



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Operating Fund Negotiated Rulemaking Advisory Committee
 8:30 am to 5:30 pm EST, Room B182 HUD Headquarters

MINUTES OF FIRST SESSION – DAY THREE
April 1, 2004

1 April 1, 2004 Session:

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The third day of the first session of the Negotiated Rulemaking (Neg-Reg) Advisory Committee on the Operating Fund Allocation System (the Committee) was called to order at 8:30 am on Thursday, April 1, 2004, by Ms. Tran, the facilitator. The location of the meeting was room B182 of the U.S. Department of Housing and Urban Development; 451 7th Street, Washington, DC 20410.

Committee members in attendance and interests represented were:

No.	Committee Member	Organization
1	Mr. Michael Liu	Assistant Secretary, Public and Indian Housing
2	Mr. William Russell	Deputy Assistant Secretary, Public Housing and Voucher Programs
3	Mr. Steve Nolan	Atlanta Housing Authority
4	Mr. Felix Lam	New York City Housing Authority
5	Mr. Carlos Laboy-Diaz	Puerto Rico Housing Authority
6	Mr. Todd Gomez	Chicago Housing Authority
7	Ms. Ann Lott	Dallas Housing Authority
8	Mr. Larry Loyd	Housing Commission of Anne Arundel County
9	Mr. Rufus Myers	Indianapolis Housing Authority
10	Mr. Steven Longo	Albany Housing Authority
11	Mr. Rick Parker	Athens Housing Authority
12	Mr. Richard Murray	Housing Authority of East Baton Rouge
13	Mr. Michael McInnish	Housing Authority of the City of Montgomery
14	Mr. Willie Martin	Jackson Housing Authority
15	Ms. Deanna Watson	Boise City/Ada County Housing Authority
16	Mr. David Morton	Reno Housing Authority
17	Ms. Ophelia Basgal	Alameda County Housing Authority
18	Ms. Sharon Scudder	Meade County Housing Authority
19	Mr. John Cooper	Massachusetts Union of Public Housing Tenants
20	Ms. Veronica Sledge	Resident Advisory Board/Victory Point RMC
21	Mr. Ned Epstein	Housing Partners, Inc.
22	Mr. Greg Byrne	Harvard Cost Study
23	Mr. Dan Anderson	Bank of America
24	Mr. David Land	Lindsey and Company
25	Mr. Sunia Zaterman	Council of Large Public Housing Authorities (CLPHA)
26	Ms. Christine Siska	National Association of Housing and Redevelopment Officials (NAHRO)
27	Mr. Tim Kaiser	Public Housing Authorities Directors Association (PHADA)
28	Mr. Michael Kelley	National Organization of African Americans in Housing (NOAAH)



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- 1 **Appendix 1** contains the meeting agenda and attendance listing for the Committee
2 members.
3
- 4 Ms. Tran Welcome everyone to the last day of the first session. There are a
5 couple of housekeeping items. The Designated Federal Officer is
6 Chris Kubacki. The HUD representative is Bill Tamburrino.
7
- 8 Mr. Kubacki Effective midnight last night, Alfonso Jackson accepted the
9 resignation of Mr. Liu and Mr. Russell. Paula Blunt will now be
10 acting Assistant Secretary, Michael Gerber will be active Director
11 of Public Housing and Voucher Programs. In light of that, we ask
12 all HUD staff be excused. We would ask that you give us at least
13 an hour. April Fools!
14
- 15 Ms. Tran Room B176 available for luggage. Chris, do you want to talk
16 about data requests?
17
- 18 Mr. Kubacki From a housekeeping perspective, I would like to go through the
19 data requests. **(See Appendix 2)**. There was some confusion on
20 what we gave out last night and Rahul is writing the methodology
21 and will be here to answer questions. To date, we have received
22 10 data requests and want to go over the status:
23
- 24 1. CLPHA asked for updated AELs, computed AELs, updated
 - 25 units, pilot payments—these have been provided on CD.
 - 26 2. Mr. Cooper asked for summarized resident participation
 - 27 data—this has been provided. He also requested tenant
 - 28 services information from PHAS, which will be distributed.
 - 29 3. Mr. Lam requested the PEL for each development—this
 - 30 was provided on CD.
 - 31 4. PASS physical inspection scores for FHA and PHAs were
 - 32 also requested—there is a potential confidentiality issue we
 - 33 are working through because it is multifamily data.
34
- 35 Mr. Kaiser As the requester of that data, what is the issue?
36
- 37 Mr. Kubacki It is not PIH's data, and certain data, because these are private
38 owners, can't be released.
39



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- 1 Mr. Kaiser It's all HUD data, I understand it is a different division. But there
2 was an assertion yesterday that REAC scores on the multifamily
3 side exceed those of PHAs. That's why I asked for the data
4 because it is an important point and I don't understand why it is
5 confidential. I would at least like scores in the aggregate, if not by
6 entity. You made your assertion based on data, and we'd like to
7 see it.
8
- 9 Mr. Kubacki We can provide nationwide statistics.
10
- 11 Mr. Kaiser That would be better. I would still like to have the data request
12 filled as requested, but if that is not possible I would like regional
13 data or national aggregate data.
14
- 15 Mr. Kubacki My guess is if we don't have it today we'll have it next week. To
16 continue, we were asked for:
- 17 1. A breakdown of revenue and expenses for the charts
18 included in the background material. We'll load this on
19 CD and give it to you prior to leaving.
 - 20 2. Harvard IT costs, human services—we have no data except
21 that in the final study.
 - 22 3. Unit count by property—this was on the CD given last
23 night
 - 24 4. Ms. Sledge asked for information on resident and tenant
25 services—this was provided.
 - 26 5. Mr. Parker asked for percentage of AEL subsidy—this was
27 provided last night on CD.
28
- 29 Mr. Parker I believe summarized data on that will be presented later.
30
- 31 Mr. Kubacki We'll have that in a few minutes.
32
- 33 1. Mr. Nolan asked for form HUD-92410 and HUDCLIPS is
34 saying that is no longer a valid form.
 - 35 2. Someone requested data on PHAs receiving an energy add-
36 on loan—we will get that.
 - 37 3. Mr. Martin asked for some data related to Mississippi—this
38 was provided as a subset of yesterday's data.



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2 **Mr. Russell is now serving as the Designated Federal Officer, and Mr. Kubacki is**
3 **servicing as the HUD representative.**
4
5 Mr. Myers I am wondering if we can add staff transition and training to the
6 operational section.
7
8 Ms. Tran We can certainly bring it up as part of that discussion. Other
9 comments/questions?
10
11 Mr. Lam I don't understand, with respect to a presentation/proposal on
12 utilities, the Harvard Cost Study said it could not arrive at a
13 recommendation for utilities. Is it in our best interest to spend time
14 discussing this subject matter even though the study recommends
15 we do not address it at this time? Then we can focus our efforts on
16 other areas.
17
18 Ms. Tran Mr. Kubacki, could you share a little of what you were planning to
19 present?
20
21 Mr. Kubacki With the current regulation, there is a conflict with general
22 appropriation law with the payment of utility adjustments. We
23 want to look at a proposal that will address that. It is something to
24 change the regulation that will allow us to address the concern of
25 utility adjustments.
26
27 Mr. McInnish I would very much like to have that presentation because it is an
28 issue we have at this moment.
29
30 Ms. Tran Do we have an agreement that we can discuss utilities?
31
32 Mr. Lam As long as it is okay with the committee.
33
34 Mr. Kubacki Let's vote.
35
36 Ms. Tran Raise your hands if you agree
37
38 **The majority of hands are raised.**
39
40 Ms. Tran That is a majority.



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Mr. Jain passed out the Summary of PHA Resident Participation Add-on Expenses – See Appendix 4 – from the March 31, 2004 Session.

Ms. Tran Let’s start on operational environment, we’ve allocated another 10 minutes.

Mr. Myers I just want to be sure, it’s been my experience as you try to acquaint staff with new methods of operations, they must go through a cultural change, computer training, and learn to operate as site based when they are used to depending on the central office. I think we need to address these as we go through. It’s imperative we add some expense for that.

Mr. Epstein Yesterday, a lot of the conversation focused on differences regarding regulations and not so much on the operating environment. These are two slightly different issues. I would like to spend a minute or so on operating environment from the FHA side because it is important for those PHAs that don’t do contract administration, because some requirements by HUD have been delegated to state housing finance agencies or consortiums. The protocols are intensely property based, and this type of environment is advocated in Harvard. It is much different than folks in public housing are used to in terms of operating environment. I will go through a few key areas.

First, every year, every property must submit annual financial statements that are reviewed by REAC. REAC has a risk analysis system and if a property is not performing well, it may go to the Enforcement Center, back to the FO, or be handled by REAC. How it is treated can result in an intensive review of operating expenses. The fact that it is project-based doesn’t just mean everything is okay. On the FHA side there is intensive review, particularly if a development is distressed. On an annual basis this does not happen in public housing.

FHA must also submit annual operating budgets that the contract administrator reviews. The process of reviewing rent increases is an intensive process particularly if it is budget based. The manager must submit a budget for review. There is a tenant meeting, a 30-



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1 day comment period, the management agency has to respond to the
2 contract administrator with a written evaluation of resident
3 comments—it is a gauge of tenant satisfaction on management.
4 This offers the opportunity for intensive review of costs.
5 Sometimes contract administrators review central office costs
6 charged off to a job. Sometimes management agents try to charge
7 things that should come out of the fee off to the job. These items
8 are reviewed and deleted.
9

10 There is an annual property management review. These are real-
11 time site-based reviews. Public housing has to review work order
12 turnaround times and report to HUD. It is self-certification. In
13 FHA, the contractor does a real-time property management review,
14 so they must take a look at the work order log. Many private
15 management agents have the ability to tell the number of work
16 orders and the number of days they took to complete. The review
17 also covers maintenance procedures. In any good system, 40% of
18 work orders are generated by on-site staff not tenant complaints,
19 and managers go out and walk the property so they can look at the
20 costs they are incurring. This is built into the FHA database but
21 does not occur in public housing.
22

23 There are differences in public housing, some may be unique, but
24 there are definite offsets public housing does not have to deal with
25 that are built into Harvard's number.
26

27 Mr. Land First, I want to follow up on what Mr. Myers said. He was talking
28 about training. There is a tremendous turnover in EDs and
29 personnel in PHAs. People may only be there for a couple months.
30 We were seeing a tremendous changeover in staff and asked why.
31 Many said it was because of uncertainty of the future or burnout.
32 A good example is an 83- year-old ED who hung on by her
33 fingernails because she didn't want to lose her insurance. There is
34 a tremendous cost of training new people and we must take that
35 into consideration when determining subsidy.
36

37 Next, in terms of what FHA has to do versus PHAs. Maybe FHA
38 sees public housing as not very intense. But I think public housing
39 has just as intense a problem in answering all rules and regulations.
40 They also report to REAC—they submit year-end financial



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1 statements, which have to be right, or they get kicked back. There
2 are severe time constraints. PHAs are also scored based on
3 management scores, and you must look at work order turnaround.
4 Also, you have to do a budget, whether you turn it in to HUD is
5 immaterial, you still have to do it and get board approval. Rent
6 increases in public housing are not an easy thing. NYCHA wants
7 to do an increase and they have to deal with tenants and politics.
8 They must also send out forms to all residents who grade the PHA.
9 Sometimes this is good, but if it hits an irate tenant who just got
10 evicted, you will get a bad score. People in public housing are
11 concerned because they are always under a time constraint and
12 they are concerned if they receive bad scores because they are
13 criticized by the community, their board, and HUD. We no longer
14 have TARCes, but we still have people who look at troubled PHAs.
15 Public housing is just as intensive as FHA. There is certainly a lot
16 you must do that can make life very difficult.

