should be identified in local housing assistance plans and addressed through the regular procedures in Subpart B, or through other assisted or unassisted housing programs.

### AREAS RECEIVING BLOCK GRANT FUNDS FROM ANOTHER UNIT OF GOVERNMENT

NSAs may be located in communities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA and any proposals must be submitted by the block grant program recipient which is an eligible applicant as defined in § 881.301.

### OTHER SIGNIFICANT REVISIONS AND CLARIFICATIONS

In response to a comment that additional public services need not always be part of NSAs, § 881.303(a) has been changed to make it clear that physical redevelopment, public improvements, and public services are examples of acceptable types of concentrated neighborhood development activities.

Several comments addressed the issue of how special procedures would work in NSAs where one to four unit properties predominated. Properties of this type may be difficult to process under normal section 8 substantial rehabilitation procedures. It is recognized that it may be difficult for owners of such properties to comply with the processing and documentation requirements of the section 8 program. However, it is anticipated that the assistance provided by the local government, coupled with the less competitive nature of these special procedures, will help to resolve this problem.

Comments expressed concern for the rights of tenants occupying units in structures to be rehabilitated under this Subpart. One comment proposed that previous tenants be given the choice of remaining in their units, or, if eligible, receive first priority for section 8 housing assistance. We have determined that the new requirements in § 881.309 providing relocation payments and services give adequate protection to tenants occupying units to be rehabilitated under these special procedures.

Several comments were received concerning the need for HUD to provide technical training and assistance if inexperienced local governments are expected to be able to submit requests

for approval of an NSA and to assist owners in the preparation of specific proposals. Field Office staff will be available to provide assistance to local governments who undertake NSAs, and, when possible, HUD will offer training to local governments which are selected for participation.

Comments were received which asked for a definition of the term "Owner" and also asked if the term covered nonprofit sponsors and developers. The term "Owner" as defined in § 881.102 covers any entity which has the legal right to lease or sublease units. This includes nonprofit sponsors.

One comment suggested that guidance was needed concerning when the services of an architect would be advisable or required. Because of the nature of rehabilitation, the determination of the need for an architect must be made on an individual basis. Moreover, in certain cases either HUD mortgage insurance or local ordinances may specify when an architect's services are required.

Because of the importance of this regulation in making assistance available to areas which will qualify as neighborhood strategy areas, it has been determined that it is in the public interest to make these regulations effective on publication. However, because of the many changes that were made as a result of considering comments previously received, HUD invites further comments on this final rule. Comments received, along with experience in implementing the program, will be considered to determine any needed amendments to these regulations.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Chapter VIII, Part 881 is revised as follows:

### § 881.102 [Amended].

(1) In Subpart A, § 881.102.

(a) A definition for neighborhood strategy area (NSA) is inserted between the definitions for "Lower-Income Family" and "New Communities" as follows: Neighborhood Strategy Area (NSA). An area approved by HUD where assistance under Subpart C of this Part will be provided. See § 881.301(c).

(2) A table of contents for Subpart C is added as follows:

### Subpart C—Special Procedures for Neighborhood Strategy Areas

#### Sec.

881.301 Applicability and scope.

881.302 Contract and Budget Authority available for use under this subpart.

881.303 Request by local government for approval of NSAs.

881.304 HUD review of requests for NSA(s) approval.

881.305 Submission of proposals for projects within NSAs.

881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.

881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.

881.308 Use of contract authority not reserved.

881.309 Relocation for section 8 substantial rehabilitation under subpart C.

(3) Subpart C is added as follows:

### Subpart C—Special Procedures for Neighborhood Strategy Areas

§ 881.301 Applicability and scope.

(a) *General.* This Subpart sets forth: (1) The policies and procedures for requests made by units of general local government for approval by HUD of neighborhood strategy areas (NSAs) (see paragraphs (b) and (c) of this section), and (2) the special procedures to be used by local governments and HUD for securing and processing section 8 substantial rehabilitation proposals under this Subpart.

(b) *Eligible applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program pursuant to 24 CFR 570.102 and 570.103.

(c) *Eligible areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition, so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within a 5-year period. The local plan (see § 881.303) shall provide for a coordinated program of development activities, such as necessary public improvements facilities and services, private investments, citizen self-help activities and coordination of the efforts of public and private agencies and neighborhood organizations.

(d) *Applicability of subparts A and B.* Provisions of Subpart A are applicable except as modified herein. Section 881.104, which contains preferences for certain types of projects, shall not apply. Sections 881.302 through 881.308 shall apply in lieu of §§ 881.202 through 881.210 of Subpart B for proposals not indicating HUD mortgage insurance under these special procedures. For proposals which indicate HUD mortgage insurance, §§ 881.302-881.305 and § 881.307 shall apply in lieu of §§ 881.202 through 881.208.

(e) *Use of other housing assistance programs.* Other housing assistance programs such as the public housing program, the section 8 existing housing program, and the section 235 program, for which contract authority is not included in this set aside may be necessary in order to accomplish the revitalization strategy. In such cases the Field Office shall consider the approval of projects pursuant to other programs if contract authority is available. Appropriate waivers of the regulations governing such other assisted housing programs will be considered to facilitate their use in, or in support of, the NSA.

§ 881.302 Contract and budget authority available for use under this subpart.

(a) *Authority available from initial allocation.* [Reserved]

(b) *Authority made available by Secretary.* HUD will publish a notice in the FEDERAL REGISTER indicating:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) The criteria, including but not limited to the criteria in § 881.304(e), which will be used in selecting NSAs to receive the authority being made available; and

(3) The date by which requests for approval of NSAs pursuant to § 881.303 must be submitted to the appropriate Field Office in order to be considered for assistance.

(c) *Contract and budget authority not reserved.* Contract and budget authority set aside by HUD for local governments under these special procedures not obligated during a fiscal year will be set aside in the subsequent fiscal year if:

(1) Contract and budget authority are available for this purpose; and

(2) HUD determines that the local government is making satisfactory progress in meeting the schedule described in § 881.304(f)(4).

§ 881.303 Request by local government for approval of NSAs.

(a) *Request for Approval of One or More NSAs.* A local government may submit to HUD a request for approval of an area as an NSA which is expected to receive concentrated community development activities (e.g., physical

redevelopment, public improvements and services) assisted by the local government's block grant program pursuant to 24 CFR Part 570. The local government may request and HUD may approve more than one NSA within the jurisdiction of the local government.

(b) *Coordination with the Community Development Planning Process.* Eligible applicants are encouraged to submit requests for approval of an NSA simultaneously with their applications for the block grant program. However, requests may be submitted at any other time if a block grant application or amendment which supports the activities in Section 881.303(d) has been approved or is under review by HUD. In either case, the request, while it will reflect part of the local government's community development planning, shall not be considered part of the block grant application.

(c) *A-95 Procedures.* Any request under paragraph (a) of this Section shall be submitted by the local government to the appropriate A-95 Clearinghouse for review and comment prior to or simultaneously with the submission of the request to HUD, unless the request was submitted with the block grant application and has therefore complied with the requirements under 24 CFR Part 570.

(d) *Contents.* A local government request for approval shall include:

(1) A map or maps of the applicant's jurisdiction which clearly identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services either inside or outside the NSA which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics; an assessment of the extent to which the area currently meets site and neighborhood standards contained in § 881.112 and the environmental standards contained in § 881.114; and an evaluation of the feasibility of rehabilitation given the condition of the buildings in the proposed NSA and the general willingness and financial capability of the property owners to participate in revitalization efforts.

(3) A specific plan which identifies how deficiencies in the neighborhood are to be remedied. This shall include (i) a description of all activities to be undertaken including any activities necessary to correct deficiencies under § 881.112, such as public improvements and services and new public and private construction; (ii) the cost and source of funding of public activities



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In the NSA (i.e., the concentrated block grant activities to be carried out and other related support from Federal, State, local and private programs that are not detailed in the block grant application); and (iii) a schedule for completing the activities. If the local government fails to provide the activities identified in this paragraph (d)(3) in conformance with the approved schedule, HUD may withdraw the unreserved portion of the set-aside and proceed in accordance with § 881.309.

(4) A proposed housing revitalization program which includes the following:

(i) The total number of units in the NSA broken down by the number which require no rehabilitation, the number to be demolished, the number to be rehabilitated by tenure type (owner occupied or rental), and the number of new units to be constructed.

(ii) The number of units by size (number of bedrooms), and structure type (e.g., detached, walkup, elevator) for which contract authority under these special procedures is requested, and the estimated amount and expected source of permanent financing for both assisted and nonassisted units to be rehabilitated. Examples of sources of financing or rental subsidy which the local government should consider for all units in the NSA include Community Development Block Grant funds, the 312 loan program, State and local financing programs, private financing, and all of HUD's assisted and mortgage insurance programs.

When the local government proposes to use financing provided by a State Housing Finance and Development Agency (HFDA) or by a Public Housing Agency (PHA), either Section 8 or public housing assistance, the request shall include a letter from the appropriate HFDA or PHA stating that the agency agrees to cooperate with the local government in providing financing for projects in the NSA and will submit applications and proposals to HUD in accordance with the local government's housing revitalization program.

(5) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(6) A statement that the NSA request was submitted to the A-95 Clearinghouse prior to or simultaneously with the submission of the request to HUD and that the Clearinghouse has been requested to send any comments it has to HUD.

(7) A statement outlining the relocation payments and services which will

be provided in accordance with the requirements of Section 881.309. This statement shall include an estimate of the cost of relocation and shall include the source of funds to be used for this purpose. When the local government proposes to use the Section 8 existing housing program as part of its relocation program, the request shall be accompanied by a letter from the appropriate PHA indicating its willingness to provide such assistance. The statement shall indicate that all services will be provided which are necessary to provide minorities, female heads of household, and other low-income families with the opportunity to take advantage of housing choices outside the areas of minority concentration and low-income areas containing an undue concentration of persons receiving housing assistance.

(8) A description of the administrative structure which the local government proposes to use to implement these special procedures.

(9) A proposed schedule for submission of Proposals.

(10) A statement that indicates that the proposed NSA is eligible pursuant to § 881.301(c).

(11) A statement that the request is consistent with the Local Housing Assistance Plan that has been approved by HUD or submitted to HUD for approval by the local government.

**§ 881.304 HUD review of requests for NSA(s) approval.**

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements:

(1) The request is consistent with the Local Housing Assistance Plan that has been approved or submitted for approval by the local government.

(2) A sufficient number of units suitable for rehabilitation under this Subpart are located in the area either on sites which conform with the site and neighborhood standards in § 881.112, or on sites which will conform when the activities described in § 881.303(d)(3) are completed. However, when the request for approval of an NSA indicates the intention to use programs other than Section 8 Substantial Rehabilitation, such as Section 8 New Construction or Public Housing, the site and neighborhood standards of those programs shall be applicable.

(3) The area contains no major obstacles to meeting the environmental standards of § 881.114 or any other applicable environmental standards which cannot be remedied by the activities proposed for the area. This review shall not substitute for the environmental review required by § 881.306(b) for each Proposal subsequently submitted.

(4) The relocation payments and services proposed by the local government are acceptable.

(5) The present condition of the neighborhood is such that a suitable living environment is expected to result after implementation of the proposed activities outlined in § 881.303(d)(3) and the provision of housing assistance described in § 881.303(d)(4).

(6) The administrative structure proposed by the local government appears to be appropriate.

(7) The activities proposed to correct deficiencies described in § 881.303(d)(3), the proposed housing revitalization program described in § 881.303(d)(4), and the schedule set forth in § 881.303(d)(9) appear feasible and can reasonably be expected to be completed in the specified time. If the proposed activities require an amendment to the current approved block grant application or to the block grant application under HUD review, the NSA request shall not be approved until the amendment or the application is approved.

(8) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(9) The proposed NSA(s) is an eligible area pursuant to Section 881.301(c).

(b) *A-95 Comment.* HUD shall review and consider any comments received from the A-95 Clearinghouse.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary, or that modifications are necessary, it may request such additional information or modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

(d) *Field Office Determination.* The Field Office shall submit those requests it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons.

(e) *Review by HUD.* When limited availability of contract and budget authority requires the Assistant Secretary for Housing to select among local governments responding to the Notice, priority shall be given based on the following:

(1) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, state, or local programs and funds that have been designated for supporting activities;

(2) The extent of existing or proposed private commitment such as pri-

vate financing in the area, local agreements for special wage rates for rehabilitation or other support activities;

(3) The overall quality and feasibility of the program described in the request for approval of an NSA;

(4) The extent to which rehabilitation is expected to be completed without causing permanent displacement;

(5) The demonstrated capacity of the local government to manage housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for members of minority groups and female heads of household;

(7) The potential of achieving, in the speediest manner possible, the reservations of housing units under this Subpart.

(f) *Notification of Local Governments.* The Assistant Secretary shall notify each Field Office as to which NSAs in its jurisdiction have been approved or disapproved. The Field Office shall notify the local government of this determination. If the request is not approved, the notification shall indicate the reasons. If the request is approved, the notification shall include:

(1) An identification of the approved NSAs and a statement that Section 8 Substantial Rehabilitation Proposals may be processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been set aside for use in the NSA and the approximate number of units by household type this authority is expected to support, and a statement of the conditions set forth in § 881.302(c).

(3) A statement that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete and that HUD mortgage insurance will be generally available in the NSA; provided however that each site or property will be reviewed individually for underwriting purposes to determine its eligibility for insurance.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of Proposals.

(g) *Notification of Other Agencies.* If the set aside includes contract authority for projects to be financed by an HFDA or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate HFDA or PHA of the set-aside and indicate that the authority is only available for use in the NSA in accordance with the local government's housing revitalization plan. The HFDA or PHA shall then follow the regular procedures in obtaining

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applications and proposals; however, the concurrence of the local government must be obtained on every application or proposal submitted to HUD pursuant to the set-aside.

