



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 – SECOND DAY
March 31, 2004

1 March 31, 2004 Session:

2

3

4

5

6

7

8

9

10

The first meeting of the Negotiated Rulemaking (Neg-Reg) Advisory Committee on the Operating Fund Allocation System (the Committee) was called to order at 8:46 am on Wednesday, March 31, 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:

Committee Member	Organization
Mr. Steve Nolan	Atlanta Housing Authority
Mr. Felix Lam	New York City Housing Authority
Mr. Carlos Laboy-Diaz	Puerto Rico Housing Authority
Mr. Todd Gomez	Chicago Housing Authority
Ms. Ann Lott	Dallas Housing Authority
Mr. Larry Loyd	Housing Commission of Anne Arundel County
Mr. Rufus Myers	Indianapolis Housing Authority
Mr. Steven Longo	Albany Housing Authority
Mr. Rick Parker	Athens Housing Authority
Mr. Richard Murray	Housing Authority of East Baton Rouge
Mr. Michael McInnish	Housing Authority of the City of Montgomery
Mr. Willie Martin	Jackson Housing Authority
Ms. Deanna Watson	Bosie City/Ada County Housing Authority
Mr. David Morton	Reno Housing Authority
Ms. Ophelia Basgal	Alameda County Housing Authority
Ms. Sharon Scudder	Meade County Housing Authority
Mr. John Cooper	Massachusetts Union of Public Housing Tenants
Ms. Veronica Sledge	Resident Advisory Board/Victory Point RMC
Mr. Ned Epstein	Housing Partners, Inc.
Mr. Greg Byrne	Harvard Cost Study
Mr. Dan Anderson	Bank of America
Mr. David Land	Lindsey and Company
Ms. Sunia Zaterman	Council of Large Public Housing Authorities (CLPHA)
Mr. Sael Ramirez	National Association of Housing and Redevelopment Officials (NAHRO)
Mr. Tim Kaiser	Public Housing Authorities Directors Association (PHADA)
Mr. Michael Kelly	National Organization of African Americans in Housing (NOAAH)

11



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 – SECOND DAY
March 31, 2004

1 **Appendix 1** contains the meeting agenda and attendance listing for the Committee
2 members.
3
4 Ms. Tran Good morning. Sorry for the delay, Mr. Liu and Mr. Russell have
5 been called away to a quick meeting, Mr. Kubacki will serve as the
6 Designated Federal Officer for Mr. Liu until they arrive. We'll
7 start with wrap-up items, and then Professor White can make his
8 presentation. Meeting minutes from yesterday will be passed out
9 this morning. We will break for lunch at 11:30 am today.
10
11 Mr. Kubacki Yesterday we received 4 requests for data, from PHADA,
12 NYCHA, Jack Cooper, and Veronica Sledge. Data is in the quality
13 control process and hope to have it later in the morning or after
14 lunch. We had a question on one of Jack's requests. We'll talk at
15 the break. Some data requested is not PIH data so we will have to
16 work with other areas for clearance, hopefully we'll have answers
17 to that shortly.
18
19 Ms. Tran A couple of other items, Mr. Lam, you mentioned that Mr.
20 Steinman will sit in your place.
21
22 Mr. Lam No, I just wanted to say that Mr. Steinman is my official designee.
23
24 Ms. Tran Some committee members asked to break for lunch a little early.
25 Is 11:30 a.m. OK?
26
27 **Silence.**
28
29 Ms. Tran With that said, Professor White, are you ready to do your
30 presentation?
31
32 Mr. White My name is Alexander White and I am a professor of statistics at
33 American University. I was hired by the four industry groups, I did
34 not participate in creating the data for the Harvard Cost Study but I
35 was present in the research working groups, which took place for
36 18 months to 2 years. I would like to go over the Study from my
37 point of view and the industry's point of view. The goal of the
38 Study is to determine the cost of public housing, and the cost of
39 running each and every property. From a statistical point of view,
40 how difficult it would be to do that, should regression analysis be



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 – SECOND DAY
March 31, 2004

1 used and benchmarking be used. The method used was statistical
2 regression. From the FHA world how much are the operating costs
3 given certain factors.

4
5 Why did they use regression? It is an objective statistical
6 technique that accounts for multiple factors, what causes a property
7 to cost more than another, you have lots of factors—size, location,
8 age. The standard technique is to use regression to figure out
9 which variables are important.

10
11 Why use FHA data. The data was collected by property and GSD
12 claimed that the free market ensures accurate costs because
13 operators are trying to maximize costs.

14
15 Major obstacles to overcome:
16 1. Finding a rich enough data set.
17 2. Finding a model that fits the data
18 3. Applying FHA data to public housing. This is the most
19 controversial part. FHA properties are similar to public
20 housing in some ways and different in other ways. Some
21 factors, such as type of owners and how to determine age
22 are areas of complication.

23
24 Benchmark model:
25 1st step was to use the FHA database as a benchmark.
26 2nd step was to do field tests.

27
28 Major Results:
29 Location. The biggest factor is location. For example, NY costs
30 more to run than Reno, NV.
31 Unit Size. Some properties in FHA target different market sectors.
32 Harvard looked at a method to control for market sector (rent
33 versus fair market rate).
34 Several variables are not applicable in FHA, like percent assisted
35 and ownership type (for profit, not for profit, limited dividend).
36 Non profit was applied to public housing because it is the most
37 similar of the 3 ownership types. Percent assisted. If you look at
38 the property, it means what percent of the units are getting
39 assistance.

40



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 – SECOND DAY
March 31, 2004

1 Geography (18-49%) – this was the biggest factor.
2 Age (0-10%)
3 Poverty (0-7%)
4 Percent Assisted (0-6%)
5 Ownership Type (12%).
6

7 In comparing the FHA database to public housing, public housing
8 is older. The graph breaks up percentages according to age group.
9 In public housing, the yellow bar represents number of units 30
10 years or older. FHA represents the number of units 30 years or
11 older. One controversial aspect of the model, given that public
12 housing is older housing stock, what should the cost factor be for
13 age. The graph shows how cost factor changes for age.
14

15 If you have a new property you have no added rate factor. As the
16 property ages, the model applies a greater operating cost factor but
17 once the property reached 28 years, the model goes flat. The
18 people at Abt Associates and at the Graduate School of Design
19 tried to see if costs rise as properties over 30 years of age, but in
20 FHA there are not a lot of properties older than 30 years so it is
21 hard to determine. We believe there might be an added cost to
22 properties older than 30 years but the true cost cannot be
23 determined.
24

25 The definition of age was quite controversial as well. In the model
26 they looked at the date for the first mortgage to determine property
27 age for FHA properties. Properties have been in the public
28 housing program for some years before the date of fist occupation
29 so we need to know the true property age. In public housing the
30 corresponding thing would be date of first occupation, but then
31 there is the issue of modernization. GSD felt it should count
32 modernization when determining property age. Modernized
33 properties should cost less to run than properties that have not been
34 modernized, but it is very difficult to define modernization and
35 what level of modernization has what cost factor.
36

37 Every coefficient in the model was determined using this variable.
38 You cannot take the variables one by one. Age is related to
39 location, which is related to poverty. Age is the first coefficient,
40 all other coefficients are based on this coefficient.



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 – SECOND DAY
March 31, 2004

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

The second area of discussion concerned Harvard’s finding that non profit owners reported higher costs, and there was some discussion as to why. Some feel that because non-profits can’t take profit, when they get money, they put it right back into the property. One Industry group felt that they would incur higher costs because they are a public entity. I have limited experience with that, since I am a statistician. But my limited experience leads me to feel that that is true. Since it is public we want as fair and open a process as possible.

Non profit costs were twelve percent higher than for profit owners. Harvard reduced it from 12 to 10 percent. This was based on an OMB Circular that said, if you can farm it out and save 10 percent then you should farm it out.

Also profit was not taken into account, the portion of the budgets that were grabbed were operating costs.

Lastly, I want to talk about geographic coefficients. Costs will vary between NY, Cleveland, and South Dakota. The Harvard Study is baselined to costs in Cleveland. GSD took a lot of care to figure out how to the draw lines. GSD understands that NY is more expensive than Cleveland, but what about NY versus NJ? How do you determine the cut-off? There may be problems on the boundaries of the geographic regions. If a property is on the border of PA and MD, on the MD side you get a higher coefficient while across the street in PA you get a lower coefficient. This needs to be taken into account in the appeals process, so if you are on the border, we need to see if there is a way to determine what the proper coefficient should be.

Step 1: Precautions taken. Look at the database and figure out from a statistical standpoint, what is the correct model. This is my area of expertise. In statistics you worry about how extreme values screw everything up, we call those outliers. The robust procedures and standard procedures produced the same results. We tried many model configurations to try to find the best model, to see what fits the FHA database the best. They built the model on 75 percent of the FHA database. Then you see how good the model



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 – SECOND DAY
March 31, 2004

1 predicts the remaining 25 percent. They did that and did a “fairly
2 good job”.

3

4 When you model something statistically you try to explain what is
5 going on—where it is, the age, what it looks like, but there are
6 things that you cannot explain. Some things can’t be explained
7 because they were never measured in the database or are simply
8 difficult to explain. There are lots of variations between
9 properties and the costs. There are physical aspects that are not
10 measured in the model, i.e. amount of green space, a nearby
11 factory closes, management, unforeseen acts of nature. We
12 measure those things using R^2 . R^2 is a measurement of how much
13 initial variation we can explain. $R^2 = 53$ percent. We know that
14 not all properties cost the same. We can measure the national
15 variation. Then we try to explain the variations. Of that original
16 variation, they can explain about half, the rest is unexplained. For
17 models of this type, that is very good. In education, 20% is good.
18 But we’re trying to figure out how much to give a property to run,
19 and 47% will be an issue.

20

21 The model works by saying here is the operating cost, with some
22 natural variation that can’t be explained. To a statistician this is
23 fine, this is just called natural variation. Then you have to estimate
24 cost factors for a particular property.

25

26 Cost = true effect of factors + natural variation.
27 Actual costs = estimates + errors.

28

29 We have to estimate the cost, which is the true effect of the factors
30 (AEL) but the true cost = the estimated effect of the factors +
31 estimation error because in statistics you never get it exact, you
32 only get close.

33

34 So how do we assess this? My one point is that this committee
35 needs to take into account the uncertainty for properties, and the
36 numbers are not uniform.

37

38 Confidence intervals = estimated costs + margin of error. People
39 in DC are used to hearing these margins of error (e.g. Bush
40 popularity is 54 + or minus 3 %).