17
18 Ms. Tran We only have a few minutes left, so I would like to end with Mr.
19 Nolan, Ms. Watson, Mr. Gomez, and Mr. Longo.

20
21 Mr. Nolan In response to Ed, the environmental intensity is highlighted in
22 FHA but dismissed in public housing. This is what public housing
23 asset management does. I require a project-based budget, and I
24 review work orders at the property level. All this is done at a
25 public housing asset management level. Instead of submitting to a
26 contract administrator (we are also a contract administrator for
27 FHA), we do the exact same things in public housing. The
28 difference is how PHAs operate around the country. Some choose
29 to operate as a centralized entity, and it gets dismissed that some
30 people are doing project-based. In terms of layers of complexity,
31 as a PHA we do have to submit to REAC and regulatory bodies,
32 but our submissions are far more complex than FHA. FHA is
33 submitting a one column financial statement in FDS. I, as a PHA,
34 submit a 20 column FDS. It is far more complex, and takes far
35 longer to compile—ROSS grants, Capital Funds—the layers of
36 complexity are far greater for a PHA as an organization. It is more
37 than a simple property operation—it is property management
38 versus asset management. HUD pays for contract administration
39 for FHA, and this cost is not included inside property costs in the



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1 cost study. Contract administration falls outside the Harvard study
2 but inside our operations
3
4 Ms. Watson Mr. Nolan made my points.
5
6 Mr. Gomez We are talking about general corporate overhead. We have
7 converted to project-based, we have converted to private
8 management, we outsourced our programming, yet we still have
9 corporate overhead. I'm trying to understand how else to articulate
10 that point and what sort of support we need. I know how much it
11 costs to run our portfolio, we do zero-based budgeting for our
12 properties. We do what the study recommends, but we still have
13 these costs. HUD is encouraging movement—you will still have
14 overhead costs, and you will also have the costs of transition.
15 Have we implemented that model as efficiently as we can? No.
16 We will continue to do so, but we do have costs that a manager of
17 FHA properties just will not have. We have tried to articulate this,
18 but I am not sure if this argument is resonating at all with HUD. It
19 is not just regulatory, there is also the cost of running an
20 organization that has a specific purpose in the community but we
21 also have the cost of corporate overhead.
22
23 Mr. Longo It's really crucial we get data on the condition of FHA. Speaking
24 for upstate NY, if those processes Mr. Epstein speaks of are in
25 place, there is something wrong. In Syracuse, there is pressure for
26 four FHA properties to shut down because they are a blight in the
27 community. This is quite prevalent in upstate NY.
28
29 Ms. Tran We need to move on.
30
31 Mr. Epstein I just want to clarify. I was not alluding that contract
32 administration cost is included in the FHA database, I was saying
33 as HUD's designee there is a lot of oversight put on an FHA
34 manager and owner to go through property-based reviews. That's
35 why I agreed before, you do deserve an asset management fee
36 because you are set up differently than other PHAs.
37
38 Ms. Tran We are going to move on to resident participation. Please turn to
39 page 40 of the background materials slides. This gets to some of
40 the confusion on add-ons. If you look at the fourth box down on



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1 the left-hand side, there is a list of add-ons currently in the
2 Operating Subsidy formula: [Ms. Tran reads list]. In the left-hand
3 column on Harvard's recommendations, it recommends the
4 following be included in the PEL: [Ms. Tran reads list]. Funding
5 for resident participation has to do with the \$25. The other add-on
6 has to do with PHA expenditures for resident/tenant services
7 activities. That data was handed out and is based on FASS data.
8

9 Mr. Cooper We have noticed, as we see in front of us, that the tenant
10 participation funding is now part of the PEL. I just want to say this
11 is public housing, besides providing safe decent housing for
12 citizens, it has had the mission for the past 30-40 years of probably
13 being the only self-sufficiency, social service support that low-
14 income tenants have available to them. This is not done to the
15 same extent at FHA properties. Many successful citizens,
16 legislators and others have come out of the public housing system.
17 I am afraid if it is not an add-on but rather is included in the
18 benchmark, there may be competition when there is not enough
19 subsidy in place, and they may take those resources. There are
20 two-handouts. I would like to put forth a motion that this not only
21 remain an add-on, but this be the level of funding these programs
22 get. \$127.09 is the average per unit. We understand PHAs often
23 use other resources to pay for services. A study in 1992 by the
24 Distressed Public Housing Commission said we needed tenant
25 services. There is a list that talks about what is needed to provide
26 services for severely distressed, which became HOPE VI. (See
27 [Appendix 5](#)). But I would say supportive services needs have not
28 changed. Those successful in public housing have moved on to be
29 homeowners. I want to put forth a motion that resident
30 participation and tenant services are an add-on and the floor for
31 funding be the numbers we have in front of us.
32

33 Ms. Sledge I second that motion, and I would also like to make some
34 comments. You know as EDs, how important it is to have these
35 types of services on the properties, or else you don't have that team
36 effort. I'm from a city with a high performance PHA—it takes
37 teamwork from residents and education. It is important to educate
38 residents in work orders, getting their GED, just learning how to
39 read. We do a number of things in teaching how to read, how to



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1 make is, I think we get in dangerous territory, and I am not
2 prepared to support the motion on the floor at this point, I think it
3 should be deliberated. We are in dangerous territory when get into
4 a situation that resident participation and others will be subsumed
5 as part of the PEL. That is what you were told by Congress and
6 the Department would happen to the Drug Elimination Program.
7 As far as I know, this administration and the majority in Congress
8 believe security costs and others under PHDEP are in fact funded
9 under the Operating Fund. I think Mike Kelly is a perfect example
10 of the fallacy of that. Many PHAs have been hanging out to dry
11 because they don't have security funding, drug elimination
12 funding. That is what Mr. Byrne and Mr. Epstein are proposing,
13 and I have no doubt that this is what would happen with resident
14 participation. I hope other PHAs will comment.

15
16 Ms. Tran Mr. Kaiser, you are the first person to reach the five-minute time
17 limit.

18
19 Mr. Martin I have a couple questions. In the executive summary on page 4, it
20 indicates that implied in the benchmark is a level of resident
21 services that is normal and customary. Please define normal and
22 customary. As part of the case studies, knowing that these services
23 were not provided in the Chart of Accounts, did the field testers
24 ask the right questions about resident participation? There is a huge
25 assumption that there is a lot of money that PHAs are not tapping
26 into.

27
28 Mr. Kelly Thank you Mr. Kaiser. PHDEP for the District of Columbia
29 allowed us to do significant things in terms of gang remediation.
30 We were able to leverage those funds to do networking and social
31 justice programs. It is imperative to look at how we position
32 ourselves in the future. Looking only at sticks and bricks, this
33 clearly is an important function—there are models in the private
34 sector and we do need to look at reengineering to improve our
35 accountability toward the taxpayer. But we are also looking at a
36 responsibility to our clients. When you try to commingle dollars
37 and the responsibilities of choosing between fixing a broken roof
38 and what it takes for social programming for security, you are
39 taking away part of our core mission. When you look at policy
40 bodies, QHWRA required a resident on board—at DC, we have



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1 three residents on the board. We take this very seriously.
2 Residents are a partner in services and our core function—when
3 we’re not at the property, they are—and they take care of problems
4 like graffiti, etc. They are handling core property management
5 functions, and there is a link between funding and resident support.
6 We fought at the last Neg Reg for \$25, we’re very proud of it and
7 believe we should maintain it. I support this motion but like Mr.
8 Kaiser, I feel it requires further consideration on floors and
9 ceilings. I would ask that there be a caucus.
10
11 Mr. Byrne I would like to make two clarifications. First, “normal and
12 customary” implies that the benchmark model includes what
13 people spend on resident services, we cannot shake it out. Second,
14 in terms of case studies, in Appendix G, you can find what the case
15 study agencies were spending on tenant services. One was an
16 extreme outlier due to a lawsuit and extenuating circumstances.
17 But most said they spend a couple dollars PUM.
18
19 Mr. Parker I appreciate that if we turn to the appendix we see what some
20 PHAs spend. But we were just handed Departments actual data on
21 what is being spent, so while you reference limited data in the
22 study, it is completely overshadowed by this 100% survey
23 provided to us by the Department. Let’s look at what is provided
24 by the Department in addition to the cost study. On p. 53, the
25 debate is framed by the cost study, and has been going for years
26 and decades—are we primarily bricks and mortar or do we have a
27 human services component? If we have a standard, it is only right
28 and proper we be funded to that standard. Otherwise, you are
29 removing the standard and saying we need to be funded on the
30 property level. In FHA they provide customer service, but it is
31 done only because of monetary interest or because the parent
32 organization has a mission and provides additional funding. We
33 don’t have that, either the standard stays and we are funded, or we
34 don’t receive funding and services are cut. There is a difference
35 between providing services because we want to and doing it
36 because of statute or the extreme pressure of being a public entity.
37
38 Mr. Kubacki On the data provided, keep in mind that of 3,200 PHAs, only 2,287
39 are providing services on that line item. That means there are
40 1,000 that are not providing anything on their line items.



