

U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

Special Attention of: Transmittal Handbook No.: 7417.1
All Regional Administrators; REV-1 CHG-12
Regional Directors, Offices of Housing
and of Public Housing; Field Office Issued: December 21, 1992
Managers, Housing Development and
Management Division Directors;
Directors, Public Housing Divisions;
All Public Housing Agencies

1. This Transmits Changes to Public Housing Development Handbook, 7417.1 REV-1, dated 12/92.
 2. Explanation of Materials Transmitted:
 - A. Paragraphs 3-15a and 7-92c (1) revised to explain that PHAs are required by 24 CFR Part 85 to solicit full and open competition for appraisal services; also, if the PHA requests, HUD will provide the names of potential commercial sources for appraisal services.
 - B. Paragraphs 3-15b, 3-15c (3), 3-15d and 7-94 revised to incorporate reference to Forms HUD 4128 and 4128.1 and to delete reference to obsolete Form ECO 2/3 HPMC.
 - C. Paragraph 3-15c revised to incorporate reference to 24 CFR 85 requirements and delete reference to compensation allowances.
 - D. Paragraph 3-121 through 3-130 revised to update chapter 3, Section 9, Uniform Relocation Assistance and Real Property Acquisition.
 - E. Paragraph 7-93 revised to incorporate reference to Form HUD-52651-A; also, paragraph 7-93c revised to add reference to zoning changes.
 - F. Paragraph 7-95c (1) revised to incorporate reference to Fannie Mae Form 1004, Uniform Residential Appraisal Report, and to delete reference to superseded Form HUD 92800-3. Paragraph 7-95d revised to incorporate reference to modifications or supplementary information that may be required from the fee appraiser.
 - G. Paragraph 11-28c (1) revised to incorporate language consistent with FAR 31.205.10.
 - H. Appendices 2 and 3, Forms HUD-51971-1 and 51971-11 respectively, revised to incorporate current Uniform Relocation Act requirements.
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3. Filing Instructions:

Remove:

Pages

3-9(10/80),3-10(10/80)
3-73 through 3-88(10/80)
7-53(10/80),7-54(10/80)
7-55(10/80),7-56(10/80)
11-21(10/80),11-22(10/80)

Insert:

Pages

3-9(12/92),3-10(12/92)
3-73 through 3-88(12/92)
7-53(12/92),7-54(12/92)
7-55(12/92),7-56(10/80)
11-21(10/80),11-22(12/92)
Appendices 2 and 3 (12/92)

Assistant Secretary for Public
and Indian Housing

W-3-1, W-2(H), R-1, R-3-1(PIH), R-3-2, R-3-3, R-6,

R-6-1, R-6-2, R-7, R-7-1, R-7-2, 138-2

W-3-1 Directives Management Officers--Headquarters and Regions,
library, ACIR (Advisory Commission on Intergovernmental
Relations)

W-2 HQ Office Directors, Special Assistants,
those reporting directly to Assistant Secretaries

R-1 Regional Administrators, Deputy Regional Administrators

R-3-1 Bulk shipment to Regional Offices for selective
distribution by program area

R-3-2 Directors, Administrative Services Divisions and
Administrative and Management Services Divisions, and
Administrative staffs

R-3-3 Category D offices - bulk

R-6 Category A offices - Office Managers and Deputy Office
Managers

R-6-1 Category A offices - bulk

R-6-2 Category A offices - Division Directors

R-7 Category B offices - Office Managers and Deputy Office
Managers

R-7-1 Category B offices - bulk

R-7-2 Category B offices - Division Directors

U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

Special Attention of: Transmittal Handbook No.: 7417.1
All Regional Administrators; Regional Directors, Offices of Housing and of Public Housing; Field Office Managers; Housing Development and Management and Public Housing Division Directors; Housing Programs and Housing Management Branch Chiefs
All Public Housing Agencies (PHAs) REV-1 CHG-11

Issued: June 12, 1992

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1. This Transmits Change to the Public Housing Development Handbook 7417.1 REV-1 to incorporate a further revised application approvability, rating and ranking system.

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and 4-23 through 4-28 (3/91)

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4-19 (6/92), 4-20 (6/92)
and 4-23 through 4-28
(6/92)

Assistant Secretary for Public
and Indian Housing

HUD-23 (9-81)

Handbook

7417.1 REV-1

U.S. Department of Housing and Urban Development
Washington, D.C. 20410

May 1988

Program Participants
and Departmental
Staff

May 1988

Public Housing
Development
Handbook

Reprinted 12/91 includes changes 1-10.

W-3-1, W-2(H), R-1, R-3-1(PIH), R-6, R-7, 138-2

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R-6 Category A offices - Office Managers and Deputy Office
Managers

R-7 Category B offices - Office Managers and Deputy Office
Managers

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CHAPTER 1. INTRODUCTION

- 1-1. PURPOSE. The United States Housing Act of 1937 (Act) authorizes the Department of Housing and Urban Development (HUD) to provide financial and technical assistance to public housing agencies (PHAs) for the development and operation of low-income housing projects. These projects, herein called public housing, are financed by loans and annual contributions provided under Sections 4, 5, and 9 of the Act. The public housing development regulation is published at 24 CFR 841 (Appendix 1). This Handbook provides instructions, guidelines, and processing procedures for use by HUD Area Offices, Multifamily Service Offices, and Regional Offices, PHAs, and other participants involved in the development of a public housing project.
- 1-2. SCOPE. The policies and procedures in this Handbook apply to the public housing processing activities from application submission to construction completion, occupancy, and issuance of an actual development cost certificate for a project. These procedures do not apply to the other types of housing assisted under the Act, such as Section 23, Section 8 and Indian housing projects, and do not apply to applications for public housing homeownership projects, modernization of existing projects, or operating subsidy assistance.
- 1-3. PHA RESPONSIBILITY. The PHA, which is a local governmental agency, functions as a developer, owner, and manager of public housing projects. In its capacity as a developer, the PHA is responsible for obtaining and maintaining local cooperation, project planning, and submitting the application and the housing proposal. This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (newly constructed or rehabilitated) housing, and purchasing existing housing which may require minor repairs. The PHA is responsible for carrying out its functions in compliance with all HUD requirements, contracts with HUD, and applicable Federal, State and local laws.
- 1-4. HUD RESPONSIBILITY. HUD is responsible for providing financial and technical assistance to PHAs to facilitate the timely development under the public housing program of modest housing that is decent, safe, and sanitary. In this capacity, HUD is responsible for assuring that PHA activities comply with Federal laws, regulations, and administrative procedures relating to the development of public housing projects.

1-5. HUD AREA OFFICE RESPONSIBILITY. The following is a summary of the key Area Office (including Multifamily Service Office) staff responsibilities:

- a. Area Manager. The Area Manager is responsible for administering all aspects of the public housing program within the jurisdiction of the Area Office. The Area Manager, to make best use of available staff and eliminate processing backlogs, may modify the review responsibilities set forth in this Handbook. These modifications may be made provided that processing steps are not eliminated and that qualified technical specialists perform the reviews.
- b. Housing Division Director (Housing Director). The term Housing Director, as used in this Handbook, also refers to the Multifamily Service Office Supervisor. The Housing Director is responsible for ensuring that public housing projects are developed in accordance with established policies and procedures. The Housing Director, with the assistance of the Deputy Director for Housing Development, establishes production priorities, maintains quality control over all housing operations, and assigns staff to project reviews to ensure timely processing actions and achievement of current production goals. Under the circumstances described above for the Area Manager, the Housing Director may modify the review responsibilities assigned to the Branches in the Housing Division.
- c. Multifamily Housing Programs Branch Chief (MHP Chief). The MHP Chief, with the assistance of the Multifamily Housing Representative (MHR), is the primary point of contact for a PHA and its representatives during public housing project development. The MHP Chief is responsible for establishing public housing project processing schedules to ensure that production goals are achieved, coordinating technical reviews and approval actions in accordance with established policies and procedures, monitoring PHA and Area Office activities to ensure accomplishment of scheduled processing actions within established standard processing times, and providing assistance, or arranging for technical assistance, to PHAs needing guidance from Area Office staff.
- d. Processing Control and Reports Unit Supervisor (PCR Supervisor). The PCR Supervisor is responsible for recording and controlling all processing documents relating to the review and approval of all public housing projects by Area Office staff. This includes establishing and maintaining production control records and project files, forwarding processing documents, establishing review deadline dates, and following-up on

processing reviews, preparing production reports and reporting information for the automated data systems. The reporting requirements for the public housing program are contained in Chapter 7 of the Records Control Handbook (HB 4050.1).

- e. Architectural and Engineering Branch Chief (AE Chief). The AE Chief is responsible for technical reviews of public housing projects and related determinations on such matters as land planning, project design, utility systems, and project construction.
- f. Valuation Branch Chief (Valuation Chief). The Valuation Chief is responsible for technical reviews of public housing projects and related determinations on such matters as acceptability of sites, environmental clearance, reasonableness of the turnkey developer's price, reasonableness of the total development cost, and the appraisal and acquisition of real property, including coordination with the CPD Division on environmental, Uniform Act and related requirements.
- g. Cost Branch Chief (Cost Chief). The Cost Chief is responsible for technical reviews of public housing projects and related determinations on such matters as the reasonableness of construction, rehabilitation and acquisition costs; maintaining a current cost data base; and initiating recommendations for prototype dwelling construction and equipment costs for areas within the jurisdiction of the Area Office.
- h. Mortgage Credit Branch Chief (Mortgage Credit Chief). The Mortgage Credit Chief is responsible for technical reviews and related determinations on such matters as the evaluation of development cost budgets, requisitions for advances of development funds, and issues relating to public housing project financing and closing.
- i. Assisted Housing Management Branch Chief (AHM Chief). The AHM Chief is responsible for all housing management functions affecting the development of public housing projects such as the review of PHA administrative capability, PHA insurance and fidelity bond coverage, and the financial feasibility of proposed projects.
- j. Legal Division (Area Counsel). The Area Counsel is responsible for all legal determinations relating to public housing project development including such matters as the resolution of legal issues raised by the Area Office staff, review of legal documents and the preparation of all contracts.

- k. Economic and Market Analysis Division Director (EMAD Director). The EMAD Director is responsible for making determinations relating to housing needs, including the review of public housing applications for market feasibility and consistency with a community's Housing Assistance Plan (HAP) goals; deconcentration of low-income persons; establishing allocation areas; developing statistical data for allocating housing assistance funds; computing "fair share" funding allocations; and recommending the proposed distribution of units by housing type and household type based on HAP goals or, in the absence of HAPs, housing needs data available from other sources.
 - l. Fair Housing and Equal Opportunity Division Director (FHEO Director). The FHEO Director is responsible for all civil rights and equal opportunity reviews, including the provision of assistance to PHAs on such matters, and review of the suitability of proposed sites for furthering fair housing and equal opportunity requirements and the deconcentration of minority persons.
 - m. Community Planning and Development Division Director (CPD Director). The CPD Director is responsible for administering the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and for monitoring and providing assistance to PHAs and to developers with respect to displacements resulting from turnkey development.
 - n. Labor Relations Staff. The Labor Relations Staff is responsible for providing appropriate and timely construction wage rate determinations, performing labor standards compliance reviews and ensuring PHA enforcement of the labor standards, including the provision of assistance to PHAs on such matters.
- 1-6. HUD REGIONAL OFFICE RESPONSIBILITY. Regional Offices, headed by Regional Administrators, supervise Area Offices and monitor and evaluate program performance and general management of the Area Offices. The Regional Office functions related to public housing development include: (a) ensuring that program goals are met; (b) redistributing funds among Area Offices; (c) allocating administrative resources to Area Offices; (d) coordinating HUD activities with other Federal agencies; (e) providing administrative support activities within the Region; (f) acting on appeals relating to Area Office program decisions; (g) coordinating private market financing of public housing projects with Headquarters staff; and (h) providing Departmental forms and issuances.

CHAPTER 2. ELIGIBILITY OF PUBLIC HOUSING AGENCY

- 2-1. INTRODUCTION. The public housing program is based on the concept of local consent and control. Federal technical and financial assistance under this program may only be provided to an eligible existing or newly established State, regional, county or local public housing agency (PHA).
- 2-2. DEFINITION OF AN ELIGIBLE PHA. The term PHA, as defined by the Act, is "any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing." In order to participate in the public housing program, a PHA must be approved by HUD as an eligible PHA. An eligible PHA is one that has both the legal authority and the local cooperation required for developing, owning and operating a public housing project under the Act, the regulation (24 CFR 841), and this Handbook.
- 2-3. LEGAL AUTHORITY. A PHA must demonstrate to the Area Office that it has the required legal authority. The PHA demonstration shall include the organization documents which evidence that it was created pursuant to a state housing authority law which authorizes the establishment of a PHA and gives it the legal authority to develop, own, and operate public housing projects under an Annual Contributions Contract (ACC) with HUD.
- 2-4. LOCAL COOPERATION. The Act requires the local governing body for the area in which the public housing project will be located to enter into an agreement (i.e., a Cooperation Agreement) with the PHA to provide the local cooperation required by HUD pursuant to the Act. This local cooperation includes exemption from real and personal property taxes, acceptance of PHA payments in lieu of taxes (PILOT), and the provision at no cost or at no greater cost by the governing body of the same public services and facilities normally furnished to others in the community.
- 2-5. PHA ORGANIZATION DOCUMENTS. Prior to submitting an application for a public housing project, the PHA must submit the organization documents identified below for approval by the Area Office. The required organization documents may be modified or supplemented, as determined by the Area Counsel, where necessary to comply with State or local law. If

assistance is required, the PHA should contact the MHP Chief of the Area Office that has jurisdiction for administering the public housing program in the community. The MHP Chief will designate a MHR who will provide guidance to the PHA, identify the documentation to be submitted, provide any required forms, and arrange for any necessary legal assistance from the Area Counsel.

- a. New PHA. Any PHA that has not been approved by HUD as an eligible agency must submit one copy of the following:
- (1) the State enabling legislation and any other relevant State or local laws;
 - (2) the governing body ordinance or resolution that established the PHA and an extract of the governing body proceedings;
 - (3) the governing body rules and procedures for adopting and amending local ordinances, including the procedure for setting the day, hour, and place of public meetings;
 - (4) the opinion from the governing body attorney that the PHA organization complies with State and local laws;
 - (5) the certificate of incumbency from the governing body secretary, identifying the Chief Executive Officer and principal members of the governing body (e.g., city council, board of selectmen, board of commissioners), the date each was elected or appointed to office, and the beginning and ending dates of their terms of office;
 - (6) the PHA By-Laws, the PHA resolution adopting the By-Laws, and the PHA Seal;
 - (7) the PHA Commissioner's Oath of Office and the certificate of the PHA Commissioner's appointment;
 - (8) the public notice of the PHA organization meeting, consent to meeting, and minutes of the organization meeting;

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- (9) the resolution designating the PHA officers and the regular PHA meeting place; and
 - (10) a certified statement from the PHA secretary that all the documents are authentic.

- b. HUD Approved PHA. Any PHA that has been approved by HUD as an eligible agency is not required to resubmit the documentation identified above. However, an approved PHA is responsible for notifying the Area Office when there are any changes in its enabling legislation, local ordinances or resolutions which affect the PHA legal authority, or any changes in the PHA organization documents. In such instances, the PHA will be required to submit a General Certificate (Form HUD 9009) updating the information which previously was approved by the Area Office. These changes may be submitted at any time, but must be approved by the Area Office prior to approval of the PHA application for a public housing project.

2-6. COOPERATION AGREEMENT. Prior to submitting an application for a public housing project, the PHA must submit for Area Office approval a Cooperation Agreement (Form HUD 52481). A Cooperation Agreement may be for as many housing units as can be agreed to by the PHA and the governing body. The standard form of Cooperation Agreement must be used unless modifications are approved by the Area Counsel because of special State or local requirements or because of changes in Federal requirements. The PHA submission must be accompanied by copies of the PHA and governing body resolutions approving the Cooperation Agreement and, if applicable, a certificate of incumbency as evidence that the persons who executed the Cooperation Agreement had the necessary authority.

- a. Approved Agreements. The separate submission of a Cooperation Agreement is not required if:
 - (1) the Cooperation Agreement was previously submitted with the PHA's initial or updated organization documents; or
 - (2) a Cooperation Agreement related to the community's Housing Assistance Plan (HAP) has been executed that indicates the maximum number of housing units, by acknowledging the assisted housing needs and goals identified in the community's HAP, and states that the required local cooperation will be provided for any public housing not to exceed the number of assisted housing units specified as goals in the HAP.

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- b. Separate Agreements. A separate Cooperation Agreement with agencies other than the governing body of the community in which the project will be located is necessary when:

- (1) services or facilities must be obtained from a governing body other than the one that established the PHA;
- (2) a project is located in an area within the jurisdiction of two or more governing bodies that have split responsibility for providing services and facilities;
- (3) required by State law; or
- (4) other public agencies are responsible for providing services or facilities essential to the project.

c. supplemental Agreements. When Annual Contributions Contracts have been executed for the number of public housing units covered by existing Cooperation Agreements, a supplemental Cooperation Agreement must be submitted prior to submission of an application.

2-7. AREA OFFICE REVIEW AND DETERMINATION OF ELIGIBILITY. The Area Counsel shall review the PHA organization documents and Cooperation Agreement to determine whether or not the PHA is eligible to participate in the public housing program and has both the legal authority and the local cooperation required under the Act. The Area Counsel, upon completing this review, shall prepare a letter for the Area Manager's signature advising the PHA that it is an eligible agency and of the number of housing units remaining under the existing Cooperation Agreement. The letter also must indicate that the PHA will be required to notify the Area Office of any changes affecting its eligibility or local cooperation. If the PHA is not an eligible agency, the reason for this determination must be stated in the letter as well as suggested actions to be taken by the PHA to correct any deficiencies. The Area Counsel shall send a copy of the Area Manager's letter, organization documents, and the Cooperation Agreement to the PCR Supervisor for the Housing docket file.

CHAPTER 3. DEVELOPMENT REQUIREMENTS

Section 1. General

- 3-1. INTRODUCTION. This chapter establishes the general program standards and policies and the statutory requirements related to the development of public housing. These requirements must be satisfied for each project at the applicable processing stage indicated in this Handbook.
- 3-2. LOANS AND DONATIONS. The PHA may accept loans or donations to assist in project planning activities or to offset the cost of developing a public housing project. This may include loans or donations of funds, real property, equipment, or services.
- a. Sources. Loans or donations may be made by the unit of general local government from Community Development Block Grant (CDBG) or other local funds, or may be obtained from other sources such as private individuals and businesses, or other public agencies.
 - b. Loans. Loans to be repaid from the project development cost may not be accepted by the PHA without prior Area Office approval of the value, purpose, and eligibility as an authorized project expense.
 - c. Donations. Although prior Area Office approval is not required, the PHA shall ensure that in accepting donations it complies with any applicable HUD requirements. For example, in accepting a donation of real property, a waiver of rights under Title III of the Uniform Act may be required (Section 9). Also, appropriate insurance coverage should be obtained (Section 3) for any donated real property.
- 3-3. CONFLICT OF INTEREST. The ACC contains requirements with respect to conflict of interest. When the ACC is executed, the conflict of interest provisions will apply to any PHA activities related to project development whether or not such activities took place before execution of the ACC.
- 3-4. STATE AND LOCAL REQUIREMENTS. The PHA must comply with all State and local laws and ordinances relating to the development of a project. This includes State and local requirements relating to fair housing opportunities, the purchase of supplies, materials and equipment, employment, obtaining bonds and licenses, and complying with building codes and zoning requirements.
- 3-5 thru 3-10. RESERVED.

Section 2. PHA Contracts

- 3-11. GENERAL. The PHA must use the contract forms identified in this Handbook or otherwise prescribed by the Area Office. All PHA contracts relating to project development must provide for compliance with the provisions of the ACC. PHA contracts are subject to the requirements of this section and the equal opportunity requirements identified in Section 4 of this chapter.
- 3-12. PREVAILING WAGE RATES. Development related contracts entered into by the PHA shall provide for the payment of prevailing wages.
- a. Architects and Technicians. All architects, technical engineers, draftsmen and technicians employed in the development of the project shall be paid not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by HUD (42 U.S.C. 1437j).
 - b. Laborers and Mechanics. All laborers and mechanics employed in the development of a project shall be paid not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276).
- 3-13. ADVANCES. Advances shall be authorized only for PHA activities or expenses that are covered by the ACC. Although PHA expenses incurred prior to ACC execution may be eligible project expenses, funds shall only be advanced after execution of the ACC for the purposes and amounts approved by the Area Office.
- 3-14. AREA OFFICE APPROVAL. The PHA, except as provided below, shall obtain the written approval of the Area Office prior to executing development related contracts to ensure that the purposes and amounts specified comply with all program requirements and are eligible project expenses. This applies to contracts for project planning and design, site and property acquisition, construction contracts, contracts of sale and contracts for construction inspections.
- a. Pre-ACC Activities. The PHA may employ individuals or firms to provide management or professional services to prepare a PHA proposal. The PHA is not required to obtain prior Area Office approval for the following PHA proposal preparation activities:

(1) retaining an attorney on an hourly or per diem basis to provide legal assistance relating to title services, a surveyor to prepare a land survey and site plat, or an architect or other registered professional to assist the PHA in identifying sites, provided that the cost for such services does not exceed \$200 per unit; and

(2) executing site options, provided that the cost of the option does not exceed the lesser of ten (10) percent of the owner's asking price or \$10,000 for all sites for the proposed project.

b. Post-ACC Activities. Upon execution of the ACC the PHA may, without prior Area Office approval, execute contracts or agreements for professional, management, legal, or other services related to project development provided that:

(1) the term of the agreement or contract (including renewals) does not exceed two years;

(2) the amount specified in the agreement or contract does not exceed the amount approved by the Area Office for such purposes on the latest project development cost budget;

(3) the agreement or contract is not for legal or other services in connection with litigation; or

(4) the agreement or contract is for the purchase of supplies, materials, equipment or services that are exempt from competitive bidding pursuant to the ACC or, the services are to be performed under PHA supervision and paid on a time basis (e.g., hourly, daily).

3-15. APPRAISERS. If a site or property will be acquired through condemnation, fee appraisers must be used to eliminate any appearance of prejudice in the condemnation proceedings because of the contractual relationship between HUD and the PHA. The use of fee appraisers is also required for acquisition of single family (one to four family) properties (Chapter 8). The Area Office may also authorize the use of a fee appraiser if a staff appraiser is not available to make the appraisal on a timely basis.

a. Selection. When the Area Manager has authorized the use of a fee appraiser, the Valuation Chief will prepare a letter for the Housing Director's signature authorizing the PHA to employ a fee appraiser. The letter will state the

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- * instructions for the PHA to solicit full and open competition for appraisal services that is consistent with procurement standards for small purchase procedures (contracts up to \$25,000) or competitive proposal procedures (contracts over \$25,000) set forth in 24 CFR 85.36. The letter will also state that the PHA has thirty (30) days (or longer, if competitive proposal procedures are involved) from the date of the Housing Director's letter to select an appraiser and execute an appraisal agreement. The PHA shall select an appraiser who qualifies under local and state licensing requirements and who can complete the appraisal in a timely manner. If the PHA requests, HUD will provide the names of potential commercial sources for appraisal services. *
- * b. Appraisal Agreement. The PHA shall use the guideform agreement for appraisal services contained in Handbook 1378, Relocation and Real Property Acquisition. The guideform agreement shall be amended to add that the appraiser shall provide whatever available environmental information that can be determined to the Valuation Chief, who is responsible for preparing an Environmental Review, Forms HUD-4128 or 4128.1, whichever is applicable, required under HUD regulations implementing the National Environmental Policy Act (NEPA) of 1969 at 24 CFR Part 50, and making a determination of a Finding of No significant Impact (FONSI) or an Environmental Impact statement (EIS) is required. The agreement shall also be amended to reflect the procurement requirements of 24 CFR 85.36(i). If assistance is required, the PHA should contact the Valuation Chief. *
- * c. Compensation. The PHA shall perform a cost or price analysis to ensure that the appraisal price is fair and reasonable. All procurement funded by HUD shall be conducted consistent with the standards of 24 CFR 85.36. Also, all procurement for appraisal services must comply with local and state procurement regulations.
- (1) Small Purchases Procedures: Where the PHA requires appraisal services and the estimated cost of the contract is \$25,000 or lower, if required by State law, the PHA may use small purchase procedures. Under these procedures, the PHA shall obtain either oral or written price quotations from an adequate number (at least three) qualified appraisers, keep a written record of the quotations, make a documented selection based on price and

other specified factors, and issue a purchase order to bind the agreement.

- (2) Competitive Proposal Procedures: where the PHA requires appraisal services and the estimated cost of the contract is over \$25,000, the PHA shall use competitive proposal procedures. Under these procedures, requests for proposals shall be publicized in a newspaper, trade journal or other media and identify all evaluation factors and their relative importance. Proposals will be solicited from an adequate number of qualified appraisers, including small, minority and women enterprises whenever possible, with awards made to the responsible appraiser whose proposal is most advantageous to the program, with price and other factors considered.
- (3) Forms HUD-4128 or 4128.1: The statement of work for the PHA's appraisal contract shall contain the requirement for providing whatever environmental information is available relating to Forms HUD-4128 or 4128.1, whichever is applicable. The Valuation Chief shall utilize this information in preparing the Environmental Assessment. No additional compensation shall be provided to the appraiser for such purposes unless authorization is provided by the Valuation Chief.

* (4) Expert Witness: Expert witnesses may be-used to testify in condemnation proceedings and related pretrial hearings or conferences. In such cases, the appraisal contract shall contain pricing for expert witness appearances based on the standard rate in the area. *

* d. Field Office Review. The fee appraisal report must be reviewed by the Valuation Chief to determine that proper procedures were followed in arriving at the value conclusion. Modifications or supplementary reports may be required to obtain an acceptable appraisal and environmental information. However, as a risk management tool, the Field Office may on the basis of experience with the PHA and the fee appraiser, elect to not review the fee appraisal report. *

3-16. Architects. Project planning, design, and administration of construction contracts require the services of an architect or other professional registered to provide the necessary services in the State in which the project will be located. The PHA shall determine the services required and shall select a qualified individual in compliance with the program requirements.

- a. Scope of Services. The extent of architectural services will vary depending on the development method selected by the PHA.
- (1) Conventional Method: Under the conventional method, the architect provides all required professional services for project planning, design, and administration of the construction contract. This includes the development of design concepts, preparation of design and construction documents, rehabilitation work write-ups, and project cost estimates; evaluation of construction bids; inspection of materials and workmanship during construction; notifying the contractor and the PHA of problems observed; and certification that construction is performed in accordance with the construction contract.
 - (2) Turnkey Method: Under the turnkey method, the architect is generally responsible only for performing construction inspections and certifying that construction is performed in accordance with the contract of sale.
 - (3) Acquisition Method: Under the acquisition method, an architect usually is not necessary due to the limited scope of repair work. However, the PHA may employ an architect for project planning and administration of the repair contract, if appropriate.
- b. Selection. The PHA shall select an architect on the basis of professional and technical competence, experience, knowledge of local building codes, and capability to provide professional services in a timely manner. Every effort should be made to retain an architect prior to the project planning conference (Chapter 6).
- c. Area Office Approval. The PHA, upon selecting an architect, shall prepare and submit the PHA architect's contract to the Area Office for approval prior to execution by the PHA. The Agreement Between Owner and Architect (Form HUD 51915) is used for projects being developed under the conventional and acquisition methods. The Contract for Inspection Services (Form HUD 5084) is used for projects being developed under the turnkey method.

d. Compensation. At the time the contract for architectural services is prepared the PHA and the architect, subject to Area Office approval, shall agree upon the compensation to be specified in the contract. Architectural fees shall be consistent with those which prevail for similar projects and services in the area. The amount of compensation is usually stated as a percent of the estimated construction cost for the project, an hourly rate, per sheet fee or lump sum amount. In determining fees, consideration should be given to the following:

- (1) scope of basic services;
- (2) type of project, size, and complexity of design;
- (3) extent that previously completed architectural drawings are being used;
- (4) extent that prefabricated or modular components are being used;
- (5) extent that a project consists of repetitive basic structures;
- (6) the number of construction contracts - prime and separate trades contracts - to be administered; and
- (7) anticipated complexity of the Turnkey Developer's Packet and developer response.