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 – SECOND DAY
March 31, 2004

1
2 There is uncertainty in cost factors and in natural variation. I just
3 received the confidence interval calculations on Monday and I
4 looked at the size of confidence intervals. I computed for PHA +
5 or – 4% in median. If you look at prediction or forecast intervals
6 you get a median of + or – 23%. I can estimate with some average
7 but there will be some error. If I have lots of properties and I am
8 low on some, high on others, it is likely natural variation will
9 cancel out. For example, if you look at the stock market, and
10 predict the stock of Coca Cola, it is hard to predict exactly how it
11 will go on April 15, it is easier to predict for a whole year.
12 Likewise, it is easier for larger PHAs. Most of you have
13 investments and most are in mutual funds because you want to take
14 the average risk. This cancels out errors, which is what statistics
15 does. Harvard looked at the size of the forecast intervals as a
16 percent of benchmark value, if it cost \$200, the interval will be
17 from \$190 to \$210. It is easier to predict for a group than it is for a
18 single entity. The model says, I’m going to be a little low or a little
19 high on this property and all the natural variation should cancel it
20 out, but a small authority only has one property, so they can’t
21 cancel each other out.
22
23 Step 2: Harvard sent an expert to actually look at PHA properties.
24 The expert creates budget with information from PHA. Field test
25 experts were instructed to develop budgets based as if well-run
26 assisted housing to determine how much it would cost the property
27 to operate. Experts did not account for cost of being a public
28 entity. Housing groups feel strongly that most of the 10% non-
29 profit coefficient should have been accounted for. Most of the
30 field test estimates were below model predictions. So GSD
31 thought maybe the model was too high, and field tests justified
32 adjustments to models. Made cap of \$420 except NY, floor is
33 \$200, and then GSD added 4% tax between \$325 and \$420 (no tax
34 for NYC), so you only get 96% of benchmark. If you get \$326 or
35 \$327 in benchmark then 4% tax, so you end up with a PEL below
36 \$325. That has to be fixed. In addition to other arguments, I
37 believe a reduction in the non-profit coefficient is justified. How
38 do we apply tax near \$325. Second, experts were sent on a
39 mission to run property as a for-profit, but in other parts of the
40 model we are assuming public housing gets 10% bump for being



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 – SECOND DAY
March 31, 2004

1 non-profit entity. So really, we should compare the budget of the
2 expert and add 10%. If you do this to field test estimates, only 44
3 of 97 are below field-tests estimates. Budgets also did not take
4 into account uncertainty of variation for each property. When the
5 field test was proposed, James Stockard said, we are looking to see
6 if there is something different about public housing that can't be
7 captured in the FHA database that needs to be included in the
8 model. The report does not address what is different about public
9 housing physical structure that makes it cheaper to run than FHA
10 properties. The GSD responds to each of the questions posed, but
11 my feeling was that I don't care. The field tests compared FHA
12 model vs. FHA expert, that comparison is not important. What is
13 important is to say that this property is cheaper to run because of
14 a, b and c, and I did not see that.

15
16 Next, case studies were conducted based on a small nonrandom
17 sample.

18
19 Final adjustments gave cap and floor, reduced nonprofit to 10% for
20 the regulatory environment. Harvard said that the actual age
21 should not be used but modernized age—difficult to define,
22 although the model is based on age without modernization
23 assumption. Properties in FHA database surely have been
24 modernized. Any cost efficiency that occurs should already be
25 accounted for in the model. The benchmark works best for
26 estimating average costs because cancels out natural variation.
27 This works well at the national level. Okay for large PHAs, but not
28 good for small properties.

29
30 Mr. Kaiser Alex you mentioned that the profit sum was not included in the
31 calculation, did GSD identify a per unit amount of profit from the
32 result of the study?

33
34 Mr. White I don't recall the actual percent.

35
36 Mr. Kaiser \$76 PUM, I think.

37
38 Public Member of the public starts speaking

39
40 Ms. Tran The public cannot speak at this time.



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 – SECOND DAY
March 31, 2004

1
2 Mr. Byrne Rhiannon is part of the study team. It is very important for her to
3 be able to add her input.
4
5 Ms. Patterson Rhiannon Patterson. What is the problem with profit? How do you
6 think profit would change the results?
7
8 Mr. Byrne And if it was a statistical issue or policy issue.
9
10 Mr. White The non profit coefficient was reduced and one argument for the
11 reduction was OMB-Circular A-76 which says that a non profit
12 should not be greater than 10 % because if it was greater then give
13 the property to the private operator and they could run the property
14 for less.
15
16 Mr. Byrne Who? A for-profit operator. Profit is not related to the cost. If
17 you pay me a management fee, it is included in the cost of the
18 FHA database. There is no relationship between profit in
19 management fee. In FHA, what is considered cash flow, \$70 PUM
20 is misrepresented, we did not consider principal payments, the real
21 cash at the bottom, the average is \$30 PUM. One more
22 clarification on field testing, the document could have used better
23 language, we meant what a private management company would
24 charge to manage the property. The vast majority of estimators had
25 a history of managing non-profits. If assuming same cost structure
26 as a non-profit, would not provide 10% because it is already
27 assumed in the way they manage properties.
28
29 Mr. White The experts are non-profit by background. So the chart would
30 show experts from non-profit in terms of history.
31
32 Mr. Byrne Predominantly.
33
34 Mr. Parker The question was, what does profit have to do with the issue. It
35 calls into question the results of the field tests, and if you tell them
36 to estimate budgets based on the profit model and compare results
37 to the benchmark model then the model is not based on for-profit
38 and you have to add 10-12 to get to non-profit. That 10 percent is
39 missing from the benchmark model number. The benchmark is a
40 for-profit number. If you add the 10 percent back in, then in effect



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 – SECOND DAY
March 31, 2004

1 the model was predicting correctly, but that shift did not take
2 place.
3
4 Mr. Byrne That is what Mr. White said, and what the document should have
5 said.
6
7 Mr. Parker But what should have been said in the study is less important than
8 the instructions you gave to people. If you said, look at for-profit.
9
10 Mr. Byrne They looked at this from their experience with non-profits.
11
12 Mr. Kaiser I have the July 18, 2001, instructions to expert field testers that
13 state on pg. 3 “assume the owner is not a PHA but rather a private,
14 for-profit owner of project-based Section 8”. This is important
15 because it goes to the credibility of the field test. Your instructions
16 indicated that they should follow a certain protocol but you are
17 saying they did not. We have a hard time accepting that
18 explanation based on verbatim instructions to field testers. It is
19 reasonable for us to have questions about the methodology used in
20 the field test.
21
22 Mr. Parker The other issue with profit is that part of the rationale for the last
23 minute adjustment 12% to 10% was the issue of the OMB circular.
24 OMB says that you ought to farm out a property if it costs over 10
25 percent more than what a private sector could run the property for.
26 But the private sector won’t run the property if it breaks even. To
27 make this adjustment based on the circular, is not a statistically
28 valid adjustment. Any profit that you add back in is not cause for
29 the reduction.
30
31 Mr. Anderson People need to be explicit about the word “profit”. We are slicing
32 and dicing several different approaches. In the private residential
33 world, there are fee managers and their only compensation is the
34 management fee. When we talk about profit are we talking about
35 net operating income (NOI), cash flow after debt service, or
36 something else? I would explicitly disagree that private fee
37 managers seek compensation other than the management fee.
38
39 Mr. Parker That is not what I said.
40



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 – SECOND DAY
March 31, 2004

1 Mr. Epstein I think we need to be clear in terms of definitions. The issue of
2 profit and non-profit is a consequence of government restrictions.
3 FHA deals with no government restrictions on cash flow.
4 Basically, the study found costs were 12 percent lower, since they
5 could operate differently. The other factor was limited dividends.
6 HUD had regulation in FHA after 1980 that limited what type of
7 cash that could be pulled out of a property, allowed cost-based rent
8 increases, generally 6%. There are many for profit management
9 agents who manage these properties and their profit is based on the
10 management fee. The nonprofit cash flow, are owned by limited
11 dividend partners. That is the distinction. Not so much private or
12 non-private operator. In the testing, they testers were looking at
13 the properties as “how much it would cost to manage the
14 properties, not how to get profit out of the properties. Many of the
15 testers managed limited dividend or nonprofit developments. They
16 were applying management standards to see how much it would
17 cost to run the property. I am not a statistician, but that is the best
18 approach to the issue. You are getting real-time costs when you do
19 a budget that way. There is not a formula in the FHA world.
20 There are all sorts of reasons for variances, i.e. management style,
21 replacement reserve is under-funded and HUD will not take out of
22 replacement reserve. Testers went out and instructions were based
23 on history as to how much it costs to run the property.
24
25 Mr. Kaiser You are incorrect. With all due respect, your instructions are
26 different than your statement here today.
27
28 Mr. Ramirez This assertion, that if you are in 10 percent variation you send it to
29 the private sector, if that is the case, the field study is flawed.
30 There is local regulation, union requirements, and there are other
31 differences in costs. Besides OMB A76 applied to the federal
32 government and not local entities. To say that you would not take
33 into account all the local regulations is flawed because there are
34 requirements that are placed on public entities and there is a
35 mission for public entities. There are requirements placed on
36 public entities that private sector does not adhere to. There is cash
37 flow going back to the owners after expenses, it gets plowed back
38 in but that is not being factored back in. It is not a fair assumption
39 to say that A76 discards additional review of a property.
40



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 – SECOND DAY
March 31, 2004

1 Mr. Byrne In privately managed field test, the results are consistent across the
2 board, costs are substantially less than the model.
3
4 Mr. Ramirez Were they classified by property type? And what about
5 occupancy? Occupancy makes difference.
6
7 Byrne Same occupancy was considered.
8
9 Ms. Zaiterman Can we get more microphones?
10
11 Ms. Tran No.
12
13 Ms. Zaterman I would suggest, a strong consensus, that the last minute
14 adjustments be removed and that the predictions be recalculated. I
15 would like a motion. We would like to eliminate the ceilings and
16 floors, eliminate 4%, include a delta for properties older than 28
17 years. Last minute adjustments outside the model.
18
19 Mr. Lam I absolutely agree with Ms. Zaterman and Mr. Ramirez. We
20 should consider taking a vote on removing the adjustments. Going
21 beyond the 12-10 arbitrary reduction and then to make things
22 worse to rely on an OMB circular, fails to consider all the social
23 factors and considerations that PHAs have to consider. Residents
24 are customers and they need and demand social services. There
25 are issues such as homelessness, poverty, domestic violence.
26 There are regulatory issues that PHAs have no control over. The
27 OMB circular is irrelevant. This should be seriously considered. Is
28 broader agenda applied to PHAs? Not sufficiently addressed in the
29 work that was done. Should be considered in any final rule that
30 committee opines upon. One more point, with respect to
31 NYCHA's portfolio, we have properties that are over 60 years old.
32 Most are that old. The model goes flat after 28 years.
33 Modernization is hard to define. Some people think of putting a
34 new roof, but the pipes are still there. One difficult thing is that we
35 can't demolish a building and put people on the streets while we
36 build a new building.
37
38 Mr. Byrne Before any vote, a few comments. People are calling the
39 adjustments arbitrary but we looked at private and public housing,



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 – SECOND DAY
March 31, 2004