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2 Mr. Cooper Do these figures capture HOPE VI also? There are tenant services
3 provide in that.
4
5 Mr. Kubacki It only shows low-rent.
6
7 Mr. Cooper What about Cap-Grant Improvements?
8
9 Mr. Kubacki It is only low-rent.
10
11 Mr. Byrne Page 4 of Appendix G shows the median for the nation is \$8 PUM
12 in tenant services and it's HUD's data. Across the public housing
13 inventory it is \$8 PUM, for those 2/3 that spend anything, the
14 median is \$11.
15
16 Mr. Epstein At Massachusetts Housing, a state housing finance agency, I ran a
17 50,000+ unit portfolio with FHA housing. In FHA housing there
18 was not a line item on the chart of accounts for social services, but
19 services were provided, either out of the management fee or
20 another source, such as the manager or assistant manager having
21 some of these responsibilities. There are many ways to get
22 something done. It is unfair to say the FHA housing stock is only
23 concerned with bricks and mortar. That's absurd.
24
25 Ms. Lott I believe the numbers you provided might be misleading because
26 they don't account for PHAs who use Capital Funds to provide
27 services. And I don't think Dallas or any others should be
28 dismissed because of litigation. There are PHAs with entire
29 divisions centered around services—helping people find jobs, learn
30 to read. Personnel are assigned to do nothing more, and this
31 should not be dismissed.
32
33 Mr. Parker I want to thank Ned for pointing that out. In the FHA world, you
34 are exactly right, services are provided by the property manger,
35 assistant property manager, and others. Guess what, it is exactly
36 that way on our properties too. We have a maintenance guy who
37 works 10-15 hours per day, taking people to the doctor, etc.—the
38 same things as in FHA. But the tenant services line item is in
39 addition to and on top of those things. There should be additional
40 funding because the playing field is not level.



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1
2 Mr. Russell On what basis do you make the statement the numbers on that page
3 are above and beyond what is provided in FHA? Do you have
4 statistical basis?
5
6 Mr. Parker No data, it is based on common sense. Ned said services are being
7 provided in FHA without a line item, and those are also being
8 offered in the public housing environment. Managers and assistant
9 managers are providing those services. But in addition, there are
10 specialized people providing services beyond those that by their
11 very nature are above FHA.
12
13 Ms. Tran The time on resident participation is up. Mr. Kelly asked for a
14 caucus and Mr. Cooper and Ms. Sledge made a motion to keep this
15 outside the PEL.
16
17 Mr. Cooper I'm willing to table the motion until after the caucus.
18
19 Ms. Tran How much time do you need?
20
21 Mr. Cooper 25 minutes.
22
23 Mr. Murray I would like to make some statements when we return.
24
25 Ms. Tran Yes sir.
26
27 **Break called at 10:10 am. The committee reconvened at 10:50 am.**
28
29 Ms. Tran Let's get started. I think the motion before the committee was to
30 vote on whether resident participation and services should be add-
31 on outside the PEL, or inside the PEL, per Harvard's
32 recommendation. Is that correct Mr. Cooper?
33
34 Mr. Cooper There is a 2nd part of the motion. I would like to amend the motion
35 that an add-on to the Study be established for resident participation
36 in an amount to be determined. This amount will not be a set-
37 aside and will be subject to proration. Resident services are very
38 important but as we learned from Mr. Kubacki, we don't have
39 exact numbers. So I suggest dropping the second part of the



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1 motion and I just want the add on, but we would like to talk about
2 resident services later.
3
4 Ms. Tran The motion before the committee is whether resident services
5 remain as an add-on outside the PEL at an amount to be
6 determined. Can we have a vote?
7
8 **18 hands were raised.**
9
10 Ms. Tran We do not have a supermajority.
11
12 Ms. Scudder There was not a second, that's why some people didn't vote.
13
14 Ms. Tran I assumed that Ms. Sledge had seconded the vote.
15
16 Ms. Scudder I didn't hear a second.
17
18 Ms. Tran Let's start over. The motion is to have resident participation and
19 resident services remain as an add on. Ms. Sledge, would you like
20 to second?
21
22 Ms. Sledge I second that motion.
23
24 Ms. Tran The motion is for this to remain as an add-on. [Committee
25 members voted].
26
27 **15 hands were raised.**
28
29 Ms. Tran The motion does not pass; HUD didn't vote.
30
31 Mr. Russell While I don't mind resident participation as an add-on, I am
32 uncomfortable with an undefined number. I am willing to pull \$25
33 out of the PEL and keep it as a separate add on as it is today, but I
34 am not comfortable with an undefined amount of money.
35
36 Mr. Lam I need some clarification. Did the Department state it would take
37 \$25 out of the PEL and insert it as an add-on?
38
39 Mr. Kubacki Correct.
40



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1 Ms. Sledge I would like to make a motion to amend the motion on the floor to
2 add in the \$25 for resident participation.
3
4 Mr. Cooper Second.
5
6 Ms. Lott Can we have discussion first?
7
8 Ms. Tran Yes.
9
10 Ms. Lott Are we to understand you will reduce the PEL by \$25 and then
11 keep it as an add-on.
12
13 Mr. Russell Yes.
14
15 Mr. Land We need clarification. Are we saying leave \$25 as an add-on as it
16 is now?
17
18 **Chorus of No's.**
19
20 Mr. Land How does this affect the PEL? How does it affect the AEL to date
21 versus projected?
22
23 Mr. Anderson You're not making the pot bigger, just shuffling things around.
24
25 Mr. Russell We'll put together a methodology to explain what we're proposing,
26 but we need a few minutes to put it together.
27
28 Mr. Cooper I hope the understanding is that the original motion was the \$25
29 dollars per unit is an add-on to the existing AEL. I wanted that to
30 exist even though it was prorated. We are not spending anything
31 more, we are doing what already exists.
32
33 Mr. Morton If we go down that route, we may want to look at the flexibility
34 with what we can do with the money. Some resident groups would
35 like more flexibility to use the funds not just for pure tenant
36 participation but also for other things that can benefit residents.
37
38 Ms. Sledge I agree with that statement. I want to ask HUD a question; why
39 would you cut the money?
40



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1 Ms. Tran I think that Mr. Russell is saying that we are waiting for a couple
2 of presentations.
3
4 Mr. Russell We will show you how we will arrive at the \$25 resident
5 participation add-on.
6
7 Ms. Tran Should we continue, or break for lunch?
8
9 Mr. Longo I'd like to see the presentation because one third of us [PHAs],
10 under the Harvard Cost Study, are losing in AEL, and then you're
11 talking about taking an additional \$25 out. We lost 32%. Having
12 Rome burn while we're spending money over here on tenant
13 education does not seem like the way to go.
14
15 Ms. Tran We are passing out some handouts. [Summary of add-on expenses
16 is passed out to all the committee members]. ([See Appendix 3](#)).
17 Next we are passing out the distribution by size and region ([See](#)
18 [Appendix 4](#)). This is still open for discussion.
19
20 Mr. Land I want to agree with Mr. Morton - \$25 for tenant participation is
21 very restrictive in use. I understand what it is used for, but in small
22 and medium PHAs it is difficult to use it within the regulations. I
23 recommend loosening up what the funds can be used for. Most
24 PHAs also budget money for tenant services. Actually, there are
25 two pots of money available for tenant use. Some PHAs do an
26 extremely good job with tenant services, others do not. In smaller
27 PHAs some tenants do not want to participate. They want to live
28 there and be left alone and not participate in tenant meetings. We
29 would like more freedom on what these funds can be used for. I
30 think it should be left to the control of local management.
31
32 Mr. Lam I agree with Mr. Land that we would like more flexibility.
33
34 Mr. Russell I confess I am not an expert on the restrictions of use, but if you
35 would like to suggest or draft a proposal for what these funds could
36 be used for or restricted to, I'd be happy to look at it.
37
38 Mr. Morton I'm delighted that's the case because it was so narrow. I was in the
39 group that created this provision in the formula, and my folks
40 would jump at the chance to have flexibility, and not just to use the



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1 funds for organization or training. This would clearly be in the
2 interest of the residents, PHAs, and HUD.
3
4 Ms. Siska I'm looking at add-on document - Appendix 3, Summary of add-on
5 expenses by PHA size and geographic region. This shows that
6 only 2,287 agencies are spending money on tenant services. We
7 know that all agencies spend money on that. How many of these
8 are Section 8 only? How much of the Capital Fund is spent? What
9 is spent outside of Operating Subsidy, so we can get a better idea.
10
11 Mr. Kubacki The CD you'll be receiving this afternoon will have the expenses
12 broken down by PHA, however it does not include Capital Fund or
13 Section 8 data, but we can probably have it prepared by the middle
14 of next week. We'll look at the Capital Fund and ROSS. Section
15 8 will not be included since we are only looking at low-rent units.
16
17 Mr. Russell For the benefit of the committee, I want to read the current
18 language [out of the Statutes, Regulations, and Forms binder].
19 Reading from Tab 3, "each PHA shall include an eligibility
20 calculation of \$25 per unit per year for activities included but not
21 limited to those described in Part 964 of this title." It sounds like
22 some may be interpreting that it is limited to 964 uses, but it
23 doesn't sound like it is limited.
24
25 Ms. Basgal The Notice is very different. HUD's interpretation has been very
26 different.
27
28 Mr. Russell **Headline: HUD has a narrow interpretation of the Regulation.**
29
30 Mr. Cooper Just to follow-up. Dave Morton is referring to PIH 2003-1. I kind
31 of know it by heart. That would have been Assistant Secretary
32 Lucas's interpretation.
33
34 Mr. Parker Ms. Siska, one of the things on the list you gave is, how many
35 PHAs with no tenant service line items are very small PHAs.
36 These could be PHAs that have an ED and a maintenance person
37 and that is why there is nothing specifically in the line item, not
38 that the services are not being provided. It would be interesting to
39 see the size of the PHAs that did not report anything.
40



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- 1 Mr. Land Even with small PHAs, that is PHAs with 10 to 1,200 units, many
2 PHAs do not have a line item as such, but it doesn't mean they're
3 not spending their \$25. There are two pots of money. I have
4 clients that do not have a line item in their operating budget
5 specific to tenant services, it's just not under a particular line item,
6 but they still offer tenant services.
7
- 8 Mr. Byrne For practicality reasons, whatever the amendment is that is voted
9 on, I'd exempt small PHAs from the requirement altogether.
10
- 11 Mr. Cooper One clarification, I was referring to Notice 2001-3.
12
- 13 Ms. Scudder I am from a small community. Coming from a small PHA we do
14 provide tenant services and resident services because the
15 community does not provide those services. It is a line item in our
16 budget and it is a large amount. We have to provide these services.
17
- 18 Mr. Kubacki In Tab 7 of the Regulation/Statute book is the HUD-52723 form.
19 Page 2 of the form, lines 9-13, are basically how we calculate
20 resident participation today. What HUD is recommending is to
21 leave this as it is, and then to reduce the PEL accordingly. We
22 would take line 13 (the funding for resident participation) and we
23 would do an adjustment to Part A. Take that number, divide by
24 UMAs, and subtract from PEL. It becomes a wash in the end.
25
- 26 Mr. Byrne If it becomes a wash anyway, couldn't you just instruct people to
27 spend \$2.50 PUM on resident services without having to add and
28 subtract?
29
- 30 Mr. Kubacki From a HUD position, that would be easier, but we understand
31 from a resident position that they want to keep it on the form.
32
- 33 Mr. Kaiser One of the benefits of the current formula is that with proration,
34 resident services are included. In Mr. Byrne's scenario that would
35 not be subject to proration, which is a concern considering HUD's
36 budget requests.
37
- 38 Mr. Byrne It could be addressed in the same way, just say that it is subject to
39 proration.
40



