

constructive, creative, and acceptable solutions to difficult problems.

In July 1994, HUD entered into an Interagency Agreement with the Federal Mediation and Conciliation Service (FMCS) for convening services that would assist HUD in assessing the feasibility of assembling a balanced committee willing and able to work towards the goal of consensus on a proposed rule that is within HUD's statutory authority and addresses the issues of the interested parties. If HUD proceeded with the formation of a negotiated rulemaking committee, the Interagency Agreement called for FMCS to provide facilitating services.

The final convening report was provided to HUD in September 1994 and concludes that "there is sufficient support to re-examine the vacancy rule through a regulatory negotiations process." A copy of the report titled *Convening Report for Regulatory-Negotiations on HUD's Vacancy Rule* is available in the office of the Rules Docket Clerk at the above address.

#### **Chartering of Reg-Neg Committee**

As a general rule, an agency of the Federal Government is required to comply with the requirements of the Federal Advisory Committee Act (FACA) when it establishes or uses a group of non-Federal members as a source of advice. Under FACA, HUD must receive a charter for this reg-neg committee. HUD has prepared a charter and sent it to the Office of Management and Budget for approval. If the charter is approved and schedule changes are not necessary as a result of public comments, the Committee will be convened in accordance with this notice.

#### **Substantive Issues for Negotiation**

The convening report identified the following issues to be addressed by the Committee:

- What constitutes an acceptable level of vacancies for housing authorities of various size classifications?
- What criteria should be used for providing less than full subsidy?
- What criteria should be used for providing full subsidy despite less than full occupancy?

#### **Committee Membership**

The FMCS conveners consulted and interviewed over 30 officials of various organizations interested and affected by the vacancy rule. Three national HA associations—the Council of Large Public Housing Authorities (CLPHA), the National Association of Housing and Redevelopment Officials (NAHRO), and

the Public Housing Authority Directors Association (PHADA)—worked together to suggest executive directors of HAs for committee membership that would reflect a balance among HAs in terms of size and number of vacant units. The national associations committed themselves to serving as staff support to the HAs selected for membership.

After reviewing the recommendations of the FMCS conveners, HUD has tentatively identified the following list of possible interests and parties:

#### *Housing Agencies*

- Housing Authority of the City Of Houston, TX
- Cuyahoga Metropolitan Housing Authority, Cleveland, OH
- New York City, NY Housing Authority
- Newark, NJ Housing Authority
- Reno, NV Housing Authority
- Littleton, CO Housing Authority
- Housing Authority of the City of South Bend, IN

#### *Tenant Organizations and Public Interest Groups*

- National Tenants Organization, Ft. Pierce, FL
- Bromley Heath Tenant Management Corporation, Jamaica Plains, MA
- New Jersey Association of Public and Subsidized Housing Residents, Newark, NJ
- National Housing Law Project, Washington, DC
- Housing and Development Law Institute, Washington, DC
- Illinois Association of Housing Authorities

#### *Federal Government*

- U.S. Department of Housing and Urban Development

Comments and suggestions on this tentative list of committee members are invited. HUD does not believe that each potentially affected organization or individual must necessarily have its own representative. However, HUD must be satisfied that the group as a whole reflects a proper balance and mix of interests. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the committee may attend all sessions and communicate informally with members of the committee.

#### **Requests for Representation**

If in response to this Notice, an additional individual or representative of an interest requests membership or representation on the committee, HUD, in consultation with the FMCS conveners, will determine whether that

individual or representative will be added to the committee. Each additional nomination for membership on the committee must include the name of the nominee and a description of the interests the nominee would represent, evidence that the nominee is authorized to represent relevant parties, a written commitment that the nominee shall participate in good faith, and the reasons that the members proposed in this notice do not adequately represent the interests of the person submitting the nomination. HUD will make the decision on membership based on whether the individual or interest would be substantially affected by the proposed rule and whether the individual or interest is already adequately represented on the committee.

#### **Final Notice Regarding Committee Establishment**

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the establishment of a Negotiated Rulemaking Advisory Committee, unless HUD's charter request is disapproved or HUD decides, based on comments and other relevant considerations, that such action is inappropriate.

#### **Tentative Schedule**

If the final determination is that the committee should be formed and negotiations started, HUD plans to hold the first meeting of the committee on March 7–9, 1995. On March 7, the meeting will start at 10:00 a.m. and run until completion; on March 8, the meeting will start at 9:00 a.m. and run until completion; and on March 9, the meeting will start at 9:00 a.m. and run until approximately 1:00 p.m. The exact location of the meeting in Washington, D.C., will be announced in a subsequent **Federal Register** notice. Interested persons may also contact John Comerford, at the telephone number listed above, for this information. The purpose of the meeting is to orient members to the reg-neg process, establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and begin to address the issues. This meeting is open to the public.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register** if time permits.