3-17. ATTORNEYS. The PHA may retain an attorney to review and prepare contracts, perform title searches, provide legal services for site and property acquisition, and provide other legal services that may be required in the development of a project. These services may be provided by the PHA staff attorney (or an attorney retained by the local governing body whose services are available to the PHA) or the services may be provided by an attorney on a contract basis.

a. Selection. If a staff attorney is not available, the PHA may request a proposal for legal services on a contract basis. The PHA should identify the scope of services to be provided, and should request that the attorney prepare and submit an agreement for legal services, identifying the services to be provided and the compensation to be paid by the PHA.

b. Scope of Services. The PHA request should identify the scope of services to be included, such as:

- (1) preparing and reviewing public housing development related contracts;
- (2) representing the PHA at settlement proceedings;
- (3) examining titles and curing defects;
- (4) preparing legal descriptions of property and recording title papers; and
- (5) if applicable, preparing petitions and providing other legal services in connection with condemnation proceedings.

c. Compensation. Compensation shall be based on the fee schedule prevailing in the area for similar legal services.

3-18. COST ESTIMATORS. Area Office cost analysts generally evaluate project cost estimates. If a staff cost analyst is not available, the Area Office may authorize the use of a professional cost estimator for a lump sum amount or on a time basis to prepare an independent cost estimate for a turnkey project only. (The PHA architect prepares the cost estimate for conventional projects.)

a. Selection. When the Area Manager has authorized the use of an independent cost estimator, the Cost Chief will prepare a letter for the Housing Director's signature authorizing the PHA to employ a professional cost estimator. The letter will state the maximum dollar amount and will identify three cost estimators that the Area Office has determined are qualified to provide such services. The letter will also state that the PHA has fifteen (15) days from the date of the Housing Director's letter to select a cost estimator and submit the agreement to the Area Office.

b. Area Office Approval. The PHA shall select one of the three cost estimators based on the amount to be charged for the cost estimate and timely performance. The PHA shall identify its selected cost estimator by submitting, for Area Office approval, a proposed agreement for cost estimating services.

- c. Compensation. Compensation shall be based on the fee schedule or time rate prevailing in the area for similar professional services.
- d. Area Office Review of Cost Estimates. All independent cost estimates must be reviewed by the Cost Chief before the PHA makes payment to the cost estimator. Modifications or supplementary information may be required to obtain an acceptable cost estimate.

3-19. DEVELOPMENT MANAGERS. The PHA normally functions as the development manager for a public housing project. In this capacity, the PHA staff would be responsible for selecting and contracting with other participants (e.g., PHA architect, turnkey developer), for dealing with such participants under the applicable contract, for preparing any required demonstrations and documentation that is not provided by such participants, for expediting and coordinating the preparation of required documentation for submission to the Area Office, and for following up to ensure timely actions by the Area Office. It may be desirable for the PHA to enter into a contract with an individual or firm to perform such services when the PHA does not have the staff capability and the cost for such contract services would be off-set by a savings in PHA staff expenses. Where the PHA determines that these circumstances exist, it may request Area Office authorization to employ a development manager.

- a. Selection. The PHA must consider whether it is more efficient and less costly to employ a separate development manager or to add such functions to the contract with another professional (e.g., PHA architect, attorney) who will be employed by the PHA for other project development activities. In order to be considered by the PHA, the individual or firm who is to provide the development manager services must meet the following requirements:

- (1) have at least one year of satisfactory experience in housing development activities under HUD assisted housing or mortgage insurance programs;
- (2) have at least one year of satisfactory experience in working with PHAs;

- (3) have sufficient capability to provide the services required by the PHA in a timely manner; and

(4) be approved by the Area Office.

b. Scope of Services. The PHA may contract with the development manager to provide public housing development services including but not limited to the following:

- (1) providing assistance to select an appraiser, or obtaining legal and architectural services for the PHA;
- (2) coordinating participation in project development activities by the Area Office, PHA architect, PHA attorney and project related activities of local agencies;
- (3) preparing the Turnkey Developer's Packet and evaluating turnkey proposals;
- (4) identifying properties to be purchased by the PHA under the acquisition method;
- (5) preparing PHA proposals;
- (6) preparing Development Cost Budgets (Form HUD 52484); and
- (7) providing services normally performed by others (e.g., identifying sites for projects being developed under the conventional method, which is normally done under the PHA architect's contract) if the development manager is qualified to provide such services.

c. Contracts. The PHA, upon selecting a development manager, shall prepare and submit the proposed contract to the Area Office for approval prior to execution by the PHA. The contract shall identify the specific services to be provided by the development manager as well as the fee for each of the specific services. The PHA shall also ensure that the services to be provided by the development manager do not duplicate the services provided under other development related PHA contracts (e.g., Agreement Between Owner and Architect, Form HUD 51915, and Contract for Inspection Services, Form HUD 5084), by modifying such contracts to delete the services to be provided by the

* development manager. Paragraph 7-26 discusses the review of development manager contracts. *

* d. Compensation. At the time the contract is prepared, the PHA and the development manager, subject to Area Office approval, shall agree upon the compensation to be specified

in the contract. The total amount of fee specified in the contract shall not exceed the maximum amount allowable in accordance with the following schedule, which has been determined to be appropriate compensation for the full range of Development Manager services:

Total Development Cost (TDC) as stated in the ACC at the PHA Proposal Stage	Fee
Up to \$1,500,000	\$20,000*
From \$1,500,000 to \$3,500,000	\$20,000 plus 1% of excess over \$1,500,000
Over \$3,500,000	\$40,000
Maximum Allowable Fee	\$40,000

*Projects with fewer than 25 units may be eligible for a fee of up to 5% of the TDC, at the discretion of the Area Manager. However, the total fee should not exceed \$20,000.

The fee for each service should be based on the number and types of services agreed to under the contract.

*

In determining fees, consideration shall be given to the following:

- (1) scope of services;
- (2) type of project, size and complexity of development (e.g., scattered site, extent of rehabilitation);
- (3) anticipated complexity of the Turnkey Developer's Packet and developer responses;.
- (4) the anticipated development period; And
- (5) the extent of coordination and approval required from other local agencies.

3-20 thru 3-30. RESERVED.

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3-16 thru 3-22

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Section 3. Insurance and Fidelity Bond

3-31. GENERAL. The PHA must obtain the required types and amounts of insurance coverage at the time the PHA becomes subject to the risk. This coverage shall be maintained for the duration of the risk. Existing PHA policies should be reviewed and endorsed if necessary to cover development activities. Insurance premiums for the initial policy term (not to exceed three years from the time the first insurance coverage is required for development) may be included in the project development cost. Additional information is provided in Low-Rent Housing Insurance Guide (HMG 7401.5).

- a. PHA Responsibility. The PHA shall obtain the required coverage (paragraph 3-32) in a timely manner and shall ensure that contractors and sub-contractors, under the conventional method, obtain and maintain the insurance coverage required of contractors (paragraph 3-33) to protect the PHA interest during construction. The PHA shall obtain insurance coverage that is effective on the date it acquires ownership of a turnkey project or existing housing purchased under the acquisition method. All required insurance, shall be written by financially sound and responsible insurance companies. Such companies are identified in Bests' Insurance Reports and Area Office guidance is available upon request.
- b. HUD Responsibility. The ACC provides that, in the event the PHA does not obtain the required protection, HUD may obtain the necessary insurance coverage. The cost, including interest, is to be promptly reimbursed by the PHA or HUD may recover such expenses from the amounts otherwise payable to the PHA. The Area Office shall ensure that the PHA secures and maintains the necessary insurance or that the Area Office does so in a timely manner, if required to protect the various interests of all involved parties, and takes recovery action under the ACC.

3-32. PHA INSURANCE. The PHA shall submit a copy of each insurance policy or fidelity bond to the Area Office at least forty-five (45) days before the proposed effective date. Such coverage shall automatically be placed in force on the proposed effective date unless it is specifically disapproved by the Area Office within thirty (30) days of submission. The effective date of the policy shall be the date that the PHA is subject to the risk and shall continue in force during the period for which the PHA is subject to the risk.

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- a. Required Coverage. The following types of coverage are the minimum amounts to be carried by the PHA unless the

PHA, with the concurrence of the Area Office, determines that additional protection is required to meet special local circumstances:

- (1) Blanket fidelity bond coverage for all PHA officers, agents or employees that are authorized to handle cash, sign checks, or certify payment vouchers: coverage shall be equal to the PHA's cash requirements for three months;
- (2) Comprehensive fire and extended coverage insurance: coverage shall be equal to eighty (80) percent of the insurable value of the real property including equipment and PHA owned furnishings as of the date insurance is obtained or renewed. The Area Office may authorize the PHA to obtain insurance at total replacement cost instead of at eighty (80) percent of insurable value.
- (3) Comprehensive general liability insurance (excluding property damage): coverage shall be at least \$500,000 per occurrence;
- (4) Worker's compensation insurance;
- (5) Automobile liability insurance against property damage and bodily injury: the policy shall cover PHA-owned and operated vehicles;
- (6) Automobile collision, fire, and theft insurance: the policy shall cover PHA-owned vehicles only;
- (7) outside robbery insurance: not required if a bonded armored car service is used for the transportation of cash;
- (8) Boiler insurance: required only for steam boiler installations; and
- (9) Flood insurance: required for projects approved by the Area Office in special flood hazard areas identified by HUD and for which insurance is available under the National Flood Insurance Act of 1968.

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- b. Competitive Bidding. The PHA shall obtain comprehensive fire and extended coverage insurance and comprehensive general liability insurance through an open and competitive bidding process in accordance with the requirements of the ACC.

In addition, the PHA is encouraged to make use of the competitive bidding process for other forms of insurance coverage where a savings in premiums could be realized.

- c. Filing Claims. The PHA shall prepare and submit claims and reports for losses or accidents to the insurance carrier and a copy shall be sent to the Area Office. Such claims and reports must be submitted promptly to protect the PHA's interest and ensure the insurance carrier's liability under the policy.

3-33. CONTRACTOR INSURANCE. The PHA shall monitor the insurance policies obtained by all contractors and sub-contractors to ensure that the coverage required by the construction contract is kept in force until the contractor's work is accepted by the PHA. A copy of the PHA insurance record for each project shall be sent to the Area Office. The record shall identify the project number, the name and address of all contractors and, for each contractor or sub-contractor, the type of insurance, the name and address of the insurance company, the policy number, amount of coverage, and the effective date and expiration date of the policy.

- a. Applicability. The insurance requirements identified in this paragraph apply to contractors and sub-contractors involved in project development using the conventional method. These provisions do not apply to projects being developed under the turnkey method, since any risks and insurance protection during construction are solely the turnkey developer's responsibility as owner and seller.
- b. Evidence of Insurance. Each contractor or sub-contractor shall provide a certificate of insurance to the PHA which evidences that worker's compensation and general liability insurance are in force before any work is started. The contractor must also provide similar evidence that the required builder's risk insurance on excavations, piers, footings, or foundations is in force before any work is started on the superstructure. The certificates of insurance shall also indicate that the insurance company will give the PHA thirty (30) days prior written notice of any cancellation or material change in the contractor's policy. Insurance which expires before the contractor's work is accepted by the PHA must be renewed and evidence of renewal submitted to the PHA.

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- c. Noncompliance with Insurance Requirements. The PHA shall notify the contractor to stop work if the required insurance

coverage is not in force at the time that work begins or if the coverage expires before the work is accepted. The contractor shall also be notified that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

- d. Worker's Compensation Insurance. Each contractor or sub-contractor shall carry worker's compensation insurance for all employees engaged under the construction contract.
- e. Comprehensive General Liability Insurance. Each contractor shall carry comprehensive general liability insurance with bodily injury and property damage. The minimum amount of required coverage is \$500,000 per occurrence. The insurance policy shall also cover the use of all equipment, hoists, and vehicles on the project site.
- f. Builder's Risk Insurance. Each contractor shall carry builder's risk insurance to provide for comprehensive fire and extended coverage against loss by fire, smoke, lightning, wind, hail, explosion, riot (including strikes), vandalism, and aircraft and vehicle damage. Coverage against windstorm damage is required at all stages of construction and should not be limited, as is the case in some standard policies, after the building is closed. In areas particularly susceptible to earthquake disturbances, additional builder's risk insurance against loss by earthquake may be included. The builder's risk insurance policy shall provide coverage for the full cash value of all completed construction and all material and equipment in place or stored at the site, whether or not partial construction payment has been made by the PHA. The policy shall also provide coverage for any equipment supplied by the PHA for installation by the contractor. The insurance shall be kept in force until the contractor completes all work and receives a certificate of completion from the PHA.

3-34. INSURANCE INFORMATION. Prior to accepting a completed project, the PHA shall obtain the proper project structural information on Insurance Information (Form HUD 5460) for securing its required insurance. A copy of the Form HUD 5460 shall be submitted to the Area Office.

3-35 thru 3-40. RESERVED.

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3-26 thru 3-30

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Section 4. Fair Housing and Equal Opportunity

3-41. GENERAL. The fair housing and equal opportunity requirements stated in this section apply to PHA, contractor and turnkey

developer activities during project development. This includes site selection, award of contracts and sub-contracts, employment of minority and women owned business enterprises, employment practices, and initial selection of tenants.

3-42. TITLES VI AND VIII AND EXECUTIVE ORDER 11063. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Executive Order 11063, prohibit discrimination on the basis of race, color, creed or national origin in Federally assisted programs. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601), prohibits discrimination based on race, color, religion, sex or national origin in the sale or rental of housing.

3-43. SECTION 504 OF THE REHABILITATION ACT OF 1973. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), prohibits discrimination in Federally assisted programs against any otherwise qualified individual solely by reason of a handicap as defined by the Secretary of Health and Human Services. The * implementing rule 24 CFR 8 was published June 2, 1988 for effect July 11, 1988. The Uniform Federal Accessibility Standards (UFAS) at 24 CFR 40 shall be followed in making units accessible/adaptable as well as complying with the Architectural Barriers Act of 1968. * Also see paragraph 3-49 below.

3-44. AGE DISCRIMINATION ACT OF 1975. The Age Discrimination Act of 1975 prohibits, with certain stated exceptions, discrimination in Federally assisted programs against any otherwise qualified individual solely on the basis of age.

3-45. EXECUTIVE ORDER 11246. Contracts for construction work are subject to Executive Order 11246 (30 FR 12319) as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR 130; 41 CFR 60), rules and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor. Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex or national origin.

3-46. SECTION 3 OF THE HUD ACT OF 1968. Projects under development are subject to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with a project be awarded

part by persons residing in the project area.

3-47. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise, encourages participation in Federal programs by business concerns owned by minority group members. Executive Order 12138, Creating a National Women's Business Enterprise Policy, encourages participation in Federal programs by business concerns owned by women. In accordance with these Executive Orders, program participants (e.g., PHAs, contractors, turnkey developers) shall take affirmative action to encourage participation by businesses owned and operated by minority groups and women. These affirmative actions may include: conducting out-reach programs to expand opportunities for participation by such businesses in the public housing program; providing assistance and guidance to such firms that have demonstrated a desire to participate in public housing development activities; and establishing goals for such businesses, in terms of the dollar value of contracts.

3-48. PHA EMPLOYMENT PRACTICES. In connection with the development of any project, the PHA shall not discriminate against any employee or applicant for employment because of handicap, race, color, religion, sex or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to handicap, race, color, religion, sex or national origin. The PHA shall comply with all HUD requirements against discrimination in employment by the PHA or by its contractors. The PHA shall adopt and promulgate regulations with respect to the PHA's employment practices in compliance with this paragraph. A copy of these regulations shall be posted in the PHA office and a copy shall be submitted to the Field Office after adoption by the PHA.

*

3-49. FAIR HOUSING AMENDMENTS ACT OF 1988. PHAs and public housing projects shall comply with the Fair Housing Amendments Act of 1988, enacted September 13, 1988 and effective on March 12, 1989. A final HUD implementing rule 24 CFR 24 was published January 23, 1989. The Fair Housing Amendments Act of 1988 expands the coverage of Title VIII of the Civil Rights Act of 1968, which prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin, to prohibit discriminatory housing practices based on handicap and familial status. *

3-50 thru 3-60. RESERVED.

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3-61. PREVIOUS PARTICIPATION. Participants in a public housing new construction or rehabilitation project must be responsible individuals or firms and are subject to review and approval under HUD's previous participation procedure. Pursuant to 24 CFR 200, Subpart H, the following have been defined as "principals:" consultants for management services and development managers, turnkey developers and their prime contractors, and general and/or prime contractors bidding under the conventional development method. PHAs, attorneys, architects and subcontractors are not principals requiring approval.

a. Previous Participation Clearance. Participants subject to approval must submit a Form HUD-2530, Previous Participation Certificate. Each certificate shall be processed in accordance with HUD Handbook 4065.1, Previous Participation Handbook. The PCR Supervisor shall initiate previous participation clearance.

b. Previous Participation Approval. PHAs may not select or enter into contracts with persons or entities requiring approval until the previous participation process has been completed. The PHA shall be notified by HUD, in writing, that the individual or entity has been approved. *

3-62. thru 3-70. RESERVED.

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Section 6. Site and Neighborhood Standards

3-71. GENERAL. Each site proposed for a public housing project must comply with the site and neighborhood standards identified in this section. The PHA and turnkey developer shall make every effort to select sites that will minimize the number of households to be displaced for purposes of developing a public housing project. In addition, proposed sites must comply with the environmental requirements (Section 7) and the displacement, relocation and acquisition requirements (Section 9). These standards should be reviewed by the PHA and the PHA architect or turnkey developer before a site is selected and a purchase option is obtained.

*3-72. INTERGOVERNMENTAL REVIEW. Executive Order 12372, as amended, requires Federal agencies to provide opportunities for consultation by States and local elected officials on proposed Federal financial assistance and direct Federal development. The implementing regulation at 24 CFR Part 52 requires HUD to use each State's own review process.

a. Applicability. The requirements of Part 52 are applicable to

all new construction and to each rehabilitation project that involves (a) a change in use of land, (b) an increase in project density, or (c) a change from rental to homeownership. Part 52 does not apply to acquisition projects.

- b. Process. The State has 60 days to comment, plus mailing time, (e.g., 65 days) from the stage at which the site for the public housing development project is identified, usually the PHA proposal stage. The PHA initiates the comment process by notifying the State Single Point of Contact (SPOC) and submitting a certified copy of the signed and dated SF-424 with its proposal. If a State process has not been established, i.e., there is no SPOC, or if public housing development was not an activity selected for the State process, the PHA must evidence that the SF-424 was sent directly to affected State, areawide, regional, and local entities.
- c. Approval. A proposal for a public housing development project that is subject to the requirements of Part 52 may not be approved until any comments which have been received by HUD have been reviewed or until the comment period has expired. *

3-73. SECTION 213 OF THE HCD ACT OF 1974. Each site must be consistent with any applicable Housing Assistance Plan (HAP). Sites proposed for new construction or rehabilitation projects must be within the general locations specified in any applicable HAPs.

- a. Section 213 Review. Section 213 requires that the Field Office give the unit of general local government an opportunity to comment on the PHA proposal prior to Field Office approval. The local government comments serve as the basis for the Field Office determination

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that the proposed project is consistent with the HAP or, in communities not covered by a HAP, that adequate facilities and services will be available to serve the proposed housing.

- b. Housing Assistance Plan. The community's HAP is submitted as part of the CDBG entitlement or small cities application. A community that is not participating in the CDBG programs may also submit a HAP. The HAP, which is subject to citizen participation and public hearings, identifies a community's assisted housing needs and goals and the general locations for such housing with the objective of furthering community revitalization, promoting a greater choice of housing opportunities, avoiding undue concentrations of assisted households, and assuring the availability of public facilities and services to serve the housing. CDBG funds are used to support locally initiated activities such as the conservation and expansion of the community's housing stock, the provision

of adequate community facilities and services, and provision of planned land for residential, recreational and other needed activity centers.

c. Local Coordination. The PHA should take an active part in developing the community's HAP. This is recommended to ensure that:

- (1) sites having access to adequate facilities and services will be available in the general locations identified for assisted housing;
- (2) the three-year HAP goals will be sufficient to permit development of feasible public housing projects that are consistent with PHA housing needs data; and
- (3) CDBG and housing activities are coordinated. This may include participation by local agencies in the site selection process if CDBG funds are being used to purchase sites or to provide recreation or other facilities (e.g., water and sewerage extensions to sites) for public housing projects.

3-74. FACILITIES AND SERVICES. The PHA should select project sites to make use of existing and proposed public facilities and services identified in State, local and regional plans. Generally, the locations identified in HAPs should have adequate public facilities and services available or planned for the immediate future.

a. Access and Utilities. Sites must be accessible to public utilities, such as water and sewer, electric, natural gas, and trash collection and must be accessible to vehicular traffic. Access streets and utilities should be available at the

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boundary of each site in time for project construction or occupancy and should be capable of serving the proposed project. In selecting sites, consideration should be given to the availability of CDBG or local funds to provide extensions to existing utility systems and streets.

- (1) If existing utility systems require substantial extensions, or if extensive street work is required, the responsible local agency must provide written assurance that the required work will be performed in time to serve the proposed project. Any charges to the project for extending utility systems or streets shall not exceed the amount charged for similar services to others in the community.

(2) If water and sewerage systems are not available, they may be constructed on-site as part of the proposed project or off-site with separate loans if no other sites are available or if local funds cannot be provided (Section 10).

b. Transportation. Sites must be convenient to public transportation or to places of employment which provide a range of jobs for low-income workers.

c. Other. Sites must be accessible to social, religious, recreational, educational, commercial, and health facilities that are adequate to serve the intended occupants of the project.

3-75. DENSITY. There is no rigid standard to determine an acceptable level of density. One means of measuring density levels is the land use intensity method provided in the HUD Manual of Acceptable Practices (HB 4930.1). The determination of an acceptable density level varies with each community and with each site and consideration should be given to such factors as land costs, topography, planned site use, the number and types of buildings, the anticipated age and number of residents based on the number of bedrooms, local building requirements, and the density prevailing in the neighborhood. In selecting sites, the PHA shall also consider the following:

a. Scattered Sites. Projects proposed for families with children shall, to the maximum extent practicable, be developed on scattered sites. Generally, projects consisting of more than twelve units on a single site regardless of the density level are not considered as scattered site housing. Caution should be exercised in developing scattered site housing for the elderly because of the special services (e.g., health care and community space) that may be required.

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b. Highrise Structures. The Act provides that, except in the case of housing predominantly for the elderly, highrise elevator structures shall not be provided for families with children unless HUD determines that there is no practical alternative. In selecting sites or properties for highrise projects, the PHA must consider the following:

(1) Family Occupancy: Highrise elevator projects shall not be approved for families with children unless the PHA demonstrates and the Area Manager determines that there is no practical alternative.

- (2) Elderly Occupancy. Highrise elevator projects shall not be approved for the elderly unless the PHA demonstrates and the Area Manager determines that this is a common structure type in the community and that highrise construction is appropriate taking into consideration zoning and land use restrictions, land and construction costs, and the safety and security of the prospective occupants.
- (3) Mixed Occupancy. Highrise elevator projects shall not be approved for mixed (elderly and family) occupancy, unless the PHA demonstrates and the Assistant Secretary determines, that the project is predominantly for the elderly and the requirements of subparagraphs (1) and (2) have been met.

3-76. PHYSICAL CHARACTERISTICS. Each site shall be adequate in size, exposure, and contour to accommodate the number and type of units proposed. The topography and subsurface conditions shall promote economical and efficient development and operation of the project.

- a. Grades. Sites with grades exceeding ten (10) percent will significantly increase development and management costs and should be avoided. Sites for housing for the elderly or handicapped with grades exceeding five (5) percent should be avoided unless site development (e.g., sidewalks) will provide for not more than a five (5) percent grade without undue development costs. Low-lying and flat sites should also be avoided unless practical and economical means of surface drainage can be provided.
- b. Bearing Qualities. Sites with unsuitable soil bearing qualities for foundations and underground utilities or with excessive rock or shale will increase site improvement costs and should be avoided.

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- c. Earth Slides. Sites that are exposed to the potential hazard of earth slides should not be selected.
- d. Environmental Concerns. Environmental requirements and considerations related to site selection are stated in Section 7.

3-77. HOUSING OPPORTUNITIES. Sites for public housing projects must comply with the following requirements:

- a. General. The site and neighborhood for new construction and rehabilitation projects must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.
- b. New Construction. The site for new construction projects shall:
 - (1) not be located in an area of minority concentration unless,
 - (a) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration; or
 - (b) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An overriding need may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.);
 - (2) not be located in a racially mixed area, if the project will cause a significant increase in the proportion of minority to non-minority residents in the area; and
 - (3) promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

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- c. Rehabilitation. Sites for rehabilitation projects shall promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

3-78. SITE ACQUISITION COSTS. In selecting a site, special care should be taken to ensure that the owner's asking price is realistic and will be supported by the appraisal establishing fair market value. Information on land costs is generally available from public land records or local real estate brokers

who have knowledge of recent sales or listings for comparable properties or sites. There are several instances where feasibility and cost analyses may be required to determine whether one site should be selected over another when all other requirements can be met equally.

- a. Physical Characteristics. If there is a major question concerning the topography or subsurface conditions, the PHA shall determine the extent and cost of additional site preparation required by the Minimum Property Standards (Section 11) for comparison with the cost of alternate sites.
- b. Streets and Utilities. If a site requires substantial extension, repair, or construction of utility systems or access streets, the cost and time required for such work should be compared with the cost of alternate sites for which some or all of these facilities are currently available.
- c. Environmental Conditions. Selection of sites may be precluded by the environmental requirements (Section 7) or may only be permitted subject to special design and construction modifications to overcome adverse environmental conditions. The cost of site and design modifications required as protection from flood hazards, noise, and air pollution must be compared with the cost and availability of alternate sites.
- d. Displacement. If there are households currently residing on the proposed site, the extent and cost of displacement must be evaluated (Section 9).
- e. Excess Property. Land in excess of that required for the construction of the project shall not be purchased unless one or more of the following conditions exist:

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- (1) the excess would constitute an uneconomic remnant under condemnation proceedings;
 - (2) the savings realized by not acquiring the excess land would be insignificant;
 - (3) the excess land can be sold to another public agency for a recreation area, park, or other public use; or

(4) the excess land can be exchanged for other publicly owned land that is suitable for public housing use.

f. Demolition. Sites that have a substantial number of standard dwelling units, or substandard dwelling units which may be rehabilitated within the program cost limitations, may also be considered if the existing structures will be part of the proposed project or will be moved to another site for continued housing use. Selection of improved sites requiring demolition of substandard dwellings which cannot be rehabilitated is permitted, provided that one of the following conditions are met:

(1) the acquisition cost of the sites plus the cost of demolition does not exceed the cost of acquiring alternate, vacant sites;

(2) no other sites are available; or

(3) the purchase price for publicly owned sites, including those with a Federal, State or local interest, does not exceed the appraised value minus the cost of demolition and removal of existing improvements.

3-79. SOURCES OF SITES OR PROPERTIES. In addition to sites or properties available on the private market or offered by private owners in response to a public invitation, PHAs should consider the following sources:

a. Community Development Block Grant Sites. The acquisition of sites for public housing is an eligible activity under the CDBG program. CDBG recipients are authorized to purchase a site and transfer title to the PHA at a price determined in accordance with State laws and local objectives.

b. Other Locally Owned Sites. Sites already in public ownership such as urban renewal sites and sites acquired with local funds or through condemnation by the community (e.g., as a result of tax delinquencies) should be considered by the PHA.

c. Surplus Federal Property. Surplus real property under the Federal Property and Administrative Services Act of 1949 may also be considered. Section 414 of the HUD Act of 1969 permits the transfer of such property to HUD, at the discretion of the General Services Administration, for use as housing for low and moderate income families.

- d. Air Rights. The use of air rights is a possible source of sites provided that: (1) no other sites are available; (2) the use of such sites is approved by the Area Office before the PHA obtains a site option; and (3) the site meets the environmental requirements, particularly for air quality and noise abatement.
- e. Condemnation. Condemnation may be used only under the conventional method and only when all other alternatives have been unsuccessful. The requirements of the Uniform Act shall be followed where condemnation is to be used. (Section 9).
- f. HUD-Owned or HUD-Held Projects. HUD-owned or HUD-held properties may also be considered. PHAs that are interested in these properties should contact the Area Office. In such instances, the Area Office will provide assistance by contracting, at no cost to the PHA, with an architect that is acceptable to the PHA to prepare rehabilitation work write-ups and project cost estimates.
- g. Section 8 and Section 23 Projects. Properties assisted under the Act may not be selected by a PHA without the prior written approval of the Assistant Secretary for Housing. PHA requests to acquire Section 8 or Section 23 projects shall be submitted to the Area Office for review and submission to the Assistant Secretary for approval.

3-80 thru 3-90. RESERVED.

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3-50 thru 3-56

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Section 7. Environmental Requirements

3-91. GENERAL. This section identifies the laws, Executive Orders and regulations relating to environmental protection. The development of public housing projects must comply with these requirements except when excluded.