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- 1 Mr. Cooper I'm finding it difficult to understand what went on. I thought it
2 would be simple to treat it as it was treated in the interim rule.
3
- 4 Ms. Tran Mr. Kubacki's suggestion was to treat it the same way with the
5 appropriate reduction to the PEL.
6
- 7 Mr. Kubacki That is the basic idea, with an appropriate reduction to the PEL.
8
- 9 Ms. Zaterman So the recommendation is an addition and subtraction, so in effect
10 it is not an add-on at all. You would take the PEL and it would not
11 result in more funding for resident participation. So, when you add
12 and subtract, you end up with zero.
13
- 14 Mr. Kubacki Correct, it is a zero sum game.
15
- 16 Ms. Zaterman Is this HUD's position on all add-ons? Will they be subtracted
17 from the PEL?
18
- 19 Mr. Kubacki I think we have to take them one at a time.
20
- 21 Mr. Nolan When the suggestion was made that it be prorated like everything
22 else in the calculation, are you changing the requirement that \$25
23 dollars must be used, or do you only have to use \$25 subsequent to
24 proration?
25
- 26 Mr. Morton It has always been prorated – from day one. It was clear and the
27 residents bought into that.
28
- 29 Mr. McInnish I have a question. We have a session in our agenda about
30 regulations. If we are tied with how we can spend the money,
31 that's one thing. If it will be freed up, that is another thing. I
32 talked to Mr. Byrne yesterday on Harvard's recommendation, is it
33 HUD's position that these will be changed to allow us flexibility to
34 run an agency within the money given and not have an extra
35 regulatory burden? I see we need to discuss both at the same time.
36 Will there be changes made to implement other parts of the study?
37
- 38 **Mr. Tamburrino is now serving for Mr. Russell as the HUD representative.**
39



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- 1 Mr. Parker I would like to call on the individuals that were part of the original
2 Negotiated Rulemaking sessions to clarify HUD’s proposal.
3 Under the current rule, \$25 is in addition to the base AEL and is
4 subject to proration. The intent was to bring dollars to bear on
5 statutory obligations, which had not been funded. What is
6 currently proposed is that we will no longer provide additional
7 dollars to meet this statutory obligation, but rather we will subtract
8 it from the AEL. This is a net loss to everyone’s operating budget
9 of \$25 per unit per year. I’m frankly surprised and somewhat
10 shocked that federal government would want to go backward on
11 this issue and take money off the table. Have I misstated what
12 occurred in the first Negotiated Rulemaking?
13
- 14 Mr. Kaiser Being the good lawyer, I know that Mr. McInnish knows the
15 answer to the questions he posed, but I would still like to take a
16 stab at it. There are a number of regulations cited as having costs,
17 and virtually all of them have a statutory basis. While this or
18 future administrations may want to change them, it takes a
19 considerable amount of time to get regulations changed. I would
20 point out that we still have regulations not promulgated pursuant to
21 QHWRA that was passed six years ago. Even if you buy into
22 Harvard’s utopian supposition that changes to regulations will go
23 forward, we must live within the confines of the existing
24 regulatory situation, and those have real costs. If the Federal
25 Government, through statute or regulation imposes requirements,
26 they need to pony-up and pay for them.
27
- 28 Ms. Tran Let’s get though this topic and break for lunch.
29
- 30 Mr. Morton This is an issue that I have particular claim to, since I was the
31 holdout in the other group. I was only willing to agree to it, if
32 HUD put additional money on the table. The reality is that there is
33 only so much money out there for our programs. As time has gone
34 on we are in a situation where there is only so much money and
35 that’s why we should broaden this so they can do other services. I
36 would hate to see the residents lose ground. I would love to say,
37 let’s get additional appropriations, but if we can’t this is still the
38 right thing to do.
39



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1 Ms. Siska Mr. Parker you are right. You were at the last Neg Reg. When
2 does an add-on cease to be an add-on? When HUD gets a hold of
3 it Neg Reg. Mr. Kubacki said this is a zero sum game, which
4 doesn't get us anywhere. These are statutory requirements and it
5 is only right that they get funding. Also, people are talking about
6 resident participation and resident services, we must be clear that
7 those are two separate concerns. We must talk about what is on
8 the table now, which is \$25 resident participation.
9

10 Mr. Lam Mr. Kubacki, when you stated your earlier proposal to take \$25 out
11 of the PEL, were you envisioning that it would come off Line A1?
12

13 Mr. Kubacki I don't think that this will be the same form when we are done with
14 the new formula, but yes, the PEL will be reduced by the resident
15 participation amount.
16

17 Mr. Lam I want to make one point for the other PHAs. If it is taken out of
18 the PEL and added to Part D it is a net loss because you will lose
19 the annual inflation factor.
20

21 Ms. Sledge I'm insulted because I'm the only resident here and I think I'm
22 hearing you don't want to make it an add-on and you don't want
23 flexibility and you want to subtract it from the PEL. Who are you
24 going to serve? How are you going to go back and say there are no
25 more resident services? I respect the Harvard Study but no one
26 from Harvard has lived in public housing.
27

28 Mr. Kaiser I didn't do well in math but we do have a situation where my
29 understanding is that we have a net loss. I have talked with lots of
30 public housing professionals, let's take NYCHA as an example.
31 Last week they laid off 300 people and are planning to lay off
32 1,000 more over the next few years. That situation is going on all
33 over the U.S. PHAs are laying off staff and that has a real human
34 cost attached to it. It affects the services and the standard of living
35 for residents in public housing properties. What HUD has
36 proposed is that we have a scenario where PHAs cannot provide
37 basic resident services that they are supposed to be providing under
38 the U.S. Housing Act of 1937 - that is decent, safe, and sanitary
39 housing. And then we are proposing all sorts of draconian cuts. I



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1 don't see how we can support HUD's proposal when we can't even
2 provide the basic services.
3
4 Ms. Tran Let's break for lunch. We will now hand out the meeting minutes
5 from yesterday. [Meeting Minutes from March 30, 2004 session
6 were distributed to all the committee members. Also property
7 passes were handed out for those persons that brought in laptops].
8
9 **Break at 11:40 am. The committee reconvened at 1:05 pm.**
10
11
12 Ms. Tran How many members are leaving early?
13
14 **Four hands were raised.**
15
16 Ms. Tran Here's what's left. We could spend 15 minutes on resident
17 participation, then have a short presentation on utility expenses,
18 and finish with operational environment and information
19 technology. We also need public comments and the agenda for the
20 next session of Neg Reg.
21
22 Ms. Zaterman We were not idle during lunch. We would like to make an
23 announcement to the facilitator and HUD. We sat with Greg
24 Byrne and the cost study folks during lunch. We are ready to make
25 a proposal. I will hand this over to Greg and he'll elaborate.
26
27 Mr. Byrne We've made some concessions, we'll hand them out to Mr.
28 Kubacki.
29
30 Mr. Kubacki [Mr. Byrne hands Mr. Kubacki a piece of paper. Mr. Kubacki
31 reads the piece of paper]. April Fool's.
32
33 Ms. Tran As we start again, I think it might be helpful if we put something
34 on the table to clarify. With respect to resident participation taken
35 out of PEL and treated as an add-on, what are the options
36 available? Mr. Kubacki?
37
38 Mr. Kubacki We are trying to get clarification on this issue. Currently the
39 formula gets its number from the AEL and there is an add-on for
40 resident participation. Take \$125 total subsidy as an example and



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1 then apply a proration of 97%, the PHA gets \$121, and of this
2 amount, the residents get \$24. Harvard doesn't fund this as a
3 separate add-on. It has an AEL/PEL of \$125 and no add-on for
4 resident participation. HUD comes back and makes \$25 a separate
5 add on, but reduces PEL accordingly from \$125 to \$100. With
6 proration, it would still be \$121 and \$24. The industry is
7 proposing PEL remain \$125, with an add-on for resident
8 participation of \$25, and with proration subsidy is \$145. What we
9 are debating is, is that \$25 already in PEL?
10
11 Mr. Ramirez The industry is not proposing that we want \$125 AEL. What we
12 are saying is that the \$25 add-on needs to be separate, whatever the
13 AEL is. We're not talking about the \$125 AEL and we have to get
14 to it later.
15
16 Mr. Kubacki Correct, we put the \$125 amount just as a reference point.
17
18 Mr. Gomez We need to put the numbers in perspective. AEL is calculated per
19 unit month available and resident participation is \$25 annually per
20 unit as a lump sum. So we are talking about an additional \$2.50 per
21 month.
22
23 Mr. Parker The numbers are in some ways unimportant. What is important is
24 that somehow resident participation dollars were not part of the
25 Harvard Cost study Model. The goal of resident participation was
26 to fund 24 CFR Part 964. Unless you can say that 964 also applies
27 to FHA, I don't know how you can say resident participation is
28 rolled into the Harvard Cost Model.
29
30 Ms. Tran Just to clarify, there are differences between resident services and
31 resident participation.
32
33 Mr. Parker Correct, I'm talking about resident participation.
34
35 Mr. Lam Against which base would the inflation factor be applied, in final
36 determination of what the AEL would be?
37
38 Mr. Kubacki The question is, what is the final formula? How is the Harvard
39 study implemented? We are assuming, and I think correctly so, that



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1 we will have some inflation to the AEL, but without seeing a final
2 formula, we can't answer that question.
3
4 Mr. Lam In terms of having a clear understanding of what is being proposed,
5 I think it would help to know what the inflation factor is and if it is
6 applied just to the base AEL or to the AEL plus resident
7 participation. Also, currently, we only have existing PFS forms,
8 and that is the lens through which I am looking at this. Another
9 concern is the "Part A" portion of the form, where the base AEL is
10 stated and then inflated. The whole first page is multiplied by unit
11 months available (UMA) which arrives at the subsidy request.
12 Page 2 section D, the multiplication factor is the number of
13 occupied units. There is an even greater distinction in terms of
14 what you're proposing and it could mean a greater net loss. I just
15 wanted to express to you and to other PHAs, it really depends on
16 how we treat the AEL to figure out total subsidy in the end.
17
18 Mr. Epstein I'm about to sound like a broken record. In terms of Section 964,
19 I'm not sure what it involves, but on the FHA side, there are
20 requirements for resident participation for modernization and rent
21 increases. For state-agency FHA bond-financed properties,
22 resident participation is required in various activities.
23
24 Mr. Parker It's significantly different. We will send you a copy of this.
25
26 Mr. Epstein I just wanted to point out significant requirements for resident
27 participation.
28
29 Mr. Kelly If the Harvard position is that resident participation should not be
30 considered as part of the AEL then we are talking about an add-on,
31 not an add and subtract. I think HUD needs to recognize and
32 account for this since it is an important part of our business.
33
34 Ms. Sledge I would like the committee and HUD just to consider the add-on as
35 a separate entity at \$25. I know you said \$24, but if we could just
36 have that dollar, it would help so much. If we could think about
37 negotiating that right now.
38
39 Mr. Kubacki I just want to clarify. Are you saying that resident participation
40 would not be subject to proration?