1 talked with numerous operators, we felt that the model was quite
2 generous. Once you get over \$325 PUM, they were very generous.
3
4 Mr. White In FHA there are properties with high operating cost, otherwise the
5 model would not have generated these values.
6
7 Mr. Epstein You have a distinction in public housing. You have Op Fund and
8 Cap Fund. In the FHA world, the two are combined: Replacement
9 reserve (Cap Fund) and operating expense. Although they are
10 combined in the greater budget, they are used for separate purpose.
11 In FHA you often do not have enough in replacement reserves so
12 you take money out of the Op Fund. FHA has many problems and
13 many properties in distress. Many high cost properties in FHA do
14 not have a replacement reserve, so their greater cost might be
15 higher than normal. What are the normal routine operating
16 expenses that it costs to run a property? That is what Greg is
17 saying. If you have \$325 PUM and adequate reserve, that is very
18 healthy and the private sector would say that is a lot of money.
19
20 Mr. Parker The Model is touted as a scientifically based model. I agree with
21 White that it is very good, up to a point – which is when a lot of
22 subjective adjustments that are based not on statistics but on field
23 tests. What I heard was “we think” “we suppose”, this is
24 supposition. My problem is not with the model but with the
25 adjustments. No one has shown me how they are statistically
26 valid. When you do field testing and the budget comes back and
27 the model looks too high, then why when you apply the model to
28 the 25 percent hold out, it projects on the money but when you do
29 the field test then the model is projecting too high. It’s either a
30 good statistical model or a bad one, I fail to understand how it can
31 be both since it tested against the 25% hold out of FHA properties
32 that were never in the group.
33
34 Mr. Ramirez I agree with Ned. We are comparing apple and oranges. The
35 model is good, it’s what happens at the end of the model. Actual
36 factors were not looked at and they do play into actual costs.
37 That is the concern.
38
39 Ms. Zaterman I understand FHA is not a panacea but you do have a budget that
40 relates to costs. The Millennial Housing Commission said



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 – SECOND DAY
March 31, 2004

1 One significant flaw as presented by Prof. White is the Harvard
2 Model's R^2 value of 0.52. This fact alone indicates the model is
3 ineffective at predicting a cost level. The model itself is no better
4 than a coin toss in its predictive value. During the course of the
5 Study we at NYCHA repeatedly offered data to Harvard and it was
6 refused. We offered volumes of data and our impression was that
7 GSD was not interested. It seems there was never an intention to
8 understand public housing from the get-go.
9

10 Mr. Kaiser The Study is inherently naïve regarding political realities. Mr.
11 Russell would agree that we have 535 policy makers (U.S. House
12 and Senate). The Study does not consider that. The study ignores
13 this by saying need to switch to asset-based management. I think it
14 is rather naïve. If you look at comments in the Study in terms of
15 PHAS, it says the goal is to achieve higher PHAS scores is
16 admirable but should not be federally reimbursed. On page 41, the
17 Study dismisses resident services, PHAs are encouraged to do
18 resident services but HUD needs to specify that housing is first and
19 foremost the issue. But the reality is that there are 535 policy
20 makers that oversee the program and who dictate policy and
21 appropriate funding. While Harvard wants to switch to property-
22 based accounting, the reality is that we are not going to get there.
23 Mr. Russell indicated that we will not discuss potential changes to
24 QHWRA and other regulations. PHAs are more than bricks and
25 mortar and we have real costs and those costs will remain.
26

27 Ms. Tran Do we want to vote or take comments?
28

29 Ms. Zaterman We want to vote.
30

31 Mr. Kelly The motion on the floor is reversing the adjustments. Let's
32 separate the issues. One of the issues we wanted to discuss was the
33 regulatory environment and resident services. These are
34 subsequent discussions.
35

36 Mr. Morton We should consider the downside of removing the floor, how
37 many small PHAs will be hurt by that process. We should discuss
38 that before we vote.
39



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 – SECOND DAY
March 31, 2004

1 Mr. Ramirez We didn't say we want the model without the last minute
2 adjustments, we wanted to run the model without the last minute
3 adjustments and see the effect.
4
5 Ms. Zaterman Do we want to adjust and approve the model or are we debating
6 using the model all together? Do we want to address the floor
7 issue. If you go back and apply confidence intervals, floors get
8 adjusted. We made a data request for updated AELs and PELs.
9
10 Mr. Morton If we're saying look at the model, fine, if we're saying get rid of
11 adjustments that is another thing.
12
13 Ms. Zaterman I don't understand how we are using the model, the Study. Are we
14 changing or improving the model, or are we only taking parts of
15 the model? My understanding is that if you apply the confidence
16 intervals the issue of floors gets adjusted. When we did make a
17 data request with updated AELs and PELs, we need to evaluate the
18 model without the adjustment.
19
20 Ms. Tran Do you want a data request to run a what-if scenario, or are you
21 requesting a vote to see if the adjustments should be permanently
22 eliminated?
23
24 Mr. Ramirez We need the data in front of us to make a final decision.
25
26 Mr. Kubacki We can run the scenario by 11:00, who is affected by state and
27 region. By 11:00 we will show the model without last minute
28 adjustments.
29
30 Ms. Zaterman Just wanted to clarify the data requests from yesterday.
31
32 Mr. Ramirez One other concern is the question of age. There was information
33 in Mr. White's presentation, could we factor in age and not
34 modernization?
35
36 Mr. Byrne The model was run based on age. In Chapter 2 we talked about
37 age impact, the numbers that are in the model are based on age not
38 on modernization. The impact at a minimum if you could factor in
39 modernization would be \$25 million. Age caps out at 28 years.
40



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 – SECOND DAY
March 31, 2004

1 Mr. Ramirez If we have a large portion of properties over 30 years of age, is that
2 captured?
3
4 Mr. Kubacki Mr. White, can we get a copy of the presentation.
5
6 Ms. Zaterman Clarification, are we getting 2003 AEL?
7
8 Ms. Tran Putting back non-profit coefficient, removing ceilings and floors,
9 doing something about age of property.
10
11 Mr. Ramirez So you're saying you have no data to factor in a property being 60
12 years old. Nothing you have available as a factor to represent a
13 building that is 60 years old.
14
15 Mr. Byrne That is correct.
16
17 Ms. Zaterman As part of a request there could be a factor included in the model
18 for properties over age 30.
19
20 Mr. Byrne How do you do that? The FHA database shows that after a certain
21 age there was a decrease in costs. There is no number.
22
23 Ms. Zaterman There is a number in the PFS system
24
25 Ms. Tran The .005 adjustment factor.
26
27 Mr. Kubacki We will give you 2003. Also we can tell you age based on DOFA.
28 What I think Mr. Byrne's is getting at is we have a 40-year-old
29 property and what is that extra cost -- 5%, 10%, - 2%. There are
30 ages we can use for a property but we don't know how to apply a
31 cost.
32
33 Mr. Ramirez How can we make a valid adjustment?
34
35 Mr. Kubacki We have looked at this and inflated it. We didn't want to use 2000
36 data because add ons were a little different.
37
38 Ms. Basgal The point is that we want to see the impact of the adjustments.
39
40 Mr. Kubacki We will give you both.



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 – SECOND DAY
March 31, 2004

- 1
2 Ms. Zaterman Can we use the PFS age factor in the model?
3
4 Mr. Kubacki We would have to look at the model.
5
6 Ms. Tran Mr. Ramirez, can I ask that we break and run the data.
7
8 **The committee adjourned at 10:29 pm and reconvened at 11:14 pm. The meeting**
9 **minutes from Monday, March 30, 2004 were passed out to all the committee**
10 **members.**
11
12 Ms. Tran Room B176 has been reserved for members that wish to store
13 luggage tomorrow. Please remember to announce your name and
14 organization and limit dialogue.
15
16 Mr. Kubacki The data has been run and quality control checked and will be
17 distributed shortly. We will go over the data quickly and then
18 break for lunch.
19
20 Mr. Ramirez Can we obtain electronic copies of the data? It would be helpful
21 for the industry groups.
22
23 Mr. Kubacki Yes and no. The data is set up so that we can give you electronic
24 reports and the base data. We will try to have that ready in the
25 morning.
26
27 Mr. Ramirez Alright.
28
29 Mr. Morton The day that we come back, Monday April 12th, there is a
30 documentary on DeFord Baily, a public housing resident, which
31 will be broadcast on public television on Monday night. I think
32 many of you would enjoy it.
33
34 Mr. Ramirez I would encourage everyone to watch the program. It is a great
35 piece and we thoroughly enjoyed it.
36
37 **The requested data sets were passed out to the committee members.**
38 **(See Appendices 2 and 3).**
39



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 – SECOND DAY
March 31, 2004

1 Ms. Zaterman The data is in summary form, rather than by PHA, which the data
2 request was for.
3
4 Ms. Tran The data is sorted by size category and geographic region.
5
6 Mr. Kubacki The data is not available by PHA.
7
8 Mr. Russell I am wondering if individual PHAs want to know their own
9 numbers, but I don't know if it is appropriate to distribute all
10 PHAs' numbers to everyone.
11
12 Mr. Kaiser I think it is essential to get the data on a per agency basis if the
13 committee is to make some decisions. Clearly there is precedent
14 for that, based on the Harvard Cost Study.
15
16 Mr. Ramirez It would also be helpful to take a fresh look, agency-by-agency, to
17 see the removal of the floors and ceilings and then take deliberate
18 steps in outlining the merits of the floor/ceiling and at what levels,
19 to statistically arrive at some conclusions.
20
21 Ms. Scudder I was an add-on [to the committee] because my region was not
22 represented and I represent 6 states and I really need to know how
23 my region will fare.
24
25 Mr. Russell Is there is a consensus to share this data?
26
27 Mr. Ramirez It would help to obtain this information electronically, rather than
28 to kill all the rainforests. This is a data request, so we don't need a
29 consensus.
30
31 Mr. Russell Will have to talk to staff about it.
32
33 Ms. Tran Let's proceed with data provided so people can break for lunch.
34
35 Mr. Kubacki This would be the basic summary report we'll be able to produce.
36 Where it says report 1, budget impact, we will number where we
37 see scenario 1.0. These will come with sequential numbers and we
38 will label what we did. Floor/ceiling removed, 4%, non-profit
39 coefficient. We started with numbers from Harvard Cost study.
40 Then we used actual 2003 data to get a year closer to reality. Then



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 – SECOND DAY
March 31, 2004