3-92. NEPA. The National Environmental Policy Act of 1969 (42 U.S.C. 4321) establishes the national policy, goals and procedures for protecting and enhancing environmental quality. The HUD implementing regulation at 24 CFR 50 establishes the policies and procedures for HUD environmental clearances (including procedures for automatic requirements for a Special Clearance or Environmental Impact Statement and criteria for determining when several projects built near each other must be considered as a single action) and establishes categorical exclusions that

are not subject to an environmental assessment under NEPA. This does not exempt them from the other requirements identified in this section.

3-93. HISTORIC PROPERTIES. The National Historic Preservation Act of 1966 (P.L. 89-665), the Archeological and Historic Preservation Act of 1974 (P.L. 93-291), Executive Order 11593, Protection and Enhancement of the Cultural Environment, and the Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation (36 CFR 800), establish national policy and procedures for protecting properties, sites and artifacts of historic, architectural, or archeological significance listed (or eligible to be listed) in the National Register of Historic Places. These laws and procedures require that proposed projects be reviewed to determine whether they would affect any district, site, building or other structure listed (or eligible to be listed) in the National Register of Historic Places. These procedures require consultation with the State Historic Preservation Officer and may require a determination of eligibility by the Department of Interior and a determination of effect by the Advisory Council on Historic Preservation.

3-94. NOISE ABATEMENT. The Environmental Criteria and Standards (24 CFR 51, Subpart B) establish minimum HUD standards to protect citizens against excessive noise in their community and place of residence. This regulation also establishes criteria for determining acceptable noise levels and special requirements and mitigation measures to be followed in normally unacceptable and unacceptable noise zones.

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3-95. EXPLOSIVE OR FLAMMABLE FUELS OR CHEMICALS. The Environmental Criteria and Standards (24 CFR 51, Subpart(C) establish standards indicating how close a project can be located to hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature.

3-96. FLOODPLAINS AND WETLANDS. The Flood Disaster Protection Act of 1973 (P.L. 93-234) and implementing regulation at 24 CFR 55, the National Flood Insurance Act of 1968 (42 U.S.C. 4001), Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, require, if a project is to be located in such an area, that specific review and notification procedures be followed and that appropriate measures be taken to protect the property, to protect the life and safety of the occupants, and to minimize any harm to the floodplain or wetland.

3-97. COASTAL ZONES. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451) and the implementing regulation at 44 CFR 123 require that projects to be located in the coastal zone (which includes the Great Lakes) be consistent with the State coastal zone management program.

3-98. AIR QUALITY. The Clean Air Act (P.L. 90-148), the Clean Air Acts Amendments of 1970 (P.L. 91-604), the Clean Air Act Amendments of 1977 (P.L. 95-95), and the implementing regulations of the Environmental Protection Agency (40 CFR 50, 51 and 52) establish national ambient air quality standards.

3-99. WATER QUALITY. The Safe Drinking Water Act (P.L. 93-523), the Safe Drinking Water Act Amendments of 1986 (P.L. 99-339) and the *
* implementing regulations of the Environmental Protection Agency (40 CFR 141) establish measures to protect the quality of water if a project is to be located in the recharge area of a community's sole water supply and prohibit HUD from furnishing assistance for newly constructed residential property unless it has only lead-free pipe, solder and flux.

3-100. FISH AND WILDLIFE. The Fish and Wildlife Coordination Act (P.L. 85-624) requires that HUD consult with the Fish and Wildlife Service (Department of Interior) and the appropriate State agency if the project will affect control or require modifications to any stream or other body of water.

3-101. ENDANGERED SPECIES. The Endangered Species Act of 1973 (P.L. 93-205), the Endangered Species Act Amendments of 1978 (P.L. 95-632) and 43 CFR 870, require that HUD consult with the Department of Interior and the Department of Commerce if the project may affect any species (including its habitat) identified by the Department of Interior as an endangered species.

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3-102. TOXIC CHEMICALS AND RADIOACTIVE MATERIAL. HUD Notice 79-33 identifies the contact person for guidance on protection of persons and property from man-made environmental hazards such as toxic chemicals and radioactive materials.

3-103 thru 3-110. RESERVED.

3-59 thru 3-64

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Section 8. Special Acquisition Requirements

3-111 thru 3-112. RESERVED.

3-113. SCATTERED SITE ACQUISITION OF UNITS GOVERNED BY A HOMES OR HOMEOWNER'S ASSOCIATION, CONDOMINIUM OR COOPERATIVE CORPORATION. Since PHAs are subject to certain statutory requirements, it must be clear that joining associations or corporations with rules of their own when PHAs wish to acquire one or more units under an acquisition or conventional rehabilitation project will not cause PHAs to violate the basic tenets of the public housing program. Authorization to approve such an acquisition, therefore, will be provided by Regional Administrators on a case-by-case basis upon request and recommendation of Regional Counsel and staff based upon analysis of the Field Office review. Requests for regulatory and/or ACC waivers, accompanied by the justification(s) therefor, must be referred to Headquarters for action.

a. Issues. The major issues center on the PHA's development process, its management/operation of public housing units, and the rehabilitation, disposition, demolition and/or sale of units and how these Federally regulated activities relate to the rules and regulations of the association or corporation. To assure the PHA's participation in an association/corporation does not violate statutory requirements and to determine whether any regulatory or handbook provision should be considered for a waiver, it is necessary to review the association/corporation organizational documents, keeping in mind the following general precepts, which should not be considered all-inclusive:

- (1) PHAs make payments in lieu of taxes (PILOT) and are exempt under the U.S. Housing Act of 1937 from paying real property taxes on public housing units. Associations and corporations own taxable real property and such taxes are commonly paid by assessing the owners. What means will the PHA employ to ensure it does not pay real property taxes in violation of the statute?
- (2) PHAs are required to acquire modest, non-luxury units and to exclude amenities not required by local codes or ordinances. Most associations and corporations own a variety of amenities and portions of assessments are intended to support their maintenance, replacement and/or creation. How will these costs be prorated among all costs that are the association's? Since operating subsidies may not be used, what will be the PHA's source of funds to pay amenity-related costs?

- (3) PHAs are prohibited from encumbering public housing units and no lien may precede the Declaration of Trust. If the association/corporation is able to enforce the collection of common expense assessments by filing liens, what mechanisms are contemplated to assure the PHA does not fail its responsibility to pay, especially for assessments that are not funded with operating subsidies?
- (4) The presence of lead-based paint (LBP) may occur within individual units as well as in common elements such as hallways, entry foyers, stairwells, community facilities, etc. The PHA should document the association/corporation's position regarding testing and/or abatement (for example, furnishing a copy of a duly passed resolution of the association/corporation stating its willingness to test and/or abate in common areas). Lead-based paint issues and other environmental concerns, such as whether on-site incinerators or the like comply with clean air standards, must be addressed and reviewed for acceptability.
- (5) The PHA shall provide data on the age, condition and expected remaining useful life of major building elements and amenities. These data shall be reviewed by the Architectural, Engineering and Cost Branch and provided to the Valuation Branch for an assessment of the adequacy of the association/corporation's reserves for replacement account. Inadequate reserves shall be basis for rejecting units for acquisition.
- (6) Any occupancy restrictions must be reviewed for acceptability relative to public housing program requirements. If the association/corporation restricts the tenant population to either a whole number or a percentage, the PHA must describe its proposed method for guaranteeing that unit(s) it purchases will remain within the ceiling so that tenant turnover does not cause an unnecessary vacancy.
- (7) The public housing program assumes a direct relationship between the PHA and its tenants; providing tenants with the right to privacy concerning their applications and use of the premises they occupy; the right to appeal evictions; and the right to notice before their units are entered, unless an emergency exists. If the association/corporation performs any of these functions, how will the PHA's responsibilities be executed? If the association/corporation has a "first right of refusal" in the sale or leasing of units, how will the PHA maintain control over tenant selection or perhaps, the sale of units to tenant families?

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- (8) If the current or potential unit assessments for common utilities and/or maintenance and repairs (more commonly in condominiums and cooperatives) exceed the operating subsidy available for the unit, how will the PHA pay the difference?
- (9) The ACC requires PHAs to obtain insurance on all projects. If the association/corporation includes insurance on dwelling units as well as common area improvements, the policies need to be examined and a determination made as to what coverage, if any, needs to be purchased separately and if additional coverage will impact the association/corporation's coverage.
- (10) Under what conditions and terms may the association/corporation be terminated? If unanimous consent (100 percent of all owners/members) is required, the PHA should not consider the particular unit. This is because total unanimity is nearly impossible to achieve and termination might well be a reasonable response to almost total destruction of a project (as might be caused by a natural disaster).
- (11) If the association/corporation is terminated, how are its assets to be disposed of? A common provision in homes or homeowners association by-laws is that the common property (walks, parking lots, green space, amenities, etc.) will be dedicated to the local jurisdiction upon dissolution. In this case it would be important to know that the property meets the jurisdiction's requirements and will be acceptable. In condominiums and cooperatives, a suit for partition is often required. The termination provision should be a part of the association/corporation by-laws and should be reviewed against ACC and disposition (Handbook 7486.1) requirements.
- b. Procedure. The association/corporation organizational and operating documents shall be submitted as part of the PHA proposal. These documents include, as applicable, the Declaration of Covenants, Articles of Incorporation, Master Deed, By-Laws, Rules and Regulations and master insurance policy. If the project is professionally managed, the Management Plan and Agreement shall also be included. The PHA Proposal shall provide the PHA's responses to the issues raised in paragraph 3-113a (1) through (11) above and any other issues which surface as a result of its review of the association/corporation documents.
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- (1) Field Office review of the association/corporation documents and the PHA response shall, at minimum, be performed by the Housing Programs Branch, the Assisted Housing Management Branch and the Legal Division. Recommendations for approval shall be forwarded to the Regional Administrator and include copies of the organizational documents, the PHA response and the Field Office review comments.
- (2) Regional public housing staff responsible for the development and management of public housing projects and Regional Counsel shall examine the documentation provided and prepare a recommendation for the Regional Administrator based upon an analysis of Field Office/PHA comments as well as any other issues which surface as a result of the Regional review.
- (3) If approval is recommended and requires a waiver of a regulatory and/or ACC provision, the request for waiver, and justification therefor, shall be referred to Headquarters.

3-314 thru 3-120. RESERVED.

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Section 9. Uniform Relocation Assistance and
Real Property Acquisition

NOTE: The current provisions of 24 CFR 941.207 were superseded, effective April 2, 1989, by a governmentwide regulation at 49 CFR Part 24. All displacement occurring on or after April 2, 1989, and all acquisition where the "initiation of negotiations" occurred on or after April 2, 1989, are subject to 49 CFR Part 24. The requirements of 49 CFR Part 24 are described in Chapters 1 through 6 of Handbook 1378 (HBK 1378). The URA now covers both public and privately undertaken acquisition (i.e., turnkey program) and displacement that results from public or privately undertaken demolition, rehabilitation or acquisition (i.e., turnkey) that directly results from a program assisted under 24 CFR Part 941. Until the current 24 CFR 941-207 is revised to conform to 49 CFR Part 24, PHAs shall follow the guidance in Chapter 8, Section 8 of HBK 1378 which supplements Chapters 1 through 6 of HBK 1378

(This Section 9 of Handbook 7417.1 REV-1 essentially duplicates Chapter 8, Section 8 of HBK 1378). Given the technical nature of such matters as the determination of eligibility as a "displaced person" and the computation of required relocation payments, PHAs are encouraged to consult at an early point in time with CPD relocation staff in the applicable Field Office responsible for administering URA requirements.

3-121. APPLICABILITY.

a. Programs Covered. This section covers projects under 24 CFR Part 941 which governs the following programs:

(1) The Public Housing Development Program, including:

- (a) The Conventional Method -- New Construction/Rehabilitation.
- (b) Turnkey Method -- New Construction/Rehabilitation.
- (c) Acquisition of Existing Housing (Without Rehabilitation).

(2) Major Reconstruction of Obsolete Projects Program (MROP).

b. Rules That Apply. The programs described in subparagraph a above are subject to the following requirements:

(1) The URA and implementing regulations at 49 CFR Part 24. These requirements are described in Chapters 1 through 6 of HBK 1378.

(2) The additional policies described in Chapter 8, Section 8 of HBK 1378.

3-122. MINIMIZING DISPLACEMENT. Consistent with the other goals and objectives of the Public Housing Development and MROP Programs, the PHA shall assure that it has taken all reasonable steps to minimize displacement as a result of a project assisted under the program.

3-123. NOTICES TO OCCUPANTS OF PROPERTY. The significance of issuing timely notices cannot be overemphasized.

a. Basic Notice(s). Each occupant is entitled to timely notice(s) explaining the impact of the project on him or her. A person who will be displaced by a project must be informed of his/her eligibility for relocation assistance and the nature of that assistance; a tenant that will not be displaced must be informed of the reasonable terms and conditions under which he or she may occupy the property upon completion of the project.

While it is sometimes possible to convey all this information in one timely notice, most project circumstances dictate the issuance of two notices to each tenant.

- (1) A general information notice (see Paragraph 2-3a of HBK 1378) to be issued as soon as feasible. Generally, this is the date described in Paragraph 3-125a(1) below; however, for MROP, the notice is sent at the time of Field Office approval to advertise for bids. Failure to provide this notice in a timely manner may trigger avoidable claims for relocation payments by persons who move from the site before the PHA commits itself to the project.
 - (2) Either a notice of eligibility for relocation assistance or a notice of nondisplacement (see Paragraph 2-3b of HBK 1378) to be issued not later than the "initiation of negotiations" (defined in Paragraph 3-126 below). If the occupant moves permanently from the property after the "initiation of negotiations" (and he/she has not been provided a notice of nondisplacement), the person will automatically qualify as a "displaced person." In other words, even if there was no intention to displace the person, it is assumed that the person's move was an involuntary move caused by the project because he/she was not given timely information essential to making an informed judgment.
- b. Notice of Comparable Replacement Dwelling, As described in Paragraph 2-5d of HBK 1378, a person to be displaced must be given timely notice of the

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location and cost of a "comparable replacement dwelling" that sets the upper limit of the replacement housing payment for which the person can qualify. If an otherwise eligible person moves before this notice, the only limit on the payment is the cost of the housing to which he or she moves. That can mean wasted project dollars. Usually, this notification is included in the notice of eligibility for relocation assistance.

- c. Ninety-Day Notice. As described in Paragraph 2-3c of HBK 1378, no lawful occupant to be displaced may be required to move without at least 90 days advance written notice. Such notice may not be issued before the notice of eligibility for relocation assistance and, if applicable, the notice of a comparable replacement dwelling. Of course, if both parties can agree upon a vacate date, this notice need not be issued.
- d. Issuance of Notices Under the Turnkey Program. When carrying

out a Turnkey Program, the PHA should work very closely with the developer to ensure that the relocation requirements of this handbook are met. Because of the financial exposure of the PHA (i.e., the PHA executes the compliance certification), the PHA itself should issue the required notices and provide or contract for the delivery of relocation services. An option agreement that provides for delivery of a vacant project site to the developer does not relieve the PHA of responsibility for any displacement from the site that may have taken place in anticipation of its possible approval for a project.

3-124. TEMPORARY RELOCATION. See the policies in Paragraph 2-4 of HBK 1378.

3-125. DEFINITION OF DISPLACED PERSON. Each "displaced person" is eligible for assistance at URA levels. The term "displaced person" is generally described in Paragraph 1-8 of HBK 1378. PHAs shall also comply with the following additional guidance:

- a. The term "displaced person" includes (but may not be limited to):
 - (1) A person that moves permanently from the real property after receiving a notice from the PHA or property owner that requires such move, if the move occurs on or after:
 - (a) For conventional or acquisition projects, the date that HUD approves the PHA proposal incorporating the site;

- (b) For scattered sites, the date HUD approves the applicable site;
 - (c) For turnkey projects, the date the PHA proposal is submitted to HUD; or
 - (d) For major reconstruction of obsolete public housing projects, the date the PHA issues the invitation for bids for the project.
 - (2) Any person, including a person who moves before the date described in Paragraph 3-125a(1) above that HUD or the PHA determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project.
 - (3) A tenant-occupant of a dwelling who moves permanently from the building/ complex after the "initiation of

negotiations" (defined in Paragraph 3-126 below), if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions shall include a monthly rent and estimated average monthly utility costs that do not exceed the "total tenant payment" as determined under 24 CFR 913.107. (The total tenant payment is also described in Paragraph 7-20 of HBK 1378.)

- (4) A tenant-occupant of a dwelling who is required to relocate temporarily and does not return to the building/complex if either:
 - (a) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation (including the cost of moving to and from the temporarily occupied unit and any increased housing costs), or
 - (b) Other conditions of the temporary relocation are not reasonable.
- (5) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the building/complex, if either:
 - (a) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or

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- (b) Other conditions of the move are not reasonable.
- b. Persons Not Eligible. Notwithstanding the provisions of Paragraph 3-125a above, a person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:
- (1) The person is excluded under Paragraph 1-8c of HBK 1378; or
 - (2) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal State or local law, or other good cause, and the PHA determines that the eviction was not undertaken for the purpose of

evading the obligation to provide relocation assistance;
or

- (3) The person moves into the property after the dates described in Paragraph 3-125a(1) above and before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" as a result of the project.

3-126. DEFINITION OF INITIATION OF NEGOTIATIONS. For purposes of providing the appropriate notice under Paragraph 2-3b of HBK 1378 and determining whether a person displaced from a dwelling qualifies for a replacement housing payment under HBK 1378, Paragraph 3-3 or Paragraph 3-4 (rather than Paragraph 3-5), the term "initiation of negotiations" means:

a. For conventional or acquisition projects:

- (1) Where the PHA purchases the real property through an arm's-length transaction as described in Paragraph 5-1a(1) of HBK 1378, the seller's acceptance of the PHA's written offer to purchase the property (i.e., the seller's execution of form HUD-51971-H), provided the PHA later purchases the property, or such other date as may be determined by the PHA with the approval of the HUD Field Office; or
- (2) Where the PHA's purchase of the real property does not qualify as an arm's-length transaction, the delivery of the initial written purchase offer from the PHA to the owner of the property (i.e., the PHA's execution of

form HUD-51971-II). However, if the PHA issues a notice of intent to acquire the property, and a person moves after that notice, but before the initial written purchase offer, the initiation of negotiations is the actual move of the person from the property.

- b. For turnkey projects, the date of HUD approval of the PHA's proposal incorporating the developer's proposal, provided the contract of sale is later executed.
- c. For major reconstruction of obsolete projects, the date the PHA issues the invitation for bids for the project.

3-127. ACQUISITION OF REAL PROPERTY.

- a. General. The acquisition of real property for a project assisted under 24 CFR Part 941 is subject to the requirements of Chapter 5 of HBK 1378.
- b. Scattered-Site Public Housing Acquisition Program. The requirements of Paragraphs 5-2 through 5-8 of HBK 1378 do not apply to a PHA acquisition that is clearly a voluntary, arm's length transaction (see Paragraph 5-1a(1)) of HBK 1378, if the following conditions are met:

(1) Disclosure. The PHA must:

- (a) Determine and inform the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
- (b) Inform the owner of HUD's estimate of the fair market value of the property. The notice must be in writing (i.e., included in form HUD-51971-II). If the estimated fair market value is more than the offer price in form HUD-51971-I, the seller must be provided the opportunity to withdraw his/her offer after the appropriate disclosures have been made. (NOTE: The PHA is permitted to negotiate a sale price below fair market value.)

- (2) No specific site or project shall be designated for acquisition, although the PHA may limit its search for alternative sites to a general geographic area. Where the PHA wishes to purchase more than one site within a geographic area, all owners are to be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated

project area where all or substantially all of the property within the area is to be acquired within specific time limits.

- c. Turnkey Acquisition By Private Developer. A private developer (buyer) negotiating an arm's-length purchase (i.e., he/she does not have the power of eminent domain) can avoid the URA acquisition requirements in Paragraphs 5-2 through 5-8 of HBK 1378, IF, before the buyer enters into the final contract of sale, the following two disclosures are made to the seller:

- (1) The buyer does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
- (2) The buyer's estimate of the fair market value of the property. An appraisal is not required; however, the PHA's files must include an explanation, with reasonable evidence of the basis of the sale. If the seller executes an option or contract of sale before he/she is informed of the property's fair market value and the fair market value is more than the option/contract price, the seller must be provided the opportunity to withdraw from the option or contract after the appropriate disclosures have been made.

d. Related Relocation Issues.

- (1) A tenant-occupant displaced from the property as a result of the Scattered-Site Acquisition Program or Turnkey Acquisition Program is eligible for URA relocation assistance and must be provided timely notices as described in Paragraph 2-3 of HBK 1378.
- (2) An owner-occupant (seller) of the property displaced by the Scattered- Site Acquisition Program or Turnkey Program is not eligible for URA relocation assistance, if the applicable disclosures (Paragraph 3-127b or c above) are made. To avoid any dispute, the seller should be provided early written notice that he/she will not qualify for URA relocation assistance.

3-128. APPEAL BY LOWER-INCOME PERSON. Under the Public Housing Development Program and MROP, a lower-income person (defined in Paragraph 1- 16 of HBK 1378), who is dissatisfied with the determination of the PHA on his or her

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appeal under Paragraph 1-33 of HBK 1378, may request HUD to review that determination as described in Paragraph 1-33i of HBK 1378.

3-129. COMPLIANCE RESPONSIBILITY OF PHA

- a. Certification. Before receiving HUD financial assistance, the PHA must certify to HUD that it will comply with the URA, 49 CFR Part 24, and 24 CFR 941.207. (The assurance provided in the PHA Resolution in Support of Public Housing Project, Form HUD-52471, constitutes the PHAs certification of compliance with the URA.) The PHA is responsible for ensuring compliance with such requirements, as described in HBK 1378, notwithstanding any third party's contractual obligation to the

PHA to comply with such provisions. For this reason, when administering a Turnkey Project, the PHA should coordinate the acquisition and relocation very closely and should, at a minimum, issue the required notices itself. While it may delegate this task to the developer under the contract, it remains responsible for compliance.

- b. The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. The cost of required relocation assistance may, however, also be paid from local funds or funds available from other sources.
- c. The PHA must maintain records in sufficient detail to demonstrate compliance with the provisions of this handbook, as described in Chapter 6 of HBK 1378.

3-130. RESERVED

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Section 10. Facilities and Services

3-131. GENERAL. The PHA shall make every effort to select sites that are accessible to existing or proposed public facilities and services (Section 6). This may not be possible because sites may not be available near required facilities or the facilities may not have the capacity to serve the proposed project. In such instances, necessary facilities and services may be provided to the extent authorized in this section. Consideration shall also be given to the availability of other sources of funding, such as the CDBG program, Department of Interior grants for outdoor recreation areas, and the Department of Health and Human Services public assistance and social services programs.

3-132. PROJECT NON-DWELLING FACILITIES. Necessary non-dwelling space and equipment may be provided for management, maintenance and community activities and may be included in the development cost of a public housing project provided that the amount of space does not exceed the limitations identified below. These facilities may be provided on a project-by-project basis or as central space for several closely situated public housing projects operated by the PHA. Consideration also may be given to providing non-dwelling space in a central location for all nearby assisted housing (i.e., public housing, Sections 8, Section 23, and State-assisted) projects managed by the PHA provided that a pro-rata share of the cost of such space is borne by each housing program.

- a. Management Facilities. General purpose office space and equipment may be required by the PHA to perform administrative functions. Space for necessary facilities may be provided not to exceed the following limitations:

Number of Public Housing Units Served	Maximum Management Space Allowed (sq.ft.)
0-15	150
16-50	325
51-100	500
101-150	600
151-200	775
201-300	1000
301-400	1200
401-500	1400

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- b. Maintenance Facilities. Space and equipment may be required by the PHA to perform operation and maintenance activities. Included are facilities for a central repair shop and storage of tools, parts and outdoor equipment (e.g., lawn mowers, snow blowers, and maintenance vehicles). Space for necessary maintenance facilities may be provided not to exceed the following limitations:

Number of Public Housing Units Served	Maximum Maintenance Space Allowed (sq.ft.)
0-15	125
16-50	400
51-100	800
101-150	1100
151-200	1400
201-300	1900
301-400	2300
401-500	2700

- c. Community Facilities. Community space and related equipment may be required to provide social and recreational opportunities for project occupants. Included are such facilities as game rooms, meeting rooms or craft rooms. In determining the amount of community space to be provided, consideration shall be given to whether space will be provided for a child care facility (paragraph 3-133) and whether such space could be used for both purposes. Space for necessary community facilities may be provided not to exceed the following limitations:

(1) Projects Designed for the Elderly:

Number of Public Housing Units Served	Maximum Community Space Allowed
Under 51	25 sq. ft. per unit.
51-100	1,250 sq. ft. for the first 50 units, plus 20 sq. ft. for each additional unit.
101 or more	2,250 sq. ft. for the first 100 units, plus 15 sq. ft. for each additional unit.

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(2) Projects for Family Occupancy:

Number of Bedrooms in Public Housing Units Served	Maximum Community Space Allowed
Under 101	8 sq. ft. per bedroom
101 or more	800 sq. ft. for the first 100 bedrooms, plus 4 sq. ft. for each additional bedroom.

(3) Projects for Elderly and Family Occupancy. The maximum amount of community space for a project to be occupied both by elderly and family households is the sum of the amounts determined in accordance with (1) and (2) above.

3-133. CHILD CARE FACILITIES. Space may be provided for a child care center for the project occupants if such a facility is not otherwise available, or existing facilities are inadequate, to serve the proposed project. Such space may be provided in addition to the amount allowed for community facilities (paragraph 3-132). This shall not include space for formal education programs normally provided by the local school system. If child care facilities are necessary, the PHA must provide written evidence from a qualified local agency indicating that the agency agrees to furnish, equip and operate the proposed facility.

3-134. HEALTH CARE FACILITIES. In projects for elderly occupancy, space may be provided, if required, for preventive health programs for the project occupants. This may include space for

such facilities as examination rooms and health clinics only if they are not accessible in the neighborhood but shall not include general medical care or hospital care facilities such as laboratories and treatment rooms. If health care facilities are necessary, a maximum of five square feet for each unit may be provided. Such space may be provided in addition to the amounts allowed in paragraph 3-132. In such instances, the PHA must provide written evidence from a qualified local agency indicating that the agency agrees to furnish, equip and operate the proposed health care facility and which identifies the services to be provided.

3-135. COMMERCIAL FACILITIES. Commercial facilities, such as space for a small general store, grocery store, or drug store, may be provided in a public housing project. However, because of the potential financial risks to the PHA and the Federal Government, such facilities may be provided only where there is no practical alternative to meet the needs of the project occupants.

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- a. Demonstration of Need and Feasibility. PHAs are encouraged to make every effort to select sites for public housing which are accessible to shopping facilities and public transportation. It may be necessary, such as in remote or rural areas, to provide commercial facilities because there are no convenient shopping facilities to meet daily requirements. In such cases, the Area manager may authorize PHAs to include commercial facilities in public housing projects provided that no portion of their cost is included in the development cost on which annual contributions are based. The PHA justification must:
- (1) identify the amount of space and type of commercial facilities required;
 - (2) identify the type of construction and permanent financing proposed and, if applicable, the term of the loan, interest rate, security requirements, and the annual loan payment;
 - (3) identify the source of funds (e.g., local contributions, income from the commercial lease) and the amount to be used for debt service payments on the loan and for payment to the PHA for maintenance and management expenses related to the proposed commercial facilities;
 - (4) provide a copy of the proposed lease form between the PHA and the commercial lessee which identifies

the lessee's responsibility for providing fire and liability insurance, any furnishings or equipment, utilities, or required maintenance and repairs, and the term of the lease, including renewal options and rental adjustments;

- (5) provide evidence from local commercial establishments or public organizations indicating their interest in operating the proposed facility;
- (6) demonstrate that essential facilities are not within walking distance or reasonably accessible by public transportation;

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- (7) demonstrate that alternate sites that are accessible to essential facilities are not available; and
- (8) provide an opinion from counsel that the PHA has the legal authority to enter into a commercial facilities transaction.

- b. Separate HUD Loans. Commercial facility loans may be provided by HUD only on acceptable security (other than annual contributions) if no other sources of financing are feasible or available. In such instances, the PHA demonstration of need and feasibility shall be submitted to the Assistant Secretary for Housing for review and approval. Such requests shall be accompanied by a discussion of the various types of financing considered by the PHA and the reasons that other sources of financing are not feasible or available.

3-136. OFF-SITE FACILITIES. Off-site improvements and facilities, such as extensions of water and sewerage systems and access streets to the site boundary, may be required.