**§ 881.305 Submission of proposals for projects within NSAs.**

(a) *Request for Proposals.* After the notification by HUD of the availability of contract and budget authority pursuant to § 881.304(f) has been received by the local government, the local government shall invite (through negotiation, advertisement, or other means), the preparation and submission of Proposals for projects within the designated NSA. The local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the HFDA and/or PHA) will solicit and process Proposals.

(b) *Basic Information.* The local government shall provide basic information to interested Owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a Proposal; and (4) the assistance the local government will provide to Owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(c) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate Owner interest and viable Proposals, assist Owners in the preparation of Proposals. The local government shall review comprehensively all Proposals to make the certifications required by § 881.305(g). The local government shall transmit to HUD for review section 8 Substantial Rehabilitation Proposals it believes are approvable.

(d) *Local Assurances.* The local government shall assure that the Proposals processed under these special procedures will not collectively require contract and budget authority in excess of the amount set aside in the notification pursuant to § 881.304(f).

(e) *Timely Submissions.* The local government shall assure that Proposals are prepared and submitted in accordance with the agreed upon sched-

ule provided for in § 881.304(f)(4). If approvable Proposals sufficient to use the contract and budget authority set aside for use in NSA(s) have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of § 881.308 concerning the use of residual contract authority.

(f) *Submission and Review.* Submission and review requirements for section 8 Substantial Rehabilitation Proposals requesting simultaneous processing for HUD mortgage insurance are found in § 881.307. Proposals not requesting simultaneous HUD mortgage insurance processing shall include the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the Owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal members, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) as is, including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typical may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping, etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typical may be provided.

(5) The number of units by unit size (number of bedrooms) and type of occupancy (elderly or handicapped or family) proposed for the property after the completion of rehabilitation.

(6) A description of the existing utility combination, whether a change to a different combination is proposed, and, if so, a description of the new utility combination.

(7) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(8) The proposed Contract Rent for each unit, by size and structure type.

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(9) The equipment, utilities and services to be included in the proposed Contract Rent and those utilities and services not so included. For each utility and service not included in the proposed Contract Rent, an estimate of the average monthly cost to occupants for the first year of occupancy by size and structure type.

(10) The proposed term of each Contract (including renewals), and justification for such term in accordance with § 881.109.

(11) Whether the proposed rehabilitation will displace site occupants. If so, the Proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters). See § 881.309 for relocation requirements.

(12) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the managing agent, if any, in a format acceptable to HUD; if the proposed project is for fewer than 15 units, evidence of capability of providing necessary management and maintenance services. If the Owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(13) A signed certification that the Owner intends to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and that the Owner will take affirmative action to provide the opportunity to apply for units in the proposed projects to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plan.

(14) If the proposed project consists of five or more units, submission of an Affirmative Fair Housing Marketing Plan together with a statement of the affirmative actions the Owner expects to take to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plans.

(15) Submission of the form of Lease the Owner proposes to use. The form of lease shall be in accordance with § 881.219.

(16) The anticipated time required for completion of the rehabilitation after the Agreement is signed. If the rehabilitation is to be completed in stages, an identification of the units comprising each stage and the estimated dates for commencement and completion of each stage shall be provided.

(17) The proposed method (e.g., conventional mortgage, Farmers Home, HUD mortgage insurance, or bonds) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter or counsel, or similar evidence that financing would likely be available should the Proposal be selected. Such evidence of financing is not required if the Owner proposes to utilize HUD mortgage insurance (see § 881.307) or the FmHA Section 515 Rural Rental Housing Program. In such cases, either the prescribed HUD form or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Proposal. A statement shall be included in all Proposals as to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (See § 881.115(b)).

(g) *Required Information.* Each Proposal not requesting simultaneous processing for HUD mortgage insurance shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for Substantial Rehabilitation is within the designated NSA; and (ii) the Proposal is consistent with the requirements and restrictions of the approved Local Housing Assistance Plan and the approved NSA.

(2) A certification that the Owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use codes, ordinances, or regulations and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the Proposal and information on the Proposal's effect on such properties to comply with the National Historic Preservation Act (16 USC 5470 as amended by Pub. L. 94-422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(h) *Other housing programs.* Proposals for housing assistance programs

other than Section 8 Substantial Rehabilitation under this subpart which are identified by the local government as part of its strategy shall be submitted and processed in accordance with applicable program regulations and issuances.

§ 881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.

(a) *Evaluation of proposals.* Each Proposal shall be evaluated by HUD to determine whether:

(1) The Proposal and the certifications submitted by the local government contain all the elements required by § 881.305 (f) and (g).

(2) The proposed Contract Rents plus any Allowances for Utilities and Other Services do not exceed the Fair Market Rent limitations pursuant to § 881.108(a).

(3) The proposed Contract Rents are reasonable pursuant to § 881.108(b).

(4) The proposed term of the Contract (including renewals) is acceptable in accordance with § 881.109.

(5) The form of lease meets the requirements of § 881.219.

(6) The previous experience of the Owner and other key participants in development and management is acceptable.

(7) The management capability of the Owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see § 881.309).

(10) The Proposal as a whole, including the rehabilitation plan and design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also §§ 881.115 and 881.125).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(b) *Environmental review.* HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(c) *A-95 comments.* HUD shall review and consider any comments about the Proposal received from the A-95 Clearinghouse.

(d) *Clarification or modification.* HUD may request clarification of individual items, additional information, or modification of the Proposal including substitution of alternate properties.

(e) *HUD review of local government certifications.* Generally, in reviewing

any local government certification required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question the correctness of any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(f) *HUD determination.* HUD shall notify the local government and the Owner that the Proposal is:

(1) *Approved.* This notification shall include the statements required by § 881.208(h)(1) (i), (ii), (iii), (iv), (v), and (vi). 881.208(h) (2) and (3) shall apply. Following approval of the Proposal shall be deemed to be a Final Proposal within the meaning of § 881.211, et seq. All further actions with regard to Proposals approved pursuant to this section shall be in accordance with Subpart B of these regulations starting with § 881.211.

(2) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute Proposals to use remaining contract and budget authority.

(g) *Clearinghouse notification.* In all cases, the appropriate A-95 Clearinghouse shall be notified by HUD of its final action.

§ 881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.

(a) *Concurrent processing.* Where an Owner indicates that he intends to utilize HUD mortgage insurance, the following shall apply:

(1) *Preapplication meetings.* Proposals requesting simultaneous processing for HUD mortgage insurance will not be accepted from the local government unless a preapplication meeting has been held in the Field Office. The local government will be advised of any major obstacles to approval of HUD mortgage insurance which are discovered by the Field Office as a result of the meeting.

(2) *Initial submission requirements:*

(i) The Owner's application for a Feasibility Letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the Owner by § 881.305(f) (2), (6), (9), (10), (11), (13), (15) and (16).

(iii) Certifications from the local government required by § 881.305(g) (1), (3), (4), and (5).

(3) *Evaluation of submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance. For purposes of making un-

derwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the Proposal for Section 8 assistance in accordance with § 881.306(a) (1), (2), (4), (5), (6), (9), (10), (11), and (14).

(iii) The reasonableness of the proposed Contract Rents pursuant to § 881.108(b).

(4) *HUD determination.* HUD shall notify the local government and the Owner that the submission is:

(i) *Approved.* A notification of Proposal approval for Section 8 assistance in accordance with § 881.208(h) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with modifications.* HUD may issue a Letter which conditions approval of the Proposal, for mortgage insurance and/or Section 8 assistance, on correction of specified deficiencies including the substitution of alternative property(ies).

(iii) *Not approved.* If the Proposal is not approved, a Letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an Owner does not indicate in the Proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the Proposal for Section 8 assistance, he risks: (1) having the Proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the Proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a Proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subpart B of these regulations starting with Section 881.209.

§ 881.308 Use of Contract Authority Not Reserved.

If Proposals containing a sufficient number of units to utilize the contract and budget authority set aside for use in an NSA under this Subpart are not submitted in accordance with the schedule provided in § 881.304(f)(4) or any approved extensions thereto, or if an approved Proposal fails to result in an Agreement, the Field Office shall either:

(a) Authorize the local government to submit other Proposals for projects within the approved NSA(s) to utilize the remaining contract and budget authority; or

(b) Issue a NOFA for the allocation area in which the NSA is located to utilize the remaining contract and budget authority; or

(c) If a NOFA has already been published for that allocation area, process

Proposals submitted in response thereto, but not selected, including those to which the deadline described in Section 881.203(c) (4) and (5) or does not apply; or

(d) Reallocate the unused contract and budget authority to another allocation area or to another local government for use in an NSA.

§ 881.309 Relocation for Section 8 substantial rehabilitation under subpart C.

(a) *Applicability of uniform act.* Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) applies to certain displacements occurring as a result of a PHA's acquisition or order to vacate real property, issued in connection with acquisition, for a project. HUD regulations governing displacements under the Uniform Act are set forth at 24 CFR Part 42. Any family, individual, business, farm or nonprofit organization occupying a property to be rehabilitated pursuant to this Subpart and who meets the definition of a "displaced person," as defined in 24 CFR 42.20(d), shall be provided relocation payments and assistance in accordance with 24 CFR part 42, as modified by paragraphs (c) through (g) for residential tenants of this section including the obligation placed on the local government.

(b) *Tenants displaced by private owner or by PHA rehabilitation without acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, farm, or nonprofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the Proposal is submitted to HUD (see §§ 881.305 and 881.307) and who is thereafter required to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the Proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary notice to each residential tenant.* No later than 30 days after the transmittal of any Proposal to HUD, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a Proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;

(2) Insofar as possible, informs the tenant whether permanent relocation will be required if the Proposal is approved;

(3) States that if the tenant moves after the date the Proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this section, the tenant will not be entitled to relocation payments or other assistance provided under or determined in accordance with 24 CFR Part 42, as modified by this section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the Proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this section.

(d) *Notice of Right to Continue in Occupancy.* No later than 60 days after the HUD notification of the approval of the Proposal the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a comparable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the Proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later;

(2) If the tenant is an "eligible" family as defined in Section 881.102 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.102 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling units other than for cause unless the move is nec-

essary to permit rehabilitation or demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided under in 4 CFR Part 42, as modified by this section.

(e) *Notice of Displacement.* Not later than 60 days after the HUD notification of the approval of the Proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the Proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic Notice of Displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this section within 30 days after the transmittal of the Proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the Proposal to HUD, if such Proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of

right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the Proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the Proposal.

(g) *Tenants Continuing in Occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected without alternatives to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 Assistance to Tenants Displaced by Private-Owner.* If a residential tenant who has been displaced by an Owner pursuant to paragraph (b) of this section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program Existing Housing 24 CFR Part 882. The latter can only occur when the displaced family or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this section do not apply to the displacement of any business, farm, or nonprofit organization who has been displaced as a result of an action described in paragraph (a) of this section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1371.1 REV, Relocation Policies and Procedures.

(j) *Manner of Notices.* Any notice required under this section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(k) *Responsibility for relocation payments and assistance.* The local government is responsible for providing the relocation payments and assistance described in this section from funds other than those provided under these special procedures.

## PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

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NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 5(b), U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); sec. 8, U.S. Housing Act of 1937 (42 U.S.C. 1437(f)).

SOURCE: 41 FR 17488, Apr. 22, 1976, unless otherwise noted.

### Subpart A—Applicability, Scope and Basic Policies

#### § 881.101 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of Housing Assistance Payments on Behalf of Eligible Families leasing Substantially Rehabilitated housing pursuant to the provisions of section 8 of the U.S. Housing Act of 1937 ("Act").

(b) For the purpose of this part, "Substantially Rehabilitated" housing shall mean housing requiring Substantial Rehabilitation for which, prior to the start of rehabilitation, an Agreement to Enter into Housing Assistance Payments Contract is executed between the Owner and the Department of Housing and Urban Development ("HUD") or the Public

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LAWRENCE B. SIMONS,  
Assistant Secretary for Housing—Federal Housing Commissioner.

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Housing Agency. However, housing already undergoing rehabilitation may be eligible for participation if all subsequent actions are in compliance with this part and if the Owner certifies and demonstrates to the satisfaction of HUD that:

(1) At the date of application to HUD, a substantial amount of rehabilitation (generally at least 25 percent) remains to be completed; and

(2) At the date of application to HUD, the project cannot be completed without a commitment for assistance under this part; and

(3) At the time rehabilitation was initiated, all of the parties reasonably expected that the project would be completed without assistance under this part.

(c) Conversions of section 23 projects to the section 8 program will be permitted where appropriate, provided that all parties (including HUD) agree to the terms and conditions.

(d) Housing subsidized under other provisions of the Act is not eligible for assistance under this Part.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45212, Oct. 14, 1976]

#### § 881.102 Definitions.

**Agreement to Enter Into Housing Assistance Payments Contract ("Agreement").** (a) In the case of a Private-Owner Project or a PHA-Owner Project, a written agreement between the Owner and HUD that, upon satisfactory completion of the rehabilitation in accordance with the HUD-approved Final Proposal, HUD will enter into a Housing Assistance Payments Contract with the Owner. (See Appendix I.)

(b) In the case of a Private-Owner/PHA Project, a written agreement between the private Owner and the PHA, approved by HUD, that upon satisfactory completion of the rehabilitation in accordance with the HUD-approved Final Proposal, the PHA will enter into a Housing Assistance Payments Contract with the private Owner. (See Appendix IV.)

**Allowance for Utilities and Other Services ("Allowance").** An amount determined or approved by HUD as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family.

**Annual Contributions Contract ("ACC").** In the case of a Private-Owner/PHA Project, a written agreement between HUD and the PHA to provide

annual contributions to the PHA with respect to the project. (See Appendix III.)

**Contract.** See definition of Housing Assistance Payments Contract.

**Contract Rent.** The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term "Contract Rent" means charges under the occupancy agreements between the members and the cooperative.