1 we have the scenario model. Increase in subsidy is \$229 million.
2 If done as Harvard states, increase is \$229 million. In the budget
3 scenario, the impact is \$333 million so the scenario would increase
4 subsidy need by \$103 million. In column five highlighted in gray,
5 helps show what changes affected. That's where we're talking
6 floors and ceilings. Is everyone comfortable with how this is
7 presented?
8
9 **General agreement.**
10
11 Mr. Ramirez For clarification, the other report is running the model as it was
12 described to us this morning.
13
14 Mr. Kubacki Yes, if want to compare changes, can compare to this document.
15 The next page is the impact. The first is based on change in AEL,
16 which is how Harvard presented a lot of this. What we're saying
17 is, size category six, these are PHAs with more than 6,599 units;
18 this is the change in AEL because of scenario shift. Next page is
19 same thing but looking at affect on Operating Subsidy. Harvard
20 has different add-ons. Report 3, next page, is same thing but via
21 region. In the book sent to you, we provide which states are in
22 each region. Next page is same thing by region and operating
23 subsidy. Next set of reports by state. Always same, look at
24 changes in AEL and changes in Operating Subsidy, and different
25 ways of viewing—size category, region, state. We've also passed
26 out a 1-pager that says removal of floors. What that report says is
27 by removing floors 2,450 properties are affected, 1,526 PHAs are
28 affected, \$24 million total decrease in subsidy (actually closer to
29 \$25 million) is a result of taking out floors. This is Report 5. (1
30 sheet).
31
32 Mr. Ramirez So that I understand, by removing floors, there is a decrease of
33 almost \$25 million depending on the agency, and that affects 1,526
34 agencies.
35
36 Mr. Byrne Just so we get relative magnitude, floors is \$25 million, overall
37 impact \$104 million. If floors were not removed, ceiling, tax and
38 non-profit must be around \$78 million.
39



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 – SECOND DAY
March 31, 2004

1 Mr. Kubacki Correct. However, we can run each scenario separately, so if you
2 run all the scenarios separately and add it up, it won't add up
3 correctly.
4
5 Mr. Ramirez It's a jigsaw puzzle. If we could just have a response today, the
6 electronic data on an agency-by-agency basis, it would be helpful.
7
8 Mr. Kubacki The thing that slows us down is burning CDs, if we could e-mail
9 the data it would be faster.
10
11 Ms. Tran Let's break for lunch.
12
13 **Break at 11:35 pm and reconvened at 12:35 pm.**
14
15 Ms. Tran Let's get started. We are passing around Mr. Cooper's data
16 request of PHA resident participation of add-on expenses,
17 organized by PHA size category for 2001, 2002, 2003.
18
19 Mr. Kubacki Members had asked for breakdown of each scenario by itself with
20 the removal of ceilings, 4% tax coefficient, and non-profit
21 coefficient. Removing ceilings will affect 285 properties and 72
22 PHAs with a total budget impact of \$8 million. Removing 4%
23 reduction will impact 1,610 properties and 455 PHAs with a \$33
24 million budget impact. Increasing nonprofit coefficient to 12%
25 will have a budget impact of \$66 million dollars. For Puerto Rico
26 the numbers did not change when we removed the ceiling, floor,
27 non-profit and tax coefficient because Harvard had a model
28 prediction of \$274 as PEL. But in the final study Harvard comes
29 back and says adjustments outside the model but will put in at
30 \$250. We will rerun the figures putting Puerto Rico in as a regular
31 PHA, and see what the model predicts.
32
33 Ms. Tran Any questions or comments on data presented before lunch?
34
35 Mr. Byrne I know the point of contention is for PEL above \$325, it gets cut
36 down and if it's slightly below it does not get cut so the concern is
37 numbers over \$325. It can be sliced another way.
38
39 Mr. Ramirez Mr. Byrne, could you briefly summarize what caused you to go
40 outside of the model and make these last minute adjustments?



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 – SECOND DAY
March 31, 2004

1
2 Mr. Byrne Sure. It is in the document, but based on examination of private
3 management properties, mixed finance, individual field tested
4 budgets, series of discussions, meetings with experienced operators
5 including field testers, the model figures of lower than \$215 felt
6 reasonable and appropriate. Some may be mom and pops and
7 certain events may cause costs to go up. On the other hand I felt
8 the model was generous at the other end, particularly when it starts
9 getting north of \$300, the model was quite generous.
10
11 Mr. Ramirez So, would it be fair to say these were subjective decisions?
12
13 Mr. Byrne Professional judgment.
14
15 Ms. Tran Questions or comments? I am not quite sure how to proceed. To
16 either have a spirited discussion, or have data before you.
17
18 Mr. Cooper This is not related to the current conversation but on what I
19 requested on the summary of resident participation, I was also
20 looking for some data on supportive services.
21
22 Ms. Tran I apologize, that is still coming.
23
24 Ms. Zaterman I share your concern on how to proceed. HUD has written reports
25 to Congress and individual PHAs have commented extensively,
26 but we have no idea what HUD's views are on how to do the
27 allocation process and use operating subsidies. This would be a
28 good time for us to understand HUD's views.
29
30 Mr. Kubacki To start addressing this, HUD's and PIH's position is that the
31 Harvard Cost Study is just a study, and as with all studies there is
32 some subjectivity involved. But it is an improvement over what
33 we have today. So from our standpoint, we are agreeing with the
34 recommendations made—PELs with out of model adjustments.
35 That is our starting position; the numbers in the Harvard Study are
36 good numbers to base the formula on. What I'm looking for from
37 the committee are problems that are valid, and how do you
38 implement them into a formula that is fair and equitable. How do
39 we implement the formula. You can't just say we want to include
40 distressed properties. We need how it was decided what are



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 – SECOND DAY
March 31, 2004

1 that were made at the end were actually in the purview of the
2 negotiated rulemaking committee. We need to do this with
3 broader input -- based on expertise of all in the room here and not
4 just those involved with Harvard. Mr. Nolan is also correct; we
5 must keep our eye on the bottom line. Look at the absolute
6 revenue in the current situation versus total revenue under a new
7 formula. If you took enough away from local dollars, you might
8 actually be a net loser. Look at current versus future. I am going
9 to make a data request to do a run that shows % of total national
10 AEL and subsidy for each individual agency under current Harvard
11 and scenario 1. What we keep talking about is winners and losers
12 against the overall Harvard Cost Study. And that's assuming the
13 Harvard Study is completely and totally funded. I think that in
14 order to make informed decisions we need to know what happens
15 to the % distribution, and also provided by region, PHA, and size.
16 This needs to be provided to a proper number of significant digits
17 so there are no gross rounding errors as we try to analyze data.
18
19 Mr. Russell Rick, I have to disagree a little on the purview of Harvard. I
20 wasn't in the last Neg Reg but my understanding was that the
21 critical missing piece was to understand what the costs were which
22 is why Congress directed to us to turn to Harvard. Harvard's task
23 was to tell us what the costs were; you may not like it or think it's
24 perfect, but statistical analysis and regression analysis is not the
25 only form of doing research. A lot of people at the table think it is
26 good and valid.
27
28 Mr. Parker I said that as well except for out of model adjustments.
29
30 Mr. Russell Well I disagree, my boss asked for more case studies. Industry is
31 saying this study is not statistically based and invalid. We asked
32 for more case studies because we were uncomfortable that there
33 were overestimations. In fact, I challenged Harvard, if your model
34 kept overestimating, what did you do to bring it down. I'm not
35 convinced we need to make adjustments because you find it not
36 statistically valid. To begin with, that was Harvard's job and I
37 think they did the best they could. We now have to figure out how
38 to implement. We can debate. We can make adjustments. They
39 did what we paid them.
40



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 – SECOND DAY
March 31, 2004

1 Mr. Kaiser It's important to point out that the study was engaged and directed
2 to determine what costs to operate well run public housing. I
3 respectfully disagree, I don't think Harvard did that, and I think
4 Mr. White amply demonstrated it this morning. I don't see how
5 HUD can say that Harvard did its job when the model was off by
6 30, 40, and 50%. It's important to remember that the vast majority
7 of PHAs are very small or small, and there will be hundreds if not
8 thousands that HUD is apparently comfortable with where the
9 prediction number could be off by 10, 20, and 30%. I don't think
10 Congress will accept that. Chris Kubacki said industry should
11 illustrate costs to make a case for add-ons. I'd like to address
12 regulatory adjustments. I think conclusions drawn are what I call
13 naïve because they operate from presupposition that PHAS will no
14 longer need high PHAS scores, resident services, or resident
15 satisfaction scores. Congress will mandate and HUD will
16 mandate. I couldn't agree more Chris; we should identify what
17 those costs are. We can bring you data, which I think we shared
18 previously, in fact, I think Harvard identified \$3-4 PUM that result
19 from regulatory differences, and we ought to discuss. Harvard
20 doesn't want to fund them but they still exist. In terms of IT,
21 Harvard identified \$7.5 PUM difference between public and
22 private housing. I think you're right, we ought to identify when
23 possible. We raised PFS .05 adjustment for age. I agree Harvard
24 study should be used as a basis, but I am concerned HUD is
25 comfortable with the study as it currently stands, especially
26 considering this morning's presentation. And I have to point out
27 the large number of small PHAs that could be affected.
28
29 Mr. Kelly I want a HUD response. Transparency is still important and a role
30 in the estimating process
31
32 Mr. Kubacki I wanted to address the regulatory environment. You bring up
33 PHAS and resident satisfaction. Multifamily submits to HUD
34 also—financial, the same physical protocol and resident survey.
35 You're saying there's a cost, and I agree, but that is already
36 embedded in multifamily.
37
38 Mr. Byrne On the issue of the confidence intervals and Tim Kaiser's concerns
39 about the model not funding enough, when instituting the floor it
40 results in an enormous number of PHAs that are compensated for



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 – SECOND DAY
March 31, 2004

1 the confidence interval and it holds them harmless. We thought
2 that was a pretty good recommendation. I think more people are
3 concerned about under funding than over funding, but I think you
4 are talking about a small interval of properties that are in the \$215
5 to \$300 range. I don't believe there is as much perceived error.
6 Also in terms of sensitivity to the regulatory environment. One,
7 we did say there is a modest difference due to regulations – \$4
8 PUM, but said it was offset by the fact that the private world has to
9 pay for property audits. There were offsets on other side we never
10 looked at. Second, with respect to concern about inspections and
11 not being sensitive to PHAs wanting to get high scores, we
12 observed PHAs setting up centralized inspection units to get ready
13 for inspections. This should be done daily by management staff. I
14 don't think this is a federal responsibility to pay for PHA's to get
15 higher scores.

16
17 Mr. Kaiser I want to respond to this. The distinction comes when one looks at
18 the impact on a PHA for not scoring as well as FHA property,
19 which are both mandated by Congress and HUD. Under PHAS,
20 there are bonus pots of money available. There is an incentive for
21 PHAs to score high to get extra funding and upgrade properties.
22 My point is, on the one hand, and I am certainly not blaming HUD
23 entirely, we have 535 policy makers on the Hill, who have made a
24 policy call they want PHAs to do certain things: strive for
25 excellence and achieve high PHAS scores. These things require
26 more manpower. Not just argument on private side versus public
27 side, there are all sorts of performance standards. That is one of
28 the key points I am trying to make. And in terms of documenting
29 the numbers, they're in the Harvard study itself. The numbers are
30 there, the data's available (\$7.5 PUM information technology).