- a. Allowable Project Development Cost. The cost for off-site facilities may be included in the development cost budget only if it is local practice that a developer or builder normally pays for such facilities when developing comparable privately owned housing. The amount authorized for off-site facilities shall be limited to the Area Office estimate of either the cost of such facilities or the increase in the site value that is attributable to such facilities, whichever is lower. If the cost exceeds the amount that may be approved by the Area Office, the additional amount would have to be

off-set by a donation. The PHA justification must:

- (1) identify the type of off-site facilities required and the estimated cost of such facilities;
- (2) demonstrate that the proposed off-site facilities are necessary to the project;
- (3) demonstrate that alternate sites reasonably accessible to essential facilities are not available; and
- (4) demonstrate that the cost of the proposed off-site facilities for privately owned housing are normally paid by the developer or builder.

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- b. Financing by Separate Local Loans. The cost of off-site facilities may be financed by a separate non-HUD loan if the local government normally provides such facilities and if the local government agreed to provide them in the Cooperation Agreement, but is unable to finance the capital cost. However, the separate loan must be repaid from sources other than residential rental receipts or annual contributions from HUD. In such instances, the PHA in addition to a(1), (2), and (3) above must:
 - (1) identify the type of construction and permanent financing proposed and, if applicable, the term of the loan, interest rate, security requirements, and the annual loan payment;
 - (2) identify the amount and source of funds to be used for debt service payments on the loan; and
 - (3) state the reasons why the local government is unable to finance the capital cost of the required off-site facilities. This should include a discussion of the local government's priorities under the CDBG program and the reason that CDBG funds could not be made available to provide the necessary facilities. If the community is not a CDBG recipient, the discussion should identify the steps that have been taken to submit a single purpose CDBG application in support of the proposed off-site facility.
 - c. Separate HUD Loans. Off-site facilities loans may be financed by a separate HUD loan only if no other sources of financing are available. In such instances, the PHA's

request and supporting documentation shall be submitted to the Assistant Secretary for Housing for review and approval. Such requests shall be accompanied by a discussion of the various types of financing considered by the PHA and the local government and the reasons that alternate sources of funding are not available. The separate HUD loan must be repaid from sources other than residential rental receipts or annual contributions from HUD. The withholding of PILOT, otherwise payable to the local governing body, may be used as a source of repayment.

3-137. CONGREGATE HOUSING. PHAs are encouraged to consider the use of congregate housing if the proposed project will be predominantly for housing displaced single persons or the elderly and handicapped.

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- a. Definition. As defined in the Act, congregate housing provides a living environment in which some or all of the dwelling units do not have kitchen facilities. Such housing must have or be connected with a central dining facility to provide wholesome and economical meals for the occupants in a generally self-supporting operation. Congregate housing should not be construed as an intermediate care facility or nursing home neither of which may be developed under the public housing program.
- b. Kitchen Facilities. Since congregate housing includes a central kitchen and dining facility for serving daily meals, each housing unit need not have complete kitchen and dining facilities. As a minimum, each unit shall be provided with a small refrigerator, a single basin sink, shelf space for food storage, and adequate electrical service for small appliances.
- c. Allowable Development Costs. The space required for a central kitchen and dining facility is in addition to the allowable non-dwelling facilities identified in this section. The amount of space for the dining room shall not exceed fifteen (15) square feet per diner, accommodating one-half of the project occupants at one sitting, and the kitchen shall be adequate to serve the dining facility. The project development budget may only include the cost of the following:
 - (1) space for the common kitchen and dining facility, including food storage areas;
 - (2) equipment for the central, kitchen facility, including

cooking utensils, ranges, refrigerators, storage cabinets, dishwashers, and waste disposal equipment; and

- (3) furniture and equipment for the central dining facility, including tables, chairs, linen, glassware and eating utensils.

- d. Allowable Operating Costs. PHA costs for maintenance and operation of a central kitchen and dining facility may be included in the PHA's operating budget. Included are such PHA costs as expenses for repair, maintenance, and replacement of furniture and equipment for the central facility and the cost of providing utilities. However, the cost of providing food and meal service may not be included in the PHA's operating budget. Since the Act does not authorize the use of residential rental income or annual contributions for providing food services, the cost of providing meals must be supported by payments

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from the project occupants or contributions from local agencies. The Housing and Community Development Act of 1978 (Sections 401 through 412) provides further information on funding congregate housing services. The PHA will be required to provide the following for Area Office approval:

- (1) evidence from a State or local agency as to whether or not the central kitchen and dining facility will require a special operator's license and, if licensing is required, a description of any applicable local design and construction requirements;
- (2) the name of the intended operator, whether a local agency, non-profit organization or private firm, and a resume of the operator's experience in providing food service;
- (3) the number of daily meals to be provided, the estimated cost for daily meals, a typical weekly menu, and the monthly dining charges to the occupants;
- (4) the estimated monthly cost of providing food services, the amount of income expected from dining charges, and the amount and description of any other sources of income;
- (5) a demonstration that the dining charges and the amount to be paid for rent are reasonable, considering the income levels of the prospective occupants; and

(6) a copy of the proposed contract between the PHA and food service operator. The initial term of the contract shall be for two years.

e. Local Support Services. The PHA also may want to provide for special services to the occupants of a proposed congregate housing project. Rental income and annual contributions cannot be used to provide non-housing services such as preventive health care and housekeeping services. If services are planned, the PHA must:

- (1) identify the services proposed and any cost to the project occupants;
- (2) identify the community agencies that will be providing the services; and
- (3) provide a copy of the proposed agreements with these community agencies.

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Section 11. Design and Construction Standards

3-141. BASIC STANDARDS. Projects developed under the public housing program must comply with:

- a. either the HUD Minimum Property Standards (MPS) or the HUD Minimum Design Standards for Rehabilitation for Residential Properties;
- b. HUD environmental requirements (Section 7) and requirements for accessibility and usability by the physically handicapped (24 CFR 40 and 24 CFR 8); and
- c. any applicable local requirements, such as State or local building codes and ordinances.

3-142. LOCAL MPS VARIATIONS. The Area Manager may approve variations from the MPS to meet special local conditions for a specific project. Variations may include modifications to design and construction standards, use of alternate building materials and fixtures, and the use of innovative construction methods and materials. In such cases, the Area Manager must determine that the alternate standards or materials will provide for a level of structural soundness, useful life, and economy in maintenance or operation that is at least equivalent to the MPS. Where a variation is expected to be used for future

projects on a repetitive basis, the Area Manager should recommend that an appropriate Local Acceptable Standard be established.

3-143. ADDITIONAL PROGRAM STANDARDS. The basic standards identified in paragraph 3-141 provide minimum design and construction requirements. The construction of public housing projects may exceed the basic standards provided that projects do not involve elaborate or extravagant design or materials. For example, increasing the MPS insulation or glazing standard may be required to conserve energy and provide for more economical operations over the projected life of the housing.

a. Additional Quality Standards. The Area Manager shall develop specific additional quality standards to comply with the requirements of Section 6(b) of the Act. Specifically, the law requires that the design and cost of a public housing project take into account:

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- (1) the extra durability required for safety and security and economical maintenance of such housing;
 - (2) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment;
 - (3) the application of good design as an essential component of such housing for safety and security as well as other purposes;
 - (4) the maintenance of quality in architecture to reflect the standards of the neighborhood and community;
 - (5) the need for maximizing the conservation of energy for heating, lighting, and other purposes;
 - (6) the effectiveness of existing cost limits in the area; and
 - (7) the advice and recommendation of local housing producers.
- b. Density. The density requirements are stated in paragraph 3-75.
- c. Non-Dwelling Facilities. The requirements and limitations

for required facilities and services are stated in Section 10.

- 3-144. CARPETING. Carpeting, instead of other types of finished flooring, may be provided only in projects proposed for occupancy by the elderly or handicapped. Carpeting may not be used in bathrooms or kitchens.
- 3-145. BASEMENTS. Unfinished basements may only be provided in public housing projects if the cost of constructing basements was reflected in the published prototype dwelling construction and equipment (DC&E) costs for the area developed by the Area Office. In establishing prototype costs, the Area Office may consider the cost of constructing basements but only in those areas where it is common local practice for moderate income housing.

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- 3-146. PARKING SPACES. The number of parking spaces to be provided for a public housing project is generally determined by local building codes and ordinances. In the absence of local parking requirements, the Manual of Acceptable Practices (HB 4930.1) should be used as a guide for determining the number of parking spaces to be provided. Parking spaces, generally, will be provided in the form of parking pads for detached and semi-detached structures, or a parking lot for other structure types, and would be an allowable expense for site improvements (Account 1450.1).
- a. Highrise Elevator Structures. Parking spaces for the occupants of highrise elevator projects may be included as an integral part of the structure. This may be necessary to comply with local requirements or to provide for economical construction of the proposed project because of the limited availability or high cost of acquiring adjacent land solely for a parking lot. In such instances, parking spaces may be provided in a basement or sub-basement garage and would be an allowable expense for site improvements (Account 1450.1).
- b. Detached and Semi-Detached Structures. Garages or carports (as distinguished from parking pads) are occupant storage spaces and must be included in dwelling construction (Account 1460). The Area Manager may authorize the PHA to provide one-car garages or carports for a specific project being developed as scattered site housing only if this can be accomplished within the 110 percent prototype dwelling construction and equipment cost limitation. In such

instances, the PHA will be required to demonstrate for the Area Manager's approval that:

- (1) the use of garages or carports is necessary to comply with local building codes or ordinances, or to construct housing on sites that otherwise would not be available because of restrictive neighborhood or subdivision covenants; or
- (2) garages or carports are commonly provided for moderate income housing of the same structure type in the community or neighborhood.

3-147. AIR CONDITIONING. Air conditioning systems may be provided in public housing projects. This may be necessary to provide flexibility in the design and layout of the housing units, provide for a healthy living environment, assure continued occupancy, and prevent premature obsolescence.

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a. Criteria for Installation. In order to justify providing air conditioning the PHA must demonstrate that:

- (1) the most economical and efficient system is proposed based on an analysis of installation costs and projected operation and maintenance costs; and
- (2) the air conditioning system is necessary to overcome adverse environmental conditions; or
- (3) it is common practice to provide air conditioning in most new moderate income housing in the community for which the project is proposed and the system is necessary to maintain continued occupancy and to prevent premature obsolescence.

b. Installation. If the PHA demonstrates that these criteria are satisfied, air conditioning shall be provided for all elevator and walk-up structure types. For all other structure types, air conditioning may be provided as part of the initial project construction or it may be postponed for future installation. Where future installation is contemplated, the design and construction documents shall provide for such later installation.

3-148. UTILITIES. It is important that the best types and utility combinations be selected. If the best system is not installed initially, the cost of converting to another system at some later

date is usually prohibitive. All selected utilities must be available in time for project construction or occupancy.

a. HUD Utility Analysis. The Area Office will provide the PHA with a completed Comparative Analysis of Utility Costs (Form HUD 51994) for the proposed project or for a comparable project in the area. In preparing an analysis of utility combinations, consideration shall be given to the following:

- (1) all types of energy sources and methods of utilization, distribution, and purchasing which are used or available in the area and are expected to continue to be available;
- (2) initial installation costs of all feasible distribution systems as well as long-term operation and maintenance, including repair and replacement costs;

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- (3) the national policy on energy conservation;
- (4) the use of solar energy if economical;
- (5) the initial installation cost and long term operation and maintenance cost of individual housing unit systems as compared to a central system or plant and the relative costs of direct occupant purchase (retail basis) or project supplied (wholesale basis) utilities; and
- (6) the use, in areas of high demand and high cost, of demand control equipment for electric energy.

b. PHA Utility Selection. The utility combination identified by the Area Office shall be selected unless the PHA can demonstrate that a more efficient and economical combination is available. If the Area Office recommendation is not acceptable, the PHA must prepare and submit with its proposal a revised Comparative Analysis of Utility Costs (Form HUD 51994), based on the factors identified above, for consideration by the Area Office.

c. Individual Non-Dwelling Meters. Utilities for non-dwelling facilities (e.g., maintenance, management and community space) shall have meters separate from residential meters.

3-149. SOLAR ENERGY. The PHA shall make use of solar energy, if it is economical to do so. Any addition, alteration, or improvement to an existing or new structure designed to use solar energy to reduce the demand for other energy sources may be considered.

- a. HUD Standards. The Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems (HB 4930.2) identifies various types of active and passive systems that may be considered. A solar heating or domestic hot water system may be approved only if an operational conventional system will be provided as a "back-up".
- b. Allowable Project costs. Subject to the Area Manager's approval, the cost of solar energy equipment is an allowable expense for project development.

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- (1) Site Improvements (Account 1450.1). The purchase and installation cost of energy generating or collecting equipment shall be included in Account 1450.1. Included are the costs of related structure alterations; distribution systems (e.g., wiring, ducts, piping, pumps, insulation and heat exchangers); storage tanks, rock bin or heat sink elements; and control systems, sensors and logic devices.
 - (2) Dwelling Construction (Account 1460). The cost of all energy distribution systems within the dwelling unit shall be included in Account 1460. Included are all costs for the conventional "back-up" system, as well as the related dwelling unit costs for the solar heating or domestic hot water system such as wiring, ducts, piping, radiators, grills, dampers and thermostats. In addition, the cost of building construction common to both the solar system and the housing (e.g., sturdier roof framing to support solar collecting equipment) shall be included in Account 1460.
- c. Area Office Approval. The Area Manager, prior to approving the use of a solar system, shall determine that the proposed System is cost effective in accordance with the following:
 - (1) Active Systems. The Area Office shall determine that the estimated cost of nonrenewable energy to be saved will be sufficient to pay for the installation and maintenance of the solar system. In making this determination, consideration shall be given to the

following:

- (a) interest rates for construction and permanent financing of the additional capital cost attributable to the solar system;
- (b) the projected increases (not to exceed an annual rate of 7%) for fuel, maintenance, repair and replacement costs;
- (c) the projected useful life of the proposed solar system;
- (d) a "pay back" period based on the projected useful life or fifteen (15) years, whichever is lower; and

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(e) the estimated cost of the solar energy system will not exceed twenty (20) percent of the TDC.

(2) Passive Systems. The Area Office determination shall be based on the factors identified for active systems. However, the fifteen (15) year limitation on the "pay-back" period does not apply to passive systems.

d. Headquarters Approval. The approval of the Assistant Secretary for Housing shall be obtained, if:

- (1) a projected operating cost increase exceeding seven (7) percent is determined to be justified by the Area Office;
- (2) there is some question as to the distribution of the capital cost between Account 1450.1 and Account 1460; or
- (3) the Area Office does not have access to local engineering analysis of solar energy systems.

3-150. WORKS OF ART. Works of art, such as sculptures, mosaics or murals, may be incorporated in a public housing project. Selection of the artist is the responsibility of the architect or developer with the approval of the PHA. Works of art may be provided only in common building areas or grounds of the proposed project. In selecting art objects, consideration must be given to their appeal and acceptance by project and neighborhood residents. The materials selected should be permanent and capable of withstanding exposure to the elements

and preclude the possibility of theft. The cost of all works of art for a specific project shall not exceed one percent of the amount budgeted for dwelling construction and equipment. The cost of art objects that are part of the structure is an allowable expense for non-dwelling construction (Account 1470), otherwise, the cost shall be included in site improvements (Account 1450.1).

3-151 thru 3-160. RESERVED.

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* Section 12. Development Deadlines and Reformulations

3-161. GENERAL: Section 114 of the Housing and Community Development Act of 1987 amended Section 5 of the USHA by adding the following subsection:

(k) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.

3-162. DETERMINATION OF DEADLINE. Section 5(k) establishes only a start deadline (new and rehabilitation projects) or a completion; i.e., Date of Full Availability (DOFA) deadline (acquisition projects) of 30 months from the date of the fund reservation.

a. Deadline Definition. For purposes of ascertaining and determining compliance with the 30-month deadline, the following definitions shall apply:

- (1) The "beginning or 'start' of construction or rehabilitation" of a conventional project shall be the date of the PHA's Notice to Proceed.
- (2) The "beginning or 'start' of construction or rehabilitation" of a turnkey project shall be the date the PHA executes the

Contract of Sale.

- (3) The "completion of acquisition," for projects comprising acquisition of existing housing shall be the date the Field Office approves the Notice of DOFA (Form HUD-52423).

- b. Target Dates. In order to ensure PHAs meet the 30-month deadline, Field Offices must establish target dates for the milestones which occur before start or DOFA such as PHA proposal submission, Annual Contributions Contract (ACC) execution, final site approval (FSA), design document and construction/contract document submissions, etc. The target dates should permit *

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sufficient time for PH preparation, HUD review, and for problem solving so that the start or DOFA deadline is achieved. The target dates must be established initially at the project planning conference and reported in the Field Office Reporting/Management System (FORMS) and the System for Management Information Retrieval-Public Housing (SMIRPH) (see paragraph 3-165). While the Standard Processing Times (SPTs) throughout the Handbook may be used as the basis for timing of individual submissions and reviews, for consistency among Regions, the following should be used to establish target dates for the major milestones:

STAGE	TOTAL TARGET	TARGET TIME PHA SUBMISSIONS	TARGET TIME HUD REVIEWS
ACC Execution	10 months	8 months	2 months
Site Approval	12 months	9 months	3 months
Construction Start or DOFA	12 months	9 months	3 months

- (1) The target for ACC execution is ten (10) months from the date of HUD's fund reservation notification to the PHA. "ACC execution" shall be the date HUD executes the ACC.
- (2) The target for site approval is twelve (12) months from the date of HUD's fund reservation notification to the PHA. "Final Site Approval" means:
- (a) for conventional and acquisition projects (other than below), the date of HUD's approval letter to the PHA authorizing site acquisition (paragraph 8-73a);
- (b) for turnkey projects where use of a turnkey preselected

site has been authorized by the Field Office subject to required stated conditions, the date of HUD's final site approval letter and authorization for the PHA to advertise for turnkey proposals; or

- (c) for other turnkey projects (not involving turnkey pre-selected sites) and for conventional rehabilitation or acquisition projects involving 1-4 family properties, the date of HUD's letter to the PHA approving the PHA Proposal (paragraph 7-122). Field Office approval of all PHA property acquisitions must be scheduled in sufficient time to meet the 30-month start or DOFA deadline. Normally, the last Field Office authorization for PHA acquisition of a 1-4 family property

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* involving conventional rehabilitation should occur within three months of the PHA Proposal approval letter (so as to ensure at least nine months for completion of acquisition and preparation of work write-ups, advertisement for bids and award of the contract).

- (2) The start target for new construction and rehabilitation projects or DOFA for acquisition of existing housing projects, is twelve (12) months from the date of final site approval. These targets also apply to projects involving 1-4 family properties.

3-163. EXTENSION CRITERIA. The following define the criteria for extensions which form the basis for the exclusions from the computation of the 30-month deadline as provided in Section 5(k).

- a. The failure of the Secretary to process such projects within a reasonable period of time. A "reasonable period of time" is the target time for Field Office review as established in paragraph 3-162b above. Field Offices must be sensitive to deficient PHA submissions and immediately advise PHAs and invoke a "stop processing action" by written notice when data are missing or insufficient for reviews. The time "clock" shall be reinstated upon receipt of the appropriate data.
- b. Any environmental review requirement. In those instances where, for example, historic preservation issues, floodplain issues, or the preparation of environmental impact assessments, etc., are determined necessary, the extra amount of time required to resolve the problem must be documented and reported as a basis for an extension request.
- c. Any legal action affecting such project. Legal actions include those initiated by the PHA or by others which prevent the PHA

from proceeding with its pre-construction (new construction or rehabilitation) or pre-acquisition activities. It may also include the time required for PHAs to file zoning applications or exceptions, to appeal adverse zoning decisions, to complete condemnation proceedings, etc.

- d. Any other factor beyond the control of the PHA. Examples of such factors include, but are not limited to, such events as the need for the municipality to design and/or install utilities to serve the project, or for the PHA to obtain clear titles, to challenge adverse decisions by the local zoning board, readvertise for bids, or the loss of optioned sites because of external events. *

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3-164. EXTENSION REQUESTS.

- * a. PHA Submission. In order to invoke one or more of the exclusions from the 30-month deadline stated in Section 5(k) (see paragraph 3-162b above), a PHA must submit a request for extension to the Field Office stating the basis (or bases) for the requested extension, the documented amount of time attributable to the delay, and an assessment of the impact of the delay on the total cost of the proposed project. The request shall also include the PHA's amended development timetable evidencing the capacity of the project to start (new and rehabilitation) or to reach DOFA (acquisition) if the extension is granted.
- b. HUD Review. PHA requests for extensions shall be referred by the Field Office with comments and recommendations to the Regional Administrator for action.
 - (1) The Regional Administrator may approve extension requests on the basis of data submitted pursuant to the criteria stated in paragraph 3-163 above.
 - (2) If the request is based on other than the statutory criteria or if a determination is made that the data fail to support an extension, the request shall be referred to the Assistant Secretary for Public and Indian Housing in Headquarters for a determination. Such a referral shall include the PHA's request and the Field Office's as well as the Regional Administrator's comments and recommendations on the request.
- c. Headquarter's Denial and Project Termination. Headquarters' denial of a requested extension past a 30-month deadline shall

result in project termination by the Field Office, repayment by the PHA of all advances and recapture of funds pursuant to 24 CFR 941.406. If such a project is under ACC, the Field Office is to make the determination of substantial breach under Section 507(5) of the ACC on the basis that the PHA has failed to prosecute diligently or proceed with timely development of the project (see 24 CFR 200.118(c)).

- d. PHA Requests for Voluntary Project Termination. The Section 5(k) requirements do not apply where a PHA voluntarily requests the termination of a project. In such case, the PHA must write a letter to the Field Office requesting that the project be terminated and giving its reasons for making the request. The Field Office should exercise sound discretion and ascertain that the PHA fully understands the ramifications of its decision before acting upon the matter.

3-165. DEADLINE AND TARGET REPORTING. The 30-month deadline must be reported by the Field Office in the Field Office Reporting/Management *

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* System (FORMS), element C296 (Remarks) where C295=7, as "30-months = MM/DD/YY." It will be reflected on the Production Control Chart (Form HUD 52034). The target ACC execution, FSA, start and DOFA dates, established in accordance with paragraph 3-162 shall be entered in FORMS as C364: Target ACC execution Date; C398: Target FSA Date; C370: Target Start Date; and C383: Target DOFA. Extensions of 30-month deadlines by Regional Administrators must be reported to the Assistant Secretary, PIH (Attention: Project Development Division) by means of a copy of the approving memorandum, and all 30-month deadline extensions must be reported by the Field Office in FORMS in element C296 (where C295=7 as follows: "30-months= MM/DD/YY, Ext to MM/DD/YY." Renegotiation of target dates shall be reported in FORMS but need not be reported separately to the Assistant Secretary for PIH. NOTE: The 30-month deadline is automatically generated in the System for Management Information Retrieval-Public Housing (SMIRPH); target dates are to be entered in accordance with the SMIRPH Manual.

3-166. SITE CHANGES AND REFORMULATION. Section 5(k) states: "During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired."

- a. Site change. PHAs may request and Field Offices may approve the change of a site/property for a proposed public housing project in development. A PHA request must meet the Intergovernmental Review requirements of 24 CFR 52 (see paragraph 3-72) as well as all other criteria applicable to site selection. If a site

change approval will result in exceeding the 30-month or extended deadline, an extension request must be considered simultaneously pursuant to paragraph 3-164 above.

- b. "Reformulation" is defined as dividing a project (units and related funds) into two or more projects, combining two or more projects into one or redistributing units and related funds in a project among one or more projects. Reformulation is intended to provide PHAs the flexibility to adapt to site availability and/or problems, acquire buildings ready for development before others, to save on interest/initial operating costs, etc.
- (1) The sum of the number of units in any reformulated projects must equal the number of units in the original project. No amendment funds may be added during a reformulation, although amendment funds may be added prior to or subsequent to the reformulation.
 - (2) Each reformulated project shall bear the reservation date of the original project. If projects of different fiscal years are combined, the units and funds of the newer project shall be transferred to the older project. *

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3-167. REFORMULATION REQUESTS. Requests for reformulations must be referred by the Regional Administrator to Headquarters for the prior approval of the Assistant Secretary for Public and Indian Housing and include:

- a. A description of the proposed reformulation, the reason(s) for the reformulation and the recommendation of the Regional Administrator.
- b. The PHA's development schedules and proposed development cost budgets (HUD-52484) evidencing its capacity to start (new and rehabilitation projects) or complete (acquisition projects) the proposed reformulated project(s) within Total Development Cost (TDC) cost limitations and within the 30-month or extended deadline (computed from the original reservation date);
- c. The applicable signed and dated Project Accounting Data (PAD) sheets Form HUD-52540 and/or Form HUD-52541A (see Chapter 3 Section 15);
- d. If changes in housing type or household type are proposed, the justification for and determinations associated with the corrective actions, as required by the applicable statutory requirement (e.g., new construction cost comparison or determination of little or no need for large family (three or more bedrooms) housing are to be submitted; and

- e. A statement indicating which, if any, of the projects involved in the proposed reformulation are under an Annual Contributions Contract (ACC). Submission of copies of the ACC amendment effecting the change for each proposed reformulation project will later be required. *

3-168 thru 3-170 RESERVED.

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Section 13. Prototype Costs

- 3-171. GENERAL. Section 6(b) of the Act requires that HUD establish prototype costs at least annually for various structure types and unit sizes in different areas of the country. The prototype costs established by HUD represent the ceiling amounts that may be approved for construction and equipment in the project development budget and construction contract. The Act also provides that the prototype costs established by HUD for any area may be exceeded by up to ten (10) percent if necessary for individual projects.
- 3-172. FEDERAL REGISTER PUBLICATION. The unit prototype cost schedule is published at least annually as a Notice in the Federal Register and is effective upon publication. The published unit prototype cost schedule identifies the current per unit dwelling construction and equipment cost based on the number of bedrooms and structure types for various geographic areas. The unit prototype cost schedule for a specific geographic area may be revised based on public comments or other evidence that construction costs exceed the limits determined by HUD. Any revisions approved by HUD also will be published as a Notice in the Federal Register.
- 3-173. PROTOTYPE COST AREA. A "prototype cost area" is a geographic area, established by the Area Office, within which there is no appreciable difference in the cost of material, labor, and equipment for the housing construction industry. A separate prototype cost area may be established if construction costs in a community consistently differ from other communities within the same prototype cost area. Prototype cost areas are identified by county, city, or other political boundaries. A map, identifying the current prototype cost areas, shall be maintained in the Area Office and made available for public inspection.
- 3-174. STRUCTURE TYPES. The unit prototype cost schedule is

established on the basis of the number of bedrooms per unit for the following structure types:

- a. Detached (D): A structure which consists of a single living unit and is surrounded by permanent open Spaces.
- b. Semi-Detached (SD): A structure containing two living units separated by a common vertical wall.

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- c. Row Dwelling (R). A structure containing three or more living units, each separated by vertical walls, and generally having individual entrances and interior stairs.
- d. Walk-up Apartments (AW). A multi-level low-rise structure containing two or more living units, each separate horizontally (ceiling/floor), and by vertical walls.
- e. Elevator Structure (AE). Any high-rise structure for which an elevator is required under the Minimum Property Standards or local building codes.

3-175. DWELLING CONSTRUCTION AND EQUIPMENT COSTS. The construction cost of new housing, for the purposes of establishing prototype costs, includes the cost allowed for dwelling structures (Account 1460) and dwelling equipment (Account 1465). All other project costs, such as for PHA administration, site acquisition, site improvements, and non-dwelling construction and equipment are not included. A detailed description of the cost accounts relating to the planning and development expenses for a public housing project is provided in Chapter 3 of the Low-Rent Housing Accounting Handbook (HB 7510.1). The following is a description of the construction items included in prototype costs:

- a. General Construction. This includes the costs for:
 - (1) normal excavation and backfill for dwelling structures, but not the cost for excessive excavation and backfill or site improvements such as grading, installation of utility service, streets, walks and landscaping;
 - (2) normal foundations but, not the cost of special improvements such as pilings, caissons, or underpinnings required for unusual site topography or sub-soil conditions;
 - (3) structural framing and interior and exterior finish;

- (4) dwelling structures, including closets and other occupant storage spaces, and common spaces such as entrances, corridors and lobbies, janitorial closets, and laundry, heating and equipment spaces; and
- (5) fixed equipment such as cabinets, cupboards and shelving, including installation.