**Decent, Safe, and Sanitary.** Housing is Decent, Safe, and Sanitary at completion of rehabilitation if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. (See § 881.216.) Housing continues to be Decent, Safe, and Sanitary if it is being maintained in a condition substantially the same as that on acceptance, in all pertinent respects, including the following:

(a) Condition of the exterior (including the grounds) and the interior of the structure and of the housing unit;

(b) Operating condition of sanitary facilities and of solid and liquid waste disposal facilities;

(c) Operating condition of kitchen facilities, including range and refrigerator, sink, and space for storage of food and for storage of utensils and dishes;

(d) Operating condition of heating, lighting and ventilating equipment and/or other facilities; and

(e) Size, number of rooms, and furnishability in relation to the size and type of Family in occupancy in accordance with any applicable State or local codes.

**Eligible Family ("Family").** A Family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this part. The term Family includes an elderly, mentally or physically handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in section 3(2) of the Act. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or other relevant circumstances during the term of the Contract.

**Fair Market Rent.** (a) The rent which is determined by HUD as the Fair Market Rent for New Construction projects under section 8. This Fair Market Rent is the rent, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately developed and owned, newly constructed rental housing of modest (non-luxury) nature with suitable amenities and sound architectural design meeting the objectives of the HUD Minimum Property Standards.

(b) Separate Fair Market Rents will be established for dwelling units by various sizes (number of bedrooms) and types (e.g., elevator, row, detached; housing designed for the elderly or handicapped shall be a separate type for this purpose).

(c) The Fair Market Rents will be published in the FEDERAL REGISTER, and, in order to allow for the period of rehabilitation, computation of the published Fair Market Rents will include HUD's estimate of anticipated rent increases during an appropriate future period as stated in the publication. Accordingly, for any given project for which the scheduled time for rehabilitation will be less than such future period, an appropriate reduction will be made in determining the approvable Contract Rent.

(d) The Fair Market Rent, minus the amount of any applicable Allowance for Utilities and Other Services payable directly by the Family, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be lower as stated in paragraph (c) of this definition and may be higher or lower as provided in § 881.108.

**Final Proposal.** A proposal to provide Substantially Rehabilitated housing submitted in response to a HUD notification of selection of Preliminary Proposal.

**Gross Family Contribution.** The portion of the Gross Rent payable by an Eligible Family, i.e., the difference between the amount of the housing assistance payment payable on behalf of the Family and the Gross Rent.

**Gross Rent.** The Contract Rent plus any Allowance for Utilities and Other Services.

**HCD Act.** The Housing and Community Development Act of 1974.

**Housing Assistance Payments Contract ("Contract").** (a) In the case of a Private-Owner Project or a PHA-Owner Project, a written contract between the Owner and HUD for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix II.)

(b) In the case of a Private-Owner/PHA Project, a written contract between the private Owner and the PHA, approved by HUD, for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix V.)

**Housing Assistance Payment on Behalf of Eligible Family.** The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See § 881.118.)

**HUD.** The Department of Housing and Urban Development or its designee.

**Income.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**Invitation for Preliminary Proposals—Substantial Rehabilitation ("Invitation for Preliminary Proposals").** A published notice inviting the submission of Preliminary Proposals in accordance with this Part.

**Lease.** A written agreement between an Owner and an Eligible Family for the leasing of a Decent, Safe, and Sanitary dwelling unit in accordance with the applicable Contract, which agreement is in compliance with the provisions of this part.

**Local Housing Assistance Plan.** A housing assistance plan submitted by a unit of general local government and approved by HUD under section 104 of the HCD Act or, in the case of a unit of general local government not participating under Title I of the HCD Act, a housing plan which contains the elements set forth in section 104(a)(4) of the HCD Act and which is approved by the Secretary as meeting the requirements of section 213 of that Act.

**Lower-Income Family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments, for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.



**New Communities.** New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

**Notification of Fund Availability ("NOFA").** A notice published by HUD inviting the submission of Proposals in accordance with Sec. 881.203.

**Owner.** Any private person or entity including a cooperative, or a PHA, having the legal right to lease or sublease Substantially Rehabilitated dwelling units.

**PHA-Owner Proposal and PHA-Owner Project.** A proposal for a project under this part (and the resulting project) to be owned by a PHA throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the PHA and HUD.

**Preliminary Proposal.** A proposal to provide Substantially Rehabilitated housing submitted in response to a HUD Invitation for Preliminary Proposals or a Notification of Fund Availability.

**Private-Owner/PHA Proposal and Private-Owner/PHA Project.** A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and the PHA pursuant to an ACC between the PHA and HUD. The term also covers the situation where the ACC is with one PHA and the Owner is another PHA.

**Private-Owner Proposal and Private-Owner Project.** A proposal for a project under this part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and HUD.

**Project Account.** The account established and maintained in accordance with §§ 881.105 or 881.106.

**Public Housing Agency ("PHA").** Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

**Secretary.** The Secretary of Housing and Urban Development.

**Substantial Rehabilitation.** (a) The improvement of a property to Decent, Safe, and Sanitary condition and in accord with HUD requirements from a con-

dition requiring more than routine or minor repairs or improvements of such extent as to necessitate execution of an Agreement prior to the performance of the work. Substantial Rehabilitation may vary in degree from gutting and extensive reconstruction to cosmetic improvements coupled with cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as Substantial Rehabilitation under this definition.

(b) Substantial Rehabilitation also includes renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part (e.g., conversion of a hotel to housing for the elderly).

**Substantially Rehabilitated.** See § 881.101(b).

**Very Low-Income Family.** A family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

**§ 881.103 Demonstration of need for substantial rehabilitation projects; compliance with section 213 of HCD act.**

(a) Substantial Rehabilitation projects shall be permitted only where: (1) HUD determines that there is not and there is not likely soon to be an adequate supply of existing housing which, with the aid of housing assistance payments provided under the Section 8 Housing Assistance Payments Program—Existing Housing, can meet the needs of Eligible Families, or (2) the proposed project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary including priorities for New Communities which involve Substantial Rehabilitation.

(b) No proposal for section 8 housing may be approved unless HUD requirements implementing sections 213 (a), (b), and (c) of the HCD Act have been satisfied.

**§ 881.104 Preference for certain types of projects.**

(a) **20 Percent Projects.** Assistance payments may be made with respect to up to 100 percent of the dwelling units in any structure or project. However, a preference will be provided for (1) Proposals responding to local ordinances

which require or encourage development of projects which contain a specified proportion of assisted units, not to exceed 20 percent, and (2) Proposals of more than 50 units of housing for other than the elderly and/or handicapped which indicate that assistance will be limited to 20 percent or less of the units to be rehabilitated. (See Sec. 881.208 (g)(1)).

(b) **Three or More Bedroom Projects.** Where the need for dwelling units of three or more bedroom size ("large dwelling units") is shown, each HUD field office shall be responsible, to the extent feasible, for inviting and selecting proposals which in the aggregate will achieve the goal of providing a number of large dwelling units equal to at least 20 percent of all the assisted units approved under the Section 8 Housing Assistance Payments Program, without undue concentration of such large dwelling units in any one location.

**§ 881.105 Maximum total annual contract commitment and project account (private-owner or PHA-owner projects).**

(a) **Maximum Total Annual Contract Commitment.** The maximum total annual housing assistance payments that may be committed under the Contract shall be the total of the Gross Rents for all the Contract units in the project.

(b) **Project Account.** In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8 (c)(6) of the Act, out of amounts by which the maximum annual Contract commitment per year exceeds amounts paid under the Contract for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments, and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum annual Contract commitment, and would cause the amount in the Project Account to be less than an amount equal

to 40 percent of such maximum annual Contract commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

**§ 881.106 Maximum total ACC commitment and project account (private-owner/PHA projects).**

(a) **Maximum Total ACC Commitment.** The maximum total annual contribution that may be contracted for in the ACC for a project shall be the total of the Gross Rents for all the Contract units in the project, plus a fee for the regular costs of PHA administration, HUD-approved preliminary costs for administration (including administrative costs in connection with PHA activities related to relocation of occupants) shall be payable out of this total.

(b) **Project Account.** In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8 (c)(6) of the Act, out of amounts by which the maximum ACC commitment per year exceeds amounts paid under the ACC for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required Annual Contribution exceeds the maximum ACC commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum ACC commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual con-

tributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

#### § 881.107 Housing assistance payments to owners.

(a) *General.* Housing assistance payments shall be paid to Owners for units under lease by Eligible Families, in accordance with the Contract and as provided in this section. These housing assistance payments will cover the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with the HUD-established schedules and criteria. No section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing rather than owner-occupied housing for this purpose.

(b) *Vacancies During Rent-up.* If a Contract unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, in accordance with the procedure set forth in § 881.217(b), provided that the Owner (1) commenced marketing and otherwise complied with § 881.215(f), (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to HUD or the PHA, as the case may be.

(c) *Vacancies After Rent-up.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also § 881.116.) The

Owner shall not be entitled to any payment under this paragraph (c) (1) unless he: (i) Immediately upon learning of the vacancy, has notified HUD or the PHA, as the case may be, of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs (b) (2) and (3) of this section.

(2) If the Owner evicts an Eligible Family, he shall not be entitled to any payment under paragraph (c) (1) of this section unless the request for such payment is supported by a certification that (i) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

(d) *Debt service payments.* (1) If a unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the Owner may submit a claim and receive additional housing assistance payments on a semiannual basis with respect to such a vacant unit in an amount equal to the principal and interest payments required to amortize the portion of the debt attributable to that unit for the period of the vacancy, whether such vacancy commenced during rent-up or after rent-up.

(2) Additional payments under this paragraph (d) for any unit shall not be for more than 12 months for any vacancy period, and shall be made only if:

(i) The unit is not in a project insured under the National Housing Act except pursuant to section 244 of that Act.

(ii) The unit was in decent, safe, and sanitary condition during the vacancy period for which payments are claimed.

(iii) The owner has taken and is continuing to take the actions specified in paragraphs (b) (1), (2) and (3) or paragraphs (c) (1) (i) and (ii) and (c) (2) of this section, as appropriate.

(iv) The Owner has demonstrated in connection with the semiannual claim on a form and in accordance with the standards prescribed by HUD with respect to the period of the vacancy, that the project is not providing the Owner with revenues at least equal to the project costs incurred by the Owner, and

that the amount of the payments requested is not in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies.

(v) The Owner has submitted, in connection with the semiannual claim, a statement with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph.

(3) HUD may deny any claim for additional payments or suspend or terminate payments if it determines that based on the Owner's statement and other evidence, there is not a reasonable prospect that the project can achieve financial soundness within a reasonable time.

(4) This paragraph (d) shall be applicable to any project eligible for payments under this paragraph for which a conditional or unconditional commitment for permanent financing was not secured by the Owner from a lender or underwriter prior to December 15, 1976. An Owner of a project for which a commitment for permanent financing was secured prior to December 15, 1976, may request HUD to agree to make this paragraph applicable, on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower contract rents.

(e) *Prohibition of Double Compensation for Vacancies.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this section to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act or payments under § 81.116): [41 FR 17488, Apr. 22, 1976, as amended at 42 FR 12982, Mar. 7, 1977]

#### § 881.108 Initial contract rents.

(a) *Fair Market Rent Limitation.* The sum of the initial Contract Rent and any Allowance for Utilities and Other Services for any unit shall not exceed the Fair Market Rent for newly constructed rental housing (or 75 percent

thereof where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation), except that this limit may be exceeded

(1) By up to 10 percent if the field office director determines that special circumstances warrant such higher rent and the higher rent meets the test of reasonableness in paragraph (b) of this section, or

(2) By up to 20 percent, where the Regional Administrator determines that special circumstances warrant such higher rent or determines that such higher rent is necessary to the implementation of a Local Housing Assistance Plan, and that such higher rent meets the test of reasonableness in paragraph (b) of this section.

(b) *Reasonableness of Rents.* In any case, the Contract Rent as proposed must be determined by HUD to be reasonable in relation to the quality, location, amenities, and management and maintenance services of the project, and any proposed rent shall be subject to reduction, if it is found to be higher than such reasonable rent. Appropriate reductions to reflect any savings where tax-exempt financing is involved may be made.

[41 FR 17488, Apr. 28, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.109 Term of housing assistance payments contract.

(a) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the Contract may be for an initial term of not more than five years of any dwelling unit, with provision for automatic renewal (unless agreed otherwise) for one or more additional terms of not more than five years each; provided, however, that the total Contract term, including all renewals, shall not exceed 10 years for any dwelling unit.

(b) Where the estimated cost of the rehabilitation is 25 percent or more, the Contract may be for an initial term of not more than five years for any dwelling unit, with provision for automatic renewal (unless agreed otherwise) for additional terms of not more than five years each, for a total Contract term which will cover the financing of the cost of rehabilitation, or the remaining term of the existing indebtedness, if that be longer, or which will cover the

financing of the cost of the rehabilitation and of acquisition or refinancing of the existing indebtedness; provided, however, that the total Contract term, including all renewals, for any dwelling unit shall not exceed 20 years, or 40 years where the project is owned by, or financed by a loan or loan guarantee from, a State or local agency.

(c) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.110 Rent adjustments.

(a) *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this paragraph, up to the maximum amount authorized under the Contract. (See §§ 881.105 and 881.106.)

(b) *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by HUD at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by HUD where utilities are paid directly by Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by HUD. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted rents be less than the Contract Rents on the effective date of the Contract.

(c) *Special Additional Adjustments.* Special additional adjustments shall be granted, when approved by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the

Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to HUD financial statements which clearly support the increase.

(d) *Overall Limitation.* Notwithstanding any other provisions of this Part, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD; Provided, however, that this limitation shall not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that such differences may have existed with respect to the initial Contract Rents,

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.111 Types of housing and property standards.