31
32 Mr. Anderson On the point that the Department should be cautious of rushing to
33 implement a study because confidence bands with respect to
34 particular properties are wide.... what I haven't heard advanced is
35 there are unique problems. However wide or narrow, the model
36 reveals enormous distributive problems and inequities in the
37 funding today. To suggest not addressing these is quite troubling.
38 The practical political reality is that for any model it is problematic
39 whether or not you will get large appropriations. This is
40 problematic whether it will get out of Congress. It may be more



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 – SECOND DAY
March 31, 2004

1 productive to look at regulatory relief in terms of this or any other
2 model. It may be an extended exercise in self-deception to think
3 this will increase appropriations.
4
5 Ms. Zaterman I wanted to acknowledge Secretary Jackson. HUD's starting point
6 is they like the study, and think what is presented is something
7 they could implement. There are specific areas where I have
8 disagreement. We need to think about the distributive impact. Is
9 there a way we can systematically walk through the problems that
10 we have with the study? Out of model adjustments that are
11 included are regulatory and operating environment add-ons I think
12 are mostly included in the list you have. Clearly we need to talk
13 about regulatory relief issues -- rent, regulatory burden. Is there a
14 way we can reach consensus on how to proceed and address these
15 issues in systematic way?
16
17 Mr. Gomez I want to make clear what I consider regulatory burdens. HUD is
18 asking every PHA to operate more efficiently, and I think our
19 example, though we have a lot of issues with history and size, is
20 generally applicable because HUD and CHA have agreed to
21 transform the authority. Some of these costs are not included in
22 the model. How do I capture cost of litigation? We have to defend
23 ourselves against residents and environmental issues from past
24 administrations, updating antiquated IT system. How do we
25 capture cost of managing an 80 property portfolio that requires one
26 individual to do fixed asset accounting as the owner of a property?
27 There are specific expenses that come with managing, and if you
28 are asking PHAs to make changes and transform themselves, to
29 go to project based budgeting and transform the portfolios, the
30 basis for the model is applicable, but there must be way for
31 accounting for how we must operate as a PHA versus as a
32 conventional FHA.
33
34 Ms. Tran To respond to Ms. Zaterman's comments, we put together a list
35 yesterday of topics under PEL and we asked for some data runs,
36 are these data runs sufficient to start a discussion if that is what the
37 committee members want?
38



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 – SECOND DAY
March 31, 2004

- 1 Mr. Russell Maybe we should take another stab at another agenda and the
2 facilitator can allot some time for some issues so that we can deal
3 with these one at a time and knock out.
4
- 5 Ms. Tran Can we have another break to put together an agenda? We'll take
6 about 20 minutes to pull together.
7
- 8 **Break 1:41pm. The committee reconvened at 2:30 pm**
9
- 10 Ms. Tran Can everyone please take his or her seats. The committee
11 members will find on their desk the PEL Issues paper ([See](#)
12 [Appendix 5 from the March 30, 2004 session](#)) that was crafted
13 yesterday. What was suggested was to defer the items that we
14 need more data for: Item 1 – Establishment of Floors and Ceilings,
15 Item 2 – 4% Reduction, Item 3 – Age of property and Item 6 –
16 Confidence Intervals. We would like to discuss the items that are
17 not data dependent: Item 4 – Type of Property, Item 5 – Asset
18 Management Fees, and within Item 7, Operational Differences,
19 Regulatory Differences between Public Housing and the FHA
20 database and Information Technology Costs.
21
- 22 Mr. Ramirez Is there a reason why we are not going to speak about resident
23 participation?
24
- 25 Ms. Tran Mr. Cooper requested tenant service data and we would like to
26 wait for that.
27
- 28 Mr. Cooper We can discuss this item without the data. We do not want to see
29 this line item disappear. I would like to propose that this remain a
30 significant line item and that the committee vote on the amount.
31 Looking at other programs, such as ROSS, it makes it very
32 difficult for PHAs to work in the public housing community and
33 provide those services.
34
- 35 Ms. Tran. Mr. Cooper please hold those thoughts and we will add resident
36 participation to the agenda. Ms. Zaterman proposed a time limit
37 for each topic. Is thirty minutes acceptable?
38
- 39 **Silence.**
40



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 – SECOND DAY
March 31, 2004

- 1 Ms. Tran Another helpful item would be to go through what Harvard said for
2 each item, the viewpoints of the committee members and HUD's
3 position, for some items. I would suggest that we begin with Type
4 of Property.
5
- 6 **The 30 minute time clock was started for Type of Property.**
7
- 8 Ms. Tran Would someone like to summarize Harvard's position?
9
- 10 Mr. Ramirez Mr. Byrne would you please, since you are one of the authors.
11
- 12 Mr. Byrne There is not a separate coefficients for scattered site properties.
13 There are 10 coefficients in the model for property type. We did
14 field testing in Kansas City, Baltimore and at two more sites. The
15 tests did not indicate that the model was under-estimating scattered
16 site, so no adjustment was made. Distressed properties were not
17 specifically addressed because the goal was to look at "well-run"
18 public housing. In some cases, distressed properties may not cost
19 more because you are waiting to demolish the property. In other
20 cases they could cost a whole lot more because you are sinking a
21 lot of money into it. We should get to why the property is
22 distressed and solve that problem and not just fund them.
23
- 24 Ms. Tran How are we defining scattered site properties and distressed
25 properties? Is there an industry definition?
26
- 27 Mr. Nolan I don't know about the definition, but I had asked earlier that we
28 also address mixed-income properties.
29
- 30 Mr. Byrne We took a survey and the model produced a number higher than
31 what PHAs were spending on mixed income. For the most part the
32 model is based on the average rental property in the marketplace.
33 To that extent, if someone is providing a property, it could be a
34 luxury property, our model does not account for that. The higher
35 the clientele you serve, the higher the costs will be.
36
- 37 Mr. Kelly Can you also talk about elderly/disabled properties?
38
- 39 Mr. Byrne We observed mixed results with agencies with PHAs with
40 significant young disabled populations and there were not



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 – SECOND DAY
March 31, 2004

1 significant cost increases. We are sympathetic to those costs and
2 for properties that have significant profiles of young disabled; we
3 estimate that there may be separate pots of monies, \$25 million
4 estimated nationally. This is an area where a change in regulations
5 would be helpful. PHAs can apply to designate properties as
6 senior properties only, but a number of agencies have not done so
7 and we are puzzled as to why they have not. In Massachusetts,
8 with state public housing you don't have to apply, you can set 10
9 or 12 percent cap [of your portfolio as senior properties] and you
10 do not have to get approval. In Chicago, multiple properties
11 applies and received designation. We should be able to make the
12 approval process more streamline.
13

14 Ms. Scudder In response to disabled and senior properties, we have a lot of
15 disabled properties and we want to designate them as elderly but
16 we have to find a place for the young disabled to go. The turnover
17 for that population is very great and so are the repairs. Even to
18 provide some reasonable accommodations we have had to dip into
19 our Capital Funds - there is a lot of funding that is needed for that
20 program.
21

22 Mr. Byrne One suggestion to deal with this population, our coefficients are:
23 Senior and family. Young disabled properties should be
24 considered as family properties since there is a 6% difference.
25

26 Mr. Gomez Can the model account for distressed properties? Not that we
27 continue to fund them but recognize them as distressed. If we
28 define distressed as a unit that needs more than \$50,000 in
29 rehabilitation, there are higher maintenance costs, security costs,
30 etc. Once the model is addressed and the inputs are in the model,
31 we can fall back to the standard predicted outcome. I would hate to
32 see PHAs penalized if they have distressed properties in their
33 portfolio and they are funded as "well-run" properties.
34

35 Mr. Byrne I don't think the model could do it, it would be a case-by-case
36 situation. Properties like that fall out of any model exercise.
37

38 Mr. Ramirez I would like to focus on mixed income disregard. The industry as
39 a whole, in dealing with rehabilitation efforts, has pushed towards



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 – SECOND DAY
March 31, 2004

1 mixed income developments, but why is there no factor that
2 addresses that transition. Why was it not included in the Study?
3
4 Mr. Byrne If it is a new property, it gets a new property coefficient and if it is
5 a 4 BR property it gets that coefficient. That is what it is. You are
6 getting a number that everyone else in the marketplace is operating
7 for, based on the average operating costs. If you are serving luxury
8 housing that is another story.
9
10 Mr. Ramirez My other concern is that you are brining in higher income residents
11 but blending them with low-income residents. Why is that not
12 considered an additional cost?
13
14 Mr. Byrne We treat mixed finance as 100% subsidized properties.
15
16 Mr. Rameriz I didn't catch the reason as to why they were not considered. Why
17 is there not a higher propensity to have scattered sites in our
18 industry relative to FHA?
19
20 Mr. Byrne First, one reason could be that the FHA database is just very small
21 properties. The model showed a very small, modest increase for
22 very small properties. In FHA all these small properties didn't
23 seem to cost more than large properties. When we did field testing
24 the managers said that there were tradeoffs. You get more
25 windshield time as a manager but get tradeoffs like more stable
26 families, reduced security costs and don't have to pay for lawn
27 costs or plowing. There are things that you are not incurring that at
28 MF property is incurring and vice versa. There is no cause to give
29 scattered site properties a higher number.
30
31 Ms. Tran Would HUD like to share its viewpoint?
32
33 Mr. Kelly I don't see how, as a PHA manager, there is a push for scattered
34 site properties. I'm not denying the approach you're taking but it
35 defies common sense. This shows the difference between FHA.
36
37 Mr. Byrne We also went to a number of PHAs doing private management of
38 scattered site properties and our findings were that it didn't result
39 in a higher number.
40



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 – SECOND DAY
March 31, 2004

1 Ms. Basgal I think that it's really a function of the community. My experience
2 is that with scattered sites is that they do not take as much
3 management time. We do not see the residents as much. My 150
4 unit complex takes more time to manage and is more expensive.
5
6 Mr. Nolan What is the need for actual definitions? Are there existing
7 definitions that someone could research offline? If the model does
8 not consider one of these categories, I would like to propose an
9 appeal process to deal with something that the model could not
10 anticipate. They may be many outliers on the low end, and the
11 data may reveal that.
12
13 Mr. Gomez From our perspective, our scattered sites are not much different
14 from our MF properties. I think that Mr. Byrne is right.
15
16 Ms. Zaterman I know that we are not to repeat points, but I think it is important to
17 have definitions, so that I can go back to HUD and say that I have
18 a special circumstance. We need to know how to deal with
19 circumstances that cannot be delta within the model. Does a 20
20 unit scattered site property versus a 1 to 2 unit property still count
21 as a scattered site? The other point is in regards to distressed
22 properties. There are still families living in distressed properties
23 and the property needs to be operated in a decent level until a new
24 strategy is devised. If we don't have access to capital immediately
25 through Hope VI or other funding sources, we are dealing with an
26 operating issue. Maybe a small group outside the committee or
27 with HUD should define these points. I am very interested in
28 HUD's viewpoint.
29
30 Mr. Morton Based on this conversation and my own experience; I would not
31 support setting any differences in the model for scattered sites. I
32 think this is an issue of poor management. I don't see the validity
33 of establishing an appeals process for scattered site properties. I
34 don't have a problem with other aspects, just scattered sites.
35
36 Ms. Tran We have seven minutes left on this topic.
37
38 Ms. Basgal This is the problem – the model only explains what it costs 53% of
39 the time. The reality is that it costs more in DC, Chicago, and in
40 Oakland. I have about 1,700 units and 300 scattered sites. It