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- b. Plumbing. This includes all costs relating to domestic gas, water and sewerage distribution systems within dwelling structure walls, such as piping, kitchen and bathroom fixtures and accessories, domestic hot-water heaters, circulating pumps, and utility meters or checkmeters.
- c. Heating and Air Conditioning. This includes all costs relating to air handling and distribution systems, such as furnaces, piping, ducts, radiators, filters, vents, and fans. This applies to costs related to dwelling structures whether such items are within the dwelling structure walls or part of a central heating plant or system. If a central plant will serve both dwelling and non-dwelling areas, a proportionate cost of the structure, equipment, heating mains, and pipe tunnels is also included. The cost of air conditioning systems and equipment is also included where the requirements of paragraph 3-147 have been met.
- d. Electrical. This includes all costs relating to interior electrical systems from the service drops, such as wiring, receptacles, switches, fixtures and electric meters or check meters.
- e. Elevators. This includes the cost of elevators and related equipment for high-rise structures.
- f. Other. This includes a proportionate share of the builder's cost of labor, insurance, Social Security and sales taxes, and the builder's general overhead, profit, and bond premiums. Not included are a turnkey developer's fee, overhead, or interest on construction financing.
- g. Dwelling Equipment. This includes the cost of ranges, refrigerators, shades, screens, and similar equipment provided in dwelling structures and the installation cost.

3-176. UNIT PROTOTYPE COST. The published unit prototype cost represents the current dwelling construction and equipment costs for modest housing that is built in compliance with

the MPS and local building codes and requirements (paragraph 3-141), and the additional public housing program standards (paragraph 3-143). These costs are developed for a prototype dwelling unit of each structure type based on actual cost data maintained by the Area Office for public housing, Section 202, Section 221(d)(4), and Section 231

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projects recently placed under construction. The cost data for the projects used by the Area Office are adjusted to reflect any cost increases between the time that construction was started on those projects to the date that the revised unit prototype cost schedule is published in the Federal Register.

3-177. BASE PROJECT PROTOTYPE COST. The base project prototype cost is computed by multiplying the then current applicable unit prototype cost by the number of units for that unit size and structure type and then adding the amount for all units in the proposed project. The base project prototype cost is determined using the unit prototype cost in effect when the ACC is prepared. An example of the calculations is as follows:

Structure Type	No. of Bedrooms	No. of Units		Published Unit Prototype Costs	Total
Row	2-BR	20	X	\$20,500	= \$ 410,000
Row	3-BR	50	X	24,500	= 1,225,000
Detached	4-BR	20	X	30,500	= 610,000
Base Project Prototype Cost					\$2,245,000

3-178. PROTOTYPE COST ADJUSTMENT FACTOR. A cost adjustment factor is developed to recognize actual changes (increases or decreases) in construction costs from the effective date of the unit prototype cost (used to determine the base project prototype cost) to the execution date of the construction contract (conventional) or contract of sale (turnkey). The cost adjustment factor is based on actual changes in construction cost using the Boeckh's index. However, if another commercial index (e.g., Marshall Swift's) is customarily used by the Area Office for routine processing, it may be used instead of the Boeckh's Index.

Example: The construction contract or contract of sale is to be executed eighteen (18) months after publication of the unit prototype cost schedule. The actual

increase in construction cost during that eighteen (18) months, as measured by the Boeckh's Index, was nine (9) percent.

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3-179. PROJECT PROTOTYPE COST LIMIT. The project prototype cost limit is the ceiling amount that the Area Manager may approve for dwelling construction and equipment (Account 1460 and Account 1465) in the construction contract or contract of sale. The project prototype cost limit is determined at the time that the construction contract or contract of sale is to be executed. This is determined by multiplying the base project prototype cost by the prototype cost adjustment factor.

Example:	Base Project Prototype Cost	\$2,245,000
	Prototype Cost Adjustment Factor	x 1.09
	<hr/>	<hr/>
	Project Prototype Cost Limit	\$2,447,050

In limited circumstances, it may be necessary to exceed the project prototype cost limit to carry out the objectives of the Act. Section 6(b) of the Act provides that the prototype cost may be exceeded by up to ten (10) percent. All requests to exceed the project prototype cost limit except as authorized below must be submitted for approval by the Assistant Secretary for Housing. If the additional cost does not exceed ten (10) percent, the Area Manager may approve a higher project prototype cost for the following reasons:

- a. Local Building Requirements. Increases attributable to changes in local building requirements (e.g., codes, ordinances) which were imposed after the unit prototype cost schedule was published.
- b. Minimum Property Standards. Increases attributable to changes in the HUD Minimum Property Standards or the additional public housing program standards which were imposed after the unit prototype cost schedule was published.
- c. Scattered Site Housing. Higher development costs are anticipated because the project is being developed as scattered site housing.
- d. Increases During Construction. Change orders, that are beyond the scope of the construction contract or contract of sale, which are required to provide a necessity, appropriate betterment, or equivalent, for the proposed

project.

3-180 thru 3-190. RESERVED.

3-129 thru 3-134

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Section 14. Total Costs, Budgets and Amendments

3-191 thru 3-200. RESERVED.

3-135 thru 3-144

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* Section 15. Fund Reservations, Corrections, Reformulations and Deobligations.

3-201 thru 3-203. RESERVED.

3-204. FUND REQUIREMENTS FOR REFORMULATIONS. Project Accounting Data (PAD) sheets, Form HUD-52540 and/or Form HUD-52541A, are part of the required submission when a reformulation is requested pursuant to Chapter 3, Section 12. PADs for reformulations of projects having funds reserved in AHAS and/or PAS, will be forwarded from PIH to the Office of Finance and Accounting for processing and entry into the appropriate accounting system. It is the responsibility of the Regional Office/Field Office to check AHAS/PAS to insure the proper PADs are included with the request and to verify after the entry has been made to make sure all entries have been made correctly. Examples of PADs for proposed reformulations follow:

- a. For projects with pre-1987 reservations reserved in AHAS and with amendment capital funds reserved in PAS, both Forms HUD 52540 and 52-541A may be needed for both the source ("FROM") and receiving ("TO") projects as applicable and described below.
- b. For pre-1987 reservations, reserved in AHAS, a Form HUD 52540 shall be prepared for both the source ("FROM") and the receiving ("TO") projects pursuant to the latest instructional Notice and as follows:
 - (1) To split one project into two (or more), both Forms HUD-52540 shall identify an "S" in Block 1 to designate the "transfer action." Also in Block 1, the "FROM" side of the transaction will have circled a "G" for "amendment decrease" and the "TO" side will have circled an "N" for

"new" project. The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. For both PADs, the initial reservation date of the "FROM" project shall be entered in Block 9. Block 10 will be left blank.

- (2) To combine two (or more) projects into one, both Forms 52540 shall identify an "S" in block 1 to designate the "transfer action." Also in Block 1, the "FROM" side will have a "T" circled for "termination" and the "TO" side will have a "B" circled for "unit (and funds) increase." The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. For both PADs, the initial reservation date of the "TO" project (which shall be the earlier reserved project) shall be entered in Block 9. Block 10 will be left blank.
- (3) To redistribute units and related funds among two (or more) projects, both Forms 52540 shall identify an "S" in Block 1 to designate the "transfer action." Also in Block 1, the *

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* "FROM" side will have a "G" circled for "amendment decrease" and the "TO" side will have a "B" circled for "unit (and funds) increase." The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. The initial reservation dates of each project shall remain as they were and must be entered in Block 9 of the applicable PADs. Block 10 will be left blank.

c. For projects with capital funds reserved in PAS in 1987 and thereafter, a Form HUD-52541A shall be prepared for both the source ("FROM") and the receiving ("TO") projects pursuant to the latest instructional Notice. In each case, the applicable "TO" and "FROM" identifiers shall be stated at the top of the PADs. Also see paragraph d, below.

- (1) To split one project into two (or more), two Forms HUD-52541A should be prepared indicating transfer of funds/corrective action with an "RF" in Block 1 for the "FROM" side of the transaction and an "N" in Block 1 for the "TO" side of the transaction. Separate PADs must be completed for "FROM" and "TO" projects for each program code (Block 2) involved in the transaction. Block 9 should indicate the original reservation date of the "FROM" project as the effective date of both PADs.
- (2) To combine two (or more) projects or to redistribute units and related funds among two (or more) projects, two Forms HUD-52541A should be prepared indicating transfer of funds/corrective action with an "F" in Block 1 for the "TO" side of the transaction and an "RF" in Block 1 for the "FROM" side of the transaction. Separate PADs must be completed for "FROM" and "TO" projects for each

program code (Block 2) involved in the transaction. When combining two projects, Block 9 should indicate the initial reservation date of the "TO" project (which shall be the earlier reserved project) as the effective date for both PADs. When redistributing units and related funds, the initial reservation dates of each project shall remain as they were and be entered in Block 9 of the applicable PADs.

d. The first use of a PAS Program Code (Block 2) establishes a "new" project number under the program code. For example, a project funded in 1988 with PHR funds and PHD funds will have two project numbers: one in the PHR file and another in the PHD file. If amendment funds are added in another year, the use of Program Code "PHA" will generate a new project number in the PHA file. Any other modification to a project number, such as changing the development method suffix to "A" to "C" to accommodate a PHA request to change from Conventional to Turnkey new construction, will also generate a new project number. *

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* (1) FIELD OFFICE ACTION Staff responsible for preparing PADs for public housing development and MROP actions must be careful to put the correct date in Block 9 so that the original reservation date is not accidentally overlain with a "subsequent action" date. When adding amendment funds for the first time to a previously reserved project, for example, the "effective date" is the original reservation date. To change a project from one development method to another, every program code used under the "old" number must be reduced to zero units/funds and the amounts reestablished under the "new" project number. The effective date of the "new" project shall be the original reservation date.

(2) REGIONAL OFFICE ACTION Regional Office staff must be particularly sensitive to PAS transactions involving public housing, especially when dealing with the "N" modifier code. Field Office staff have been instructed to input the original reservation date in Block 9 of the PAD when effecting such actions as changes in development method or adding amendment funds for the first time. If PAS requires an "N" modifier subsequent to the initial reservation, the "effective date" must be the initial reservation date. Before a reformulation or development method change request is forwarded to Headquarters for consideration, the RAD should perform an on-line inquiry of the A96DGC report to determine what Program Codes will be affected. If the appropriate PADs are not transmitted with the request, Headquarters cannot consider it. *

3-205 thru 3-211. RESERVED.

3-147 thru 154

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Section 16. Reporting Requirements

3-212 thru 3-220. RESERVED.

3-155

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CHAPTER 4. PUBLIC HOUSING APPLICATION

Section 1. Introduction

- 4-1. APPLICABILITY. The Application for a Public Housing Project (Form HUD 52470) is for use only by a PHA located in an allocation area with more than one PHA -- outside a central city established as a separate allocation area by the Area Office pursuant to 24 CFR 891. This chapter establishes the procedures for PHA preparation and submission of a public housing application as well as the Area Office application review and rating procedures.
- 4-2. PURPOSE OF APPLICATION. The application provides a method for an Area Office to "target" funds to a PHA located in an allocation area which encompasses more than one PHA and where competition among PHAs is made necessary because of the limited availability of public housing funds. The application enables competing PHAs to advise the Area Office of their interest in public housing to meet local housing need and provides sufficient data for the Area Office to evaluate the community's housing need relative to other communities within the Area Office jurisdiction.
- a. Housing Need and Local Priorities. The application provides a PHA an opportunity to advise the Area Office of:
- (1) the number of units by housing type, household type, and structure type for a proposed project;
 - (2) the extent the project proposed in the application will address the community's housing need as identified in any applicable three-year HAP goals or, in the absence of a HAP, in State, regional, or local housing surveys or plans;
 - (3) local housing priorities and the relationship of the proposed project to local community development activities; and
 - (4) the PHAs current financial capability and administrative capacity to develop and manage additional public housing or, if applicable, the progress being made by the PHA for improving its administrative capacity.

- b. Rating. Each PHA application will be reviewed by the Area Office for completeness, consistency with the public housing program requirements, and consistency with the three-year goals identified in any applicable HAP or AHOP. Each approvable application will be assigned a general priority rating (i.e., excellent, very good, good) in accordance with Section 3 and will be placed in the Area Office application pipeline.
- c. Pipeline. The application pipeline will be used to determine the extent that public housing funds will be made available for specific allocation areas in the Area Office fiscal year allocation plan. When public housing funds are made available to the Area Manager, pipeline applications will be selected on the basis of their ratings and consistency with the Area Office allocation plan and the PHAs having the selected applications will be invited to submit a PHA proposal. PHAs will be expected to make front-end expenditures to prepare PHA proposals and option sites only after they have a reasonable assurance of obtaining public housing funds.

4-3 thru 4 10. RESERVED.

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4-2 thru 4-8

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Section 2. PHA Application Submission

- 11. GENERAL. The PHA is responsible for preparing and submitting an application for public housing to the Field Office. A PHA may submit one or more applications for a public housing project at any time. PHAs that require assistance should call the MHP Chief and a MHR will be designated to provide assistance.
- 12. APPLICATION PREPARATION. The PHA shall prepare the Application for a Public Housing Project (Form HUD-52470) and supporting documentation in accordance with the instructions provided with the form.
 - a. General. Each application shall be for a specific project. Separate applications must be submitted for each housing type, development method, and community for which the project is proposed. If a PHA submits more than one application for the same community, the PHA shall assign a priority rating to each application based on its assessment of local housing need and priorities.
 - b. Factors to Consider. The PHA shall consider the following when preparing an application:
 - (1) the remaining units for which the PHA has the required local authority (e.g., Cooperation Agreement, referendum

authority);

(2) the local housing needs and three-year goals identified in any applicable HAPS or AHOPs or, in the absence of such HAPS or AHOPs, comparable estimates of housing need identified in State, regional, and local housing surveys and plans;

* (3) if applicable, the availability of sites and accessible public facilities and services that are suitable for the proposed project within the general locations identified in the community's HAP. While the PHA may identify proposed site(s) at the time of application, Field Office approval of the application, regardless of whether stated in the application approval letter, shall not constitute approval of the site. Field Office approval of the site may occur only after its review of the PHA submission of the information described in paragraphs 6-25 and 6-26 as well as completion of the Intergovernmental Review (paragraph 3-72) and Section 213 (paragraph 3-73) requirements; *

(4) the minimum number of units required for the feasible development and management of the proposed project; and

(5) the PHAs capacity to develop and manage additional public housing.

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c. Revisions. Each PHA with applications being retained in the Area Office pipeline must, at least annually (during the month of July), notify the Area Office in writing that it reviewed the contents of its applications and determined that no changes are required or, if applicable, shall submit revised applications. If a PHA fails to provide the required annual statement, its pipeline applications will be returned by the Area Office.

4-13. PRIORITY FACTORS. The PHA is encouraged to identify special housing needs and local priorities which will be considered by the Field Office for purposes of rating its application. The PHA should review the rating factors identified in Section 3 and should include, as part of its application, a demonstration of any applicable justification for a priority rating.

4-14. PHA REQUEST FOR FRONT-END FUNDS. Generally, a PHA is expected to provide necessary funding related to the preparation and submission of a PHA proposal. However, a PHA may request that the Area Office execute an ACC to provide front-end funding assistance prior to PHA identification of a site or property or prior to advertising for turnkey proposals, if the PHA can demonstrate that it would otherwise be precluded from participating in the public housing

program. Any PHA request for front-end funds shall be submitted on a project-by-project basis.

a. Area Office Approval. The Area Manager, based on the PHA demonstration, may authorize execution of an ACC to provide front-end funds for the following:

- (1) a newly established or small PHA proposing to build, rehabilitate, or acquire housing in communities that are not entitlement cities under the CDBG program;
- (2) a PHA proposing to build or rehabilitate scattered-site housing using the conventional method;
- (3) a PHA proposing to purchase scattered-site existing housing using the acquisition method; or
- (4) a PHA that is required by State or local law to hold public hearings for assisted housing sites and the public hearing process requires more time (in excess of that stated in Chapter 6) for submitting a PHA proposal.

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b. Headquarters Approval. PHA requests for execution of an ACC to provide front-end funds that do not meet the criteria identified in paragraph a may be submitted to the Assistant Secretary for Housing by the Area Manager. The Area Manager's recommendation must be accompanied by the PHA justification which identifies the specific reasons and demonstrates that the PHA would be precluded from participating in the public housing program and which identifies the additional time required to submit a PHA proposal.

4-15 thru 4-20. RESERVED.

4-11 thru 4-16

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Section 3. Area Office Application Review and Rating

4-21. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Area Office review of a public housing application is fifteen (15) days. The SPT is the number of calendar days between receipt of the application by the PCR Unit and mailing of the PHA notification letter advising the PHA that its application is approvable or not approvable. The SPT may be extended to provide the PHA an additional fifteen (15) days to correct any deficiencies identified by the Area Office.

4-22. PCR UNIT. The PCR Supervisor is responsible for the following application review activities:

- a. Application File. The original of each PHA application and review documents shall be maintained by the PCR Unit in an application docket file. The application file shall also include a copy of the PCR supervisor memorandum establishing the application receipt and application review dates, and the names of the Divisions and Branches requested to review the application. In addition, all completed reviewing office checklists and accompanying memorandums shall be date stamped and retained in the application file.
- b. Control Log. Each application shall be assigned a project number in accordance with the Records Control Handbook (HB 4050.1). Applications will be logged on a control record which identifies:
 - (1) the allocation area;
 - (2) the name of the PHA and, if different, the community in which the proposed project will be located;
 - (3) the project number and the application receipt date;
 - (4) the number of units by housing type and household type;
 - (5) the priority rating assigned pursuant to paragraph 4-29; and
 - (6) the action taken by the Area Office -- approvable, not approvable, or placed in application pipeline -- and the date of the PHA notification letter (paragraph 4-30).

- c. Application Distribution. The PCR Unit shall make copies of the application and supporting documents for each reviewing office. The PCR Supervisor, within one (1) working day, shall send a form memorandum which transmits

the application and review checklist to each reviewing office and which establishes the:

- (1) Application Receipt Date. The date the application was received by the PCR Unit.
- (2) Initial Screening Date. The date by which PCR must receive any reviewing office requests for missing or incomplete information. The initial screening date shall not be later than three (3) working days from the date of the PCR Supervisor memorandum.
- (3) Application Review Date. The date that the reviewing office comments, recommendations and completed review checklist are due in the PCR Unit. The application review date shall not be later than ten (10) working days from the date of the PCR Supervisor memorandum. The reviewing offices shall be requested to identify the specific reasons to support any recommendations for disapproval.

Application Tracking. The PCR Supervisor shall monitor Area Office processing actions to ensure that the application review will be completed by the established date. The completed review checklists and reviewing office recommendations shall be forwarded to the MHR immediately upon receipt. The PCR Supervisor shall also advise the MHR of any reviewing offices that have not submitted their recommendations by the application review date so that follow-up action may be initiated.

4-23. LEGAL DIVISION. The Legal Division shall review the application and supporting documents and submit the Area Counsel's recommendations and completed review checklist to the PCR Supervisor by the application review date. In order to recommend approval, the Area Counsel must determine that:

- a. PHA Eligibility. The PHA was previously approved as eligible to participate in the public housing program (Chapter 2). The

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Area Counsel shall also ascertain that there is no pending litigation or court proceeding against the PHA that would affect approval of the application.

- b. Legal Documents. The dates indicated on the application and the number of units shall be reviewed to verify that they are consistent with the approved PHA organization documents, Cooperation Agreement, and any other required legal authority.

- c. PHA Resolution. The PHA resolution shall be reviewed to determine that it was properly executed.
- d. Rating. The Field Counsel shall determine whether the application is entitled to a priority rating pursuant to paragraph 4-29 and shall also so indicate on the review checklist.

4-24. FHEO DIVISION. The FHEO Division shall review the application and supporting documents from existing PHAs (i.e., not newly established PHAs) and submit the FHEO Director's recommendations and completed review checklist to the PCR Supervisor by the application review date. In order to recommend approval, the FHEO Director must determine acceptance of the PHA certification of intent to comply with all civil rights laws. In making this determination, consideration is given to the PHAs part performance in selecting sites that provided housing opportunities outside areas of minority concentration, selecting and assigning tenants in a nondiscriminatory manner, providing equal employment opportunity to PHA employees, and providing employment opportunities to project area residents and businesses as well as minority and women-owned business enterprises. The FHEO Director shall determine whether any of the following apply:

- a. Suits. Civil rights suits, brought by the United States Department of Justice, are being prosecuted against the PHA.
- b. Administrative Action. The PHA has outstanding findings of noncompliance with civil rights laws, Executive Orders, or regulations as a result of formal administrative procedures.
- c. Deferrals. The approval of applications or PHA proposals has been deferred pending compliance with Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), the HUD Title VI regulations (24 CFR 1.8) and processing procedures (HUD Handbook 8040.1), Section 504 of the Rehabilitation Act of 1973 and related implementing regulations (24 CFR 8.57), or any other applicable requirements under 24 CFR 941.208. *

4-25. EMAS. The EMAS shall review the application and supporting documents and submit the completed review checklist to the PCR Supervisor by the application review deadline. In order to * recommend approval, the EMAS must determine that there is a need and a market for the project *

in the locality (the unit of local government in which the project is proposed to be located). In making this determination, consideration is given to the following:

- a. Market determination. The extent that the number and type of units proposed are consistent with local market needs and demand. This determination shall be based on available data related to the household type to be served by the proposed project. Consideration is to be given to local growth trends, housing conditions and in relation to the existing supply of
 - * assisted housing. The EMAS shall consider in its determination any FmHA comments about the demand for additional assisted housing and possible harm to existing projects in the same market area. *
- * b. Inadequate Housing Supply. The extent that the submitted documentation reasonably demonstrates an inadequate housing supply (typically four percent or less vacancy rate considering housing market conditions, such as level of growth or changes in the numbers of households relative to housing supply and the effect of housing supply on rent increases, and Section 8 certificates/voucher holders are experiencing difficulty in leasing units typically less than 85 percent lease-up within 60 days). *
- c. Unmet Housing Need. The extent that the locality has been under-funded relative to its needs in comparison to other communities in the applicable metro/nonmetropolitan portions of the Field office jurisdiction and the extent to which a household type that has been proportionately underserved in the locality will be assisted.
- d. Housing and Market Conditions. The EMAS shall provide an opinion on the reasonableness of the proposed housing type (acquisition of existing housing, rehabilitation or new construction) based on the current overall market conditions in the market where the project is to be located.
- e. Rating. The EMAS shall determine whether the application meets threshold approvability and shall identify and rate each applicable rating factor on the review checklist.

4-26. HM BRANCH. The HM Branch shall review the application and supporting documents and submit the HM Chief's recommendation and completed review checklist to the PCR Supervisor by the application review deadline. In order to recommend approval, the HM Chief must determine that:

- a. PHA Management Capability. The PHA has the capability to manage the proposed project, any other projects under development and completed projects in accordance with all applicable program requirements. Consideration shall be given to the documentation submitted by the PHA, or in the absence of such Information, the most recent Field Office Management review of the PHA, to determine that:

- (1) the PHAs program implementation and project management activities comply with the public housing program requirements; or
 - (2) the PHA is making satisfactory progress in improving its management capability in those areas previously identified by the Area Office.
- b. PHA Tenant Selection Experience. The PHA has been successful in selecting tenants in accordance with program requirements. In making this determination, consideration shall be given to:
- (1) the PHAs past performance and experience in attracting and selecting a "cross section" of tenants with a broad range of incomes and rent paying abilities that is representative of the range of incomes for lower income families in the community;
 - (2) any PHA outreach efforts currently underway or planned for the immediate future to promote such a "cross section";
 - (3) the adequacy of the PHAs income limits; and
 - (4) the PHAs past performance and experience in selecting tenants whose habits or practices may reasonably be expected to have a positive effect on the project or other tenants.
- c. Rating. The AHM Chief shall determine whether the application is entitled to a priority rating pursuant to paragraph 4-29 and shall identify each applicable criterion on the review checklist.
- 4-27. CPD DIVISION. The CPD Division shall review the application and supporting documents and submit the CPD Director's recommendations and completed review checklist to the PCR Supervisor by the application review date.
- a. Environmental. The Environmental Clearance Officer shall review the application to determine whether there are any community-wide factors that would preclude or delay development of the proposed project. This may include such factors as water and sewerage moratoriums, water quality, adequacy of fire protection, and relationship of the community to identified flood hazard areas. The purpose

of this review is to identify as early as possible any environmental issues so that appropriate guidance may be provided to the PHA prior to its preparation of a PHA proposal.

- b. Rating. The CPD Director shall review each application for housing in a community participating in the CDBG program to determine whether the application is entitled to a priority rating pursuant to paragraph 4-29. The CPD Director shall identify each applicable criterion on which the rating is based on the review checklist.

4-28. MHP BRANCH. The MHP Chief shall designate a MHR to complete the following application review activities:

- a. Development Method. The development method proposed by the PHA shall be reviewed to determine that a new construction or rehabilitation project would be developed under either the conventional or turnkey method or that an existing housing project would be developed under the acquisition method.
- b. PHA Development Capability. The PHAs development capability shall be reviewed to determine that the PHA has or will have the necessary staff and expertise to develop the proposed project in a timely manner. In making this determination, consideration shall be given to:
 - (1) any recent PHA experience in developing public housing projects;
 - (2) the status of any projects currently in development; and
 - (3) the reasonableness of the proposed project development schedule.
- c. Rating. The MHR shall determine the final rating to be assigned to each application by consolidating the ratings assigned by the reviewing offices -- MHP Branch, ARM Branch, Area Counsel, EMAD and CPD Divisions.
- d. ACC for Front-End Funds. Any PHA request for execution of an ACC to provide front-end funds shall be reviewed to determine whether approval is justified in accordance with paragraph 4-14,

e. Evaluation of Review Comments. The recommendations and completed review checklists shall be evaluated to determine that there are no recommendations for disapproval or conflicting comments. The MHR shall resolve any conflicting comments. If agreement cannot be reached, the MHR shall schedule a meeting with the Housing Director and the applicable reviewing offices.

4-29. APPLICATION APPROVABILITY, RATING AND RANKING. The MHR shall coordinate the determination of approvability, assignment of a rating and ranking with the appropriate reviewing offices for each PHA application that is approvable, as described in this paragraph.

a. Threshold Approvability. An application shall be determined approvable if it meets all program requirements:

- (1) Legal Eligibility. The Field Counsel shall determine if the PHA has any litigation pending which should preclude approval of the application or entitle it to receive a priority rating. In addition, the Field Counsel must have determined that the PHA is legally eligible to develop, own and operate public housing under the Act and has:
 - (a) approved and current PEA organization documents;
 - (b) local cooperation to cover the units requested (in the form of the required Cooperation Agreement) and any other required local authority, including a Local Governing Body Resolution if front-end funds are requested under an ACC; and
 - (c) properly executed and complete PHA resolution, including required advice or certifications, such as under sections 5(j) or 6(h) of the Act, Drug Free Workplace Act of 1988, HUD Reform Act of 1989, P.L.101-121 (Byrd Amendment), and any other required certifications.

* (2) Fair Housing/Equal Opportunity. The FH&EO Division has determined acceptance of the PHA certification of intent to comply with all applicable civil rights/equal opportunity laws. *

(3) Market Determination. The EMAS has determined that there is a need and a market for the household type and bedroom sizes proposed for the project, taking into consideration any local plans and other assisted housing (e.g., HUD or FmHA) existing and proposed (funded but not completed).

* (4) Administrative Capability. The HPB and the HM Branches have determined the PHA has (or will have pursuant to a written plan approved in writing by HUD or a Court Settlement Agreement) the capabilities to develop and manage the proposed housing. A PHA shall not be determined to lack administrative capability simply because it has no recent experience in developing and/or managing public/assisted housing. No application shall be determined approvable if the PHA has failed to return excess advances received during development or *

modernization or amounts determined by HUD to constitute excess financing based on a HUD approved ADCC or AMCC.

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- (5) Environmental Issues. The CPD Division has determined that there are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.
- (6) Housing Type. If new construction is requested, the Map Branch must have ascertained that the PHA submission is complete regarding certification and documentation to support the requested units as well as any statement that the PHA will accept acquisition of existing housing or rehabilitation if HUD cannot approve new construction. If the application is proposed for new construction only, the Field Office must have determined (pursuant to Section 6(h) of the Act) that new construction-is approvable.
- (7) Section 5(j) Certification. The PHA must have certified that:
 - (a) 85 percent of its public housing dwelling units:
 - (i) are maintained in substantial compliance with the Section 8 housing quality standards (24 CFR 882.109); or
 - (ii) will be so maintained upon completion of modernization for which funding has been awarded; or
 - (iii) will be so maintained upon completion of modernization for which applications pending have been submitted in good faith under Section 14 of the Act (or a comparable State or local government program) and there is a reasonable expectation, as determined by HUD in writing, 1/ that the application would be approved; OR
 - (b) the units for which application is made:
 - (i) are required to replace dwelling units that are demolished or disposed of (Section 18 of the Act) or lost through sale to residents (Section 304(g) of the Act) or through units redesign; or
 - (ii) are required to comply with court orders or directions of the Secretary (in each case, these

must be identified by the PHA); OR

- (c) it has demands for family housing not satisfied by the Section 8 existing or voucher rental assistance programs for which it plans to construct or acquire projects of not more than 100 units; OR

1/ On the request of a PHA, the Field Office shall expeditiously provide in writing a determination as to the approvability of any modernization application the PHA has submitted which is still pending. Approvability shall be based solely on whether the application meets the required criteria, not availability of funding or other priorities.

