to develop a list of factors that would make it possible to achieve the objectives. Points of discussion included:

1. The appropriateness of the current occupancy standard of 97% and the use of five or fewer vacant units in determining the occupancy percentage for small HAs.
2. Circumstances that create vacant units or cause vacant units to remain vacant for long periods of time. These included modernization, turnover, litigation, legislation, insurance claims, natural disasters, and market factors.
3. Circumstances or causes of vacancies that would warrant continuation of some level of subsidy payment.
4. Recognition of direct costs that are incurred by an HA regardless of the level of its vacancies.
5. Factors that could be incorporated into a vacancy rule that would promote the occupancy of vacant units.
6. Circumstances under which waivers of the regulatory provisions would be permitted.

The discussion process continued throughout the afternoon of the first day's session. The Committee reached consensus on retaining the provisions of the current rule with respect to small HAs being able to use an occupancy percentage of less than 97%, if the percentage is based on having five or fewer vacant units. The Committee, recognizing budgetary realities, rejected as not feasible or productive the possibility of redefining the 97% occupancy goal at a different optimum level.

A synopsis of the first day's efforts to develop a new vacancy rule was presented to the Committee by the facilitator at the start of the second day. The Committee, under the guidance of the facilitator, used the synopsis as a starting point to continue its discussion. Discussion included how litigation, Federal and State legislation, and regulatory action can serve as barriers to vacant units or buildings being reoccupied, demolished, sold, consolidated, or modernized.

Much of the discussion during the second morning segment was on the issue of vacant units that were undergoing modernization or were being scheduled for modernization. The Committee viewed modernization as a positive undertaking on the part of HAs to reduce vacancies, for which continued subsidy support is appropriate at some level. Topics discussed under this issue included sources of funding; scheduling of work and the ability of an HA to control its modernization; what constitutes a reasonable period of time in advance of modernization work for vacating occupied units or not reoccupying vacant units; and the treatment of small HAs that compete for modernization funding, where the resources may be insufficient to fund all approvable applications.

The facilitator prepared a new synopsis for the Committee to use as it began the second afternoon segment of the negotiations. After reviewing the synopsis, the Committee started to discuss the circumstances under which it would be reasonable to receive full or partial subsidy funding for vacant units. Full or partial subsidy was understood to mean receiving 100% or some lower level of the current Allowable Expense Level (AEL). A chart that presented the various cost items that comprise the AEL was provided to the Committee for its use. The Committee discussed whether and to what extent certain costs would be applicable to vacant units undergoing modernization, excess vacant units or empty buildings not undergoing modernization.

For partial funding purposes, the Committee agreed that the determination of the appropriate partial amount should be expressed in terms of a percentage of the AEL, and not in terms of reimbursement of actual allowable costs, because of the administrative burden that a direct reimbursable system would entail. The Committee then discussed various levels of partial subsidy support and whether it was reasonable to apply one partial subsidy level to all the different scenarios under consideration (vacant units undergoing modernization, excess vacant units, or empty buildings not undergoing modernization).

During the discussion the point was made that the current vacancy rule permits vacant units that are part of a funded, on-schedule modernization program to receive full funding. The Committee agreed to full subsidy eligibility for vacant units undergoing modernization, if the units have to be vacant in order to accomplish the work and the units are included in a HUD-approved modernization budget. The HA must place the vacant units under construction within two Federal Fiscal Years (FFYs) of funding approval. The Committee discussed a proposal to permit vacant units proposed for rehabilitation in the second year of an HA's Five-Year Action Plan to be eligible for full funding, but rejected the idea because of the annual cycle of Federal appropriations. Discussion continued on what partial subsidy level would be sufficient for the HA to maintain the structural integrity of vacant buildings/units in other circumstances. The session ended with an agreement to revisit this topic the following day.

The third day's session began with a discussion by members on whether a new vacancy rule should contain a section describing the general circumstances under which a waiver might be given. The Committee felt that there may be circumstances beyond an HA's or Resident Management Corporation's (RMC) control that have brought about a vacancy problem that, despite the HA's/RMC's documented best efforts, is not correctable or would place an unreasonable burden on the HA/RMC. The Committee agreed that the procedures and the documentation needed for obtaining a waiver would not be part of the new rule, but would be contained in a notice.

An updated synopsis was presented to the Committee for review and discussion. The Committee then returned to the issue of partial subsidies and agreed that an appropriate level of subsidy support would be 20% of the AEL. The Committee agreed that this level of support would be applied against vacant units that have been vacant for more than 12 months and were not undergoing modernization or were not vacant due to circumstances beyond the HA's control. These long-term vacant units will be removed from the HA's inventory of unit months available (UMAs). However, the Committee noted and emphasized that full funding of utilities under the current PFS would be continued. The Committee also agreed that the new vacancy rule would eliminate the current provisions regarding Comprehensive Occupancy Plans (COPs) and reiterated that units approved by HUD for deprogramming would not be included in the calculation of UMAs. A final synopsis containing all the consensus agreements made to that date was prepared for the Committee.

The second meeting of the Committee took place April 4–5, 1995, in Washington, DC. The meeting began with a discussion on whether the proposed rule language should reflect consequences that could occur if funds already appropriated by Congress for the Comprehensive Grant Program (CGP) were rescinded. If funds for the CGP were to be significantly decreased, HAs might have to delay placing some vacant units under a construction contract. This could lead to the HA having long-term vacancies that would not be eligible for full operating subsidy. The Committee agreed to language that