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1
2 Ms. Sledge Yes.
3
4 Mr. Ramirez We're moving into the energy discussion, correct? I would like to
5 spend a few minutes, and have the committee chime in as they
6 please, on recognizing that we started this discussion by getting a
7 perspective of the Harvard Cost Study, and HUD's
8 acknowledgement that they want to adhere to the study. The
9 industry has deconstructed the formula itself, and there are items of
10 contention we would like to bring to the table for discussion and
11 action. We started with the minor issue of resident participation
12 cost of \$24-\$25, and it was vetoed. Moving on, as part of the
13 discussion of how add-ons should be dealt with, it would be
14 helpful to get a sense of the Department's position. It would also
15 be helpful if you have any working documents or papers developed
16 on a proposed formula and its distribution—your starting point and
17 what it looks like. If we can't get past minor items without getting
18 vetoed, others are not going to get through. Have you already
19 worked on a proposed rule, if so, can you share it with the industry
20 so we can work off of what direction the Department wants to go
21 with.
22
23 Ms. Tran Mr. Nolan, while we're waiting.
24
25 Mr. Ramirez I'd like an answer before we move on.
26
27 Mr. Tamburrino I'm the Director of the Public Housing Office in Baltimore. I have
28 no authority in the Operating Fund, however, I was asked by Mr.
29 Russell in January 2003 to serve as the chair of the Operating Fund
30 Task Force, and this was in the midst of the \$250 million crisis, so
31 I have some familiarity. In answer to your question, we do not
32 have a proposed rule that we can share with you. We did prepare a
33 variety of position papers for the Assistant Secretary in preparation
34 for these negotiations, but we are not privileged to share those with
35 you at this time.
36
37 Mr. Ramirez Thank you for the clarification. But we believe that we will have
38 difficulty advancing our concerns because other positions are much
39 broader and more impacting. It will be helpful for this committee
40 to get a sense of where the Department is on the formula and get a



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1 sense of the parameters. I am not sure what is confidential since
2 we are all moving toward same end. It would help us move
3 expeditiously and move on items not under threat of veto.
4
5 Mr. Tamburrino I understand and appreciate what was just expressed. I can share
6 those thoughts with Mr. Russell and Mr. Liu, but I cannot answer
7 at this time.
8
9 Mr. Ramirez You said you don't have proposed rule you can share with us, but
10 do you have a proposed rule?
11
12 Mr. Tamburrino There have been some thoughts about it, but there is no proposed
13 rule.
14
15 Mr. Nolan Perhaps we can look at the scenario from earlier where add-ons
16 were not included in a model, but were included in the scenario. If
17 we can get a sense and feel for those outside the cost model. Can
18 we suppose HUD is agreeable we would keep those add ons?
19
20 Ms. Tran Is this scenario one or two?
21
22 Mr. Nolan One.
23
24 Mr. Tamburrino Steve, may I ask you to please repeat the question.
25
26 Mr. Nolan Can we progress forward to discuss other add-ons? As a point of
27 moving forward, can we get an answer from HUD for add-ons
28 outside the benchmark – is HUD willing to retain these numbers,
29 as shown in scenario one?
30
31 Mr. Tamburrino We have two responses. One, HUD has an interest in reclassifying
32 one add-on that is inside the PEL to continue to be an add-on
33 outside the PEL – audit costs. Our preference is to retain it as an
34 add-on. The second part is (actually we have three parts now).
35 My second response is that we expect to retain outside PEL:
36 Family Self-Sufficiency (FSS), the energy-add on, and payment in
37 lieu of taxes (PILOT). My third response is that we would like to
38 have a conversation about other add-ons outside the PEL like long-
39 term vacant units, phase down for demolitions, and deprogrammed
40 units.



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1
2 Looking at page 40 of the background materials. We would like to
3 keep audits outside the PEL—retain it as an add-on. We would
4 also like to retain as add-ons FSS, energy add-on, and PILOT. We
5 would like to discuss long-term vacant units, phase down for
6 demolitions, and long-term vacant units.
7
8 Mr. Longo We've been meeting for a few days and got a lot done, but we
9 would like feedback from HUD about the fact that fully 1/3 of
10 PHAs lose under the Harvard study. Niagara Falls loses 40%,
11 Albany 32%. Any thoughts on how this will be handled?
12
13 Mr. Tamburrino We expect to discuss this during the transition policy discussion
14 that is scheduled for the beginning of the second week. It is not
15 our intention to implement Harvard the very next day after
16 negotiations, but to discuss it here.
17
18 Mr. Longo Have you thought about a cap on loss?
19
20 Mr. Tamburrino It could be part of the conversation on transitions.
21
22 Ms. Lott I may be a little confused, but I thought part of what we are doing
23 is looking at the Harvard Model and giving feedback based on the
24 model. If you have looked at the model and you have working
25 documents, I feel we have approached this wrong, and I feel like
26 we are treading water. I would like to suggest instead of looking at
27 model, that we should look at what HUD has been working on and
28 give you feedback on that. I know you said you don't have
29 authority, but I would like to know if we could have those
30 documents. Can we get those today so we can have a more
31 meaningful discussion in April?
32
33 Mr. Tamburrino We were charged with preparing the Deputy Assistant Secretary
34 (DAS) and the Assistant Secretary, and those documents are in
35 their possession.
36
37 Ms. Lott You haven't answered my question. Can we have those
38 documents and give you feedback on those, instead of continuing
39 to look at the Study? That way we can have some insight.
40



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- 1 Mr. Tamburrino My answer right now is I don't know. If we can talk to Mr.
2 Russell and Mr. Liu, we may be able to get this answered.
3
- 4 Ms. Zaterman This discussion of add-ons is the first time in 2 ½ days that we've
5 had substantive feedback from HUD on issues. I understand Mr.
6 Tamburrino is in a difficult position. My first question is where
7 are Mr. Liu and Mr. Russell if they are the authorized negotiating
8 parties. We would like them to be here. I don't see the purpose of
9 us continuing if we don't have substantive information from HUD
10 on our direction. Without the authorized negotiating parties, why
11 proceed? I would be happy to address some of the things you put
12 forward, why we need unit reconfigurations. We are in a blind
13 alley and no way out. I'm sorry to put this on yours and Mr.
14 Kubacki's shoulders, but we are at an impasse without the
15 negotiating parties present.
16
- 17 Mr. Kaiser I wanted to echo the comments that Mr. Ramirez started, but think
18 Ms. Lott and Ms. Zaterman said it better. I want to thank Mr.
19 Tamburrino. I feel we got more information in the last 20 minutes
20 than over the last 2 ½ days. I know you may not meet with Mr.
21 Liu today, but in the next few days, I would urge Mr. Tamburrino
22 to ask him what you might be at liberty to share. Once you have
23 that clearance, the Washington organizations are all here and we
24 would appreciate the opportunity to meet with you next week and
25 prepare the groundwork for the next session of meetings. Do you
26 think that is possible?
27
- 28 Mr. Tamburrino I do not have enough information to answer.
29
- 30 Mr. Kaiser I would urge you to do so and contact the industry. Time is of the
31 essence and Congressional expectations are high which is why
32 language in the Appropriations Act called for HUD to be back at
33 the table and the rule to be promulgated expeditiously. It would
34 help to facilitate quicker action if we had clear Department
35 positions on the table. I have another point on a matter of serious
36 disagreement between the Department, OMB and many in the
37 industry. The Harvard Cost Study was commissioned by
38 Congress. \$4 million ultimately was spent. The whole rationale
39 was to answer the question of what it costs to operate well-run
40 public housing. That question, it seems to me, is being ignored



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1 during the course of deliberations. And it is being ignored by
2 HUD and OMB who told me and others that the simple task of this
3 committee is to distribute the little inadequate pot of money that is
4 available. We don't see it that way. We say the study as mandated
5 by Congress was to answer the question of what does it cost. And
6 if we don't have a system that comes out of these meetings that
7 roles up a national estimate, then we are not being responsive to
8 Congress and not answering the question they spent \$4 million on.
9 It was reflected in HUD's discussion of the resident piece that they
10 believe the task is to distribute a limited sum. But we are also here
11 to answer Congress's question.
12
13 Ms. Tran If it's okay, several members wanted to be present for the utilities
14 discussion and soon have to leave. Is it okay to move on?
15
16 Ms. Zaterman We are left dangling. I know Mr. Kubacki and Mr. Tamburrino
17 are in a difficult position. But before we leave, I would like to
18 know HUD's position on the study and proposals.
19
20 Mr. Kubacki I have two comments. One, this is a two-way street. I would like
21 the industry to turn over their papers and starting positions.
22
23 Ms. Zaterman We've done that. The only document by the industry was simply a
24 response presented to you by Mr. White. After that and
25 deconstructing what Mr. Byrne put together with the Harvard
26 study, we are advancing our proposals. Our first item was the
27 resident participation piece, which got vetoed. We have bigger
28 pieces we would like to advance in the same manner, but feel it
29 would be an exercise in futility and precious time would be
30 consumed and we would get through the time left with nothing
31 done. We have put this before you, now we are asking for what
32 you've done. As we advance what we believe needs to be
33 advanced, it is not getting done.
34
35 Mr. Kubacki To follow-up, the study addressed two items – the appropriate
36 level of funding is all we have discussed. We started by saying we
37 support Harvard. We said we liked the Harvard Study, and with
38 that is an increase of \$250 million. I asked what does HUD get for
39 this extra money. When I asked a simple question the first day, do
40 we move toward project-based accounting, I only got 18 hands.