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- (d) the application is for Major Reconstruction of Obsolete Public Housing (MROP).

- b. Rating Approvable Applications. Unless specified in a Notice of Fund Availability (NOFA)/HUD funding Notice, applications which have been determined approvable under the threshold requirements of subparagraph a shall be rated and ranked as follows: (Full points are to be given as identified if the statement is true for the PHA application; if not true, then no points are to be given).

Rating Factors

Points

* (1) Inadequate Housing Supply. - (EMAS/FH&EO) - Based on an evaluation by the HUD Field Office, PHA submitted documentation reasonably demonstrates that the application is for a project to be located in a local market area that has an inadequate supply of housing available for use by very low-income families, based on housing market conditions taking into account vacancy rates and other market indicators, difficulty section 8 certificate/voucher holders are experiencing in meeting program and family size requirements, or evidence that the proposed development would provide increased opportunities for minorities or address special housing needs.

25 *

(2) Relative Need. - (EMAS) - Application is for a project which will be located in a locality which has previously been underfunded for the household type (family or elderly) requested relative to the need for housing for the same household type in other localities in the respective metropolitan or nonmetropolitan portion of the Field Office jurisdiction.

20

(3) Priority for Large Family Housing. -(HPB)- Application is for a project comprising only three-bedroom or larger units. 20

(4) Relocation. -(CPD/EMAS)- The proposed project would primarily

assist households displaced, or to be displaced, by Federal action or a natural disaster in a Federally declared disaster area 10

(5) Low density family housing is proposed to be developed on scattered sites to expand housing opportunities (HPB) 10

- * (6) PHA Development Experience. (HPB)
- (a) The PHAs last public housing project was developed;
 - (i) in accordance with time frames; i.e., construction started (new or rehab) or DOFA occurred (acquisition of existing) within 30 months of the fund reservation date; 5
 - (ii) in accordance with the latest approved development cost budget; 5
 - (iii) with no construction deficiencies identified; 5
 - (iv) in accordance with all (other than above) HUD requirements; 5

or

(b) The HUD Field Office doesn't have information on PHA past public housing experience to rate the PHA under (a) above, but it has determined that the PHAs application demonstrates the capability for, and the expectation of, expeditious quality development (e.g., PHA identified past Section 8 development experience, or a submitted PHA three-year management contract with a well-experienced PHA); 15

or

(c) The HUD Field Office doesn't have the information under (a) or (b) above, but it has determined that the PHA's application demonstrates the capability for, and the expectation of, expeditious quality development (e.g., PHA plans and staff capability identified); 5 *

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* (7) PHA Management Experience. (MB)

- (a) The vacancy rate in public housing projects under management is not greater than 2 percent, indicating that the PHA will and can fully utilize the units applied for; 20

or

- (b) The vacancy rate in public housing projects under management is not greater than 3 percent (or-two units if that is greater); 10

or

- (c) The PHA has no public housing projects in management but has management experience in the Section 8 program and management review or Inspector General audit findings, if any, are being addressed satisfactorily. 5 *

(8) Other Priorities. (CPD/HPB/MB)

(a) The application proposes a project which, as evidenced by a letter from the locality, actively supports an area of local initiative (such as a Community Development Block Grant, urban revitalization, Enterprise Zone or other similar local activity.) (CPD)

(b) The PHA submitted a certification with its application that, pursuant to Section 3 of the Housing and Urban Development Act of 1968, at least five percent of the construction contract or contract of sale amount (which may not be increased for this purpose) will be used to train and employ lower income persons residing in the area of a proposed new construction or substantial rehabilitation project, and that to the greatest extent feasible, contracts for work to be performed for that project will be awarded to business concerns located in, or owned in substantial part by persons residing in, the area of the project. As such contracts are executed, evidence of compliance with prior year certifications shall be submitted by the PHA and referenced in subsequent applications. (HPB) 5

(e) The Field Office, based on PHA submitted documentation with Field Office confirmation, has determined that a PHA has no drug problem, or is aggressively combatting drug abuse, in its public housing projects. (MB) 5

(d) The application proposes housing the PHA shall identified with Field Office confirmation as a replacement for a Headquarters approved sale as homeownership under Section 21 or Section 5(h) (for applications for 5(h) sales submitted after October 1, 1990). (MB) 10

Total possible points 150

c. Ranking Approvable Applications. Approvable applications which have been rated under paragraph b above shall be ranked for selection for funding based on the rating points assigned. The ranking shall occur only after the MHR has verified the completeness and accuracy of the ratings provided by the reviewing offices to the PCR, as well as the accuracy of the accumulation of scores, pursuant to paragraphs 4-22 and 4-28e. The rankings, which shall be approved by the Housing Director, shall be retained as documentation, and a summary thereof made available upon PHA request, pursuant to 24 CFR Part 12.

4-30. PHA NOTIFICATION. The MHR, shall prepare a letter for the Housing Director's signature to advise the PHA of the results of the Field Office review. The letter shall not be dispatched until after all funding decisions have been made in accordance with the NOFA and HUD * funding Notice, and shall be in compliance with 24 CFR Part 12 implementing the HUD Reform Act of 1989. Prohibition of advance disclosure of funding decisions pursuant to 24 CFR Part 4 and civil money penalties related thereto are stated in 24 CFR Part 30. *

- a. Application Not Approvable. The PHA shall be notified, at the same time as PHAs are receiving notification of funding pursuant to paragraph 5-16, that its application is not approvable and is being returned to the FHA. The latter shall indicate the reasons for disapproval and that the PHA may wish to reapply under any further NOFA which may be published.
- b. Application Approvable-Not Funded. The PHA shall be notified, at the same time as PHAs are receiving notification of funding pursuant to paragraph 5-16, that its application is approvable but is being returned because of its relatively low rating. The latter shall indicate (1) the rating assigned to the PHA application; and (2) the major reasons that the PHA application received the rating that it did.
- c. Application Approved, and Funded. When appropriate, the PHA shall be notified pursuant to paragraph 5-16 that its application was approved and funded.

4-31, etc. Reserved

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CHAPTER 5. AREA OFFICE REQUEST FOR PHA PROPOSALS

Section 1. General

- 5-1. **APPLICABILITY.** This chapter establishes the Area Office procedures for inviting a PHA to submit a PHA proposal for a public housing project. There are two different procedures for inviting PHA proposals: PHAs located outside a central city allocation area will be invited to submit PHA proposals in response to an Area Office request based on applications selected from the Area Office application pipeline (Section 2); and PHAs located inside a central city allocation area will be invited to submit PHA proposals in response to an Area Office request based on the public housing funds "set-aside" for the central city in the Area Office allocation plan.(Section 3).
- 5-2. **CENTRAL CITY ALLOCATION AREA.** This term refers to a central city of a standard metropolitan statistical area, or a formula CDBG recipient, either of which is established as a separate allocation area by the Area Office pursuant to 24 CFR 091.
- 5-3. **FUND ALLOCATIONS.** Contract and budget authority for the public housing program are authorized and released by Congress and subsequently apportioned by the Office of Management and Budget (OMB). This paragraph provides a brief summary of the fund allocation procedures.
- a. **Policies and Procedures.** Funds for public housing projects are allocated to specific Area Offices and to specific allocation areas pursuant to 24 CFR 891. The fiscal year fund allocations are transmitted by a HUD Notice from the Assistant Secretary for Housing. This HUD Notice outlines the Departmental objectives and priorities as well as any specific requirements that must be considered in allocating public housing funds, such as special "set-asides" for amendments or demonstration programs, and special requirements relating to the annual Departmental Operating Plan.
 - b. **Organizational Responsibilities.** Upon receipt of the OMB apportionment, there are three levels of HUD administrative responsibility for allocating public housing funds as follows:
 - (1) **Headquarters.** The Assistant Secretary for Housing issues a Regional Fund and Contract Authority Assignment (Form HUD 185) to each Regional Administrator. The Form HUD 185 identifies the amount of loan, contract, and budget authority assigned for approval of public housing projects, as well as the amount of funds available to amend previously approved public housing projects.

- (2) Regional Offices. The Regional Administrator issues a Regional Fund and Contract Authority Sub-Assignment (Form HUD 185.1) to the Area Managers. The Form HUD 185.1 identifies the amount of loan, contract, and budget authority assigned for the public housing program.
- (3) Area Offices. Each Area Office develops an allocation plan which identifies the number of housing units by housing type, household type and housing program (e.g., public housing, Section 8) and the amount of loan, contract, and budget authority to be made available to support these units in specific allocation areas. In determining the extent that public housing funds will be allocated to specific allocation areas, consideration is given to the number of units by housing type and household type in the Area Office application pipeline (Chapter 4).

5-4 thru 5-10. RESERVED.

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Section 2. PHAs Located Outside
Central City Allocation Areas

APPLICATION SELECTION. When public housing funds are allocated or reallocated to a specific allocation area, the MHR shall review the pipeline applications that are consistent with the Area Office allocation plan.

a. Excess Applications. The applications in the Area Office pipeline may contain more units than can be produced with the public housing funds identified in the Area Office allocation plan for an allocation area. In such instances, the MHR shall select the applications to be submitted for the Area Manager's approval in accordance with the following:

- (1) the general priority rating (i.e., excellent, very good, good) for each application;
- (2) the number of criteria (paragraph 4-29) that each application meets within the same priority group;
- (3) the extent that each application meets these criteria;
and

(4) the date each complete application was received by the PCR Unit.

b. Insufficient Applications. The applications in the Area Office pipeline may not contain enough units to use all the public housing funds identified in the Area Office allocation plan for an allocation area. In such instances, the MHR shall submit all pipeline applications for the Area Manager's approval and shall prepare, for the Housing Director's signature:

- (1) a letter to each PHA within that allocation area inviting them to submit applications for those housing types or household types identified in the Area Office allocation plan; or
- (2) a memorandum requesting authorization from the Area Manager to reallocate any unused public housing funds to other allocation areas for which there are pipeline applications.

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c. Cost and EMAD Review. After identifying the applications to be submitted for the Area Manager's approval, the MHR shall send each application, identify the order of funding priority, the amount of loan, contract and budget authority available, and request that:

- (1) the Cost Chief prepare a preliminary estimate of the project development costs; and
- (2) the EMAD Director verify that the number of units are still within any applicable three-year HAP goals.

5-12. PRELIMINARY DEVELOPMENT COST ESTIMATES. The Cost Chief shall determine the amounts of loan, contract, and budget authority to be reserved for each of the selected projects in order of funding priority. These amounts shall be calculated for each project as follows:

a. Unit Distribution. Determine the number of units by structure type (detached and semi-detached, row, walk-up, elevator) and by number of bedrooms.

Example: Application for 90 family units; 20 - 2 BR (row), 50 - 3 BR (row), and 20 - 4 BR (detached).

b. Base Project Prototype Cost. Determine the base project prototype cost by multiplying the number of units for the

proposed project by the applicable published unit prototype cost.

Example:

No. of BRs	No. of Units	Published Unit Prototype Cost	Total
2 BR (R)	20	\$ 20,500	\$ 410,000
3 BR (R)	50	24,500	1,225,000
4 BR (D)	20	30,500	610,000

Base Project Prototype Cost = \$2,245,000

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- c. Projected Prototype Cost. Project the base project prototype cost from the date of publication in the Federal Register to the anticipated construction start date by multiplying the base project prototype cost by an adjustment factor. The adjustment factor shall be determined in light of recent cost changes as shown by the commercial index (e.g., Boeckh's, Marshall Swift's) normally used by the Cost Branch.

Example: The monthly projected cost increase is one-half of one percent and construction is scheduled to start 18 months after publication of the unit prototype cost schedule.

$$\$2,245,000 \times 109\% (.5\% \times 18 \text{ mos.}) = \$2,447,050$$

- d. Estimated Total Development Cost (TDC). Determine the estimated TDC by multiplying the projected prototype cost by not more than 175 percent to provide for the cost of sites, site improvements, PHA planning and administrative expenses, interest, and other allowable costs.

Example: $\$2,447,050 \times 175\% = \$4,282,338$

- e. Contract Authority. Determine the amount of contract authority required by multiplying the TDC by the Maximum Debt Service Contribution Percentage.

Example: $\$4,282,338 \times .0775 = \$332,223$

- f. Budget Authority. Determine the amount of budget authority required by multiplying the contract authority by the term (number of years) of the ACC.

Example: \$332,223 x 30 = \$9,966,690

- g. Summary. The Cost Branch shall prepare a summary of the estimated amount of funds required for each selected application and shall return the information to the MHR within five (5) working days.

5-13. INITIAL HAP CONSISTENCY. In order that the Area Manager may reserve funds for a selected application and invite the PHA to submit a PHA proposal, the EMAD Director must make an initial determination that the application is consistent with any applicable HAP or AHOP.

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- a. Initial Determination. The EMAD Director shall review each application to be funded for housing in a community that is covered by a HAP to determine whether the number of units by housing type and household type is consistent with the applicable three-year HAP goals and any other limiting factors. In making this determination, consideration may be given to a HAP currently under review in the Area Office and which is likely to be approved prior to receipt of the PHA proposal for a public housing project. In order to recommend approval, the EMAD Director must determine that the application, taken together with previously funded assisted housing applications and proposals:
 - (1) would not exceed the community's three-year HAP goals for HUD assisted rental housing by housing type or household type; and
 - (2) would permit approval of assisted housing during the three-year HAP period that would be proportionate to the community's three-year HAP goals for HUD assisted rental housing by household type.
 - b. Final Determination. The EMAD Director shall make a final determination of HAP consistency during PHA proposal review (Chapter 7, Section 5). At that time, the site will be known and the unit of general local government will be given an opportunity to comment on the consistency of the PHA proposal with its HAP.
 - c. Summary. The EMAD Director's findings shall be submitted to the MHR within five (5) working days and shall include summary information which identifies the project number, community, units by housing type and household type, and the EMAD Director's initial finding of consistency or

inconsistency.

5-14. AREA MANAGER APPROVAL. Upon receipt of the preliminary development cost estimates from the Cost Chief and the EMAD Director's comments concerning HAP consistency, the following shall be prepared:

- a. Project Accounting Data (PAD). The PCR Supervisor shall prepare a Project Accounting Data (Form HUD 52540) for each selected application and shall provide the MHR with the completed PADs to be included with the Housing Director's memorandum.

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- b. PHA Notification Letter. For each selected application, the MHR shall prepare a PHI, notification letter for the Area Manager's signature inviting the PHA to submit a PHA proposal. The letter shall indicate:

- (1) the Area Office has prepared the ACC and related documents, which should be signed and returned with the PHA proposal. (Note: If the Area Manager is authorizing the use of an ACC for front-end funding, the PHA shall be given 30 days to return the signed ACC and related documents to the Area Office and to identify the date by which the PHA proposal will be submitted);
- (2) the Area Office has prepared a proposed utility combination for the project;
- (3) a project planning conference to discuss the PHA proposal requirements has been scheduled for a specified time, date, and place (this conference shall be scheduled within fifteen (15) days of the date of the letter) and any questions should be directed to the MHR (name and telephone number);
- (4) the PHA has ninety (90) days from the scheduled project planning conference date to submit a PHA proposal under the conventional or turnkey method or sixty (60) days to submit a PHA proposal under the acquisition method; and
- (5) if the PHA proposal is not received by the deadline date, the project will be terminated unless the PHA submits documentation which justifies Area Office approval of a thirty (30) day extension.

- c. Housing Director's Recommendation. The MHR shall prepare a

memorandum for the Housing Director's signature which identifies the PHA applications being selected.

- (1) The memorandum shall identify for each application:
 - (a) the PHA and the project number;
 - (b) the number of units and the amount of loan, contract and budget authority required;
 - (c) the priority ratings assigned by the reviewing offices; and

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- (d) any special considerations on which the recommendations are based (e.g., CDBG activity, relocation requirements, underfunding).
- (2) the memorandum shall also state that:
 - (a) the ACC and supporting documents will be prepared by the Area Counsel after the Area Manager's approval;
 - (b) the Area Manager should indicate approval by signing the Form HUD 52540, Project Accounting Data (PAD), and the PHA notification letter for each application; and
 - (c) the PAD and the undated PHA notification letter are to be returned to the PCR Supervisor when signed by the Area Manager.

5-15. SUPPORTING DOCUMENTS. The PCR Supervisor, upon the Area Manager's approval, shall send a copy of the Housing Director's memorandum and each selected application to the Area Counsel and the AHM Chief. The Area Counsel and AHM Chief shall be requested to prepare the following attachments to the Area Manager's letter:

- a. Annual Contributions Contract (ACC). The Area Counsel shall prepare the ACC and related documents and shall transmit the following to the PCR Supervisor within five (5) working days:
 - (1) Form HUD 53010, Consolidated Annual Contributions Contract (Part One) - three copies;
 - (2) Form HUD 53011, Terms and Conditions of Consolidated Annual Contributions Contract (Part Two) - one copy;

- (3) Form HUD 51999, General Depositary Agreement - three copies;
- (4) Form HUD 274, Designation of Depositary for Direct Deposit of Loan or Grant Funds - three copies;
- (5) Form HUD 9204, Project Loan Note - three copies;
- (6) Form HUD 9201, Permanent Note - three copies; and

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- (7) Form HUD-5412, Note Signature Certificate - three copies.
 - b. Proposed Utility Combination. The AHM Chief shall prepare Form HUD-51994, Comparative Analysis of Utility Costs, and shall forward the completed utility analysis to the PCR Supervisor within five (5) working days.
 - c. PHA Packet. The PCR Supervisor shall prepare a PHA packet which provides guidance concerning the general development and program requirements, standard HUD forms, and other statutory requirements for developing a public housing project. If the project will be developed under the turnkey method, the PCR Supervisor with the assistance of the MHR shall prepare a Turnkey Developer's Packet for use by the PHA.
- 5-16. PHA NOTIFICATION. The PCR Supervisor, upon receipt of the signed PHA notification letter shall:
- a. Obtain RAD Confirmation. The PAD and a signed copy of the undated PHA notification letter shall be sent to the Regional Accounting Division (RAD) Director. The RAD Director shall reserve the funds as of the date the PAD is received and) within twenty-four (24) hours, shall notify the Housing Director by telegram or facsimile of the project number, number of units, amounts of loan, contract, and budget authority reserved and the reservation date.
 - * b. Provide Congressional Notification. For each approved application the PCR Unit shall prepare the Congressional Notification (Form HUD-416.2). Upon receipt of the RAD confirmation, the PCR Unit shall send a copy of the Form HUD-416.2 by facsimile transmission and a second copy by air mail to the Assistant Secretary for Legislation and Congressional Relations. The PHA notification letter shall not be released until five (5) working days have elapsed from the date of transmission of the facsimile.

- c. Dispatch PHA Notification Letter. The PHA notification letter shall not be dated until the RAD Director confirms that the funds have been reserved. The PCR Supervisor, upon receipt of the RAD confirmation, shall enter the RAD reservation date on the original signed PHA notification letter. The PHA notification letter and attachments shall not be sent to the PHA until after the Congressional notification period.

5-17 thru 5-20. RESERVED.

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Section 3. PHAs Located Inside Central City Allocation Areas

5-21. GENERAL. Central cities of a standard metropolitan statistical area or selected CDBG recipients, whenever feasible, are established as separate allocation areas by the Area Office. In determining the extent of public housing funds to be allocated to such areas, consideration is given to such factors as on-going CDBG activities that are related to the provision of public housing, achievement of the three-year HAP goals, and the PHA's capacity to develop and manage additional public housing. After consultation with representatives of the unit of general local government, public housing funds are allocated or "set-aside" for use by the PHA having jurisdiction in the city established as a separate allocation area. Since PHAs located inside central city allocation areas are not required to submit an application for a public housing project, this section establishes the additional information that must be submitted by such a PHA with its schedule for submitting PHA proposals.

5-22. PHA ELIGIBILITY. The PHA shall submit evidence that it has both the legal authority and local cooperation required by Chapter 2.

- a. Approved Documents. The PHA is not required to submit a copy of the approved PHA organization Documents or Cooperation Agreement. In such cases, the PHA's transmittal letter should identify the date of the Area Office letter approving the most current documents.
- b. Revised Documents. If changes which affect the PHA's organization or local cooperation have taken place since the date of Area Office approval of these documents, the PHA shall submit, as applicable:
 - (1) a General Certificate (Form HUD 9009) updating the information which previously was approved by the Area Office; and
 - (2) a Cooperation Agreement (Form HUD 52481).

5-23. PHA ADMINISTRATIVE EXPERIENCE. The PHA shall submit a demonstration of its capacity to develop the project and operate all of its projects in compliance with the public housing program requirements.

- a. PHA Administration. The PHA shall submit a statement which addresses, if applicable:

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- (1) the PHA progress for improving its administrative capacity based on recommendations previously made by the Area Office (Note: This information is not required if the Area Office conducted a management review within the Preceding twelve month period that indicated the PHA was making satisfactory progress or if the PHA recently provided similar information); and
- (2) the current status of any projects that are under development but have not reached the end of the initial operating period (EIOP) and, if such projects are behind the approved development schedule, the reasons for any delays and corrective action to be taken by the PHA.

- b. Tenant Selection. The PHA statement shall also address:

- (1) the PHA experience in selecting tenants whose habits or practices may reasonably be expected to have a positive effect on the project or other tenants; and
- (2) the PHA experience in selecting a "cross section" of tenants with a broad range of incomes and rent paying abilities that is representative of the range of incomes for lower income families in the community. The PHA statement shall also address the basis for its income ranges, any special efforts currently underway (or planned in the immediate future) to attract a "cross section" of applicants, and the effect of PHA outreach efforts on its public housing "waiting-list".

5-24. PHA REQUEST FOR FRONT-END FUNDS. A PHA located inside a central city allocation area, except as provided below, is responsible for providing all necessary funding related to the preparation and submission of PHA proposals.

- a. Exceptions. It PHA may request that the Area Office execute an ACC to provide front-end funding assistance by HUD only for:

- (1) scattered-site housing involving rehabilitation using the conventional method; or
- (2) scattered-site existing housing to be purchased using the acquisition method.

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- b. PHA Demonstration. Any PHA request for execution of an ACC to provide front-end funds shall be submitted on a project-by-project basis and shall demonstrate that the PHA would be precluded from developing the proposed project unless front-end funds are provided by HUD. The PHA demonstration shall address the various sources of funding considered by the PHA, including the local CDBG program; and the reason that funds could not be made available to the PHA for preparation of a PHA proposal. The Area Manager, where justified by the PHA demonstration, may authorize execution of an ACC to provide front-end funds.
- 5-25. PHA NOTIFICATION. When public housing funds are allocated or reallocated to a specific central city allocation area, the MHR shall prepare a letter for the Housing Director's signature to the PHA having jurisdiction in the allocation area. The letter shall advise the PHA that public housing funds have been "set-aside" and invite the PHA to submit PHA proposals.
- a. Funds. The amount of public housing loan, contract, and budget authority "set-aside" in the Area Office allocation plan for PHA use shall be identified.
 - b. Units. The number of housing units by housing type and household type that the funds are expected to produce shall be stated. The structure types and bedroom distribution used by the Area Office to determine the projected number of units shall also be included.
 - c. PHA Schedule. The PHA shall be advised to submit its schedule for submitting PHA proposals to the Area Office within thirty (30) days of the date of the Housing Director's letter. This schedule shall identify, on a project-by-project basis, the number of units, by housing type, household type, unit size (number of bedrooms), structure type, development method, and the anticipated date that each PHA proposal will be submitted to the Area Office. The date for submission of the first PHA proposal must be within 120 days of the Housing Director's letter and the dates for submission of all PHA proposals must be prior to June 30 of the fiscal year for which the allocation was made.

- d. PHA Demonstrations. The PHA shall be reminded that the following, if applicable, must be submitted with the PHA schedule:

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- (1) evidence that the PHA has both the required legal authority and local cooperation;
 - (2) demonstration of the PHA administrative and tenant selection experience; and
 - (3) demonstration in support of the PHA request for front-end funds.
- e. Extensions. The PHA shall be advised that if additional time is required to submit PHA proposals, the Area Office must be notified in writing of the reasons that justify approval of a revised PHA proposal submission date. Extensions usually will be limited to thirty (30) days provided that such extensions will not go beyond June 30.
- f. Termination of "Set-Aside". The PHA shall be advised that, if its schedule is not received in the Area Office by the specified date or the PHA proposals are not received by the PHA scheduled dates, the contract authority will no longer be available for use by the PHA.

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CHAPTER 6. PHA PROPOSAL SUBMISSION

Section 1. Introduction

- 6-1. APPLICABILITY. The PHA is responsible for preparing the PHA proposal. This chapter establishes the procedures for a PHA, whether it is located inside or located outside a central city allocation area, to follow when submitting A PHA proposal. The content of a PHA proposal from both types of PHAs is the same except when otherwise stated in this chapter. Upon receipt of an Field Office request for PHA proposals, a PHA shall review the submission requirements in this chapter. If assistance is required, the PHA should contact the designated MHR who will provide guidance and will arrange for any other necessary Field Office technical assistance. The PHA shall also notify the MHR that its representatives will attend the project planning conference scheduled by the Field Office.
- 6-2. DEVELOPMENT-METHODS. A PHA may use one of three different methods to develop a project. The following are brief summaries of these development methods.
- a. Conventional. The conventional method may be used for either new construction or rehabilitation. Under the conventional method, the PHA is responsible for selecting a site or property and designing the project. After Field Office approval of a PHA proposal which identifies a site or property, the ACC is executed, site engineering studies or property inspections are performed, and the PHA contracts with an architect to prepare the project design and construction documents. Following Field Office approval of these documents, the PHA advertises for competitive bids to build or rehabilitate the project on the PHA-owned site and, after Field Office approval, awards a construction contract to the lowest "responsible" bidder. The contractor is required to furnish a one-hundred (100) percent performance and payment bond * or notwithstanding 24 CFR 85.36(h), other assurances approved by * the Field Office. The contractor receives progress payments from the PHA during construction or rehabilitation and a final payment upon completion of the project in accordance with the construction contract.
 - b. Turnkey. The turnkey method may be used for either new construction or rehabilitation. Under the turnkey method, the PHA advertises for turnkey proposals and selects the turnkey developer who submits the best housing "package" for a site or property owned or to be purchased by the developer.

The PHA then submits a PHA proposal, incorporating the turnkey developer's submission, to the Field Office for approval. After Field Office approval of the PHA proposal, the ACC is executed and the developer prepares the design and construction documents. Following PHA and Field Office approval of these documents, the developer and PHA enter into a contract of sale which is approved by the Field Office. The developer is responsible for providing a completed housing project, which includes obtaining construction financing. Upon completion of project construction or rehabilitation in accordance with the contract of sale, the PHA purchases the project from the developer.

- c. Acquisition. The acquisition method may be used only to purchase existing properties that require little or no repair work (i.e., where the cost of the repair work does not exceed in the aggregate 10 percent of the project total development cost). Under the acquisition method, the PHA identifies the specific properties and after an appraisal and Field Office approval, the ACC is executed, and the PHA acquires the properties. Repair work is completed after acquisition, either by the PHA contracting to have the work done or by having the staff of the PHA perform the work.

6-3. STANDARD PROCESSING TIME. After the Field Office request for PHA proposals, a PHA must prepare and submit the PHA proposal within the standard processing time (SPT) established for the selected development method. The SPT is the number of calendar days from the date of the project planning conference to receipt of the PHA * proposal by the Field Office. (See Chapter 3, Section 12 for statutory time-frame requirements). *

- a. Applicability. The PHA will be advised of the applicable SPT in the Field Office request for PHA proposals. The SPT for PHAs located outside a central city allocation area begins on the date of the project planning conference for each specific PHA proposal. The SPT for PHAs located inside a central city allocation area begins on the date of the project planning conference for the first PHA proposal submitted and for any subsequent PHA proposal begins on the date of the previous PHA proposal submission.
- b. Development Method SPTs. The SPTs (calendar days) for PHA preparation and submission of PHA proposals under the various development methods are as follows:
- (1) Conventional: Ninety (90) days.
 - (2) Turnkey : Ninety (90) days.

(3) Acquisition: Sixty (60) days.