(a) Existing structures of various types may be appropriate for this program including apartment hotels, single-family houses, and multifamily structures. Hotels or office buildings may be suitable for conversion under this program to housing designed for elderly or handicapped Families and individuals, including congregate housing. Single room occupant housing planned specifically as a relocation resource for eligible single persons may also be developed. Except in the case of housing predominantly for the elderly, high-rise elevator projects for Families with children may not be utilized unless HUD determines there is no practical alternative. Mobile homes may not be utilized in this program.

(b) Participation in this program requires compliance with (1) HUD Minimum Design Standards for Rehabilitation for Residential Properties, (2) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards, (3) HUD requirements pursuant to section 209 of the HCD Act for projects for the elderly or handicapped, (4) HUD requirements pertaining to noise abatement and control, (5) HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, and (6) applicable State and local laws, codes, ordinances, and regulations.

#### § 881.112 Site and neighborhood standards.

Proposed sites for Substantial Rehabilitation projects must be approved by HUD as meeting the following standards:

(a) Adequate utilities (water, sewer, gas and electricity) and streets shall be available to service the site.

(b) The site and neighborhood shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(c) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons.

(d) The site shall be free from serious, adverse environmental conditions, or there shall be evidence that any such conditions will be corrected by the time the rehabilitation is completed.

(e) The site shall comply with any applicable conditions in the Local Housing Assistance Plan, approved by HUD.

(f) The housing shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents.

(g) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, shall not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(h) The project may not be on a site which has occupants unless the relocation requirements referred to in § 881.113 are met.

(i) The project may not be in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of

1973, and it meets any relevant HUD standards and local requirements.

#### § 881.113 Relocation.

(a) In the evaluation or selection of Proposals, consideration shall be given to whether there are site occupants who would have to be displaced, whether the relocation of site occupants is feasible, and the degree of hardship which displacement might cause. Greater weight shall be given to proposals which do not require displacement, or, where displacement is required which will involve the least amount of hardship.

(b) In the case of a PHA-Owner Project, no Agreement shall be executed for housing which is to be rehabilitated on a site which has occupants unless the Agreement provides that, pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the PHA undertakes liability for (1) the provision of relocation payments and assistance as prescribed in sections 202, 203, and 204 of the Act; (2) the provision of relocation assistance programs offering the services described in section 205 of the Act; and (3) assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons. The Agreement shall provide that the PHA will provide full funding for the required relocation payments and assistance unless other commitments, satisfactory to HUD, have been made for the funding of such payments and assistance. (In the case of a Private-Owner Project or a Private Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

#### § 881.114 Other Federal requirements.

(a) *Equal Opportunity Requirements.* Participation in this program requires compliance with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and section 3 of the Housing and Urban Development Act of 1968; and (2) all rules, regulations, and requirements issued pursuant thereto.

(b) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all rules, regulations, and requirements issued pursuant thereto.

(c) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all rules, regulations, and requirements issued pursuant thereto.

(d) *Davis-Bacon Wage Rates.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011) shall be paid to all laborers and mechanics employed in the development of any Substantial Rehabilitation project with nine or more assisted units.

(e) *Other Federal Statutes and Regulations.* Participation in this program requires compliance with the National Historic Preservation Act (Public Law 89-665), the Archeological and Historic Preservation Act of 1974 (Public Law 93-291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environmental, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.115 Financing.

(a) *Types.* Any type of financing may be utilized, including, but not limited to, the types listed below.

(1) Conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions.

(2) Mortgage insurance programs under the National Housing Act (see § 881.207). (With respect to any obligation secured by a mortgage insured under section 221(b)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8, the interest paid on such obligation shall be included in gross income for purposes of Chapter I of the Internal Revenue Code of 1954.)

(3) Home Improvement Loans under Title I of the National Housing Act.

(4) Section 202 of the Housing Act of 1959.

(5) Title V of the Housing Act of 1949.

(6) Financing by tax-exempt bonds or other obligations. Where the project is owned by a non-profit corporation which is an agency or instrumentality of a PHA, and the financing is provided by the non-

profit corporation or the PHA, the project will be considered as a PHA-Owner Project.

(b) *Use of Contract as Security for Financing.* (1) An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this part; *Provided, however,* That such security is in connection with a project rehabilitated pursuant to this part, and the terms of the financing or any refinancing have been approved by HUD. It is the Owner's responsibility to request such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment that HUD is requested to approve. Where the methods and terms of financing require, the Contract Rents may be reduced in accordance with § 881.108(b).

(2) Any pledge of the Agreement, Contract, or ACC, or payments thereunder, shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(3) In the event of foreclosure, including foreclosure by HUD, and in the event of assignment or sale agreed to by HUD or made to HUD, housing assistance payments shall continue in accordance with the terms of the Contract.

#### § 881.116 Security and utility deposits.

(a) An Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local law, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited

by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(c) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

#### § 881.117 Establishment of income limit schedules; 30 percent occupancy by very low-income families.

(a) HUD will establish schedules of Income limits for determining whether families qualify as Lower-Income Families and Very Low-Income Families.

(b) In the initial renting of Contract units, the Owner shall lease at least 30 percent to Very Low-Income Families and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of Contract units by Very Low-Income Families, provided that if this requirement with respect to initial rent-up cannot be met because of Families already residing in the property to be rehabilitated, HUD may adjust the percentage of Very Low-Income Families to the extent that the adjustment is compensated for by a higher than 30 percent requirement with respect to such Families in other projects.

#### § 881.118 Establishment of amount of housing assistance payments.

The amount of Housing Assistance Payment on Behalf of Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (a) no less than 15 percent nor more than 25 percent of the Family's Income and (b) the Gross Rent, taking into consideration the Income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large Very Low-Income Family or a very large Lower-Income Family or a Family with exceptional medical or other unusual expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's Income and the Gross Rent. The term large Family means a Family which includes six or more minors (other than the head

of the Family or spouse). The term very large Family means a Family which includes eight or more minors (other than the head of the Family or spouse).

#### § 881.119 Responsibilities of the Owner.

(a) The Owner shall be responsible (subject to post-review or audit by HUD or the PHA, as the case may be) for management and maintenance of the project. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the Family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions including the taking of applications, selection of Families including verification of Income and other pertinent requirements, and determination of eligibility and amount of Family contribution in accordance with HUD-established schedules and criteria;

(4) Collection of Family rents;

(5) Termination of tenancies, including evictions;

(6) Preparation and furnishing of information required under the Contract;

(7) Reexamination of Family Income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(8) Redeterminations of amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria as a result of an adjustment by the PHA or HUD, as appropriate, of any applicable Allowance for Utilities and Other Services; and

(9) Compliance with equal opportunity requirements.

(b) Subject to HUD approval, any Owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section, provided that such contract shall not shift any of the Owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (for example, a PHA in the case of a Private-Owner/PHA Project) may contract to perform management and maintenance of the project; *Provided, however,* That this prohibition shall not preclude man-



agement by the PHA in the event it takes possession as the result of foreclosure or assignment in lieu of foreclosure. (See, however, § 881.123(b) which permits conversion of a Private-Owner/PHA Project to a Private-Owner Project.)

**§ 881.120 Responsibility for contract administration, and defaults (private-owner and PHA-owner projects).**

(a) *Contract Administration.* HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

(b) *Defaults by Owner.* The Contract shall contain a provision to the effect (1) that if HUD determines that the Owner is in default under the Contract, HUD shall notify the Owner of the actions required to be taken to cure the default and of the remedies to be applied by HUD including abatement of housing assistance payments and recovery of overpayments, where appropriate; and (2) that if he fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

**§ 881.121 Responsibility for contract administration, and defaults (private-owner/PHA projects).**

(a) *Contract Administration.* The PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD.

(b) *Defaults by PHA and/or Owner.* (1) The ACC and the Contract shall contain a provision to the effect that in the event of failure of the PHA to comply with the Contract with the Owner, the Owner shall have the right, if he is not in default, to demand that HUD determine, after notice to the PHA giving it a reasonable opportunity to take corrective action, whether a substantial default exists, and if HUD determines that such a default exists, that HUD assume the obligations of the PHA to the Owner are carried out.

(2) The ACC shall contain a provision to the effect that if the PHA fails to comply with any of its obligations (including specifically failure to enforce its rights under the Contract, in the event of any default by the Owner, to achieve compliance to the satisfaction of HUD or to terminate the Contract in whole or in part, as directed by HUD), HUD may, after notice to the PHA giving it a reasonable opportunity to take corrective

action, determine that there is a substantial default and require the PHA to assign to HUD all of the PHA's rights and interests under the Contract. In such case, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract.

(3) The Contract shall contain a provision to the effect (i) that if the PHA determines that the Owner is in default under the Contract, the PHA shall notify the Owner, with a copy to HUD, of the actions required to be taken to cure the default and of the remedies to be applied by the PHA including abatement of housing assistance payments and recovery of overpayments, where appropriate; and (ii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD. If the PHA is the lender, the Contract shall also provide that HUD has an independent right to determine whether the Owner is in default and to take corrective action and apply appropriate remedies, except that HUD shall not have the right to terminate the Contract without proceeding in accordance with paragraph (b) (2) of this section.

**§ 881.122 Rights of owner if PHA defaults under agreement (private-owner/PHA projects).**

The ACC and the Agreement shall contain a provision to the effect that in the event of failure of the PHA to comply with the Agreement with the Owner, the Owner shall have the right, if he is not in default, to demand that HUD determine, after notice to the PHA giving it a reasonable opportunity to take corrective action, whether a substantial default exists, and if HUD determines that such a default exists, that HUD assume the PHA's rights and obligations under the Agreement, and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

**§ 881.123 Separate project requirement.**

(a) In the case of a Private-Owner Project or a PHA-Owner Project, each Agreement and Contract shall constitute a separate project.

(b) In the case of a Private-Owner/PHA Project, such project may not include more than one type of section 8 assistance, shall be processed with a separate ACC List and ACC Part I and shall

be assigned a separate project number. All Substantial Rehabilitation units to be placed under a single Contract shall comprise a separate project. However, the field office director may designate as a single project the units to be covered by two or more such Contracts for Substantial Rehabilitation projects where:

- (1) The units are placed under ACC on the same date; and
- (2) Such consolidation is necessary in the interest of administrative efficiency.

**§ 881.124 Conversions.**

(a) *Conversion of Private-Owner Project to Private-Owner/PHA Project.* HUD may request the Owner of a Private-Owner Project and an appropriate PHA to agree, if they are willing, to a conversion of any such project to a Private-Owner/PHA Project if HUD determines that such conversion would promote efficient project administration.

(b) *Conversion of Private-Owner/PHA Project to Private-Owner Project.* The private Owner and the PHA, in the case of a Private-Owner/PHA Project, may request HUD to agree to a conversion of any such project to a Private-Owner or a PHA-Owner Project. HUD shall agree to such conversion if it determines it to be in the best interest of the project.

**§ 881.125 Projects financed with proceeds from sale of bonds or notes.**

(a) *Applicability of this section.* The provisions of this section shall apply where the interim and permanent financing for a project is to be provided by a public agency or other entity including a PHA ("financing agency") from the proceeds of the sale of bonds or notes.

(b) *Submission of Financing Documents to HUD.* (1) Before HUD may approve a Final Proposal which is to be financed in a manner subject to this section, the financing agency shall submit to the appropriate HUD field office or offices copies of the documents relating to the method of financing of the project, such documents to include the bond resolution or indenture, loan agreement, regulatory agreement, note, and mortgage or deed of trust and other related documents, if any, including the "official statement" or "prospectus", if available at that time, or as soon as it is available. After prompt review, HUD shall notify the financing agency that the documents are acceptable or, if unacceptable, shall request clarification or changes. In the event a financing agency which has ob-

tained HUD approval of its financing documents proposes substantive changes in the documents, whether by way of amendment, replacement or supplementation, such changes must be submitted to HUD for prior approval.

(2) The financing agency shall also submit a certification specifying (i) its projected rate (net interest cost) of the borrowing from which funds will be used for financing (interim and permanent) the project, (ii) the projected rate at which interim financing will be provided to the Owner for the project, (iii) the projected capital cost of the project and the projected rate and the term of the permanent financing to be provided to the Owner for the project, (iv) the projected monthly debt service for such permanent financing on which Contract Rents are based, and (v) the spread, if any, between the projected rate of borrowing and the projected rate of lending to the Owner. The financing agency shall also certify (vi) that the spread, if any, between its actual rate of borrowing and the actual rate of lending to the Owner for the project will not be greater than the projected spread nor greater than the spread allowed for the borrowing as a whole under the Department of Treasury regulations regarding arbitrage if the borrowing is subject to those regulations, or the HUD regulations under section 11(b) of the United States Housing Act of 1937 (24 CFR 811.101) if the borrowing is by a PHA under that § 811.101, and (vii) that the terms of the financing, the amount of the obligations issued with respect to the project, and the use of the funds raised will be in compliance with applicable Department of Treasury regulations regarding arbitrage or HUD regulations in § 811.101. The term "spread" means the difference between the net interest cost on financing agency obligations issued in connection with a project and the effective rate of interest (i.e., including the servicing charge) payable by the Owner.

(3) The financing agency shall retain in its files, and make available for HUD inspection, the documentation relating to its financing of section 8 projects, including any certifications of compliance with the applicable Department of Treasury or HUD regulations.

(c) *Recoupment of Savings in Financing Cost.* (1) In the event that interim financing is continued after the first year of the term of the Contract and the debt service of the interim financing for any

period of three months after such first year, is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an appropriate amount reflecting the savings in financing cost shall be credited by HUD to the Project Account pursuant to §§ 881.105 or 881.106, as appropriate, and withheld from housing assistance payments to the Owner. If during the course of the same year there is any period of three months in which the debt service is greater than the anticipated debt service under the permanent financing, an adjustment shall be made so that only the net amount of savings in debt service for the year is credited by HUD to the Project Account and withheld from housing assistance payments to the Owner as aforesaid (no increased payments shall be made to the Owner on account of any net excess for the year of actual interim debt service over the anticipated debt service under the permanent financing). Nothing in this paragraph (c) shall be construed as requiring a reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with § 881.110.