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 – SECOND DAY
March 31, 2004

1 seems to me Mr. Land's point is well taken, however you don't
2 want an appeals process where you appeal every since property,
3 unless you have some really unusual situation. There needs to be
4 some sort of parameters.
5
6 Mr. Land In dealing with many different PHAs, we have not see an
7 appreciable difference in the cost just because it's a scattered site.
8 Sometimes you have poor management, and that results in a cost
9 increase, but that is not because it is a scattered site property.
10 Often, it is less costly because elderly persons live in scattered
11 sites, rather than families.
12
13 Ms. Tran Any other comments?
14
15 Ms. Scudder On scattered site the main issue is geographic location. Also, for
16 the people who live in distressed properties we cannot forget about
17 them.
18
19 Ms. Lott Ms. Tran, thank you for being so conscious of time. I think it is
20 important we need to receive some sort of feedback from HUD
21 regarding definitions for scattered site properties.
22
23 Mr. Russell We will have to look into that - whether we have working
24 definitions.
25
26 Ms. Lott You may have a working definition for distressed properties. We
27 must make a case every time we apply for HOPE VI.
28
29 Mr. Russell There have been multiple definitions.
30
31 Ms. Tran Any other comments?
32
33 Mr. Kubacki We will look into NOFA.
34
35 Ms. Basgal At the conclusion of each discussion, we're saying they should or
36 should not change the model, how are we going to make that
37 decision?
38



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 – SECOND DAY
March 31, 2004

1 Mr. Ramirez If the committee is silent then it is an item of discussion, but if
2 there is motion to vote or insert an add-on or definition, for the
3 sake of time we will just move on.
4
5 Ms. Lott I'm concerned that valid points have been raised and it costs more
6 to run a distressed property. Are we to now going to just move on?
7
8 Mr. Ramirez Well, we asked for a definition. Subject to obtaining the
9 definition, we move on. If scattered site is not a valid issue that is
10 fine, but there was a recommendation made that at the end we
11 would talk about the appeals process to address any deficiencies.
12 I'm not ready to vote on an issue like this. This is an issue more
13 outside of the formula than inside the formula. We should discuss
14 what would trigger an appeal and what items would be appealable.
15
16 Ms. Tran To follow up on Mr. Morton's comments, we need to think about
17 the criteria and how to do this so we are not continually appealing
18 each property. If there is no objection, we will move on.
19
20 Mr. Ramirez To clarify, this item will be brought up in the appeals discussion.
21
22 Ms. Zatterman I hate to make another data request, but we need to know how
23 many properties we are talking about, what portion of your
24 properties fall into these types of parameters.
25
26 Mr. Russell I am fairly certain that we have been asked those questions from
27 groups and Congress and we do not have a quantifiable number.
28 We cannot say that Atlanta has x number of distressed units. For
29 example, Atlanta will state that this property is applying for HOPE
30 VI. This is not a data request that we will be able to meet.
31
32 Ms. Tran Then next topic is Asset Management Fees. Can we move to this
33 topic?
34
35 **Silence.**
36
37 Ms. Tran Mr. Byrne would you like to begin.
38
39 Mr. Byrne We were very conscious regarding this topic. What does it cost to
40 be an owner rather than just a manager? Where do owners in the



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 – SECOND DAY
March 31, 2004

1 private asset management fee world get their cash flow? FHA
2 owners probably get some cash flow from assisted properties. Mr.
3 Anderson has spoken on this today. Some say asset management
4 should cost one half of the management fee. The average dollar
5 range around the country is \$25. Some also say that PHAs don't
6 do a lot of the asset management that is done, especially in the
7 private world with refinancing. Given those reasons, we did not
8 recommend that there be any asset management fee included in the
9 model.

10

11 Mr. Kaiser This is an important issue. Having served on the Harvard Research
12 Advisory Group, over the course of one year, it was constantly
13 stated by GSD that an asset management component cost would be
14 considered and added to the final report of the Study. We were
15 not aware that it was not added until after the final report was
16 published. I have a question for Mr. Byrne. As I understand it, the
17 7100 account costs were not included as a cost in the FHA
18 portfolio. These include officer salaries, state and local taxes, and
19 legal expenses. What was the rationale for not including the 7100
20 account costs?

21

22 Mr. Byrne Mr. Kaiser is talking about the corporate accounting costs. It's too
23 bad that we don't have a Chart of Accounts here. If you take out
24 financing accounts, what was reported in the FHA database, was
25 almost nothing. There were almost no expenses reported in the
26 FHA database in the 7100 account series.

27

28 Mr. Kubacki We did look at this. There are 7 line items that make up the 7100
29 series in the Chart of Accounts:
30 a) Officer Salaries
31 b) Market-to-Market incentive performance fees – NA
32 c) Legal Expenses
33 d) Interest Taxes
34 e) Interests on Notes Payable – NA
35 f) Interest on Mortgage Payable – NA
36 *N/A indicates that there is no FHA counterpart on the public*
37 *housing side.*

38

39 We talked to MF people who deal with these accounts. Everyone
40 almost said the same thing. There is not much data. Most of the



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 – SECOND DAY
March 31, 2004

1 data gets shoved in the 6000 account series. Some of this is poor
2 accounting. What is the legal expense? Usually this deals with the
3 creation of a partnership and changing the designation. Other
4 expenses dealt with the cost of a tax impact on the owner or the
5 cost to determine partner distribution. The officer's salary line item
6 has merit but if you are an FHA non-profit property you have a
7 board that serves with no compensation. What we found is that
8 none of this really applies.
9

10 Mr. Ramirez Some of these line items do apply because of joint ventures created
11 with mixed income partnerships, and they will be more common as
12 the industry transforms itself. There are legal fees that agencies
13 incur that are not common in FHA, e.g. protection process for
14 eviction, which requires an attorney to jump in to get it mitigated.
15 There are other regulatory factors not involved that are related to
16 the legal fees. What that factor is, I can't say. It's a difference.
17

18 Mr. Nolan So I'm very clear about what HUD seems to be supporting, is it the
19 contention that PHAs should operate strictly on a management fee,
20 and HUD is supporting that?
21

22 Mr. Kubacki Please rephrase the question.
23

24 Mr. Nolan What I'm hearing from Study is that the only thing coming out of a
25 property operation that supports a management company and or
26 corporate expenses is the management fee. Therefore, is it the
27 recommendation of the Study, which HUD supports that a
28 management fee exists only to support our corporate expenses?
29

30 Mr. Russell I would not say that I have that definitive position on this. I would
31 like to hear more comments. That is not my final position. The
32 final model does not present one, or does not account for one. As
33 the industry, do you feel that is an error? And if so, why? Why do
34 you need an asset management fee?
35

36 Mr. Nolan Is that what the Study recommends?
37

38 Mr. Byrne We are not recommending an amount. There is some element
39 within FHA regarding asset management costs and we can't tweak



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 – SECOND DAY
March 31, 2004

1 it out. We don't feel strongly that we can recommend an amount,
2 so you would treat it like a management company.
3
4 Ms. Basgal Mr. Byrne, you said that legal fees are nonexistent. Are those
5 corporate legal fees or property management legal fees?
6
7 Mr. Byrne Property litigation fees such as evictions are captured within the
8 database.
9
10 Mr. Kelly Under what line item is that captured?
11
12 Mr. Byrne It is under admin/legal.
13
14 Mr. Ramirez Yesterday, absent the management fee, even in a not-for-profit
15 world, there is a dividend distribution of 6 percent.
16
17 Mr. Byrne In the not-for-profit world there is no dividend. In FHA there are
18 three classifications: (1) unlimited, (2) limited (6-8 of the
19 investment) and (3) nonprofit. For a good percent of the FHA
20 database, those properties cannot take anything out of the property.
21
22 Ms. Scudder Non-profit owners may not get a management fee, but at the end
23 they get an income tax benefit and write-offs. I have a question
24 about the regulatory requirements. Was Fair Housing addressed in
25 how they perform?
26
27 Ms. Tran Any other comments?
28
29 **Silence.**
30
31 Mr. Byrne We talk about distributions and PHAs don't get distributions in one
32 view but in one view they do—interest income is sort of like cash
33 flow. Interest and other income is a QWHRA thing and is not on
34 the table, but that is like cash flow. I don't want to neglect that.
35
36 Mr. Epstein Another difference is that in public housing you get your operating
37 subsidy even if the unit is not rented, but in FHA for the majority
38 of the units, if it is not rented you don't get the rent. In public
39 housing any unused rent is distributed, it is not captured.
40



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 – SECOND DAY
March 31, 2004

- 1 Mr. Gomez We lose the operating subsidy if the unit is vacant after 12 months.
2
3 Mr. Epstein Yeah, but you still get it for one year.
4
5 Ms. Scudder If the unit is ready to be rented you get 80 percent and again we are
6 not fully funded with operating subsidy, but at least you can count
7 on 80 percent so it kind of balances out.
8
9 Ms. Basgal It appears that we are getting ready to leave this issue without
10 concluding if an asset management fee should be part of formula.
11 But some corporate governance comes with the management of
12 these properties. We would like to discuss that in the regulatory
13 discussion.
14
15 Ms. Zaterman I would like to call a 15 minute caucus.
16
17 Ms. Tran Caucus is granted.
18
19 **Caucus called from 3:25pm to 3:45pm. The committee reconvened at 4:08pm.**
20
21 Ms. Tran Please take your seats.
22
23 **A summary data report of PHA Resident Participation Add-on Expenses were**
24 **handed out (See Appendix 4) and a data report showing the impact on PHAs and**
25 **properties for several situations was handed out. (See Appendix 5).**
26
27 Ms. Tran [In reference to Appendix 5]. Committee members have requested
28 the data run I am passing out right now. If there are extra copies,
29 please distribute them to the public. Committee members
30 requested some out of model estimates be run separately. The first
31 is an increase in the nonprofit coefficient from 10% to 12%, the
32 second removes the 4% tax, and the third removes the ceiling.
33
34 Mr. Kubacki Are there questions on the data?
35
36 **Silence.**
37
38 Mr. Kubacki My question is, we're putting together files of the information
39 requested. We can deliver it electronically, but from a printing
40 standpoint, there are 300 pages. Then you wanted three scenarios



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 – SECOND DAY
March 31, 2004