(4) ACC for Front-End Funds (All Development Methods):

(a) Initial submission: Thirty (30) days.

(b) Complete submission: One hundred and twenty (120) days for the conventional or turnkey method or ninety (90) days for the acquisition method.

6-4. PROJECT PLANNING CONFERENCE. A project planning conference shall be held in the Field Office to discuss all aspects of PHA proposal submission and project development.

a. Participants. The MHR shall coordinate the meeting and lead the discussion. A representative designated by each Branch Chief within the Housing Division (Valuation, AE and Cost Mortgage Credit) and a representative of AHM shall attend to address specific technical areas. In addition, representatives from the Labor Relations and EMAD Staffs, and the Legal, CPD, and FHEO Divisions shall be available should questions arise in their areas. The PHA Executive Director, or designee, should be accompanied by any architect or development manager the PHA plans to employ for assistance in project development activities.

b. Discussion Items. The PHA may submit a list of specific discussion items to the MHR prior to the date scheduled for the project planning conference. In addition to the items identified by the PHA, the following should be discussed:

(1) the general processing procedures and major processing stages for the selected development method;

(2) the specific requirements for a complete and approvable PHA proposal;

(3) the development requirements identified in Chapter 3, including a discussion of the special features or facilities to be included in the Turnkey Developer's Packet or the PHA architect's project design;

(4) the site and neighborhood standards, site selection, use of fee appraisers, and, if the conventional or acquisition development methods are involved, PHA site and property options;

(5) any coordination proposed or required with other local agencies including coordination of the Intergovernmental Review process in accordance with 24 CFR Part 52 as described in paragraph 3-72.

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- (6) any proposed PHA modifications to the standard Turnkey Developer's Packet, including agreement-on any deletions or additions;
- (7) the availability and reuse of successful project designs;
- (8) the availability of HUD-owned or HUD-held properties (acquisition, or rehabilitation using the conventional method) and assistance from the Property Disposition Branch;
- (9) the PHA schedule (only for PHAs located inside a central city allocation area) for submitting PHA proposals to the Field Office, including approval of extensions and terminations to the "set-aside";
- (10) the project development schedule, including agreement on the dates scheduled for major processing stages, and the need for all parties to adhere to the scheduled dates to assure that the number of units will be developed with the funds reserved;
- (11) the scope of architectural or development manager services and fees, including the content of the PHA architect's and development manager's contracts (PHAs are encouraged to bring drafts of the proposed contracts);
- (12) procedures for obtaining front-end funds, including ACC execution and advances for preliminary planning expenses, such as for PHA architect or development manager fees, site options, site acquisition and site engineering surveys;
- (13) fair housing and equal opportunity requirements, including the civil rights laws, PHA employment practices, and employment of minority and women-owned business enterprises;
- (14) the PHA architect option to submit preliminary drawings (Chapter 9), instead of schematic drawings, with the PHA Proposal; and
- (15) the need for the PHA to promptly notify the MHR of any problems being encountered so that assistance may be provided by Field Office staff to keep the project on schedule.

c. Letter of Understanding. The MHR, immediately following the project planning conference, shall prepare a letter to the PHA for the Housing Director's signature. The letter shall summarize the agreements reached at the project planning conference and shall notify the PHA that, unless advised otherwise within ten (10) days of the date of the Housing Director's letter, the Area Office will proceed on the basis of the agreements identified in the letter. A copy of the Housing Director's letter shall also be sent to each of the Area Office participants in the project planning conference.

*6-5. PHA REQUEST FOR FRONT-END FUNDS. If the Area Manager authorized execution of an ACC to provide front-end funds to the PHA, the PHA shall submit the documents identified in this paragraph to the Area Office within thirty (30) calendar days of the date of the project planning conference. The Area Office review of these documents shall be performed in accordance with Chapter 7. For a PHA located inside a central city allocation area, reservation and notification procedures in paragraphs 7-123 and 7-124 shall be used upon Area Office approval. Following Area Office approval of this initial submission, the PHA shall submit a complete PHA proposal pursuant to the requirements of this chapter for the applicable development method.

a. All Development Methods. The following shall be submitted:

- (1) architect's and/or development manager's contract (paragraphs 6-22 and 3-19);
- (2) project development schedule (paragraph 6-24);
- (3) demonstration of financial feasibility (paragraph 6-28);
- (4) ACC and related documents (paragraph 6-29);
- (5) requisition for development advances (paragraph 6-30);
and
- (6) the date by which a complete PHA proposal will be submitted to the Area Office. *

b. One to Four Family Properties. A PHA proposing to rehabilitate one to four family properties using the conventional method or proposing to purchase existing one to four family properties using the acquisition method shall also submit the site information identified below:

- (1) Neighborhood map. A map identifying specific neighborhood boundaries (e.g., streets or rivers) within which the PHA proposes to acquire properties;
- (2) Neighborhood description. A narrative description of the structure types, unit sizes (number of bedrooms) and condition of the typical housing in each of the specified neighborhoods; and
- (3) Availability of housing. Evidence demonstrating that the type of housing to be acquired by the PHA is regularly offered for sale and that the price range, including the cost of rehabilitation or repairs, is consistent with the applicable cost limitations.

6-6. EXTENSION OF PHA PROPOSAL SUBMISSION DEADLINE. A PHA may request an extension of up to thirty (30) calendar days from the deadline date for submitting a PHA proposal by providing documentation which justifies Area Office approval of a revised PHA proposal submission date. If a PHA proposal or request for an extension is not received by the deadline date, the contract authority will be automatically recaptured by the Area Office.

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Section 2. PHA Proposal Content

6-21. APPLICABILITY. PHA proposals, regardless of the development method selected, shall contain the documentation identified in this section. Section 3 establishes the procedures for inviting and selecting turnkey proposals on which to base a PHA proposal under the turnkey method.

6-22. PHA ARCHITECT'S CONTRACT. The PHA shall select an architect and prepare a proposed PHA architect's contract in accordance with the requirements of Chapter 3, Section 2, for the applicable development method. The PHA proposal shall include the completed PHA architect's contract based on the agreements reached at the project planning conference. The PHA shall also submit a summary of the designated PHA architect's experience and qualifications. The summary shall identify each housing project, included in the architect's experience, and the project number (applies to HUD assisted or HUD insured projects only), location, number of units, structure type, total project cost, and the extent and nature (e.g., design, inspection) of the architect's services relating to these projects.

6-23. TURNKEY PROPOSAL. PHA proposals under the turnkey method shall contain the PHA selected turnkey proposal and all related documents provided by the turnkey developer. Only the selected turnkey proposal will be submitted to the Area Office and each PHA proposal shall contain a copy of the request for proposals (RFP) and the Turnkey Developer's Packet used by the PHA, and a PHA certification that the turnkey proposal was selected on the basis of the evaluation and rating criteria identified in Section 3 of this chapter and in the Turnkey Developer's Packet.

6-24. PROJECT DEVELOPMENT SCHEDULE. Each PHA proposal shall contain a project development schedule based on the agreements reached at the project planning conference. The schedule shall also reflect the PHA architect or turnkey developer estimates of required time. However, any estimates that exceed the applicable SPTs established in this Handbook shall be accompanied by documentation justifying and requesting Area Office approval of additional time. The project development schedule shall include an estimate of the number of calendar days for each of the following:

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- a. Site Acquisition. For the conventional or acquisition method, the schedule shall state the number of days required from Area Office approval of the PHA proposal to PHA submission of the site or property acquisition documents (Chapter 8) and the anticipated closing date. For projects, involving one to four family properties, the schedule shall demonstrate that all properties will be acquired by the PHA within one year of ACC execution and shall identify the number of units and dates by which the PHA will submit property specific site acquisition documents (Chapter 8).
 - b. Project Design. Construction or Rehabilitation. For the conventional or turnkey method, the schedule shall state the number of days required from:
 - (1) Area Office approval of the PHA proposal to PHA submission of the design documents (Chapter 9) or optional PHA submission of the construction documents (Chapter 10);
 - (2) if applicable, Area Office approval of the design documents to PHA submission of the construction documents (Chapter 10);
 - (3) Area Office approval of the construction documents to PHA submission of the contract award documents (Chapter 11); and

- (4) Area Office approval of the contract award documents to project completion.

6-25. SITE INFORMATION. The PHA or turnkey developer shall select sites or properties that comply with the site and neighborhood standards identified in Chapter 3. The PHA proposal shall contain the following:

- a. Form HUD 52651. The PHA shall submit an original of the Preliminary Site Report (Form HUD 52651) for each site. However, a single Form HUD 52651 may be submitted for sites consisting of several contiguous parcels and having exhibits and information applicable to all parcels.
- b. Site Location. The PHA shall submit a map showing the location of the parcels or sites. The location of the nearest streets, shopping areas, parks, schools, employment areas, recreation areas, community facilities, fire and police stations, emergency medical facilities, and distance to public transportation shall be identified on the map.

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Existing and proposed facilities should be clearly designated as such on the map. The map should also show the percentage of the population by race in the census tract.

- c. Schools. For projects to be occupied by families with children, the PHA shall obtain and submit a letter from the school board which indicates the following:
 - (1) the schools that are near the site;
 - (2) if there is busing in the community, the schools which would serve the project occupants;
 - (3) any future busing plans, including identification of the schools that would be affected; and
 - (4) the current and expected enrollment (minority and non-minority) of these schools and their capacity to absorb the number of school aged children expected to reside in the proposed project.
- d. Facilities and Services. The PHA shall submit a statement addressing the adequacy of existing and proposed facilities and services for the occupants of the proposed project. In the case of proposed facilities or services, the statement shall identify the source of funding and the anticipated availability date.

- e. Housing Opportunities. The PHA shall submit a statement demonstrating that the proposed site complies with the housing opportunities requirements identified in paragraph 3-77.
- f. Environmental. The PHA shall submit a statement addressing The environmental concerns considered by the PHA and demonstrating compliance with the requirements of Chapter 3, Section 7.
- g. Relocation Requirements. If applicable, the PHA shall submit a statement identifying:
 - (1) the name and address of each site occupant on the date the PHA proposal is submitted;
 - (2) the number of persons, indicating the number and sex of adults and children, in each occupant household;

- (3) the combined monthly gross income of all adults in each occupant household;
 - (4) the tenure (renter or owner) of each occupant household and business and the length of occupancy;
 - (5) the type of notice to be issued to each occupant; and
 - (6) the estimated cost of any required relocation assistance and the extent that CDBG funds are being made available for relocation costs.
- h. Site Control. The PHA shall submit a copy of the option agreement, purchase contract, or other document giving site control for a period of at least sixty (60) days, including extensions, from the date of PHA proposal submission. Options for sites or properties to be developed under the conventional or acquisition method shall be evidenced by an offer of Sale of Land (Form HUD 51971) executed by each owner.
- i. Zoning. The PHA shall submit a statement addressing the adequacy of current zoning for the proposed project. If current zoning does not permit the intended use, the PHA shall identify the proposed action for rezoning, and indicate the likelihood of obtaining the necessary zoning changes or variations without delaying development of the project.

- j. Title Information. The PHA shall submit title information in the form of a title opinion or report and a recordation plat to demonstrate that good title can be obtained and that there will be no encumbrances which would interfere with the development of the proposed project. At the time of transfer, title must be good and marketable, and free of any mortgage, lease, lien or other encumbrances, such as use or building restrictions, zoning ordinances, easements, or rights-of-way which would affect the value or proposed use of the site.
- k. Site Survey. The PHA shall submit a "transit survey" prepared by a surveyor or engineer, drawn to a scale of one inch to forty feet (1" = 40') or larger, showing:
- (1) the North point, property lines, and dimensions;
 - (2) the community, county, and State in which the property is located, and the lot and block number of the property and adjacent properties;

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- (3) the location and dimensions of all rights-of-way or easements;
 - (4) contours indicating current grades;
 - (5) an outline and dimensions of any existing structures;
 - (6) the location and size of utilities; and
 - (7) the location of any known subsurface conditions.
- l. Site Characteristics. The PHA shall submit a statement addressing the following:
- (1) the total square feet of the site and the estimated square foot area available for constructing the proposed project after deducting areas for streets, easements, and unbuildable land;
 - (2) the topographic and physical characteristics of the site, such as slopes and known subsurface conditions.
 - (3) the capacity of existing streets and utilities (e.g., telephone, water, sewerage, gas, and electric) to serve the proposed project;
 - (4) if substantial extension, improvement, or relocation of existing streets or utilities will be required, the PHA

shall submit a written assurance from the responsible local agency that such work will be completed in time to serve the proposed project; and

(5) the adequacy of the site for the intended use.

m. Intergovernmental Review. The PHA shall submit evidence, in the form of the signed and dated SF-424, that it initiated the Intergovernmental Review, where applicable, and as described in * paragraph 3-72.

6-26. PROJECT DESCRIPTION. The PHA proposal shall contain a description of the proposed project concept as required by this paragraph. The purpose of the description is to illustrate the designer's intent, to verify basic compliance with applicable criteria, to estimate costs, and to judge the general qualities of the proposed project. To decrease processing time, the design documents (Chapter 9) may be submitted instead of the minimum requirements stated in this paragraph.

a. Project characteristics. The following project characteristics shall be submitted:

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(1) All Housing Types: A description of the number of:

(a) buildings by structure type;

(b) stories in each building;

(c) units by household type and unit size (number of bedrooms) in each building;

(d) units by structure type;

(e) units in the project; and

(f) the type and amount (square feet) of non-dwelling space.

* (2) One to Four Family Properties: FHA statement of appraised value (Form HUD 92800-5B) for each property.

b. Density. The PHA shall submit a statement as to the proposed density (and basis) for the project. If applicable, the PHA shall submit the required demonstration for the use of high-rise elevator structures (paragraph 3-75).

c. Outline Specifications. For new construction and rehabilitation projects, an Outline Specification (Form HUD 5087) shall be

submitted to describe the materials and methods of construction, finishes, and equipment to be provided.

- d. Work Write-Ups. For projects involving rehabilitation or acquisition of specific properties, preliminary work write-ups shall be submitted to describe the extent and nature of work required to rehabilitate or repair each property.
- e. Photographs. For projects involving rehabilitation or acquisition of specific properties, photographs of typical interior and exterior buildings and units shall be submitted to illustrate the extent of rehabilitation or repairs required.
- f. Site Plan. For new construction projects, the PHA shall submit a site plan (schematic drawing) based on available topographical information and known subsurface soil conditions identifying:
 - (1) the outline and dimensions of each structure (dwelling and non-dwelling);

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- (2) the existing and proposed locations of streets, easements, and utilities (e.g., telephone, water, sewerage, gas, electric);
 - (3) the distance of utilities from the site boundary;
 - (4) proposed foundations, building grades, drainage swales, and extent of grading required; and
 - (5) the proposed placement of trees and shrubs, and primary land uses such as placement of buildings, play fields, tot lots, conversational groupings and parking or other paved areas.
- g. Schematic Drawings. For new construction projects, schematic drawings shall be submitted to identify:
 - (1) typical building elevations;
 - (2) typical building floor plans for each structure type, showing the gross square feet of floor area, and the area for each type of non-dwelling space;
 - (3) typical floor and wall sections, mechanical features and equipment; and

(4) typical unit floor plans for each unit size and structure type.

h. Utility Combination. A Comparative Analysis of Utility Costs (Form HUD 51994) shall be submitted. The PHA may use the Form HUD 51994 prepared by the Area Office or the PHA or turnkey developer may submit a revised Form HUD 51994 prepared in accordance with paragraph 3-148.

6-27. PRELIMINARY COST ESTIMATES. The PHA proposal shall contain a preliminary cost estimate for each of the major development accounts identified below. A detailed description of the cost accounts relating to the development of a public housing project is provided in Chapter 3, Low-Rent Housing Accounting Handbook (HB 7510.1).

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a. New Construction and Rehabilitation. A preliminary cost estimate shall be submitted for each of the accounts specified below. For turnkey projects, the cost estimate shall identify the total amounts for each item and state separately the amounts for the PHA and the turnkey developer. The amounts for Items (2) through (6) shall be based on the current prevailing Davis Bacon wage rates as determined by the Secretary of Labor and provided by the Labor Relations Staff and shall include any applicable social security and sales taxes, insurance and bond premiums, and a pro rata share of the contractor's fee and overhead. The cost estimate shall be based on construction costs as of the PHA proposal submission date (for turnkey projects, the deadline date specified in the RFP) and shall include the following:

- (1) Site (Property): the amount for the land and, if applicable, the amount for existing structures;
- (2) Site Improvements: the amount for normal site improvements (e.g., grading, installation of utility service, streets, parking areas, landscaping) and the amount for any special improvements required because of unusual site conditions (e.g., pilings, caissons, underpinnings);
- (3) Dwelling Construction: the amount attributable to dwelling structures;
- (4) Dwelling Equipment: the amount for refrigerators, ranges, shades and similar equipment provided in dwelling structures;

- (5) Non-dwelling Construction: the amount attributable to management, maintenance and community space or structures;
- (6) Non-dwelling Equipment: the amount for equipment provided in non-dwelling space or structures; and
- (7) Architectural and Engineering Services: the amount for preparing site surveys and maps, special engineering studies and architectural drawings and specifications, and a separate amount for PHA inspection and contract administration services.

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- b. Existing Housing. For projects involving acquisition of specific properties, a preliminary cost estimate shall be submitted, if applicable, for each of the above mentioned accounts based on the minor repair work required. The amount for site (property) shall reflect the owner's "asking price".

6-28. DEMONSTRATION OF FINANCIAL FEASIBILITY. The PHA proposal shall contain a demonstration of financial feasibility.

- a. PHAs Eligible under PFS. In order for a project to be financially feasible, a PHA that is eligible under the Performance Funding System (PFS) must demonstrate that the estimated operating expenses for the proposed project are reasonable and will not exceed the estimated operating income for the first fiscal year of operation. The PHA demonstration shall be based on a 95 percent occupancy level by households having an income in proportion to the broad range of income levels for eligible households (including 20 percent very low-income) prevailing in the community. In preparing the demonstration, consideration may also be given to the amount of operating subsidy that would be made available under PFS for the project under either a separate ACC or a consolidated ACC.
- b. PHAs not Eligible under PFS. One of the following demonstrations shall be used for PHAs in Alaska, Guam, Puerto Rico, or the Virgin islands:
 - (1) The estimated operating expenses for the first fiscal year after the end of the initial operating period (EIOP) will not exceed the estimated operating income (without operating subsidy) for the same period. The estimates of operating expenses and operating income shall be made in accordance with the instructions on

the demonstration of financial feasibility; or

- (2) If the estimated operating expenses exceed the estimated operating income, the project may be considered feasible if it can be demonstrated that the amount of operating subsidy for which the PHA would be eligible, on a per unit month (PUM), is equal to or greater than the annual PUM operating deficit of the proposed project. The amount of operating subsidy for which the project would be eligible shall be determined by the non-PFS formula established for a specific PHA by the Assistant Secretary for Housing for the year in which the PHA proposal is submitted to the Area Office.

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6-29. ANNUAL CONTRIBUTIONS CONTRACT. A PHA located inside a central city allocation area will be submitting ACC documents only after Area Office approval of the PHA proposal (Chapter 7, Section 12). A PHA located outside a central city allocation area will have received the ACC documents with the Area Office request for PHA proposals. A PHA located outside a central city allocation area shall retain one signature copy and submit with its PHA proposal three original signature copies of the following:

- a. Form HUD 53010. Part One of the ACC (Form HUD 53010) dated and signed by the authorized PHA official. Part Two should not be returned.
- b. Forms HUD 274 and HUD 51999. The Designation of Depository for Direct Deposit of Loan or Grant Funds (Form HUD 274) and the General Depository Agreement (Form HUD 51999) dated and signed by the authorized PHA official and bank representative.
- c. Forms HUD 92040 HUD 9201, and HUD 5412. The Project Loan Note (Form HUD 9204), the Permanent Note (Form HUD 9201), and the Note Signature Certificate (Form HUD 5412) dated and signed by the authorized PHA official.
- d. PHA Resolution. A certified PHA Board resolution authorizing the appropriate PHA official to execute the ACC, General Depository Agreement, Project Loan Note and the Permanent Note.

6-30. DEVELOPMENT ADVANCES. A PHA may obtain development advances after ACC execution by the Area Office. A PHA located outside a central city allocation area should submit its Requisition for Funds (Form HUD 5402) and Request for Approval of Advances for Non-Permanently Financed Projects (Form HUD 5216) with the

PHA proposal so that the requisition may be processed immediately after ACC execution. A PHA located inside a central city allocation area will be submitting requisitions for funds with the ACC documents after Area Office approval of the PHA proposal Chapter 7, Section 12).

- a. Eligible Expenses. Funds may be advanced to pay for materials or services related to PHA proposal development and site acquisition. Eligible expenses may also include general PHA administration, such as PHA staff salaries and travel related to project development; architectural

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and development manager services for selection of sites or preparation of invitations and evaluation of turnkey proposals; and site acquisition and related costs such as option fees, and engineering surveys. In addition, certain pre-ACC obligations (paragraph 3-14) may be eligible expenses.

- b. Limitation. The limitation on the amount of development advances is as follows:
 - (1) For projects being developed under the turnkey method, advances prior to execution of the contract of sale shall be limited to one (1) percent of the total development cost stated in the executed ACC.
 - (2) For projects being developed under the conventional or acquisition method, advances prior to recordation of the deed and declaration of trust for sites or properties shall be limited to one (1) percent of the total development cost stated in the executed ACC. However, after approval of the PHA proposal by the Area Office, an additional amount may be advanced for site or property acquisition not to exceed the amount approved by the Area Office for site or property acquisition.
- c. PHA Request. Each PHA request for an advance must be submitted on Form HUD 5402, Requisition for Funds. The initial request should not exceed the amount of funds required for the first calendar quarter after Area Office execution of the ACC and shall be accompanied by the following:
 - (1) a detailed explanation of the nature of each obligation or proposed obligation, the amount, and the reason each obligation is necessary

for the proposed project; and

- (2) a PHA certification that blanket fidelity bond and any other insurance coverage required by Chapter 3, Section 3, is in force.

6-31 thru 6-36. RESERVED.

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Section 3. PHA Selection of Turnkey Developer

6-37. APPLICABILITY. A PHA intending to use the turnkey development method is responsible for selecting the turnkey developer. This section establishes the requirements for preparing a Turnkey Developer's Packet, evaluating and rating turnkey proposals, and selecting a turnkey developer. A PHA proposal submitted to the Area Office pursuant to Section 2 must evidence compliance with the requirements of this section for all turnkey proposals.

6-38. TURNKEY DEVELOPER'S PACKET. The PHA shall prepare a Turnkey Developer's Packet which is consistent with state and local requirements, the public housing program regulation (24 CFR 841) and this Handbook, and the number of units, by housing type, household type, and structure type identified in the Area Office request for PHA proposals. The PHA should review the standard Turnkey Developer's Packet, which identifies the general program requirements, and be prepared to discuss and reach agreement on any PHA modifications to the standard Turnkey Developer's Packet at the project planning conference. The PHA shall prepare the detailed project information to be included in the Turnkey Developer's Packet based on agreements reached at the project planning conference and covered in the letter of understanding (paragraph 6-4) and shall only obtain approval for any modifications not previously approved by the Area Office. If technical assistance is required from the Area Office staff, the PHA should contact the designated MHR.

6-39. REQUEST FOR PROPOSALS. The PHA shall prepare a request for proposals (RFP) inviting developers to submit turnkey proposals to sell a completed housing project to the PHA.

a. Content. The IMP shall identify the following:

- (1) housing type (new construction or rehabilitation);
- (2) structure type (detached, semi-detached, walk-up,

row, elevator);

- (3) the number of units by unit size (number of bedrooms);
- (4) the amounts and types of non-dwelling space to be provided;
- (5) the community for which the housing is proposed;

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- (6) the name, address, and telephone number of the PHA Executive Director;
 - (7) the deadline date and time (close of business) and place that turnkey proposals must be submitted; and
 - (8) a statement that interested developers should obtain a Turnkey Developer's Packet, which provides detailed project information, from the PHA.

b. Publication. Although Area Office approval of the RFP is not required, the PHA shall not have the RFP published until agreement has been reached on the Turnkey Developer's Packet at the project planning conference. The RFP shall be published at least once a week for two consecutive weeks in a local newspaper of general circulation. A copy of the RFP shall also be provided to trade associations and minority media, the local association of minority contractors, and businesses meeting the criteria of 24 CFR 135, Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects. The PHA shall also extend an invitation to developers who have previously expressed an interest to participate in the housing programs to the PHA or the Area Office. The deadline date for turnkey proposals shall be at least thirty (30) days from the date of the initial publication.

6-40. OPENING OF PROPOSALS. The PHA shall not open turnkey proposals until after close of business on the date specified in the RFP. Turnkey proposals received after the deadline date shall be returned unopened by certified mail.

6-41. CONTENT OF PROPOSALS. Turnkey proposals must comply with all requirements of the Turnkey Developer's Packet to be considered by the PHA. Each turnkey proposal shall include:

a. Site Information. The developer shall provide a

draft Preliminary Site Report (Form HUD 52651) for the PHAs use in evaluating turnkey proposals. The developer shall also provide all of the site information identified in paragraph 6-25. However, the developer shall only be required to identify the schools near the site (paragraph 6-25c), provide a general description of the neighborhood (paragraph 6-25e) and identify any site occupants (paragraph 6-25g).

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- b. Project Description. The developer shall provide the applicable information identified in paragraph 6-26, excluding the PHA justification for use of high-rise elevator structures identified in paragraph 6-26b. The developer also has the option to provide the applicable design documents identified in Chapter 9.
- c. Developer's Price. The turnkey developer's price for the proposed project shall be based on construction costs as of the deadline date specified in the RFP and shall identify the amounts for each of the items specified in paragraph 6-27a, with the following exceptions:
- (1) Dwelling equipment and non-dwelling equipment: the developer's amounts shall not include any amounts for PHA furnished equipment as specified in the Turnkey Developer's Packet; and
 - (2) Other: the turnkey developer shall submit separately stated amounts for construction financing (including the interest rate), title fees, closing costs, developer's fee and overhead, and State or local taxes (excluding real property taxes).
- d. Developer's Experience. The developer and the developer's contractor shall provide the following information relating to their housing construction and development experience in connection with:
- (1) HUD projects: a Previous Participation Certificate (Form HUD 2530), which identifies the project number, location, units, and current development status for all HUD assisted housing projects (e.g., Public Housing, Section 8, Section 202) and HUD insured projects (e.g., Section 221(d)(4), Section 236, Section 207);
 - (2) Other projects: a list of other projects (excluding HUD assisted and HUD insured projects) developed,

identifying the number of units, structure type, community, total project cost and current development status; and

- (3) Financial statement: a Personal Financial and Credit Statement (Form FHA 2417). The PHA will not be authorized to release any financial information, except to the Area Office, without the express written consent of the developer or contractor.

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e. Developer's Certification. The developer shall submit a written certification which indicates that:

- (1) the developer has read and understood the provisions of the turnkey contract of sale; and
- (2) if the developer's turnkey proposal is selected, the developer will comply and assure that any contractors or sub-contractors employed by the developer will comply with the requirements of the contract of sale.

f. Project Development Schedule. The developer shall provide an estimate of the number of days required for each of the processing actions identified in paragraph 6-24b.

6-42. PROPOSAL REVIEW. The PHA shall review each turnkey proposal received by the deadline date to determine that it complies with the RFP and Turnkey Developer's Packet.

a. Non-Responsive Proposals. The PHA shall consider a turnkey proposal to be "non-responsive" if critical information is missing or the turnkey proposal represents a major deviation from the Turnkey Developer's Packet. In such instances, the PHA shall notify the developer that the turnkey proposal is not responsive, shall identify the reason, and shall indicate that it will not be considered by the PHA. Examples of non-responsive turnkey proposals include those where:

- (1) a different structure type, housing type, or number of bedrooms is proposed;
- (2) more units are proposed than were included in the RFP;
- (3) the DC&E portion of the developer's price exceeds 110 percent of the base project prototype cost;
- (4) the MPS or any additional public housing program

design standards have not been substantially satisfied; or

- (5) the developer's price breakdown is omitted.

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- b. minor omissions. In the event of minor omissions (e.g., the developer did not include the Previous Participation Certificate, site maps, or financial statements), the PHA may give the developer additional time to submit such missing information.