(2) The computation and recoupment under this paragraph (c) may be made on an annual or on a quarterly or other periodic basis, but in any event no later than as of the end of each fiscal year; *Provided, however*, That if recoupment is to be made less often than quarterly, and the funds shall be deposited in a special account from which withdrawals may be made only with the authorization of HUD or other entity administering the Contract.

(d) *Adjustment to Reflect Actual Cost of Permanent Financing.* After the project is permanently financed, the financing agency shall submit a certification as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents, or the Contract Rents currently in effect, shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum ACC or Contract commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

(e) *Use of Contract as Security for Financing.* (1) An Owner or financing agency may pledge, or offer as security for any loan or obligation, an Agreement

or Contract entered into pursuant to this part, and a financing agency may pledge ACC payments as security for housing assistance payments pursuant to the Contract; *Provided, however*, That such security is in connection with a project rehabilitated pursuant to this part, the terms of the financing or any refinancing have been approved by HUD in accordance with this section, and the financing agency has submitted a certification that the terms and conditions of the financing for the particular project are consistent with those specified in the documents which were approved by HUD. Any such pledge shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(2) In the event of foreclosure, or assignment or sale to the financing agency in lieu of foreclosure, or in the event of assignment or sale agreed to by the financing agency and approved by HUD (which approval shall not be unreasonably delayed or withheld), housing assistance payments shall continue in accordance with the terms of the Contract.

#### § 881.126 Applicability of this Part to Invitations for Proposals Outstanding on April 26, 1976.

(a) If, prior to April 26, 1976, an Invitation for Proposals had been issued and (1) the deadline in said Invitation had passed and (2) copies of Proposals had been sent to the A-95 Clearinghouse and/or unit of general local government for comment, such Proposals shall be processed and selection shall be made in accordance with this Part prior to said date.

(b) If, prior to April 26, 1976, an Invitation for Proposals had been issued but any of the conditions specified in paragraph (a) of this section had not occurred, Proposals shall continue to be received in accordance with the Invitation and the field office director shall make a determination whether to perform all further processing and other activities with respect to said Invitation and resulting Proposals (1) in accordance with this Part prior to said date until the selection of Proposals has been completed, or (2) in accordance with this Part as amended on said date. Where alternative (2) is utilized, the field office shall notify the Owners who have submitted Proposals prior to the deadline of the additional documentation required and shall allow them a reasonable time,

not to exceed 15 calendar days, to furnish such documentation.

#### Subpart B—Project Development and Operation

##### § 881.201 Allocations of contract authority to field offices.

HUD field offices will be allocated contract authority for the Section 8 Housing Assistance Payments Program for metropolitan areas and for nonmetropolitan areas in conformance with section 213(d) of the HCD Act.

##### § 881.202 Determination of number and types of units to be assisted; substantial rehabilitation program schedule.

(a) *Number and Types of Units to be Assisted.* Each field office shall, after considering the contents of any Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention in relation to the factors set forth in section 213(d) of the HCD Act, including any applicable state or areawide housing allocation plan, determine the number and types of units to be made available for new construction, substantial rehabilitation, and existing housing in the geographic areas established for the purpose of allocating funds (herein called "allocation areas").

##### (b) *Substantial Rehabilitation Program Schedule.*

With respect to each allocation area or part thereof, the field office shall prepare an appropriate schedule for publishing Notifications of Fund Availability (NOFA) pursuant to § 881.203 (a) through (c) or inviting Proposals for pre-approved properties pursuant to § 881.203(e). The schedule may be modified at such time as circumstances require.

##### § 881.203 Notifications of fund availability.

(a) *Publication.* The field office shall publish Notifications of Fund Availability in accordance with its schedule. Each NOFA shall be published in a newspaper(s) of general circulation serving the area(s) in which the housing is desired at least once a week for two consecutive weeks.

(b) *Notification to Minority Media and Others.* As promptly as possible, the field office shall also notify minority media, business concerns included in HUD's registry of Section 3 businesses for the applicable political jurisdictions, minor-

ity organizations involved in housing and community development, and fair housing groups. In addition, the field office shall notify the State Director of the Farmers Home Administration, if applicable, and, to the extent feasible, the field office may notify appropriate PHAs, the chief executive officer of the appropriate unit(s) of general local government, trade journals, and other non-minority media. Information copies of the NOFA may also be sent to sponsors of FHA projects which are in processing and could be eligible for Section 8 assistance, and to owners who previously submitted Proposals which had been found approvable but were not selected due to funding limitations.

##### (c) *The Notification shall state:*

(1) The geographic area or areas in which the housing is to be rehabilitated;

(2) The amount of Section 8 contract authority being made available for substantial rehabilitation projects designed for the elderly and handicapped and the approximate number of units this amount is expected to assist.

(3) The amount of Section 8 contract authority being made available for substantial rehabilitation projects for other than the elderly or handicapped, and (i) the approximate number of large family units (3 or more bedrooms) and (ii) the approximate number of other family units that this amount is expected to assist;

(4) That, up to a specified deadline date (generally 35 calendar days, beginning with the date of the first publication), the field office will accept Preliminary Proposals, but that such deadline may be shortened or extended by HUD with appropriate notification to those parties who have registered with the field office so that they may be so notified;

(5) That in the case of Proposals for projects to be located in non-metropolitan areas and Proposals for projects in which the Owner proposes to limit the number of assisted units to 20 percent of the dwelling units in the project, the deadline shall not apply;

(6) That Proposals may be submitted by private Owners or PHA-Owners for direct contracting with HUD, or by PHAs on behalf of Owners with whom the PHA proposes to contract pursuant to an Annual Contributions Contract with HUD;

(7) That appropriate instructions, forms, and other program information may be obtained at the field office.

(8) Such other pertinent information as the field office may specify.

(d) *Notifications for Special Categories.* (1) In the case of projects in new communities when authorized by the New Communities Administration, the field office shall utilize the procedures set forth in this Subpart, except that § 881.203 (a) through (c) shall not be applicable. Other appropriate means of notification as determined by the field office and the New Communities Administration may be used.

(2) In the case of PHA-Owner Proposals utilizing any special set-aside established for PHA-Owner Projects, the field office shall utilize the procedures set forth in this Subpart, except that § 881.203 (a) through (c) shall not be required. Other appropriate means of notification as determined by the field office may be used.

(e) *Preapproved Properties.* (1) Upon written request from a unit of general local government that a property or properties be preapproved for Section 8 use, the field office may review the site(s) for compliance with the site and neighborhood and the environmental standards of this Part and, at the discretion of the field office director, may preapprove such property for Section 8 use. Preapproval shall not be granted unless (i) the property will be made available to the developer selected by HUD in accordance with the procedures under this Subpart, and (ii) the price at which the property will be made available to the selected developer is reasonable and approved by HUD. In the case of a property that has been so preapproved, HUD shall publish a NOFA requesting Preliminary Proposals for that property, except that where the property is in an urban renewal area, HUD may approve the Preliminary Proposal of a developer who has been or will be selected under the applicable urban renewal procedures (i.e., with no advertisement pursuant to this Subpart).

(2) Where an Invitation for Preliminary Proposals or a NOFA has been published prior to the determination to utilize a preapproved property, such Invitation or NOFA may not be cancelled or amended in order to use all or part of the same allocation for such preapproved property.

(f) *Availability of Notifications.* Copies of each NOFA and Rehabilitation Program Packet shall be available in the field office.

#### § 881.204 Obtaining program information.

(a) *Rehabilitation Program Packet.* The Rehabilitation Program Packet shall include:

(1) A copy of the Section 8 Substantial Rehabilitation regulations and HUD forms required for submission of a Preliminary Proposal and the Packet shall indicate where HUD Minimum Design Standards and other applicable regulations, standards, and forms may be obtained; and

(2) Requirements and information necessary to enable interested parties to prepare a Preliminary Proposal in accordance with this Part.

(b) *Additional Guidance.* Any Owner may request a meeting with the field office for the purpose of obtaining additional guidance and assistance prior to submitting a proposal.

#### § 881.205 Contents of preliminary proposals.

Each Preliminary Proposal shall include or indicate the following: (a) The address(es) of the property proposed to be rehabilitated and a map showing the location of the site(s) and the racial composition of the neighborhood(s).

(b) Documentary evidence that the Owner has title to the property or a copy of a contract(s) of sale, if any, with respect to the property or a copy of the option agreement(s) or other legal commitment for the property (however, only the proposed price is required for a New Communities project).

(c) A description of the property as is, including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, special amenities or features, if any, and exterior and interior photos; and sketches of the interior showing dimensions.

(d) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, removal or remodeling is indicated, a description of such work and sketches showing layout after completion of rehabilitation.

(e) The number of units by unit size (number of bedrooms) and the type of occupancy (elderly or handicapped or other) proposed for the property after the completion of rehabilitation.

(f) If demolition is proposed for any structure on the site of the property, a description of the proposed reuse of the land including sketch plans for architectural and landscape treatment.

(g) A description of the existing utility combination, whether or not a change to a different combination is proposed, and if so, a description of the new utility combination.

(h) A statement as to whether or not the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(i) The Contract Rent per unit, by size and structure type.

(j) The equipment to be included in the Contract Rent.

(k) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not included in the Contract Rent, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(l) The proposed term of the Contract (including renewals) and justification for such term in accordance with § 881.109.

(m) A showing that the Proposal meets any special requirements or restrictions necessary for compliance with the provisions of the Local Housing Assistance Plan, if any.

(n) Evidence that the proposed rehabilitation is permissible under applicable zoning, building, housing and other codes, ordinances or regulations, or a statement of the proposed action to make the rehabilitation permissible and the basis for belief that such action will be successfully completed prior to the Owner's acceptance of the HUD Notification of Approval of the Final Proposal or submission of the architect's certification pursuant to § 881.211(b) (e.g., a summary of results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, etc.).

(o) Whether the proposed project will displace site occupants. If so, the Proposal shall state the number of families, individuals and business concerns to be

displaced (identified by race or minority group status, and whether they are owners or renters), and shall demonstrate that relocation is feasible; in the case of a PHA-Owner Proposal, a statement shall be included as to how necessary relocation payments will be funded.

(p) A signed certification of the Owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968. If the proposed project is to be located within the area of a Local Housing Assistance Plan, include certification that the Owner will take affirmative action to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment, as indicated in the Local Housing Assistance Plan.

(q) The identity of the Owner, rehabilitator (if known), and architect (if applicable and identity is known); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(r) Whether the Owner intends to provide management services or to contract with a managing agent. In the latter case, provide the identity of the managing agent, if known, and the other information as specified in paragraph (q) of this section.

(s) The proposed method (e.g., conventional mortgage, FHA insured mortgage, bonds) and terms (e.g., interest rates, discounts, amortization period) of financing together with evidence of review and interest by a lender or bond underwriter or counsel or similar evidence that financing would likely be available should the Proposal be selected. (Such evidence of financing is not required if the Owner proposes to utilize FHA mortgage insurance (see § 881.207) or the FmHA Sec. 515 Rural Housing Program; in such cases, either the prescribed FHA form shall be completed and submitted with the Preliminary Proposal, or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Preliminary Proposal.) A statement shall be included

in all Proposals as to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see § 881.115(b)).

(t) Whether the Owner wishes to designate alternative properties for consideration by HUD, in its discretion, if HUD finds defects or deficiencies with respect to the principally designated properties; and, if so, the Owner shall include for each such alternate property the information required by paragraphs (a), (c), (e), (j), (k), and (o) of this section.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.206 Submission of preliminary proposals.

(a) *Submission Requirements.* Preliminary Proposals shall be submitted to the field office in the number of copies and in the manner specified in the Rehabilitation Program Packet. Submission of Preliminary Proposals shall be by hand delivery or certified mail. Any Preliminary Proposal received by the field office after the deadline shall not be accepted but shall be returned unopened.

(b) *Confidentiality of Information.* All information in or specifically relating to any submitted Proposal shall be held confidential by HUD, in the same manner as bids before award of a contract, until the latest date established by HUD for the acceptance of Proposals and until after any extensions granted pursuant to Sec. 881.208(b). However, confidentiality shall not apply after a Proposal has been submitted to the unit of general local government or A-95 Clearinghouse.

#### § 881.207 Preliminary proposals indicating HUD-FHA mortgage insurance.

Because of the differences in the definition of "substantial rehabilitation", a proposed project which qualifies as a Substantial Rehabilitation project under this Part may fail to qualify as a substantial rehabilitation project under FHA mortgage insurance programs.

(a) *Advance Mortgage Insurance Processing.* This paragraph (a) applies to Owners who apply for HUD-FHA mortgage insurance prior to the submission of a Preliminary Proposal under this Part. In such cases, an Owner may apply for a Feasibility Letter, A Conditional Commitment or a Firm Commitment for mortgage insurance by submitting an Application on the prescribed form with

supporting exhibits and the required fee. Such an Application shall meet all applicable mortgage insurance criteria and underwriting standards without modification and without reliance upon housing assistance payments under this Part, or, in the alternative, approval for mortgage insurance shall be conditioned upon subsequent approval of a Section 8 Proposal for the same project. If a Feasibility Letter, Conditional Commitment, or Firm Commitment, whichever is applicable, is issued, and if prior expiration thereof the Owner submits a Preliminary Proposal under this Part which is consistent with the Proposal as approved for mortgage insurance, such Proposal will nevertheless be subject to review and evaluation in accordance with the procedures under this Part; however, if the Preliminary Proposal is acceptable in accordance with the procedures under this Part, further processing will be coordinated in accordance with paragraph (b) of this section to the extent applicable, and the rents which may be approved for such a Preliminary Proposal will not be less than the previously approved rents which were used in processing the mortgage insurance application, provided that they are otherwise approvable in accordance with this Part.