1 which is 1,000 pages. There's no way. We can have it for you on
2 CDs. 1,000 pages takes a while just to print.
3
4 Mr. Kaiser Is it possible to get 4 copies? Then the groups can have copies
5 made for their members.
6
7 Ms. Tran 4 CDs?
8
9 Mr. Kaiser No, preferably four hard copies.
10
11 Mr. Kubacki Alright, we can make you a copy, and if anyone else wants a hard
12 copy, please talk to Mr. Kaiser.
13
14 **Member from the public: This is PHA data?**
15
16 Mr. Kubacki Yes, this is.
17
18 Ms. Tran There was still 10 minutes on the clock to discuss asset
19 management fee. Do we want to continue?
20
21 Mr. Nolan Concerning the asset management fee proposal, it is disturbing to
22 think that we are expected to operate on just a property
23 management fee. For those of us who engage third parties, we
24 already pay an asset management fee to those third parties. Under
25 the proposed model, that leaves practically nothing for the PHA.
26 There is a corporate structure that needs to be supported, even in
27 its most basic form of contract administration. Add to that the cost
28 to comply with certain things from a regulatory standpoint.
29 Because we are political in nature and as a government body, we
30 have responsibilities and are viewed as having deep pockets. We
31 have additional expenses—security (which is more than FHA
32 because we often are not just operating property but a location with
33 several properties), and we are also exposed to litigation due to the
34 type of organization we are. I absolutely think there should be an
35 asset management fee, I can't tell you how much, but it has to be
36 more than what the study suggests is paid to a property manager
37 for management. If you start benchmarking us to nonprofit owner
38 entities, in some cases it is a religious organization that manages
39 the property and their revenue comes from other functions, so I can



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 – SECOND DAY
March 31, 2004

1 understand why you see some of the results that you see in the
2 FHA database.
3
4 Mr. Lam I agree for the record with all points made by Mr. Nolan. There
5 are a number of factors that affect a PHA. In terms of sharing
6 some of our experiences in NYC, there is a portion of our portfolio
7 that is privately managed. Our property management fee is
8 sometimes 12-13%. That does not include the regulatory
9 restrictions that the parent PHA must operate with, security costs,
10 in NYC we have a strong unionized labor force, and a number of
11 rules we must follow. Private managers don't have to follow civil
12 service rules or due process. I wanted to share specific data of
13 what our private managers charge us when they bid to run our
14 properties.
15
16 Mr. Parker I have a question for HUD. Why for every grant program, is there
17 an allowance made for overhead that is often a significant
18 percentage of dollars that go into the direct costs of running that
19 program. Nothing is ever mentioned that this is inappropriate, or
20 that people ought to be administering the grant because it is their
21 business to do so. If the cost of running an individual property is
22 exactly the cost of running an individual property, and there is no
23 allowance for corporate overhead, why are such large allowances
24 made in other government programs for corporate overhead to run
25 the programs?
26
27 Mr. Epstein In terms of the FHA world, the management fee includes the
28 corporate overhead. Direct project costs are charged off to the job.
29 Generally, corporate overhead includes supervision, IT systems,
30 human resources, things of that nature, and profit. It works
31 because as any PHA knows, when they bid to privatize, there is not
32 a lack of people at the doors wanting to manage because the fee
33 provides significant profit.
34
35 Mr. Gomez Again, I think the management fee may cover the cost of operating
36 strictly a management company. We articulated earlier that the
37 cost of litigation, improving antiquated IT systems, the cost of
38 relocating residents—it's not just the property level costs of
39 operating or managing the portfolio, PHAs have other costs that
40 are inherent. If the goal is to have PHAs become more efficient,



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 – SECOND DAY
March 31, 2004

1 how does the model allow you to do that if the only costs
2 contemplated are the property level costs? We are trying to
3 articulate costs that are different and unique to public housing and
4 truly modernize operations.
5
6 Mr. Nolan I would like to echo the sentiment that if you are paying out a
7 management fee to a third party, there is nothing left. This leaves
8 absolutely nothing for corporate overhead. You need to build in
9 something to cover those costs. Traditionally, that's what this
10 program has done and that is why we're seeking this. Anybody
11 trying to reposition their inventory, I can assure you the grants you
12 get do not cover the costs you will incur to do that –politics,
13 litigation, relocation, a bunch of things not covered inside the
14 grants. These are inherent to our business and are not covered by a
15 management fee at the property level.
16
17 Mr. Ramirez Ned brought up some interesting points. The management fee in
18 the FHA scenario covers IT, future investment in security, and
19 other activities. I want to note for the record that IT, security, etc.
20 have not been addressed in the model. If we are using a third party
21 management fee, the underlying point is once you pay the fee,
22 what do you operate on?
23
24 Ms. Tran It is past time, but if it is okay with the committee, we'll continue.
25
26 Mr. Epstein To respond to Mr. Ramirez, I did not say security. Dan Anderson
27 had a great point to get the chart of accounts from FHA so we can
28 see what is covered on the property level. Some of you may be
29 thinking accounting or bookkeeping at the property level. Security
30 is covered at the property level. It is a question of the most
31 effective way to manage at both the property level and the central
32 management level. I would agree with Steve, if he has a
33 management contract for a third party and they are taking all of the
34 fee, I feel there should be an asset management fee. It's not
35 allowed on the FHA side but I think there should be a fee. I would
36 agree with Steve that would be an appropriate cost. When you
37 look at asset management, you need to look at how an entity is
38 being run at the project level and how it is being done at the central
39 office—it is part of the overall examination. Maybe some things at
40 the central office won't need to be done.



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 – SECOND DAY
March 31, 2004

1
2 Ms. Tran Chris, Mr. Epstein asked for a copy of the FHA Chart of Accounts.
3 Mr. Epstein, would it be helpful for this discussion?
4
5 Mr. Epstein Just so everyone understands what occurs at the property level in
6 FHA.
7
8 Mr. Byrne I will add my comments when you hand out the FHA Chart of
9 Accounts.
10
11 Mr. Parker I would like to commend Ned for agreeing that asset management
12 costs are necessary. Let's assume for a moment that Harvard costs
13 are exactly right and the study builds in a property management
14 fee. Let's assume every PHA in the nation went away. I would
15 venture that total outlays by HUD would not be limited to just
16 property-centric costs, but the Federal Government would still be
17 in the business of managing all property-contracts. The portfolio is
18 made up of 10,000 plus properties. An enormous amount of
19 coordination would be required. A property management fee alone
20 would not be enough. It is interesting to think about, whether
21 corporate overhead is a true and realistic cost.
22
23 Ms. Sledge I support what Mr. Parker just said. What level of social services
24 is provided at the property level under property management in the
25 FHA world?
26
27 Mr. Epstein I think it's variable. Some developments, for example the Section
28 202 developments, are allowed a supportive services coordinator;
29 in others they don't allow it. I think a component of tenant
30 satisfaction is good management and if you're looking to see if
31 FHA data includes a provision for a social service coordinator
32 everywhere, the answer is no. However, the management
33 company may organize additional activities that are just as valid.
34 They found other ways the provide the services.
35
36 Mr. Ramirez In cases where the FHA does have a social service component,
37 how is that paid for?
38
39 Mr. Epstein In Section 202 developments, it is a property expense paid for by
40 rent, as all other expenses are paid for (rent includes both the



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 – SECOND DAY
March 31, 2004

1 tenant component of 30% and subsidy). Everything is paid out of
2 rent. Similar to public housing, you pay from Operating Subsidy
3 and tenant income.
4
5 Ms. Tran If that is the last comment, what are the next steps. Is this a carry-
6 over topic?
7
8 Mr. Nolan I would just like to know as we move through the discussion, at
9 what point are we making decisions, at what point are we
10 agreeing? At what point do we vote on things, what is the work
11 product we are proposing to develop? Is it a formula; is it a report?
12
13 Ms. Tran It is a report on those items on which the committee has achieved
14 consensus. If you want to vote it is up to the committee.
15
16 Mr. Russell I think some of these are definitely pertinent issues that should and
17 can be carried over. I haven't yet heard a definitive proposal to
18 vote on. The industry has not come forward and said, "we propose
19 to vote on a \$10 asset management fee." What we are doing is
20 appropriate, seeing what is important, does it belong in the
21 formula, does it come under appeal. Even though nothing is on
22 paper, I definitely believe this is constructive and would come
23 back to this issue.
24
25 Ms. Zaterman I couldn't say it better, Bill. We're airing issues and getting
26 viewpoints. We're also waiting for data runs. There are many
27 cogs and wheels that must fit together. Let's air them and have
28 these discussions then revisit them in a systematic way.
29
30 Mr. Liu I wasn't here during the last Neg Reg, but can speak from the
31 recently completed Indian funding formula. It is a very similar
32 process in terms of muddying through issues in initial sessions.
33 There, consensus was defined as unanimous and some issues the
34 group decided not to come back to, but for many issues the group
35 decided to come back. The only significant difference here is the
36 timing issue.
37
38 Mr. Ramirez I ask that management fee/corporate overhead fee be discussed at
39 the time we get into the add-ons or deducts. We have some add-



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 – SECOND DAY
March 31, 2004

- 1
2 **Mr. Matt Pesy, an engineering consultant, came forward.**
3
4 Mr. Pesy There has been a lot of discussion today. This is the 2005 OMB
5 budget: utilities are \$1.3 billion, \$300 million is for allowances,
6 maintenance is \$2.3 billion. Most of the discussion today was on
7 administrative aspects and the management fee. But on this [2005
8 budget], the management fee is only 8% and security is 3%. It's
9 been two days and all the time has been spent on something that
10 only reflects a small amount of the budget. I caution the
11 committee to be aware of where the big ticket items are.
12
13 Ms. Tran Other comments from the public? Then we have time for one
14 more topic. The next topic is operational differences. Mr. Byrne,
15 can you walk us through? I believe it is Chapter 4 in the study.
16
17 Mr. Byrne First, there is only one PHA with 8,000 units and that is
18 Philadelphia. We did field testing there, and essentially the agency
19 affirmed the actual numbers were much lower than the model
20 predicted. Operating environment: should PHAs get paid
21 differently because they are a public entity? On p. 42, we list
22 items. Some items are driven by state or local law or quirkiness.
23 It's not necessarily the PHA. For example, Massachusetts has a
24 law where you have to bid every trade rather than every contractor.
25 Our position is while there are not as many as we initially thought,
26 there is no way for the study to incorporate all of these across the
27 50 states. If the Feds picked that up, there would be no end to that.
28 The locality would say, "let's add a requirement and the Feds
29 would pick it up." We found a lot of instances of real costs, but
30 mostly due to how PHAs chose to manage, as opposed to actual
31 requirement. This also ties into the non-profit add-on. That's a
32 quick summary.
33
34 Mr. Ramirez You briefly described the operating environment and costs
35 associated and attributed parts to quirkiness or local mood, and as
36 such no adjustments were made...
37
38 Mr. Byrne There was an adjustment equal to the nonprofit coefficient.
39
40 Mr. Ramirez Go to Appendix H of the report.