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1 indicated that there were working papers and position papers. I
2 was unclear if there was a draft rule, but he indicated he was not at
3 liberty to share papers. Two questions. One, are there position
4 papers HUD can share that would help meet the timetable? Two,
5 is there a draft proposed rule you can share to expedite
6 proceeding?
7

8 Mr. Russell The short answer is no, I don't have a draft rule I can share with
9 the committee because we never got so far as having anything I or
10 Mr. Liu approved of. I am not going to bring something drafted by
11 my staff but not approved by me, the Assistant Secretary, or the
12 Secretary. It is not available for distribution and not appropriate
13 for distribution. And quite frankly, when we saw in the Senate rule
14 that we had to do Neg Reg, I have a lot on my plate, half of HUD's
15 budget is in my office, I saw no need to have more discussion on a
16 rule that we would have to negotiated in here. It quickly dropped
17 off the table.
18

19 Mr. Kaiser I think if you have work papers, Mr. Kubacki said we hadn't
20 shared our viewpoints but we have, can you share those? We will
21 not be able to meet the strict timeline unless the Department comes
22 forward.
23

24 Mr. Russell I think we've been, may be not crystal clear, but I think you have
25 stated comments, I don't know what Chris was saying, I can't
26 speak for him, but maybe he was saying, do you have a
27 quantifiable proposal? Congress paid for the study, we got the
28 study, but it is not a be-all end-all mechanism for public housing.
29 We don't see it being a permanent formula. We do see this as a
30 way of going towards asset-based accounting and management. If
31 we want to stick our heads in the sand, go ahead. Dan Anderson
32 can tell you the writing is on the wall – on Wall Street, the
33 Millennial Housing Commission, the Urban Institute – people are
34 saying it has to go in that direction. We aren't going to figure out
35 exactly how it is going to happen during these meetings. We want
36 to figure out transition issues and appeal issues to implement
37 Harvard. We are cognizant that Harvard has a net increase price
38 tag and we are fairly comfortable with what that price tag is. I am
39 not saying I am committed to going much above that, but I am not
40 saying I won't. Lots of people asked for more money. We can



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1 hang on as many amendments as we want, but I'm not going to ask
2 for 20 add-ons I know I can't support at the end of the day. I
3 won't vote for a rule that I know OMB and Congress can't fund.
4 We already have a net increase, and let's work through that. If
5 changes need to be made to the model, it needs to be relatively
6 budget neutral. That's where we're coming from. I don't know if
7 I can be any more specific than that. I'm not going to vote one at a
8 time on 20 items that increase the cost of Harvard and then be able
9 to say we are going to request \$350 million more. With the
10 Section 8 budget pressures on HUD, that is not in the realm of
11 possibilities.
12

13 Mr. Ramirez Thank you for the clarity on the Department's thinking.
14 Recognizing this is a transition, an interim step, wouldn't it be
15 prudent to also not bury our heads in sand and recognize that in
16 spite of budget shortfalls, there are certain categories of expenses
17 the industry feels were not captured under the model and should be
18 incorporated. It is not the dollars, although that is very important,
19 it's how they're distributed once they go into the formula. Maybe
20 today, and rightly so, budget restraints are such that the budget
21 isn't there, but there may be a more generous Congress in the
22 future and we need a competent distribution model. Can we talk
23 about that?
24

25 Mr. Russell You're right, there may be governments and Congress's in the
26 future who are operating in different budget environments. You
27 have a formula that cuts up the pie, cuts up the baby. If I have \$3
28 or 4 or 5 billion, I need a formula that will tell me how much to
29 distribute Reno, to NY. The formula is a distribution tool and a
30 budgeting tool. There is nothing to stop Congress from funding at
31 105%. PHAs can go to Congress and say this is not enough for my
32 IT. I have project-based numbers, this is what I'm spending. I
33 have actual numbers and this is what I need.
34

35 Mr. Ramirez I don't want to lock in on IT. I am saying that whatever the item
36 may be, it is really two separate discussions. One is truncated, the
37 money. But how do we distribute it? How does it get budgeted?
38 We need to know how to make the transition to Harvard.
39



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- 1 Ms. Lott Let me also echo my thanks for clarity. We certainly think it is
2 important at this time to have direction from HUD as to how we
3 can help as HUD moves forward to implement the Harvard model.
4 I did hear you say need help on transition costs. Any specific
5 feedback would be helpful. Apparently we gave you the
6 impression that we object to a move toward project-based
7 accounting. I regret if we gave you that impression, as we do
8 mixed finance and they are demanding we do project-based
9 accounting, and I think it is imperative. We asked if we could
10 have some of working documents to know how you are moving. I
11 don't know why there is resistance. It would be more useful to not
12 discuss the entire study, but rather know specific instruction. Mr.
13 Tamburrino was not in position where he could answer. Would
14 you consider this, so next time we come we won't waste three
15 days?
16
- 17 Mr. Russell I will definitely consider that. I will tell you that there really isn't
18 a nice neat document I could Xerox and hand out that has a
19 helpful, concise position that the Assistant Secretary and I have
20 discussed and come to agreement on. We've had discussions, they
21 are not written in "abc" format, but that doesn't mean we can't
22 craft something.
23
- 24 Mr. Anderson I share some of the group's frustration with this three-wheels-in-a-
25 ditch approach that has been going on for the last three days.
26 Frankly, the path out is paying due attention to political and budget
27 realities. Focus on the following. Strongly counsel you to look at
28 the formula—what's in and what's out—and strive for resource
29 fungibility. The more you slice and dice, the more difficult the
30 managerial and stewardship tasks you will face. These will be
31 even more difficult when it is likely you will be underfunded.
32 Also, strikingly absent in these discussions is regulatory relief.
33 Relief delivered with a new rule is your survival point. If you
34 don't focus on this, life will be much more difficult. Third is
35 commitment to specific deliverables and change. You may pick at
36 the formula for each agency, but there is a lot of thoughtful and
37 good stuff in the study beyond the formula that you should pick up
38 and make part of this discussion. It is this strategy that will allow
39 you to broaden your stakeholder base, which is quite frankly how
40 you get your appropriations up.



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1
2 Ms. Zaterman We have a lot to do in a short period. I think what is important is
3 that this is a mandate from Congress. We spent a lot of time on the
4 Hill asking for this study. Mr. Byrne has said Harvard used a
5 proxy for what it costs and established a benchmark. They
6 delivered a number. We have problems because a significant
7 number of PHAs lose 30-40% of their operating subsidy, but I
8 don't need to speak up for those articulate EDs. Bill, I appreciate
9 you being a good public servant, but I don't think we should
10 approach this with concern about a number. It is important for
11 operators and managers of public housing to weigh in. It is not just
12 a distribution formula. This is what we need to operate each
13 property. We can argue over the right number, but we need to
14 deliberate a number. I want to echo Mr. Anderson on regulatory
15 relief. We have a mismatch between regulatory oversight and
16 asset management oversight. Part of task should be that. I hope
17 we have strong advocates on the Hill that realize how difficult a
18 situation they have created. What does it cost to operate the
19 portfolio and what level of service? And how we transition to
20 something else. At least speaking for CLPHA, we are committed
21 to project-based and asset-based to be cost effective and serve low-
22 income customers. That is the purpose of asset-based, to deliver
23 the highest quality we can. But we need adequate funding. Part of
24 the commitment on asset-based is that we need adequate funding.
25 If you want us to do it, deliver 100% of funding.
26
27 Mr. Ramirez NAHRO's position is the same, we are not opposed to asset-based.
28 We do have reservations about the impact of a shift on small and
29 very small PHAs. I appreciate the comment that we need some
30 sort of appeal process. We have no opposition of moving toward
31 project-based.
32
33 Mr. Longo There are 1/3 of us under the Harvard study who would lose,
34 particularly in the Northeast. Niagara loses 40%, Albany 32%. I
35 need to know if something will be done for us "losers". I want to
36 see if something can be done for us and that it wouldn't come off
37 the backs of those who had been underfunded for a long time.
38
39 Mr. Russell The obvious problem that poses is cost. With a \$230 million price
40 tag already from the model, I think a hold harmless is probably out



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1 of the question from our standpoint. While anyone losing subsidy
2 is not necessarily what we want to see, it is a matter of Albany
3 having received more than its fair share over the years and Puerto
4 Rico received less, and we need to figure out how to redistribute.
5 Is it a bolt of lightning that you are where you should be and
6 Puerto Rico is where they should be? I don't know, this is what
7 we need to discuss. To hold all of the losers harmless and give
8 everyone else increases is not affordable given the \$230 million
9 price tag. As Sunia stated, some members lose money, but a lot of
10 members also gain money. No one seems to be talking about that.
11 Holding people harmless, its awkward because if the study says
12 data in the model supports a lower PEL, just like data supports an
13 increased PEL, how do we divert from a policy standpoint? One
14 can't be wrong and the other be right.

15
16 Mr. Longo We are doing project-based budgeting and we have real data to
17 show where the money is going, that data is being audited and the
18 money is not being wasted. If we have an open mind for some
19 new money, that would be desirable.

20
21 Mr. Russell What I do have an open mind about is the appeals process. People
22 have suggested different ways to do this. In year one or two, I
23 don't think HUD has the horses to qualitatively deal properly with
24 a large volume of appeals, but I have heard some creative ways to
25 process appeals, and I will definitely have an open mind. As Mr.
26 Liu has mentioned, whether a year or four years, when we are at
27 asset based accounting and management for a PHA, and there is
28 serious, reliable data that gives a better read on what it costs to run
29 a property, then we should replace the PEL. And if that result is
30 faster for you in Albany than elsewhere, that's okay.

31
32 Mr. Longo But the money to grant it would come from other PHAs.

33
34 Mr. Parker I'm a little at a loss, I have a couple of questions and a couple of
35 statements. As Sunia said, we need a starting point for a formula.
36 The starting point that made beginning sense was to take a look at
37 Harvard. I thought we were taking an honest look at where
38 Harvard hit and missed the mark. So far, I've only seen the stand
39 Harvard is right and nothing else could be. The cost study as it
40 stands is the Bible. I thought we were trying to make thoughtful



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1 arguments and gain an understanding. But public housing doesn't
2 necessarily represent the FHA type of world. We're being told we
3 need to move towards it, and Dan, who doesn't live in our world,
4 says you need to get regulatory relief. If this is not dealt with, it
5 could be detrimental. On one hand, we are told we need a level
6 playing field, on the other, we are told it is a zero sum game
7 regardless of what the actual cost is. What we're really doing is
8 arguing a distribution formula. I'm confused. Which is it? Is
9 Harvard right in its entirety and no errors or corrections are
10 needed? That is my first question and I'll pause there.