(b) *Concurrent Processing.* (1) The provisions of this paragraph (b) apply where the Preliminary Proposal indicates an intention to finance a project with a HUD-FHA insured mortgage. Such a Proposal will not be approvable under this Part unless it meets the market and site acceptability criteria of the applicable mortgage insurance program. However, the commitment of Section 8 housing assistance will be taken into account when measuring the market absorption component of marketability. The processing of such a Proposal for mortgage insurance will be integrated with the Section 8 review and evaluation process. Such a Preliminary Proposal will be approved only where HUD has also determined that the Proposal will qualify for mortgage insurance subject to a satisfactory demonstration by the Owner of his capability to complete the project, and subject to subsequent determinations of "as is" value, the loan amount and credit approval.

(2) As part of the Technical Processing (§ 881.208) of Proposals involving HUD mortgage insurance, the field office shall make a preliminary debt service

analysis to determine the tentative approvable mortgage amount and maximum supportable cost based on the field office's estimate of market rentals, operating expenses and taxes for the proposed project. If the field office is unable to approve the mortgage amount requested, it shall notify the Owner in accordance with Sec. 881.208(e)(4) or in the notification of selection, in accordance with Sec. 881.208(h), of the maximum mortgage amount which is tentatively approvable and shall advise the Owner to inform the field office within the specified time whether he wishes processing of the Proposal to proceed based on the revised mortgage amount.

(3) After Selection of a Preliminary Proposal which involves HUD-FHA mortgage insurance, the Owner may submit prior to submission of the Final Proposal (if not previously submitted) an application for Feasibility Letter or Conditional Commitment with the required fee if he is requesting that the Proposal be eligible for Government National Mortgage Association (GNMA) commitment. In all cases, an application for HUD-FHA Conditional or Firm Commitment with the required fee under the applicable mortgage insurance program shall be submitted by the Owner with the Final Proposal. Such Final Proposals will not be approved under Section 8 unless they also qualify for issuance of a HUD-FHA Conditional or Firm Commitment under the applicable mortgage insurance program. The HUD notification of approval of the Final Proposal will be accompanied by a HUD-FHA Conditional or Firm Commitment for HUD-FHA mortgage insurance. The Owner's acceptance of HUD's notification of approval of the Final Proposal will constitute concurrent acceptance of the conditions and terms of the HUD-FHA Conditional or Firm Commitment for mortgage insurance. The Owner will be required to obtain a Firm Commitment prior to the execution of the Agreement.

(c) *Delayed Mortgage Insurance Processing.* Where an Owner does not indicate in his Preliminary Proposal that he intends to utilize HUD-FHA mortgage insurance and applies for HUD-FHA mortgage insurance after selection by HUD of the Preliminary Proposal under this Part, he risks (1) having his Preliminary Proposal rejected for HUD-FHA mortgage insurance and (2) having lower rents approved under the mortgage in-

surance program than the rents set forth in the approved Proposal under this Part. [41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.208 Preliminary evaluation, technical processing and selection of preliminary proposals.

(a) *Preliminary Evaluation.* In order to determine whether a Preliminary Proposal is complete and acceptable for Technical Processing, the field office may begin its Preliminary Evaluation immediately upon receipt of the Proposal. Such Preliminary Evaluation shall consist of a review to ascertain whether it is clear, even without field investigation, that:

(1) The Proposal is lacking any of the required submissions and forms, or any of them are not properly completed;

(2) The physical condition of the property is not suitable for rehabilitation or, upon completion of the proposed rehabilitation, the housing would not meet the requirements and objectives of this Part;

(3) The site does not meet standards set forth in § 881.112;

(4) The proposed Gross Rents exceed the applicable Fair Market Rent limitations (see § 881.108(a));

(5) The sizes and types of units proposed are not suitable for the type of occupancy intended;

(6) The rehabilitator, Owner and/or managing agent lack the ability to rehabilitate the project or to carry out the required management and maintenance services;

(7) The Proposal fails to comply with one or more requirements of the NOFA, the Rehabilitation Program Packet or this Part 881.

(b) *Action on Proposals Found to Be Deficient.* If a Proposal is incomplete or if a deficiency is found with respect to any item set forth in paragraph (a) of this section, the Owner shall be advised in writing of the deficiencies and (1) that the Proposal is rejected, or (2) if the field office determines that further consideration of the Proposal would assist in meeting the qualitative and quantitative objectives of this Part, that amendments or modifications to correct the deficiencies will be accepted if they are received on or before a specified date. Such amendments or modifications may, at HUD's discretion, include substitution of alternate properties if designated by the Owner in the Preliminary Proposal, pro-



vided that such alternate properties are otherwise acceptable to the field office.

(c) *Eligibility for Technical Processing.* If a Proposal is found acceptable pursuant to paragraph (a) of this section the Proposal shall be eligible for Technical Processing. Similarly if amendments or modifications were requested pursuant to paragraph (b) of this section and were received by the date specified and found acceptable, the Proposal shall be eligible for Technical Processing. However, if such amendments or modifications are not found acceptable, the Proposal shall be rejected.

(d) *Modification of Deadline.* (1) The field office may determine to shorten the deadline if it finds that a sufficient number of Proposals are eligible for Technical Processing, and at least 10 calendar days remain until the deadline date specified in the NOFA. In such case, the field office shall notify in writing all those who have registered and not yet submitted Proposals that no Proposals will be accepted after a specified date (at least five working days after the date of the mailing). All such notifications shall be mailed on the same date by registered mail return receipt requested.

(2) If the field office finds that an insufficient number of proposals eligible for Technical Processing have been received by the deadline, it may extend the deadline by publishing a notification to this effect, and by providing such additional notification as it deems appropriate.

(e) *Technical Processing.* When a Proposal is determined eligible pursuant to paragraph (a) or (c) of this section, the field office shall begin Technical Processing, but no final selection shall be made until the response periods of paragraph (e) (1) and (2) of this section have ended. Technical Processing shall consist of the following:

(1) For each Preliminary Proposal which is determined to be subject to A-95 clearance, the field office shall send a copy (if not previously submitted by the Owner) to the appropriate A-95 Clearinghouse for review, inviting a response within 34 calendar days from the date of the letter of transmittal.

(2) For purposes of compliance with section 213 of the HCD Act, the field office shall forward (if not previously submitted by the Owner) a notification, in the form prescribed by HUD, to the chief executive officer (or such designee

as that officer may designate) of the unit of general local government in which the proposed housing is to be located. The letter shall invite a response within 30 calendar days from the date of the notification letter.

(3) The field office shall evaluate each Proposal on the basis of all pertinent factors under this Part 881 including, but not limited to: rents; location (site) of the property to be rehabilitated; rehabilitation plan or design; previous experience of the Owner and other key participants in development and management; terms, conditions, and likelihood of financing; overall feasibility; and any comments received during the response periods from the appropriate A-95 Clearinghouse and from the unit of general local government.

(4) If, in its evaluation of all pertinent factors, the field office finds deficiencies which, in its judgment, are correctable within a reasonable time, including the substitution of alternate properties designated by the Owner in the Preliminary Proposal, it may grant such additional time as it deems appropriate to enable the Owner to correct such deficiencies. Otherwise the Owner shall be sent a notification specifying the deficiencies and stating that the Proposal is rejected.

(5) Prior to selection, the field office shall complete an environmental review pursuant to HUD NEPA requirements.

(6) Based on the factors set forth in this paragraph (e), the field office shall determine for each allocation area or part thereof the Preliminary Proposals which, in its judgment, are approvable. Selection of Proposals shall then be made in accordance with paragraph (f) or (g) of this section.

(7) Notwithstanding the foregoing provisions of this section, where Preliminary Evaluation has been completed for all Proposals and, on the basis of this evaluation and such Technical Processing as may have taken place, it is clear that one or more Proposals are superior, the field office director may direct that Technical Processing be completed first on such Proposal(s). If the superior Proposal(s) would utilize all the contract authority indicated in the NOFA, Technical Processing of the remaining Proposals may be suspended; otherwise, such remaining Proposals shall continue in processing and selection shall be made in accordance with paragraphs (f) or (g)

of this section. After Technical Processing of the superior Proposal(s) is complete and the Proposal(s) is found approvable, the Owner(s) shall be sent a notification of selection in accordance with paragraph (h) of this section.

(f) *Selection Where There Is Sufficient Contract Authority for All Approvable Proposals.* If the contract authority indicated in the NOFA is sufficient for all the approvable Preliminary Proposals, the Owners shall be notified of selection in accord with paragraph (h) of this section; provided, however, that if the field office determines that selection of such Proposals would result in an undue concentration of assisted persons in an area containing a high proportion of low income persons, the field office shall determine which Proposal(s) will not be approved.

(g) *Selection Where Contract Authority Is Insufficient for All Approval Proposals.* If the contract authority indicated in the NOFA is not sufficient for all the approvable Preliminary Proposals, the field office shall proceed as follows:

(1) Proposals consisting of projects to be developed entirely or predominantly for the elderly and/or handicapped shall be listed in rank order and a separate rank listing shall be established for projects to be developed entirely or predominantly for other than the elderly and/or the handicapped. Rank orders shall be based on the field office's assessment of which Proposals have the best combination of rents; location (site) of the property to be rehabilitated; rehabilitation plan or design; previous experience of the proposed Owner and other key participants in development and management; terms, conditions and likelihood of financing; overall feasibility; and comments, if any received from the appropriate A-95 Clearinghouse and from the unit of general local government; provided, however, that preference shall be granted to: (i) Proposals responding to local ordinances which require or encourage development or projects which contain a specified proportion of assisted units (not to exceed 20 percent); and (ii) Proposals of more than 50 units of non-elderly housing which indicates that assistance will be limited to 20 percent or less of the units to be constructed.

(2) With respect to each listing, the field office shall identify for selection the highest ranking Proposals in descending order which will most reasonably ap-

proximate the estimated maximum number of units called for in the NOFA. The estimated maximum number of units in the NOFA may be exceeded if the funds indicated in the NOFA are sufficient or if additional funds are made available.

(3) The field office shall determine whether the combined results of the tentative selections from both listings would exceed the estimated maximum number of units called for and the funds indicated in the NOFA or would result in an undue concentration of assisted persons in an area containing a high proportion of low income persons. If sufficient funds are not available, or an undue concentration would result, the field office shall make such revisions in the total number of units to be approved and/or the tentative selections as it may determine to be necessary.

(h) *Notification of Selection.* (1) With respect to those Preliminary Proposals selected in accordance with this section, the field office shall notify the Owners in writing and request them to submit within a reasonable time (to be specified in the notification) a Final Proposal meeting the requirements of § 881.209. The notification shall specify or include:

(i) The Contract Rents acceptable to HUD; in the case of Proposals requesting FHA mortgage insurance, the rents approved for purposes of processing the mortgage insurance application; and if either of these rents is lower than the rents proposed by the Owner, the reason(s) for the reduction;

(ii) The term of the Contract that will be acceptable to HUD where it is shorter than the term proposed by the Owner, and the reason for the shorter term;

(iii) That the services of a registered architect must be utilized where HUD has determined that the nature and extent of the rehabilitation requires the utilization of such services;

(iv) In the case of a PHA-owner Proposal, the estimate of the amount of relocation payments;

(v) Any other special conditions or requirements;

(vi) A date by which the Owner is required to return a copy of the notification with either (A) an indication of his acceptance of the notification including any modifications requested by HUD, or (B) his request for reconsideration of any modifications.

(2) If the notification contains modifications, and the Owner requests their

reconsideration, the field office shall notify the Owner of the date by which he is to furnish documentation in support of his request for reconsideration.

(3) If the Owner does not accept the notification by the date specified, or if the Owner requests reconsideration of modifications and the field office and the Owner are unable to reach agreement with respect thereto, the field office shall notify the Owner that its previous approval of his Proposal is rescinded.

(i) *Notification of Nonselection.* Owners whose Preliminary Proposals were placed in Technical Processing but were not selected by the field office shall be sent a letter notifying them of such determination.

(j) *Use of Residual Contract Authority.* If at any time after completing selection of Preliminary Proposals, the contract authority indicated in the NOFA for an allocation area is not fully committed or if a selected Proposal fails for any reason to result in an Agreement, the field office may:

(1) Give further consideration to Proposals which were either not found eligible for Technical Processing, or as a result of such processing were found not approvable, or were found approvable but were not selected as a result of the ranking, and afford the owners an opportunity to remedy any deficiencies, including substitutions of alternate properties designated by the Owner in the Preliminary proposal;

(2) Process Proposals not yet considered for projects to which the deadline does not apply (see § 881.203(c)(5));

(3) Publish another NOFA for the allocation area; or

(4) Reallocate the unused contract authority to another allocation area.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.209 Final proposals.

(a) *Contents of Final Proposal.* Each Final Proposal shall indicate or include the following:

(1) A copy of the documentary evidence that the Owner has title to the property or a copy of a contract(s) of sale, if any, with respect to the property, or a copy of the option agreement(s) or other legal commitment for the property (however, only the proposed price is required for a New Communities project).

(2) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches

and steps; interior walls, ceilings, and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element and the grade and quality of the work, materials and equipment. If alteration, renovation or remodeling is indicated, preliminary drawings and plans and outline specifications on the prescribed form.

(3) The number of units by unit size (number of bedrooms) and the type of occupancy (elderly or handicapped or other) proposed for the property after the completion of rehabilitation.

(4) If demolition is proposed for any structure on the site of the property, a description of the proposed reuse of the land including sketch plans for architectural and landscape treatment.

(5) The Contract Rent per unit, by size and structure type.

(6) The equipment to be included in the Contract Rent.