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 – SECOND DAY
March 31, 2004

1
2 Mr. Byrne Those are regulations different between public and assisted
3 housing, not operating environment...
4
5 Mr. Ramirez I wasn't finished. Procurement, wage rates, annual unit
6 inspections, annual plans, PHAS, tenant participation, waiting lists,
7 deconcentration, nonpayment of rent, IT... The regulatory
8 environment is translated into operations. Was that put into the
9 formula? We can wish away reality, but this is how we are
10 required to operate.
11
12 Mr. Byrne We tried to separately price...
13
14 Mr. Ramirez But are they included?
15
16 Mr. Byrne No, we recommend no additional add-on for those items. For
17 example, deconcentration was essentially no cost.
18
19 Mr. Ramirez So no one is doing anything on their rent rolls?
20
21 Mr. Byrne Very minimal. These are perceived as huge items, but in the
22 greater scheme they are not. It is noise and distraction but not
23 huge costs. We did research in Larry Lloyd's community, he's
24 one...
25
26 Mr. Ramirez One of 3,000.
27
28 Mr. Gomez In terms of deconcentration, we do spend money, and there are
29 resident groups who watch our every move and are very litigious
30 and claim we are concentrating, and we have to have internal and
31 external counsel respond consistently. It is some cost to us and we
32 need to be compensated.
33
34 Mr. Kaiser There are two separate issues. Operating environment and
35 regulatory environment. I agree with Mr. Ramirez, there are a
36 number of issues with the regulatory environment. But
37 specifically, on issues of operating environment, Greg raised a few.
38 One is information technology. My characterization of PHOCS is
39 it concludes IT costs PHAs \$6.50 or \$7.50 PUM. Then it goes into
40 minimal conversation about decentralizing and that it could reduce



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 – SECOND DAY
March 31, 2004

1 IT costs. It doesn't even address issues of small PHAs that can't
2 decentralized so there is no savings to be had by alleged
3 management improvements. In terms of other issues, I don't know
4 how you can characterize Davis Bacon, Section 3, various state
5 and local civil service laws as "quirky rules". Those are things
6 PHAs have to live with.
7
8 Mr. Byrne Davis Bacon and Section 3 are not local, they're federal.
9
10 Mr. Kaiser You dismiss those, but let's assume you don't. There are all kinds
11 of issues that cost PHAs. It would be nice to say, okay, we agree
12 with Harvard, let's not fund these anymore. But we can't do that.
13 It gets back to the whole point. Greg Byrne or Jim Stockard or this
14 committee do not make the policies PHAs have to adhere to. It is
15 Congress and state and local governments. We can't just dismiss
16 it. There is a long-standing policy that HUD has required PHAs to
17 adhere to local public practice in setting wages and benefits. This
18 is a complete departure from that process. These would be
19 statutory not regulatory changes that would be need to be approved
20 by Congress. We can't assume they will go away and not fund
21 them.
22
23 Mr. Nolan I would like to delve into IT, specifically the things on p. 48. Rent
24 collection may not be that complex but the system is purchased as
25 a package, and ties into rent calculation software that must be
26 custom designed to our industry. The software is not available on
27 the shelves, we have to buy something customized and then it
28 constantly changes. The waiting list plugs into the same system
29 and customization is required. Resident services are provided not
30 only for standard operations of a public housing property, but in a
31 relocation scenario, we have to track where people go and offer
32 rights of return to comply with requirements that exist. Standard
33 software packages are not available. You can go to Yardi or
34 whatever private managers use, but you will still have to
35 customize. We are trying to have our private management
36 companies to no longer use our software and instead buy their
37 own. In every case, they have to customize. That's providing the
38 standard functionality we require for managing a property plus the
39 regulatory environment. We would be more than happy to share
40 our efforts with you.



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 – SECOND DAY
March 31, 2004

1
2 Ms. Watson I want to make a more general statement and take issue with p. 53
3 where there is a conclusion that the primary mission of public
4 housing is property/asset management. This is too narrow, there
5 are regulatory requirements and local requirements. We don't take
6 issue with the cost efficiency standpoint. Our mission is to provide
7 decent, safe and sanitary housing. We have taken on the more
8 challenging aspects of providing housing. The study states GSD
9 wants to know why we don't opt out of providing elderly/disabled
10 housing. If we do, we will have to put a lot more money into
11 homeless services. The costs won't be incurred by PHAs, but will
12 still be incurred by other organizations. We must also look at that
13 aspect.
14
15 Mr. Russell I'm not an expert on FHA, but I assume they are managing
16 properties with elderly, disabled, and families just like public
17 housing. Yes, there are specific populations that PHAs are
18 serving, but I see similar demographics in Section 8 project-based.
19 I don't think there is a huge difference in who is being served.
20
21 Ms. Lott We manage public housing and Section 8 project-based. I assure
22 you I get a whole lot more money to operate Section 8 project-
23 based. It seems those things relevant in the public housing world
24 are dismissed by the study as quirky. Those things relevant in the
25 FHA world are considered valid but you say they can not be
26 carried over to public housing. The study says the only time we
27 have to procure is over \$100,000. We are told if we spend federal
28 money, we have to procure whether it is for a pencil or a huge
29 expense. If it is a large amount of money, we have to go through
30 formal procurement. The study also states PHAs only procure 5-
31 10 times per year, which is false. We procure every day and it
32 adds substantial costs.
33
34 Mr. Land Mr. Nolan brought up the idea of IT. I think this report is very
35 misleading. IT expense is great. As a producer of computer
36 software for PHAs, every software I am aware of is specially
37 written for public housing or FHA. There is no off the shelf
38 software. If you look at the complexity of the program we have to
39 administer, IT is an expensive part of the organization. Your
40 software has to be updated monthly to comply with federal rules



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 – SECOND DAY
March 31, 2004

1 and regulations. Software is pushed by hardware, so you are
2 continually called upon to upgrade your hardware. The average
3 hardware lifespan is three years. It is not an insignificant cost.
4
5 Mr. Parker I think we need to turn to the cost study itself. PHAs spend \$10
6 PUM on resident services. Non-profits don't spend as much, or if
7 they do, they get the amount from somewhere else. So there is \$10
8 PUM basically dismissed. It is the same thing with IT on p. 46.
9 GSD surveys lead one to conclude private operators might incur
10 somewhat less than \$3 PUM while PHAs spend \$8 - \$10 PUM.
11 The costs are out there, but they are dismissed as you shouldn't be
12 doing that. There really are significant differences, although there
13 are similarities in demographics. But if a Section 8 operator says it
14 won't provide a high level of resident services, then they simply
15 don't provide it. I would very much challenge that Section 8 and
16 FHA are required to and provide the same level of services. They
17 house similar individuals but provide far fewer services. Harvard
18 says we are spending more than FHA, but that it shouldn't be
19 incorporated.
20
21 Mr. Russell On IT costs, I have a question for Mr. Land. You say IT costs are
22 significant in public housing. Are they insignificant in FHA, or are
23 they significant for both? And to what extent does the Harvard
24 model account for FHA IT costs?
25
26 Mr. Land I believe you will see similar costs, but the FHA are often not as in
27 depth. You're looking at about \$6 PUM, and the Harvard study
28 says PHAs spend about \$8 - \$10 PUM. Generally speaking, we
29 see more requirements in public housing than in FHA. Whether or
30 not by design, FHA doesn't have nearly as many changes in
31 requirements as public housing.
32
33 Ms. Zatterman The Operating Environment chapter of the study is based on 10
34 case studies. I suggest 10 case studies may not be adequate to
35 reach conclusion about this important topic. I think that is
36 reflected in the conclusions we see. Although the non-profit
37 coefficient is added in, PHAs are not non-profits, they are part of a
38 locality. This is a federal law, there is a trail back to the federal
39 government in making PHAs a political subdivision. In my view,
40 it is perfectly legitimate to pick up these costs if you require PHAs



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 – SECOND DAY
March 31, 2004

1 to be a political subdivision. Also, there has been a requirement
2 for many years that PHA compensation rates be comparable to
3 local rates, so you see higher wages and benefits packages. Many
4 PHAs have hired residents as employees, maybe 30-40% of
5 employees are residents. So the argument that benefits packages
6 are too rich in health benefits, etc. seems to undercut the other
7 federal priority to hire residents and provide benefits. Finally, if
8 we recognize there are too many regulations, we can do something
9 to change it in the future, but we are not there yet. If you look at
10 costs you must also look at regulatory relief, and while moving in
11 that direction, you must continue to fund costs.
12
13 Mr. Kaiser I agree with Mr. Kubacki, the industry needs to be specific in terms
14 of numbers when it makes recommendations. If we close out
15 today, let's open up tomorrow and have specific proposals on
16 costs. I think there are some very identifiable costs that hopefully
17 can be added on to the study results.
18
19 Mr. Lam With respect to the Harvard study being dismissive in real IT costs,
20 and I'll discuss this more fully under transition costs, Atlanta and
21 Chicago are going through the same. We are attempting to move
22 in the direction of a property-based management structure. It is
23 very difficult and time consuming. It is difficult for staff—a huge
24 cultural change, which must be considered when looking at a
25 timeline. But with respect to IT, we had to completely revamp our
26 IT systems just to be able to consider PBA. In the process, we are
27 spending tens of millions of dollars to be in the position to move in
28 that direction. There is also a huge human expense—in IT staff,
29 management staff, and corporate staff—in making sure this is
30 successful and not a waste of taxpayer dollars. One area we can
31 look to for a benchmark on IT, let's look at HUD and their IT
32 costs. There has been a lot of public criticism with respect to
33 HUD's IT systems and requests that can not be met by the
34 Department currently. HUD received \$1.4 billion over the past 4
35 years for IT expenses (2001 to 2004). I'm sure all was well spent,
36 but PHAs will face similar costs to achieve the broader goals of
37 this session.
38
39 Ms. Sledge My concern is, of course, for residents. I am very concerned the
40 study has stated the mission of public housing will change. There



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 – SECOND DAY
March 31, 2004

List of Appendices for the March 31, 2004 Session:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

1. Sign-in sheet for committee members, guests of committee members and members of the public.
2. Budget Impact of **Scenario 1.0** (Remove Floors, Remove Ceilings, Remove 4% reduction, Increase non-profit coefficient to 12%).
3. Budget Impact of the **Harvard Base Model** by Region, Size Category and by State.
4. Summary of PHA Resident Participation Add-on Expenses.
5. Impact on PHAs and properties of:
 - a). Increasing the non-profit coefficient from 10% to 12%,
 - b). Removing the 4% tax reduction, and
 - c). Removing the ceilings.
6. Op Fund Data CD – requested from the Industry groups and Mr. Rick Parker.



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 – SECOND DAY
March 31, 2004

- 1 **Consensus Items for the March 31, 2004 Session:**
- 2
- 3 1. None
- 4