11
12 Mr. Russell No, I thought I said several times I am open to changes. I haven't
13 been absolutely convinced by anything so far to amend the model,
14 but that's not to say I wouldn't.

15
16 Mr. Parker Are we trying to move public housing towards other housing, or
17 are we dealing with a zero sum game and the best we can hope for
18 is a new distribution formula?

19
20 Mr. Russell I will say we are open-minded to regulatory and statutory reform.
21 We already talked about rent simplification reform that members
22 of this committee say leads to calculation problems and take lots of
23 staff time. I don't look at this as a zero sum game. That is to say
24 we're at \$3.6 billion and I'm not saying we won't spend another
25 dollar. We're not saying if you think you are short changed, get it
26 from somewhere else.

27
28 Mr. Parker But if we generate a number that is politically difficult, it sounds
29 like we are not willing to take an honest look and give it to OMB
30 and Congress and instead look to hold the numbers down.

31
32 Mr. Russell I not saying that, but we need to be realistic. So far, I have heard
33 about two dozen ideas espoused by industry that would cost more
34 money in addition to Harvard. Are any of these legitimate?
35 Possibly so, but I can't accept any of these without a discussion
36 about cost. There has to be a discussion about dollars, if you are
37 truly saying that we need money for information technology costs
38 then what do we do? If you say "let's vote to increase IT", well,
39 what is that number? I won't hang ornaments on a tree without
40 knowing the dollar figures. I am not being closed-minded, but I



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1 am not going to say that it sounds reasonable without knowing the
2 final dollar impact.
3
4 Mr. Parker That is a fair statement. If I were in your shoes, I wouldn't write a
5 blank check either. This would not be fair or reasonable. We are
6 trying to give a thoughtful rationale as to the why's. We may not
7 have given a number but we are trying to talk this out and discuss
8 what are the shortcomings [of Harvard] and what's missing. We
9 are trying to lay the ground work for an eventual proposal. If we
10 gave a number without a why, we would also be wrong. It just
11 seems like so far when we lay out rationale arguments, we are told
12 it's not in the model. There can be differences but I hope we will
13 listen to others.
14
15 Ms. Tran We have some more data and want to pass it out before the
16 committee members leave. One is the methodology behind the
17 CD, and the second is physical property data. Third, are the
18 utilities presentation slides for those who won't be around for the
19 presentation. FASS data is being burned on CD, for those leaving
20 early.
21
22 Ms. Scudder I am one of the losers, similar to the committee last time. Large
23 PHAs gave 1.6% of budget to small PHAs, so they could proceed.
24 Now, I am losing 64% of what was given to me before. I already
25 did a five year plan, like other small PHAs, but I don't have
26 resources. I also manage property that is FHA. I know the big
27 differences between two. FHA doesn't cost near as much work,
28 and I get a fixed amount of dollars, which makes a big difference.
29 Right now I am dealing with possible 85%, 95% proration or
30 whatever. I understand this is how appropriations work. My
31 biggest concern is seeing a lot of increases and decreases, and am
32 hoping that the Neg Reg committee is willing to equal it out. Even
33 if we get cut 2%, this means a lot to small PHA. I want to consider
34 what the 2% means versus someone else 30%. We haven't been
35 over funded; we've just used other means to survive. My biggest
36 thing is that we be fair and honest. That is the residents, property
37 management is important but it is also a human thing.
38
39 Mr. Longo I know there is something wrong with the Harvard model because
40 it did not take into account doing business in North East, and I



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1 invite anyone to come. We are a municipality, we are held to
2 higher standard than nonprofit. When we go to court and try to
3 evict, the non-profit right away gets eviction but public housing
4 has to work something out for the tenant. Where will they go if
5 they get thrown out of public housing? Bargaining agreements
6 require same benefits being provided. It's not extra money, its'
7 what needed.
8

9 Mr. McInnish Can you send us some issues, Bill, that we might be able to
10 address? Some restrictions could be relieved by notice without
11 regulatory change. I have never been given the opportunity to send
12 in comments on notices, handbooks, etc. Latest is occupancy
13 guide -- included is untold costs on third party verification,
14 criminal checks. Is it possible for you to send issues where you
15 want input on? I consider regulatory not just CFR. Would you
16 welcome suggestions we had that could make PH more similar to
17 FHA for occupancy? If you send us a list, we can respond to you
18 via email
19

20 Mr. Russell I need to think about how to say without coming across as being
21 sore. I view my public service to look at programs that I am
22 charged to oversee. If I identify problems or inefficiencies or ways
23 to be better run the programs, I work hard to come up with ideas to
24 fix the programs. A lot of ideas never see light of day, though one
25 of the great things about my job, is some do. The Assistant
26 Secretary has confidence in me and we have worked some of these
27 ideas into proposals. I feel I am spending a lot of time trying to fix
28 problems, granted some self inflicted—some by Congress and
29 some by HUD's regulations. I am working hard to figure out ways
30 to make programs run better. I am all for deregulation. I have
31 given speeches on how positive I think MTW is. I think HUD has
32 been very focused on telling industry how they want to go from
33 point A to point Z and this is how we expect you to get there. We
34 have been monitoring the path and not being as focused on results.
35 Doug Apple and Renee Glover may come up with different ways
36 of getting there but both must work. At the end of the day, it is the
37 results. Are all these regulations and processing requirements
38 really improving the quality of housing? I'm not convinced of this.
39 I feel I've proposed ideas and have gotten no feedback or negative
40 feedback from industry. A lot involves more flexibility than ever



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1 seen before, I know some concern is funding. I very much want to
2 hear from you, and I want to hear your thoughts on how to
3 deregulate. I'm not trying to poke industry in the eye. PHAS
4 [Public Housing Assessment System] was the big point of
5 contention when we took office. My boss called people into the
6 office and asked how you would improve PHAS, but there was
7 never any agreement or consensus on how to improve. It leaves us
8 in a difficult position because we have to propose, then everyone
9 shoots it down. I am definitely open to this.

10

11 Mr. McInnish There are some very concrete suggestions in the study. Can you at
12 least start striving toward the regulatory changes proposed in
13 study? I think it is in Appendix H.

14

15 Mr. Kelly I have heard you and agree with your position on moving toward
16 deregulation. We would like to work with you better and get those
17 changes. If you beat a horse to death, demount. WE are
18 suggesting improvements beyond the Harvard study and hope you
19 look to us in partnership.

20

21 Mr. Land I want to make a couple of comments. It seems like there is an
22 adversary relationship between HUD and housing industry. When
23 REAC first came out people believed there was an adversarial
24 relationship. Myself and others in industry asked for a meeting,
25 we came in, got ideas on their position. No matter how much time
26 was put into discussions, it became a win-win situation for industry
27 and win-win for HUD. There are going to be some hard decisions
28 to made, and I hope both HUD and industry is willing to step up to
29 bat. But I would like to leave the meeting today knowing we are
30 all on the same side not because who we are, but because who we
31 serve. We can harm our client by making bad decision rather than
32 not making any decision. The goal of the 1937 law was to provide
33 safe, sanitary housing to low income. I don't want to leave the
34 meeting not keeping this goal in mind.

35

36 Ms. Lott Mr. Russell, thank you for your candor. Public housing and
37 Section 8 have functioned in a dysfunctional environment for quite
38 some time, and I want to commend you for at least trying to
39 address issues in both programs. I know sometimes we come



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1 across as a bunch of whiners, but we appreciate your intent and I
2 for one will try to be more supportive.

3

4 **Break called at 2:50 pm. The committee reconvened at 3:14 pm.**

5

6 Ms. Tran Can everyone take their seats? Mr. Jain will now pass out the
7 CDs with the financial data that the committee had requested.

8

9 Ms. Zaterman How long do you think we will go today?

10

11 Ms. Tran We will go through the utilities slides, then the last agenda item is
12 the regulatory discussion. Can we go through the presentation,
13 allow time for public comments and then quickly go through the
14 next steps? [The HUD Utilities PowerPoint presentation is
15 displayed for committee member viewing] **(See Appendix 6).**

16

17 **General Agreement. Mr. Russell is serving as the GDO and Mr. Tamburrino is**
18 **serving as the HUD representative. Ms. Basgal, Mr. Morton, and Mr. Nolan were**
19 **not present.**

20

21 Mr. Kubacki Would like to offer (1) A mechanism that will help retain what
22 utility adjustments are currently not being obtained through a
23 method that we think works, but is not necessarily HUD's official
24 position; and (2) even though Harvard does not talk about what to
25 do with utilities, the Study does stress savings, consumption, and
26 benchmarking.

27

28 Our current policy starts with the HUD-52722A form. This
29 becomes the number that goes on the HUD-52723 form and is the
30 rate at the time that the Operating Budget is submitted for approval
31 multiplied by the 3-year rolling base of consumption, and carried
32 over as PUM. The HUD-52722B comes in later. It is used to
33 adjust the actual average rate and incentivized consumption. It is
34 the HUD-52722B form that is currently violating general
35 appropriation law. On the HUD-52723 form there are two line
36 items that are used for utilities: Line A11 – Allowable Utilities
37 Expense Level from form HUD-52722A and Line F1 - Utility
38 Adjustment, which on any given form is 2 years later. This is a
39 proposed mechanism to eliminate the utility adjustment. We want
40 to pay PHAs utility expense level using normalized historical data.