(7) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not so included, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(8) In the case of a PHA-Owner Project, a statement that the PHA undertakes liability for (i) provision of relocation payments and assistance as prescribed in sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (ii) provision of relocation assistance programs offering the services described in section 205 of said Act (iii) assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons; and (iv) full funding of the required relocation payments and assistance unless other commitments, satisfactory to HUD, have been made for the funding of such payments and assistance. In the latter case, the PHA shall specify such other commitments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(9) Submission of an Affirmative Fair Housing Marketing Plan if the Proposal is for five (5) or more units together with a statement of the affirmative actions the Owner intends to take to provide the

opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment, as indicated in the Local Housing Assistance Plan, if any. Examples of such efforts include: participation in regional or semi-regional application pools; establishment of a referral system with PHAs and other Section 8 Owners/managers in surrounding jurisdictions; contacts with and provision of information about the project to local industries and their employees.

(10) Submissions as required by HUD regulations and other requirements pursuant to section 3 of the Housing and Urban Development Act of 1968.

(11) The proposed term of the Contract (including all renewals) and justification for such term in accordance with § 881.109.

(12) The identity of the Owner, rehabilitator, architect (if applicable) and managing agent (if any); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(13) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the managing agent, if any, in a format acceptable to HUD; or, if the proposal is for less than 15 units, evidence of capability of providing the required management and maintenance services. If the Owner proposes to contract with another entity, including a PHA, for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(14) Submission of the form of Lease the Owner proposes to use, which shall be in accordance with Sec. 881.219.

(15) A statement of any changes in the proposed method and terms of financing and other related information which the Owner submitted as part of the Preliminary Proposal (see § 881.205(s)), or a statement that there is no change. If the Owner intends to use FHA mortgage insurance, an application for a Conditional or Firm Commitment on the prescribed form shall be completed and submitted with the prescribed fee with the Final Proposal unless this was previously done. If the Owner intends to use the FmHA Sec. 515 Rural Rental Housing Program,

a copy of the appropriate form indicating the results of the FmHA review of the preapplication, shall be submitted with the Final Proposal.

(16) Evidence that the proposed rehabilitation is permissible under the applicable zoning, building, housing and other codes, ordinances or regulations; or a statement of the proposed action to make the rehabilitation permissible and the basis for belief that such action will be successfully completed prior to the Owner's acceptance of the HUD Notification of Approval of Final Proposal or submission of the architect's certification pursuant to Sec. 881.211(b).

(17) The anticipated time required for completion of the project after the Agreement is signed (if the project is to be completed in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage).

(b) *Consistency With Preliminary Proposal.* The Final Proposal shall be consistent with the HUD-approved Preliminary Proposal. Any material deviations from the Preliminary Proposal in the Final Proposal will cause reconsideration by HUD of such Final Proposal and may result in its rejection. However, the Owner may request, with the submission of his Final Proposal or architect's certification or, if such certification is not required, with the Owner's acceptance of HUD's Notification of Approval of Final Proposal, an increase in Contract Rents over those approved in the Preliminary Proposal; and HUD, in its discretion, may approve such an increase of HUD determines that (1) (i) the need for increased rents is due to factors beyond the Owner's control which he could not have reasonably foreseen or (ii) HUD's previous findings regarding the reasonableness of rents were in error because of increases in rehabilitation costs, real property taxes, utility rates or similar costs (e.g., assessments, and utilities not covered by regulated rates) in excess of those taken into account by HUD in determining the reasonableness of the Contract Rents proposed in the Preliminary Proposal; (2) the requested rents are reasonable (see § 881.108(b)); (3) (i) there was sufficient contract authority to select all approvable Preliminary Proposals, or (ii) it is specifically determined by HUD, based upon the record of the ranking of all the approvable Proposals, that the Preliminary Proposal clearly would have been selected even without regard to any

weight being given by reason of its rents; and (4) the requested rents do not exceed the Fair Market Rent limitations in effect at the time of HUD's decision on the request for rent increase (see § 881.108 (a)). The Owner shall submit documentation justifying his request and evidencing the need for increased rents.

[41 FR 17488, Apr. 26, 1976, as amended at 42 FR 16119, Mar. 24, 1977]

#### § 881.210 Evaluation of final proposals.

(a) *Evaluation of Final Proposals by HUD.* Each Final Proposal will be evaluated by HUD to determine that the provisions of this Part have been complied with and that such Final Proposal is consistent with the Preliminary Proposal.

(b) *Clarifications or Modifications.* HUD may request clarification of individual items, additional information, or modifications of the Final Proposal.

(c) *HUD Determination.* HUD shall notify the Owner (and the PHA, if applicable) that the Final Proposal is:

- (1) Approved.
- (2) Approvable only if specified deficiencies are corrected and that HUD will approve the Final Proposal if it receives within a specified time evidence of such necessary corrections.
- (3) Not approved. If a Final Proposal is not approved or if the conditions for approval under paragraph (c) (2) of this section are not met, HUD shall so advise the Owner.

(d) *Notification.* The unit of general local government shall be notified by HUD of its final action.

(e) *Use of Residual Contract Authority.* See Sec. 881.208(j).

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45121, Oct. 14, 1976]

#### § 881.211 Owner's acceptance of notification and submission of architect's certification.

(a) *Owner's Acceptance.* Upon receipt by the Owner of the notification of approval of the Final Proposal, the Owner shall return to HUD a copy indicating his acceptance within the time prescribed in such notification (copy to the PHA, if applicable). If the Owner does not accept the notification by the date specified, HUD may rescind the notification.

(b) *Architect's Certification.* (1) If the services of a registered architect are to be used, HUD will not enter into an Agreement (or, where applicable, an ACC

and an Agreement), until after the Owner has submitted to HUD the architect's certification on the prescribed form. Such certification shall be made by the architect responsible for the preparation of the working drawings and specifications.

(2) The architect's certification shall state that, to the best of the architect's knowledge, belief, and professional judgment, (i) the working drawings and specifications are consistent with the approved Final Proposal (including any modifications required by HUD in its review of the Final Proposal), and (ii) the proposed rehabilitation in accordance with these plans, and specifications is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials. This certification shall also cover compliance with the appropriate HUD Minimum Design Standards for Rehabilitation for Residential Properties and other standards, guidelines and criteria applicable pursuant to § 881.111(b).

(3) One copy of the certified working drawings and specifications shall be submitted with the architect's certification to HUD; provided, however, that receipt and retention by HUD of these working drawings and specifications shall not denote or constitute HUD review or approval of such drawings or specifications.

(4) If the Owner fails to submit the certification by the date specified in the notification, HUD shall rescind the notification unless it determines that a reasonable extension of time should be granted.

[41 FR 17488, Apr. 26, 1976, as amended at 41 FR 45122, Oct. 14, 1976]

#### § 881.212 Annual contributions contract and agreement (private-owner/PHA projects).

(a) *Preparation of ACC.* After receipt of a copy of the accepted notification (and, where required, the architect's certification with the working drawings and specifications), the HUD field office shall prepare the ACC, shown as Appendix III. The ACC shall be transmitted to the PHA for execution and returned to HUD. This transmittal shall advise the PHA that it must simultaneously submit for HUD approval its Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Estimate of

Total Required Annual Contributions (see § 881.213).

(b) *Preparation of Agreement.* The Agreement shall be prepared by the HUD field office at the time the ACC is prepared (see § 881.214), and shall conform to the prescribed form shown as Appendix IV. The Agreement shall include all required information and required attachments.

(c) *Execution of ACC and Agreement.* After receipt of the PHA-executed ACC, accompanied by the Estimates of Required Annual Contributions, HUD shall review the Estimates and, if approved, execute the ACC. HUD shall then transmit a fully executed copy of the ACC to the PHA, together with four copies of the unexecuted Agreement. After execution of the Agreement by the PHA and the Owner, all copies shall be returned by the PHA to HUD for approval. HUD shall return three copies to the PHA, retaining one copy for its records.

#### § 881.213 Submission of estimates of required annual contributions (Private-owner/PHA projects).

(a) *Initial Submission.* An allowance may be provided for preliminary costs incurred by the PHA prior to the beginning of the first fiscal year. When the ACC is executed by the PHA, it shall submit an Initial Estimate of Required Annual Contributions (Preliminary Costs) together with an Estimate of Total Required Annual Contributions on the prescribed forms. This submission includes estimates of costs of administration and non-expendable equipment up to the beginning of the first fiscal year.

(b) *First Fiscal Year Submission.* Not earlier than 150 and not later than 90 days prior to the estimated date of the beginning of the first fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) covering the estimated amount required for the first fiscal year for housing assistance payments and for the fee for administration together with an Estimate of Total Required Annual Contributions.

(c) *Subsequent Fiscal Year Submissions.* Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) and an Estimate of Total Required Annual Contributions, with supporting documentation,

for any requested changes in the amount of housing assistance payments and the fee for administration.

(d) *Revisions of Estimates.* Any of the above Estimates may be revised to reflect changes in circumstances and available data.

(e) *HUD Approval.* All Estimates of Required Annual Contributions and any revisions thereto submitted by the PHA shall be subject to HUD approval.

#### § 881.214 Preparation and execution of agreement (Private-owner and PHA-owner projects).

After receipt of a copy of the accepted notification (and, where required, the architect's certification, and the working drawings and specifications), the HUD field office shall prepare the Agreement in the prescribed form shown as Appendix I. The Agreement shall include all required information and required attachments. HUD shall transmit to the Owner three copies of the unexecuted Agreement. After the Owner executes all copies of the Agreement, he shall return them to HUD. HUD shall execute the Agreement, returning one copy to the Owner and retaining two copies for its records.

#### § 881.215 Rehabilitation period.

(a) *Timely Performance of Work.* After execution of the Agreement, the Owner shall promptly proceed with the rehabilitation work as provided in the Agreement. In the event the work is not so commenced, diligently continued, and/or completed, HUD (or the PHA with HUD approval, as appropriate) shall have the right to rescind the Agreement, or take other appropriate action.

(b) *Delays.* Although extensions of time may be granted for the reasons specified in the Agreement, no increases in Contract Rents may be granted on that account.

(c) *Changes.* The Owner shall submit for HUD approval any changes from the approved Final Proposal which would materially reduce or alter his obligations or any changes which would alter the design or materially reduce the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior HUD approval, HUD may determine that Contract Rents shall be reduced or that the Owner shall remedy the

deficiency as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications except those required by changes in local codes or ordinances made subsequent to execution of the Agreement, and then only if HUD approval is obtained prior to incorporation of any such changes in the project.

(d) *Inspection of HUD-FHA Insured Projects.* For projects financed with HUD-FHA insured mortgages, required HUD inspection procedures shall be followed including compliance with equal opportunity requirements.

(e) *Equal Opportunity Review.* Equal opportunity review may be conducted with any scheduled HUD inspection or at any other time deemed advisable by HUD.

(f) *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 60 days prior to the estimated completion date. The Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed (see § 881.217), the Owner will be required to submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units, pursuant to § 881.107(b), only if he has fully complied with the requirements of that section and of this paragraph.

#### § 881.216 Project completion.

(a) *Notification of Completion.* The Owner shall notify HUD (with a copy to the PHA in the case of a Private-Owner/PHA Project) when the work is completed and shall submit to HUD the evidence of completion described in paragraph (b) of this section.

(b) *Evidence of Completion.* Completion of the project shall be evidenced by furnishing HUD with all of the following:

(1) A certificate of occupancy and or other official approvals necessary for occupancy.

(2) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) The project has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified);

(iv) The project has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials;

(v) The project was treated and is in compliance with applicable HUD Lead Based Paint regulations (24 CFR Part 35) and that if the property was constructed prior to 1950, each Family upon occupancy will receive the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and that records showing receipt of such notice by each tenant will be maintained;

(vi) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by HUD in accordance with the Agreement; and

(vii) He has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of his knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner, HUD, or the PHA (if applicable), the Owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments.

(3) If working drawings and specifications for the work were prepared and certified to by a registered architect, a certification by the registered architect responsible for inspection of the work

that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment; and that to the best of his knowledge, belief and professional judgment:

(i) The project has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and

(iv) The project has been rehabilitated in accordance with applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(c) *Review and Inspection.* (1) Within ten working days of the receipt of the evidence of completion, HUD shall review the evidence of completion for compliance with paragraph (b) of this section.

(2) Within the same time period, a HUD representative (accompanied by a PHA representative, if applicable) shall inspect the project in a manner sufficient to enable the inspector to report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of the inspection, the project has been completed in accordance with the Agreement and that there are no observable conditions inconsistent with the evidence of completion, including the certifications of the Owner and the design or inspecting architects. If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs (e) (1) and (2) of this section.

(d) *Acceptance.* If HUD determines from the review and inspection that the project has been completed in accordance with the Agreement, the project shall be accepted.

(e) *Acceptance Where Defects or Deficiencies Reported.* If the project is not acceptable under paragraph (d), the fol-

lowing shall apply: (1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete the items within a reasonable time to the satisfaction of HUD (and the PHA, if applicable), HUD may, upon 30 days notice to the Owner (and the PHA, if applicable) terminate the Contract and/or exercise its other rights thereunder or, if the Contract is with a PHA, cancel its approval of the Contract and require its termination and/or exercise its other rights under the Contract and the ACC.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, HUD shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit HUD to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The Owner (and the PHA, if applicable) shall be notified of HUD's determinations and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

(f) *Notification of Nonacceptance.* If HUD determines that, based on the review of the evidence of completion and inspection, the project cannot be accepted, the Owner shall be promptly notified of this decision and the reasons.

(g) *Arbitration.* In the event the Owner disputes HUD determinations, he may submit the controversy to third-party arbitration at his expense, provided that the arbitration is advisory only.

(h) *Completion in Stages.* If the project is to be completed in stages, the procedures of this section shall apply to each stage.

#### § 881.217 Execution of housing assistance payments contract.

(a) *Time of Execution.* Upon acceptance of the project by the Government pursuant to § 881.216, the Contract shall be executed first by the Owner and then



by HUD, or, in the case of a Private-Owner/PHA Project, executed by the Owner and the PHA and then approved by HUD.

(b) *Unleased Units.* At the time of execution of the Contract, HUD (or the PHA, as appropriate) shall examine the lists of dwelling units leased and not leased, referred to in § 881.215(f), and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. HUD (or the PHA, as appropriate) shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished to HUD in the case of a Private-Owner/PHA Project.

#### § 881.218 Marketing.

(a) *Compliance with Equal Opportunity Requirements.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's HUD-approved Affirmative Fair Housing Marketing Plan, if required, and with all regulations relating to fair housing advertising including use of the equal opportunity, logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b) *Eligibility, Selection and Admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family, in accordance with schedules and criteria established by HUD; provided that in establishing criteria for the selection of applicants, no local residency requirements or priority systems relating to place of residence may be applied to applicants who are working in the community.

(2) For every family that applies for admission, the Owner and the applicant shall complete and sign the form of application prescribed by HUD, except that if there are no vacant units and the

Owner's waiting list is such that there would be an unreasonable length of time before the applicant could be admitted, the Owner may advise the applicant that the Owner is not accepting applications for that reason. The Owner shall retain copies of all completed applicants together with any related correspondence for three years. For each Family selected for admission, the Owner shall submit one copy of the completed and signed application to the HUD field office (in the case of Private-Owner/PHA Projects, the Owner simultaneously shall send a copy of the form to the PHA). Housing assistance payments will not be made on behalf of an admitted Family until after this copy has been received by the HUD field office (or, in the case of Private-Owner/PHA Projects, until the copy has been received by the PHA with a certification by the Owner that he has sent a copy to HUD).

(3) If the Owner determines that the applicant is eligible on the basis of Income and family composition and is otherwise acceptable but the Owner does not have a suitable unit to offer, the Owner shall place such Family on his waiting list and so advise the Family.

(4) If the Owner determines that the applicant is eligible on the basis of Income and family composition and is otherwise acceptable and if the Owner has a suitable unit, the Owner and the Family shall enter into a Lease. Such Lease shall be on the form of Lease included in the Owner's approved Final Proposal and shall otherwise be in conformity with the provisions of this Part.

(5) Records on applicant families and approved Families shall be maintained by the Owner so as to provide HUD with racial, ethnic and gender data and shall be retained by the Owner for three years.

(6) In the case of a PHA-Owner project, (i) if the PHA places a Family on its waiting list, it shall notify the Family of the approximate date of availability of a suitable unit insofar as such date can be reasonably determined, and (ii) if the PHA determines that an applicant is ineligible on the basis of income or family composition, or that the PHA is not selecting the applicant for other reasons, the PHA shall promptly send the applicant a letter notifying him of the determination and the reasons and that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the

PHA determines that the applicant shall not be admitted, the PHA shall so notify the applicant in writing and such notice shall inform the applicant that he has the right to request a review by HUD of the PHA's determination. The procedures of this subparagraph do not preclude the applicant from exercising his other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the letter, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

#### § 881.219 Lease requirements.

The Lease shall contain all required provisions listed in paragraph (c) of this section and none of the prohibited provisions listed in paragraph (c) of this section and shall otherwise conform to the form of Lease included with the Owner's approved Final Proposal.

(a) *Term of Lease.* The term of the Lease shall be for not less than one year. The Lease may (or, in the case of a Lease for a term of more than one year, shall) contain a provision permitting termination upon 30 days advance written notice by either party.

(b) *Required Provisions.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

##### ADDENDUM TO LEASE

The following additional Lease provisions are incorporated in full in the Lease between \_\_\_\_\_ (Lessor) and \_\_\_\_\_ (Lessee) for the following dwelling unit: \_\_\_\_\_ In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be \$\_\_\_\_\_ per month.

b. Of the total rent, \$\_\_\_\_\_ shall be payable by or at the direction of the Department of Housing and Urban Development ("HUD") as housing assistance payments on behalf of the Lessee and \$\_\_\_\_\_ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses in accordance with HUD-established schedules and criteria; or by reason of adjustment by HUD, or the PHA, if appropriate, of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Lessor shall provide the following services and maintenance: [Here insert the complete list as contained in the approved Final Proposal.]

Lessor: \_\_\_\_\_  
By: \_\_\_\_\_  
Date: \_\_\_\_\_  
Lessee: \_\_\_\_\_  
Date: \_\_\_\_\_

(c) *Prohibited Provisions.* Lease clauses which fall within the classifications listed below shall not be included in any Lease.

(1) *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

(2) *Distraint for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(4) *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(5) *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(7) *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant Chargeable with Costs of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

#### § 881.220 Termination of tenancy.

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in § 881.107(c) (1).

#### § 881.221 Maintenance, operation and inspections.

(a) *Maintenance and Operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(b) *Inspection Prior to Occupancy.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by HUD, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(c) *Periodic Inspections.* HUD (or the PHA, as appropriate) will inspect or cause to be inspected each Contract unit and related facilities at least annually and at such other times (including prior to initial occupancy and rerenting of any unit) as HUD (or the PHA) may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. HUD (or the PHA) will take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

(d) *Units Not Decent, Safe, and Sanitary.* If HUD (or the PHA, as appropriate) notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, HUD (or the PHA) may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and HUD (or the PHA) does not have other section 8 funds for such purposes, HUD (or the PHA) may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if:

- (1) The unit is restored to Decent, Safe, and Sanitary condition;
- (2) The Family is willing to and does move back to the restored dwelling unit; and
- (3) A deduction is made for the expenses incurred by the Family for both moves.

#### § 881.222 Reexamination of Family income, composition, and extent of exceptional medical or other unusual expenses.

Reexamination of Family Income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the Owner at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of the Gross Family Contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD.

#### § 881.223 Overcrowded and under-occupied units.

If HUD or the PHA, as the case may be, determines that a Contract unit assisted under this Part is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit

will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD (or the PHA) will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 881.107(c) (1).

#### § 881.224 Adjustment of allowance for utilities and other services.

HUD or the PHA, as the case may be, shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the project, on grounds of changes in utility rates or other change of general applicability to all units in the project. If HUD (or the PHA) determines that an adjustment should be made, HUD (or the PHA) shall prescribe the amount of the adjustment and direct the Owner to make promptly a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payment.

#### § 881.225 Continued family participation.

A Family must continue to occupy its approved unit to remain eligible for participation in the Housing Assistance Payments Program except that if the Family (a) wishes to vacate its unit at the end of the Lease term (or prior thereto but in accordance with the provisions of the Lease), or (b) is required to move for reasons other than violation of the Lease on the part of the Family, and if the Family wishes to receive the benefit of housing assistance payments in another approvable unit, the Family should give reasonable notice of the circumstances to HUD or to the PHA, as appropriate, so that HUD or the PHA may have the opportunity to consider the Family's request.

#### § 881.226 Inapplicability of low-rent public housing model lease and grievance procedures.

Model lease and grievance procedures established by HUD for PHA-owned low-

rent public housing are applicable only to PHA-Owner Projects under the Section 8 Housing Assistance Payments Program.

#### § 881.227 Reduction of number of contract units for failure to lease to eligible families.

(a) If at any time, beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract units leased or available for leasing by Eligible Families, HUD (or the PHA at the direction of HUD, as appropriate) may on 30 days notice reduce the number of Contract units to not less than the number of units under lease or available for leasing by Eligible Families, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

(b) At the end of the initial term of the Contract and of each renewal term, HUD (or the PHA at the direction of HUD, as appropriate) may, by notice to the Owner, reduce the number of Contract units to not less than (1) the number of units under lease or available for leasing by Eligible Families at that time, or (2) the average number of units so leased or available for leasing during the last year, whichever is the greatest number, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

(c) HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract and if annual contributions contract authority is available; and HUD will take such steps authorized by section 8(c) (6) of the Act as may be necessary to carry out this assurance (see §§ 881.105 and 881.106).

#### § 881.228 HUD review of contract compliance.

HUD will review project operation at such intervals as it deems necessary to ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

**Title 24—Housing and Urban Development**  
**CHAPTER VIII—LOW-INCOME HOUSING,**  
**DEPARTMENT OF HOUSING AND UR-**  
**BAN DEVELOPMENT**

[Docket Nos. R-77-380 and R-77-387]

**PART 880—SECTION 8 HOUSING ASSIST-**  
**ANCE PAYMENTS PROGRAM—NEW**  
**CONSTRUCTION**

**PART 881—SECTION 8 HOUSING ASSIST-**  
**ANCE PAYMENTS PROGRAM—SUB-**  
**STANTIAL REHABILITATION**

**Increase in Maximum Allowable Term for**  
**Certain Contracts**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Final rule.

**SUMMARY:** Section 101(c) of the Supplemental Housing Authorization Act of 1977, amended section 8(e)(1) of the U.S. Housing Act of 1937 to permit HUD to enter into contracts for assistance payments under the Section 8 program for terms of "three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to Section 244 of the National Housing Act."

This amendment increases the maximum term permitted for Housing Assistance Payments Contracts and Annual Contributions Contracts from 20 years to 30 years for conventionally financed projects. The amendment did not change the maximum 40 year term available for projects owned by, or financed by a loan or loan guarantee from, a State or local agency.

The Section 8 New Construction and Substantial Rehabilitation Program Regulations are being amended to reflect this statutory change. In addition, several technical changes are being made to clarify the regulations and assure uniform interpretation between the regulations and the contract document forms on this subject. Since these amendments are based on a statutory amendment or are only technical clarifications, they are being made effective on publication.

**EFFECTIVE DATE:** August 22, 1977.

**FOR FURTHER INFORMATION CONTACT:**

April D. LeClair, Section 8 and Leased Housing Division, Office of Assisted Housing Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-5380.

**SUPPLEMENTARY INFORMATION:** The Department has given serious consideration to the issue of the effective date of implementation of the provision for a 30-year term. The Department has determined to make the amendments effective on publication for projects for

which a commitment for permanent financing was not secured before April 30, 1977, which is the date the Supplemental Housing Authorization Act of 1977 became law. The purpose of the amendment permitting a 30-year term for conventional financing is to encourage this type of financing. Projects for which financing was secured prior to the effective date of the Act were able to obtain financing without the 30-year term provisions, and there is no need to make the provision applicable to them.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Parts 880 and 881 are revised as follows:

1. Paragraph (a) of Section 880.109 is revised, a new paragraph (b) is added and paragraphs (b), (c), and (d) are redesignated (c), (d), and (e), respectively, and are reprinted in their entirety as follows:

**§ 880.109 Term of housing assistance payments contract.**

(a) The Contract may be for an initial term of not more than five years, for any dwelling unit, renewable at the sole option of the Owner, for additional terms of not more than five years each, provided that the total Contract term for any dwelling unit, including all renewals, shall not exceed 20 years, where a conditional or unconditional commitment for permanent financing was secured by the Owner prior to April 30, 1977, or 30 years, where a conditional or unconditional commitment for permanent financing, based on a term of more than 20 but no more than 30 years, was secured on or after April 30, 1977, except as otherwise provided in this section.

(b) In the case of a Contract under which housing assistance payments are made with respect to a project not covered by paragraph (c) of this section which is financed with the assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to Section 244 of the National Housing Act, the total Contract term, including all renewals, shall not exceed 20 years for any dwelling unit.

(c) In the case of a Contract under which housing assistance payments are made with respect to a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the total Contract term may be equal to the term of such financing but may not exceed 40 years for any dwelling unit.

(d) In the case of mobile homes, the initial Contract term for any mobile home shall be for not more than five years, subject to renewal for additional terms of not more than five years each, as may be mutually agreed upon by the Owner and HUD or, in the case of a Private-Owner/PHA Project, by the Owner and the PHA with the approval of HUD; provided, that the total Contract term for any mobile home shall not exceed 20 years. For the purposes of this paragraph (d), the term "mobile home" means the original mobile home and any replacement(s), combined. In the case of any project under this paragraph (d), notwithstanding the maximum total allowable term per unit stated therein, a shorter term shall be determined by HUD where appropriate, taking into account the amount of the capital expenditures reasonably required for the project, the reasonable period and rate of amortization for the financing, and the approved rents to the Owner.

(e) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

2. § 881.109 (a) and (b) are revised and (c) is reprinted so as to read in its entirety as follows:

**§ 881.109 Term of Housing Assistance Payments Contract.**

(a) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the Contract may be for an initial term of not more than five years for any dwelling unit, renewable at the sole option of the Owner, for one or more additional terms of not more than five years each; provided, however, that the total Contract term, including all renewals, shall not exceed 10 years for any dwelling unit.

(b) Where the estimated cost of the rehabilitation is 25 percent or more of the estimated value of the project after completion of the rehabilitation, the Contract may be for an initial term of not more than five years for any dwelling unit, renewable at the sole option of the Owner, for additional terms of not more than five years each, for a total Contract term, including all renewals, which:

- (1) Will cover the longest term of a single credit instrument covering: (i) The cost of rehabilitation; or
  - (ii) The existing indebtedness; or
  - (iii) The cost of rehabilitation and the refinancing of the existing indebtedness; or
  - (iv) The cost of rehabilitation and the acquisition of the property; and
- (2) Will not exceed, for any dwelling unit: (i) 20 years, where a conditional

or unconditional commitment for permanent financing was secured before April 30, 1977, except as otherwise provided in paragraph (b)(2)(iv) of this section; or

(ii) 20 years where the project is not covered by paragraph (b)(2)(iv) of this section and is financed with the assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government other than pursuant to Section 244 of the National Housing Act; or

(iii) 30 years, where a conditional or unconditional commitment for permanent

financing based on a term of more than 20 but no more than 30 years was secured on or after April 30, 1977, except as provided in paragraph (b)(2)(ii) or (iv) of this section; or

(iv) 40 years, where the project is owned by, or financed by a loan or loan guarantee from, a State or local agency.

(c) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term

for the units in all stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., August 12, 1977.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing,  
Federal Housing Commissioner.

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