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1 We want to use the actual consumption data, which is what
2 historical means. Normalized means that we consider if you have
3 added properties or switched from gas to oil. We also want to keep
4 current 75/25 incentive, the rate incentives, the freezing rolling
5 base, and amortization. Considering this, we have come up with
6 hybrid HUD-52722 A and B form that we that think will get us
7 there. Let's say that for a 6/30/02 PHA the rolling base
8 consumption on the HUD-52722A was 818,000 gallons. The
9 rolling base consumption for the 6/30/02 PHA on 22A form would
10 be FY 2000, 1999, and 1998. This rolling base becomes the
11 incentivized consumption – the target we are trying to hit. It
12 leaves the PHA with a deficit of 225,000 gallons, so what is HUD
13 going to pay on a consumption basis? This is no different; it is the
14 lower of two. You start with the consumption base and HUD pays
15 25% of the difference. For electricity costs, using the same PHA
16 as an example, their rolling base is \$80,000, and they came in at 72
17 kwh – under the mark. So the PHA gets 75% of difference so they
18 get paid 78 kwh instead of 72 kwh. We'll multiply this by the
19 average rate, which is the utility costs divided by consumption.
20 We then convert this to PUM and bring forward to the HUD-
21 52722A. This is how it works today. On the 6/30/02 form the
22 PHA would have 72,000 and an adjustment from FY 2000. The
23 adjustment for 6/30/02 would come in on the 6/30/04 form. What
24 I'm saying is that in 6/30/04 we will be using actual historical data.
25 The 72,000 would show up in 6/30/04 as an adjustment of \$5,000.
26 In the end, the PHA gets the same amount of money, but it
27 becomes a difference in timing. We may have to look at this a few
28 times; you may have to mull this over but it gives you the general
29 idea of where we want to go.
30
31 Mr. Steinman So it's the last time you see an adjustment?
32
33 Mr. Kubacki In 2005, for a 6/30/04 PHA, you get a lump sum of \$75,000. It
34 keeps going forward.
35
36 Ms. Tran Mr. Steinman are you saying that PHAs would never get paid
37 because of current appropriations language?
38
39 Mr. Steinman How would you do the adjustment sheet – you would no longer
40 have an adjustment. It's the difference of paying your bills a day



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1 date. Also, the word normalize has a very specific meaning- it
2 means that you bring up consumption during heating periods. You
3 should use a different word. I'll have to take a look at it, but it
4 doesn't look that bad.
5
6 Mr. Kubacki I will take that as a vote of confidence.
7
8 Mr. Ciancosi You were looking at line 8 and that line is no longer there.
9
10 Ms. Mangum If it is tenant paid you will take it out of all three years.
11
12 Mr. Parker I probably know the answer already, but I am going to ask anyway.
13 I have been shorted \$400,000 over the last 2 years; will the PHAs
14 be made whole for the past shortcomings? Are there any plans to
15 fix the inequity?
16
17 Mr. Russell This is definitely not my bailiwick, and I still don't know if I fully
18 understand this, but my impression is that Chris has tried to come
19 up with a model that best captures prior year adjustments that you
20 might be due. But regarding appropriations law, I've learned a lot
21 about this - I've even taken appropriations law classes. This is
22 common appropriation law. If congress appropriates money in FY
23 2005 you can't go back and use that money to pay for prior year
24 liabilities.
25
26 Mr. Parker How come you did that for 20 years?
27
28 Mr. Russell Well...
29
30 Mr. Parker I was assuming there would be a supplemental appropriation.
31
32 Mr. Gomez. I want to make sure that I understand this. This is an incentive
33 usage split, which is if the actual consumption is higher than the
34 rolling base you get 25% of the difference and if it is lower you get
35 75% of the difference. Is that correct?
36
37 Mr. Kubacki That is correct. It shows up a little differently on the form, but
38 that is actual math going on behind it.
39



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1 Mr. Gomez But methodology is that if the consumption is higher than you get
2 25% and if it's lower you get 75%.
3
4 Mr. Kubacki Yes.
5
6
7 Mr. Kaiser I have a question for HUD staff: How are the rates that the PHAs
8 use at the time that they submit the Operating Budget, how does
9 this deal with, let's say that I submit this to the Department and
10 then there is huge increase in natural gas costs and they have a
11 tough winter and rates skyrocket. How is the PHA protected from
12 these situations? I gather that there is no protection.
13
14 Mr. Gomez You get it 2 years later. It would be reflected in the rolling base.
15
16
17 Mr. Kaiser I would prefer HUD to answer this on how do we get around the
18 appropriations language dilemma.
19
20 Mr. Kubacki We can get to the same number without using the HUD-52722A
21 and HUD-52722B forms. The difference is that we will estimate
22 the operating subsidy at the beginning of the year using one set of
23 numbers based on the most current actual data the PHA has. This
24 is no different that other models that use census poverty data from
25 five years ago, or vouchers, it's the latest cost data that is available.
26
27 Mr. Kaiser As you know, there can be huge spikes. Would we still be in a
28 situation where you could not use monies to pay the stuff from two
29 years prior due to appropriation law? What if war breaks out and
30 energy prices double? What is there to protect the PHAs and the
31 residents served in that situation?
32
33 Mr. Kubacki It is the same mechanism that you have today. You have to wait 2
34 years for the adjustment.
35
36 Mr. Kaiser You said that and Mr. Parker waited his 2 years and now under the
37 law you say that you now can't pay it.
38
39 Mr. Russell The law prohibits us from taking FY 2005 money and taking Rick
40 Parker's budget and saying that his 2003 budget was underfunded.



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1 That is clearly a FY 2003 obligation. We are going to cut a check
2 in 2005 for historical 2002 data. Even if there is a spike, we will
3 pay based on actual data. It's not literally going back and cutting a
4 check for that prior year liability.
5
6 Mr. Kaiser I will have to look into this. I would encourage those members in
7 the public that have expertise in this area to come forward. I
8 would like to hear from you and Mr. Steinman would like to hear
9 from you.
10
11 Mr. Epstein Can you take a normalized consumption based on cooling degree
12 days and heating degree days?
13
14 **Public response is no.**
15
16 Mr. Epstein Well, if you could and use a projected rate increase from the utility
17 company, then you are not always trying to play catch-up after the
18 fact.
19
20 Mr. Kaiser I am gong to turn over to my alternate Mr. Ted Van Dyke.
21
22 Mr. Van Dyke It this a form you fill out at year-end? In FY 2002 or 2001? So in
23 reference to the HUD-52722B form, what year is the form for and
24 what are the 3 years in the rolling base consumption? Can you
25 explain when you fill out the form and what years' are being used?
26
27 Mr. Ciancosi It's a way of combining the two forms to fund the PHAs once for
28 utilities and get away from the adjustments. You fund based on
29 actuals. The information is the same as what is on the HUD-
30 52722A and B forms. You are getting actual funding, it's just a
31 two-year lag. So for a 6/30/04 PHA filling out the form in 6/30/03,
32 it will be for years 2000, 1999, 1998, and the actual rate comes
33 from the HUD-52722B from 6/30/02.
34
35 Mr. Van Dyke You fill this out in April of 2003 and the HUD-52722B is for fiscal
36 year ending 6/30/02 and the 3 year base is 2000, 1999 and 1998
37 and the average national rate comes from the HUD-52722B for the
38 6/30/02 year. And if costs have gone up 60% you are using the
39 2002 numbers?
40



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- 1 Mr. Ciancosi That is correct.
2
3 Mr. Parker While we look at this, I would like to commend the Department for
4 trying to address this problem. However, it does not cover rates.
5
6 Mr. Ciancosi That is not true. The actual rate would be from 52722B from FY
7 2002.
8
9 Mr. Parker So, you are washing out the rates as well. OK, then I reiterate that
10 I want to commend the Department. We did look at this at the last
11 Neg Reg and the 75/25 split was something that we came up with
12 in the last Neg Reg. It used to be a 50/50 split. It is now a more
13 incentivized split. It is an interesting attempt to deal with this
14 problem.
15
16 Mr. Russell All the credit goes to my staff - those who have been working on
17 this. I want to commend them.
18
19 Ms. Zaterman I'm afraid that when people start citing form numbers, I am left
20 behind, but I want to express our appreciation. The appropriation
21 bill does leave us with a problem. One suggestion may be to go to
22 Congress and say "you've created a problem" and work it out from
23 there.
24
25 Ms. Tran Are there any other questions on utilities? If not, can we open the
26 floor to public comment.
27
28 **Mr. John Cummerford, the former director of FMD, came forward.**
29
30 Mr. Cummerford I do commend the Department. This is very difficult problem and
31 this is the best idea that I've seen to deal with it. I also want to note
32 that when Mr. Russell said this was an interim system, PFS was
33 put in place 20 years ago as an interim system. Also, the comment
34 that field staff had been beefed up, putting bodies in the field
35 without training is not the most useful exercise.
36
37 **Mr. Wayne Sherwood of MA Union of Public Housing Tenants came forward.**
38
39 Mr. Sherwood There are many implications of asset management – I am
40 concerned with the discussion regarding asset management and



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1 changing the public housing regulatory environment. Many PHAs
2 have spoken very eloquently on these issues, especially Mr. Parker
3 and Mr. Kaiser. I certainly agree that we must be realistic about
4 what that environment is and HUD says that we must also be
5 realistic about money. I think that I heard a tone change that if
6 HUD cannot provide additional money, that we should take a
7 harder look at the items in Appendix H. I also have concerns about
8 things like grievances, rent rules, and the annual plan. I've heard
9 people say that no one thinks that they are useful. I'd agree that
10 one could solve lot of the financial problems of public housing if
11 we went for higher income tenants, but I say and I've heard others
12 say, that is not the role of this committee. There are a lot of people
13 that could be hurt if that happened. There is still a group of people
14 out there that needs public housing. I'm just saying that you need
15 to keep our eye on the ball and look for ways to streamline
16 regulations.

17
18 Ms. Tran Are there any other comments?

19
20 **Silence.**

21
22 Ms. Tran Can we wrap up? We have one week to get ready for the next
23 session and we have a lot to think about. We would like to get an
24 agenda prepared for the next session. The data team is happy to
25 take all requests; please send all requests to Claudia Yarus. To
26 summarize where we are in the agenda. We had very high hopes
27 in the proposed agenda to cover a number of topics – transition,
28 appeals, implementation issues – all could be topics for the next
29 session. Thank you all very much for your time.

30
31 Mr. Lam Can we entertain a motion of business casual in the next round.

32
33
34 **Supermajority vote. Consensus achieved.**

35
36 **The committee adjourned at 4:41 pm.**

37
38



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- 1 **List of Appendices for the April 1, 2004 Session:**
2
3 1. Sign-in sheet for committee members, guests of committee members and
4 members of the public.
5
6 2. Data Request Matrix.
7
8 3. Summary of PHA Add-on Expenses for FY 2001 to FY 2003.
9
10 4. Share of Operating Subsidy by PHA for Current, Harvard, and Scenario
11 #2 (Removal of Out-of-Model Adjustments) by Size and Region.
12
13 5. Extracts from the Final Report on the National Commission on Severely
14 Distressed Public Housing (August 1992).
15
16 6. HUD Utilities PowerPoint Presentation.
17
18
19
20



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1 **Consensus Items for the April 1, 2004 Session:**

2

3 1. The Committee agreed to business casual attire for the second session.