6-43. PROPOSAL EVALUATION CRITERIA. The PHA, using the rating system identified in the Turnkey Developer's Packet pursuant to paragraph 6-44, shall evaluate and rate each turnkey proposal objectively on the basis of the following criteria:

- a. Developer's Price: the total developer's price as a percent of the median developer's price for all responsive turnkey proposals;
- b. DC&E Cost: the developer's dwelling construction and equipment cost as a percent of the base project prototype cost;
- c. Developer's Experience: the ability of the turnkey developer and contractor to build a housing project of the type and scale proposed, including the number, complexity and location of construction activities currently underway;
- d. Physical Site Characteristics: the suitability of the site for housing use and freedom from adverse environmental conditions;
- e. Site Plan: the extent that the site is appropriate for the intended use (e.g., occupants, density) and the site plan provides open spaces, outdoor recreation areas, and promotes economical project construction and maintenance, and minimizes displacement of site or property occupants;
- f. Site Location: the proximity and accessibility of the site to transportation, employment, recreation and similar facilities and the adequacy of such facilities;
- g. Housing and Employment opportunities: the absence of low income or assisted housing concentrated in the proposed neighborhood or area of the community and extent that the developer proposes to employ minority or female-owned

businesses in project development activities;

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- h. Architectural Treatment: the degree to which the design, and placement of buildings is aesthetic and complements adjacent development and the building and unit floor plans and layout provide functional housing arrangements;
- i. Special Design Features: the degree to which the design incorporates features that provide for efficient project operations, lower maintenance costs, and the safety and security of the occupants;
- j. Energy Savings: the extent that the design provides for long-term energy savings by incorporating the use of solar energy or other energy conservation features;
- k. Materials and Equipment: the extent that durable, low maintenance, construction material and equipment will be used;
- l. Overall Project Design: the extent that the proposed housing, including non-dwelling facilities, meets the design and functional objectives indicated in the Turnkey Developer's Packet;
- m. Other PHA Criteria: any other objective criteria established by the PHA and specified in the Turnkey Developer's Packet.

6-44. PROPOSAL RATING AND SELECTION. The PHA shall rate each responsive turnkey proposal on the basis of the evaluation criteria identified in the Turnkey Developer's Packet pursuant to paragraph 6-43. The PHA shall select and submit only the highest rated turnkey proposal to the Area Office. However, if the highest rated turnkey proposal was assigned a zero by the PHA for any criterion, the PHA may select the next highest rated turnkey proposal for which no criterion was assigned a zero, and submit both proposals to the Area Office.

- a. Standard Rating System. The standard rating system shall be used if special PHA criteria were not established. The maximum rating under the standard system is 84 points. However, a turnkey proposal must receive a score of at least 50 points to be selected by the PHA based on the following rating procedure:
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- (1) Developer's Price. A turnkey proposal will be considered as average, if the developer's price is between 90 percent and 100 percent of the median developer's price for all responsive turnkey proposals; poor, if the developer's price is more than 100 percent; and superior, if the developer's price is less than 90 percent. Points for developer's price shall be assigned as either superior (10 points), average (5 points), or poor (zero points).
 - (2) DC&E Cost. A turnkey Proposal will be considered as average, if the DC&E portion of the developer's price is between 95 percent and 105 percent of the base project prototype cost; poor, if the DC&E costs is more than 105 percent; and superior, if it is less than 95 percent. Points for DC&B cost shall be assigned as either superior (10 points), average (5 points), or poor (zero points).
 - (3) Developer's Experience. The PHA shall evaluate the previous experience of each developer and contractor in housing construction. Points for developer and contractor experience shall be assigned as either: superior (10 points), average (5 points), or poor (zero points).
 - (4) Site and Design Criteria. The PHA shall evaluate the turnkey proposals for each of the nine (9) criteria identified in paragraph 6-43d thru l and shall assign points as superior (6 points), average (3 points), or poor (zero points).
- b. Optional Rating System. The optional rating system shall be used if special PHA criteria were established. The maximum rating under the optional system is 100 points which provides sixteen (16) discretionary points for use by the PHA. Under this system, a turnkey proposal must receive a score of at least 60 points to be selected by the PHA. The standard rating procedure shall be used to evaluate each criterion 6-43a through l. The sixteen (16) discretionary points shall be distributed among the PHA established criteria and shall be assigned as follows: superior (the number of points, not exceeding 16, assigned to the criterion by the PHA), average (one-half of the number of points assigned to the criterion), or poor (zero points).

c. PHA Documentation. The PHA, upon completion of its evaluation, shall for two years maintain and make available for public inspection the following:

- (1) the Request for Proposals;
- (2) the Turnkey Developer's Packet;
- (3) a copy of each turnkey proposal, the turnkey proposal rating sheet, and any related correspondence, except financial statements unless the written approval of the developer or contractor is obtained; and
- (4) a summary statement identifying the turnkey proposals received; the turnkey proposals determined unresponsive; the rating assigned to each responsive turnkey proposal; and a statement addressing the basis for the ratings assigned to each criterion for the selected turnkey proposal.

CHAPTER 7. PHA PROPOSAL REVIEW

Section 1. Introduction

- 7-1. GENERAL. This chapter establishes the procedures and responsibilities for Area Office review of a PHA proposal. These procedures apply to any PHA proposal submitted by a PHA whether it is located inside or located outside a central city allocation area.
- a. Exception. The ACC documents for a PHA located inside a central city allocation area are prepared by the Area Counsel upon completion of the PHA proposal review. The completed ACC documents are sent to the PHA and, within thirty (30) days, returned for execution by the Area Office. Upon receipt, the Area Office will review the ACC documents in accordance with the applicable provisions of this chapter and, if approvable, will return the executed ACC documents to the PHA within five (5) working days of receipt.
 - b. Staff Reviews. Each Division Director or Housing Division Branch Chief shall assign the PHA proposal to a technical specialist for review in accordance with the instructions provided in this chapter. Each reviewer shall immediately notify the PCR Supervisor if any missing or incomplete information is detected during technical processing. Following the staff review, the Division Director or Housing Branch Chief findings and recommendations shall be submitted to the PCR Supervisor by the established PHA proposal review date.
- 7-2. EXTENSION OF PHA PROPOSAL SUBMISSION DEADLINE. The MHR shall review any PHA request for an extension of the deadline date for submitting a PHA proposal. The purpose of this review is to determine whether the additional time requested by the PHA is reasonable and to ascertain the effect that such additional time would have on the number of housing units to be developed. The MHR shall prepare a letter for the Area Managers signature indicating that the additional time has either been approved or disapproved, including any reason for disapproval. Such an extension shall be limited to thirty (30) days from the initial deadline date for submission of a PHA proposal unless there are exceptional circumstances that would justify approval of some additional time.

7-3. STANDARD PROCESSING TIME. The standard processing time (SPT) is the number of calendar days from receipt of the PHA proposal by the PCR Unit to the date of the Field Manager's letter approving or disapproving the PHA proposal. The SPT for Field Office review and decision on a PHA proposal is fifty (50) days. Each Division or Branch is also given an SPT for its review and is responsible for notifying the PCR Supervisor if major problems are noted during technical processing that would delay completion of its review by the established PHA proposal review date. (See Chapter 3, Section 12 for statutory time-frame requirements). *

7-4. STAFF RECOMMENDATIONS. Each Division Director or Housing Division Branch Chief shall complete the review checklist and forward it to the PCR Supervisor in accordance with the applicable SPT. The review checklist shall recommend that the PHA proposal either be:

- a. Approved. A recommendation of approval shall be made if the PHA proposal can be approved as submitted.
- b. Approved with Conditions. A recommendation for conditional approval shall be made if only minor corrections to the PHA proposal are required prior to approval. Major changes (e.g., developer's price, site, structure type, and units by number of bedrooms) to turnkey proposals shall not be authorized. If conditional approval is recommended, the review checklist shall be accompanied by a memorandum identifying the conditions that would have to be satisfied prior to PHA authorization to acquire the site or the PHA submission of the design documents.
- c. Disapproved. A recommendation of disapproval shall be made if the PHA proposal would require significant corrections to comply with the public housing program requirements. If accompanied by a memorandum identifying all reasons for disapproval and, if applicable, what actions would be required before the PHA proposal would be reconsidered by the Field Office.

7-5 thru 7-10. RESERVED.

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7-2 thru 7-6

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Section 2. Processing Control and Reports Unit Review

7-11. STANDARD PROCESSING TIME. The standard processing time (SPT) for the PCR Unit is three (3) calendar days from receipt of the PHA proposal by the PCR Unit to initiation of previous participation clearance, the Section 213 Review, the Intergovernmental Review, and Field Office staff reviews. *

7-12. PHA PROPOSAL FILE. The original of all PHA proposal and review documents shall be maintained by the PCR Unit in a PHA proposal

file. This file should include a copy of the PCR Supervisor memorandum establishing the PHA proposal receipt date and the PHA proposal review date; a copy of the Section 213 and Intergovernmental Review letters; and the names of the Divisions * and Branches requested to review the PHA proposal. In addition, all completed review checklists and, if applicable, any accompanying memoranda and letters in response to requests for previous participation clearance, and Section 213 and Intergovernmental Review comments shall be date stamped and retained in the PHA proposal file.

7-13. PHA PROPOSAL DISTRIBUTION. The PCR Unit shall make copies of the PHA proposal, or parts thereof, for each reviewing Division or Branch. The PCR Supervisor, within one (1) working day, shall send a form memorandum transmitting the PHA proposal and the applicable review checklist to each reviewer and establishing the:

a. PHA Proposal Receipt Date. The date the PHA proposal was received by the PCR Unit.

b. PHA Proposal Review Date. The date the completed review checklists, comments and recommendations are due in the PCR Unit from each Division or Branch. The review completion date shall provide sufficient time to receive, review and reconcile, as necessary, any comments received pursuant to Section 213 and Intergovernmental Review requirements. *

7-14. SECTION 213 REVIEW. The PCR Supervisor shall prepare the Section 213 letter for the signature of the Director of the Housing Development Division to invite the Chief Executive Officer of the unit of general local government to submit comments in accordance with the requirements of 24 CFR Part 791. The letter shall transmit a copy of pages 1 through 3 of the Site, Design and Cost Report (HUD 52651A) and the site location map for each proposed site and shall indicate that the Field Office will consider comments received by the deadline date established for the comment period. Proposals involving 12 or fewer units are exempt from the requirement.

7-15. PREVIOUS PARTICIPATION CLEARANCE. The PCR Supervisor shall initiate previous participation clearance in accordance with Chapter 3, *
* Section 5. The process shall be completed within thirty (30) calendar days of proposal submission.

7-16. PHA PROPOSAL PROCESSING AND TRACKING. The PCR Unit shall monitor Field Office processing actions to determine that the reviews will be completed by the PHA proposal review date.

- a. Periodic Status. The PCR Supervisor shall contact each Division Director or Development Division Branch Chief periodically to ensure that their review recommendation will be submitted by the PHA proposal review date. The PCR Supervisor shall immediately notify the MHR of any missing information noted by the reviewers and any problems observed that would delay completion of the Field Office review.
- b. Final Recommendations. The PCR Supervisor shall forward the completed review checklists, comments and recommendations to the MHR immediately upon receipt. The PCR Supervisor shall also advise the MHR of any reviewers that have not submitted their recommendations by the established PHA proposal review date so that follow-up action may be initiated.

7-17 thru 7-20. RESERVED.

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7-8 thru 7-12

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Section 3. Multifamily Housing Programs Branch Review

- 7-21. STANDARD PROCESSING TIME. The standard processing time (SPT) for the MHP Branch review of the PHA proposal is forty (40) calendar days from the PHA proposal receipt date to preparation of a PHA proposal approval (or disapproval) letter for the Field Manager's signature.
- 7-22. PHA PROPOSAL SCREENING: The MHR shall review the PHA proposal within three (3) calendar days to determine that all required documentation has been submitted and that the PHA proposal is generally consistent with all program requirements.
- a. PHA Proposal. The PHA proposal for all development methods shall be reviewed to determine that:
 - (1) the number of units, the housing type and household type, the development method, and the structure type are consistent with the Field Office request for a PHA proposal;
 - (2) the required documentation for a PHA proposal identified in Chapter 6 for the selected development method has been submitted.
 - (3) the PHA has incorporated any local conditions, project features, or other special requirements agreed to at the project planning conference;

(4) the PHA project development schedule does not exceed the SPTs for the selected development method; and

* (5) the PHA has provided evidence of initiation of the Intergovernmental Review process as described in paragraph 3-72. *

b. Turnkey Proposal. In addition to the requirements of subparagraph a, the RFP, Turnkey Developer's Packet and turnkey proposal shall be reviewed to determine that:

(1) the RFP is consistent with the requirements of paragraph 6-39;

(2) the standard Turnkey Developer's Packet was used, and any modifications made by the PHA are consistent with program and local requirements and agreements reached at the project planning conference;

(3) the proposal evaluation criteria (including any PHA optional criteria) are consistent with the requirements of paragraph 6-43;

(4) the turnkey proposal contains the documentation identified in paragraph 6-41;

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(5) the turnkey proposal is consistent with the REP and Turnkey Developer's Packet; and

(6) the PHA and turnkey developer project development schedules are consistent, reasonable, and do not exceed the applicable SPTs.

c. Stop Technical Processing. If any omissions or problems are detected during initial screening, the MHR shall advise the PCR Supervisor to notify all reviewers to stop technical processing and prepare a PHA proposal disapproval letter (paragraph 7-126).

7-23. INTERGOVERNMENTAL REVIEW. The MHR shall review any comments received from the state SPOC or affected entities. Objections shall be coordinated with other Field Office staff as appropriate (e.g.,

* Valuation Chief, Environmental Clearance Officer, EMAS) to determine whether the PHA proposal should be approved. Any legal issues must be resolved to the satisfaction of the Field Office Counsel. *

7-24. IMPACT ON SCHOOLS. The MHR shall review any PHA statement and letter from a school board concerning the impact of a proposed project on existing schools to ascertain whether the school system has the capacity to absorb the number of school aged children

expected to reside in the proposed project.

7-25. PRELIMINARY DEVELOPMENT COST BUDGET. After completion of Field Office reviews, the MHR shall prepare a draft preliminary Development Cost Budget, (Form HUD 52484) for use by the PHA. The purpose of this budget is to provide guidance to the PHA, based on the Field Office review, for subsequent project planning and development activities.

- a. Contingency Account. The amount in the contingency account (line 57) shall include two (2) percent of the TDC for all development methods. In addition, the contingency account shall include the unused amount for projected cost increases from the date of PHA proposal approval to the anticipated start of construction date.
- b. All Other Accounts. The amount identified for each of the other major accounts (totals) shall be based on the preliminary cost estimates developed by the responsible Housing Division Branches (Chapter 3, Section 14). Most of the required data will be obtained from A/E and Cost Branch and Valuation Branch PHA proposal review recommendations.

7-26. DEVELOPMENT MANAGER CONTRACT. If applicable, the MHR with assistance from other Field Office staff shall review the proposed PHA contract for employment of a development manager. In order to recommend approval, it must be determined that:

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- a. PHA Capacity. The PHA lacks sufficient staff to function as the development manager and the cost for such services would be off-set by not having to increase PHA staff expenses. In determining whether a separate development manager is necessary, consideration must be given to whether it would be cost efficient to add the development manager functions to contracts with other professionals (e.g., the PHA architect) who will be employed by the PHA for other project development activities.
 - b. Scope of Services. The services to be performed by the development manager are appropriate for the development method being used and are not duplicated in other PHA contracts for project development activities.
 - c. Qualifications. The development manager meets the qualification requirements identified in paragraph 3-19.
 - d. Compensation. The amount of compensation specified in the contract is reasonable for the services to be provided and does not exceed the limitation identified in paragraph 3-19.

7-27. EVALUATION OF REVIEW COMMENTS. The MHR shall evaluate the recommendations and findings submitted by all reviewers to determine that there are no recommendations for disapproval or conflicting comments. The MHR shall, to the extent possible, reconcile any differences and prepare a summary of the review comments. This summary shall include a discussion of any conditions for approval, reasons for disapproval, and recommendations of actions to be taken to resolve any negative findings. Upon completion of this evaluation, the MHR shall prepare a letter for the Field Manager's signature advising the PHA that the PHA proposal is approved (paragraph 7-122) or disapproved (paragraph 7-126).

7-28 thru 7-30. RESERVED.

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7-15 thru 7-18

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Section 4. Legal Division Review

7-31. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Legal Division review of the PHA proposal is ten (10) calendar days from the PHA proposal receipt date to submission of the Area Counsel's recommendations and completed review checklist to the PCR Supervisor.

7-32. GENERAL. The Area Counsel is responsible for reviewing the PHA proposal, including contracts and other legal documents. The Area Counsel in order to recommend approval must determine that all statutory and legal requirements have been met and that the legal documents have been properly executed by the PHA and other parties. In addition, the Area Counsel shall also provide assistance in resolving any legal issues raised by the Area Office staff during technical processing.

7-33. PHA ELIGIBILITY. For a PHA located inside a central city allocation area, the Area Counsel must determine that the PHA is eligible to participate in the public housing program and that the PHA proposal is consistent with the approved organization documents, Cooperation Agreement, and any other required local authority. This review is not necessary for a PHA located outside a central city allocation area, since this determination was made during the application review.

7-34. ANNUAL CONTRIBUTIONS CONTRACT. The Area Counsel shall review the ACC and related documents to determine that the authorized PHA official and bank representative have signed all necessary documents.

a. PHAs Located Outside Central City Allocation Areas. The Area Counsel shall review the following documents which will be submitted with the PHA proposal by a PHA located outside a central city allocation area:

- (1) Form HUD 53010, Annual Contributions Contract;
- (2) Form HUD 274, Designation of Depositary for Direct Deposit for Loan or Grant Funds;
- (3) Form HUD 51999, General Depositary Agreement;
- (4) Form HUD 9204, Project Loan Note;
- (5) Form HUD 9201, Permanent Note;
- (6) Form HUD 5412, Note Signature Certificate; and

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(7) PHA Board Resolution.

b. PHAs Located Inside Central City Allocation Areas. The ACC and related documents will not be submitted with a PHA proposal by a PHA located inside a central city allocation area. However, if it is determined upon completion of the Area Office review that the PHA proposal is approvable, the Area Counsel will prepare the ACC and related documents pursuant to paragraph 5-15.

7-35. TITLE AND SITE INFORMATION. The Area Counsel shall review the title information submitted by the PHA to determine that a good title can be obtained. The site option agreement, purchase contract, or other site control document, shall be reviewed to determine that the PHA or developer has site control for a period of at least sixty (60) days, including extension options, from the date of PHA proposal submission.

7-36. PHA CONTRACTS. The Area Counsel shall review any PHA contracts (e.g., PHA architect's contract, development manager's contract) to determine that the standard contract forms or formats were used. Any modifications to the standard contract forms or attachments to the contracts shall be reviewed for legal acceptability and consistency with the terms of the ACC.

7-37 thru 7-40. RESERVED.

Section 5. Economic and Market Analysis Division Review

- 7-41. STANDARD PROCESSING TIME. The standard processing time (SPT) for the EMAD Division review of the PHA proposal is thirty-five (35) calendar days from the PHA proposal receipt date to submission of the EMAD Director's recommendations and completed review checklist to the PCR Supervisor.
- 7-42. STATISTICAL DATA. The EMAD Director, within five (5) working days of receipt of the PHA proposal, shall develop and provide statistical data required by the AHM Branch to complete its evaluation of the PHA proposal. The AHM Chief shall be provided with statistical data relating to the number of eligible renter households in the community to be served by the proposed project. This data shall be provided for a broad range of incomes levels for eligible households in the community and shall identify the proportion of eligible households by household type for each income level.
- 7-43. SITE AND NEIGHBORHOOD. The EMAD Director, in order to recommend approval, must determine that the proposed site for newly constructed or rehabilitated projects will promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons. The EMAD Director, in consultation with the FHEO Director, shall establish the neighborhood boundaries and shall identify the availability of any statistical data to be used in making the site and neighborhood determination.
- 7-44. HAP CONSISTENCY. The EMAD Director, in accordance with 24 CFR 891, shall review the PHA proposal and any comments received from the unit of general local government. In order to recommend approval, the EMAD Director must make a final determination that the PHA proposal is consistent with any applicable HAP and AHOP.
- a. Three-Year HAP Goals. The EMAD Director shall determine whether the units exceed the three-year HAP goals or meet the requirements of paragraph b.
- (1) PHAs located outside central city allocation areas. The EMAD Director as part of the application review (paragraph 5-13) made a preliminary determination of the consistency of the number of units by housing type and household type with the applicable HAP goals. Unless there is a change in the units identified in the PHA application no determination is required.

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- (2) PHAs located inside central city allocation areas. The EMAD Director shall review the PHA proposal to determine that it, taken together with previously funded assisted housing applications and proposals:
 - (a) would not exceed the three-year HAP goals for HUD assisted rental housing by housing type or household type, and
 - (b) would permit approval of assisted housing during the three-year HAP period that would be proportionate to the three-year HAP goals for HUD assisted rental housing by household type.
- b. Exceeds Three-Year HAP Goals. If a CDBG applicant has not been required to emphasize a household type other than the household type identified in the PHA proposal, the EMAD Director may make a final determination of consistency and recommend approval of a PHA proposal that exceeds the three-year HAP goals for HUD assisted housing by housing type or household type only if:
 - (1) the number of units would exceed the HAP goals by twenty (20) percent or less, and the unit of general local government submits a written statement indicating that it would have no objection to HUD approval of the PHA proposal; or
 - (2) the number of units would exceed the HAP goals by more than twenty (20) percent, and the unit of general local government submits a HAP amendment for Area Office approval.
- c. Local Government Comments. The EMAD Director shall review any comments submitted by the unit of general local government to determine if there is any objection to approval of the PHA proposal on the basis that it is inconsistent with the HAP. If there is an objection, the EMAD Director shall determine that the PHA proposal is not consistent with the HAP, unless the EMAD Director can otherwise demonstrate that it is consistent based on substantial evidence available to the Area Office.

7-45. SECTION 213 COMMENTS FROM NON-HAP COMMUNITIES. The EMAD Director in accordance with 24 CFR 891, shall review the PHA proposal and any comments received from the unit of general local government. In order to recommend approval, the EMAD Director must make a determination that there is a need for the proposed housing.

7-46 thru 7-50. RESERVED.

7-27 thru 7-30

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Section 6. Fair Housing and Equal Opportunity Division Review

7-51. STANDARD PROCESSING TIME. The standard processing time (SPT) for the FHEO Division review of the PHA proposal is ten (10) calendar days from the PHA proposal receipt date to submission of the FHEO Director's recommendations and completed review checklist to the PCR Supervisor.

7-52. PHA COMPLIANCE WITH FHEO REQUIREMENTS. For a PHA located outside a central city allocation area, the FHEO Director shall confirm that the initial FHEO finding (paragraph 4-24) is still valid. Specifically, the FHEO Director must determine that there have not been any adverse changes in PHA compliance with the civil rights or equal opportunity requirements subsequent to the PHA submission of the public housing application. In the case of a PHA located inside a central city allocation area, the FHEO Director in order to recommend approval must determine that the PHA is in compliance with the fair housing and equal opportunity requirements (paragraph 4-24).

7-53. SITE LOCATION. The FHEO Director shall review the PHA housing opportunities statement and the proposed project area to determine that they comply with the applicable civil rights laws and housing opportunities requirements identified in paragraph 3-77. In making this determination, the FHEO Director shall use generally available statistical data which describes the racial composition of the area surrounding the site and the racial composition of schools serving the project area.

7-54. TURNKEY DEVELOPER'S CERTIFICATION. The FHEO Director shall review the certification of the turnkey developer (and the developer's contractor, if applicable) to determine that all FHEO requirements (Chapter 3, Section 4) will be met during

project development. The FHEO Director shall also notify the PCR Supervisor of any known acts of non-compliance with civil rights and equal opportunity requirements by the turnkey developer or the developer's contractor.

7-55 thru 7-60. RESERVED.

7-31 thru 7-34

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Section 7. Assisted Housing Management Branch Review

7-61. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AHM Branch review of the PHA proposal is fifteen (15) calendar days from the PHA proposal receipt date to submission of the AHM Chief's recommendations and completed review checklist to the PCR Supervisor and the AE Chief.

7-62. PHA ADMINISTRATIVE CAPABILITY. The AHM Chief shall confirm that the initial AHM Branch finding on PHA management capability and progress on any short range goals is still valid. Specifically, the AHM Branch shall determine whether there have been any subsequent Area Office management reviews of the PHA that would necessitate a reconsideration of the PHA management capability.

7-63. PHA FIDELITY BOND. The AHM Branch shall review the PHA fidelity bond certification. The purpose of this review is to determine that the PHA has the required fidelity bond and any other insurance coverage required by Chapter 3, Section 3.

7-64. DEMONSTRATION OF FINANCIAL FEASIBILITY. The AHM Branch shall review the PHA demonstration of financial feasibility to determine whether the PHA has demonstrated that the proposed project is expected to be financially feasible when it is placed in management.

a. PHAs Eligible under PFS. The following procedure shall be used for all PHAs (excluding PHAs in Alaska, Guam, Puerto Rico, or the Virgin Islands) eligible under the Performance Funding System(PFS):

- (1) The PHA estimates of operating expense and operating income shall be reviewed to determine that they are reasonable. In making this determination, consideration is to be given to the income range data developed by the EMAD Director.
- (2) If the operating income for the first PHA fiscal year after the end of the initial operating period (EIOP) would exceed the operating expense for the same

period, the project shall be determined to be financially feasible.

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- (3) If the operating income would be less than the operating expense for the same period, the following procedure shall be used:
 - (a) Determine the amount of operating subsidy which could be provided under PFS. In making this determination, consideration should be given to including the proposed project in either a consolidated ACC or in a separate ACC.
 - (b) If the operating income (including the amount of operating subsidy that could be made available under PFS) would exceed the operating expense for the same period, the project shall be determined to be financially feasible.
- b. PHAs Not Eligible under PFS. The following procedure shall be used for PHAs in Alaska, Guam, Puerto Rico or the Virgin Islands:
 - (1) The procedure identified in paragraphs a(1) and (2), above shall be used.
 - (2) If the operating income would be less than the operating expense for the same period, the following procedure shall be used:
 - (a) Determine the amount of operating subsidy for which the project would be eligible using the non-PFS formula established for a specific PHA by the Assistant Secretary for Housing for the current year.
 - (b) If the operating income (including the amount of operating subsidy that could be made available) would exceed the operating expense for the same period, the project shall be determined to be financially feasible.
- c. Infeasible Projects. If a project does not meet the financial feasibility requirements, the AHM Branch shall identify modifications that the PHA will be required to make before the financial feasibility demonstration can be reconsidered. The AHM Branch shall also make recommendations for consideration by the PHA to increase project income and

decrease expenses.

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7-65. PROJECT OPERATION. The AHM Branch shall review the proposed location and project description to determine that the project will provide for economical PHA operation. In making this determination, AHM shall identify the amount of maintenance, management, and community space currently available in the neighborhood of the proposed project (including the amount available in adjacent public housing projects) and the adequacy of non-dwelling space, including the amount planned for the proposed project. Within five (5) working days of receipt of the PHA proposal, the AHM Branch recommendations shall be forwarded to the AE Branch with a copy to the PCR Unit.

7-66 thru 7-70. RESERVED

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7-37 thru 7-40

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Section 8. Architectural and Engineering Branch Review

7-71. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AE Branch review of the PHA proposal is ten (10) calendar days from the PHA proposal receipt date to submission of the AE Chief's recommendations and completed review checklist to the PCR Supervisor and the Cost Chief. The timely completion of this review is critical to permit consideration of the AE Branch and AHM Branch recommendations and findings by the Cost Chief.

7-72. STAFF ASSIGNMENT. The AE Chief shall assign the PHA proposal to a design representative for review. The AE Chief shall also advise the design representative of the architectural assistance to be provided to the PHA architect or the turnkey developer's architect during project design.

- a. AE Branch Review. The design representative is responsible for all AE Branch reviews and preparing recommendations for the AE Chief. Every effort should be made to designate a design representative who will be able to provide assistance

and perform all AE technical reviews from the project planning conference to contract award.

b. Architectural Assistance. The design representative, to the extent authorized by the AE Chief, shall provide assistance to the PHA or turnkey developer's architect and shall perform periodic reviews of the design and construction documents as they are being prepared. In determining the amount of assistance to be provided, the AE Chief shall consider the following:

- (1) the size of the proposed project;
- (2) the complexity, including any previous use, of the proposed design;
- (3) the familiarity of the architect with HUD design requirements; and
- (4) the architect's previous experience and performance.

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7-73. PHA ARCHITECT'S CONTRACT. The design representative shall review the proposed PHA architect's contract. The purpose of this review is to determine that the appropriate contract is being used and that the scope of the PHA architect's services is sufficient to assure the PHA of receiving a project that will meet or exceed the program design and construction standards.

7-74. PROJECT DESCRIPTION. The design representative shall review the architectural exhibits (i.e., outline specifications, schematic drawings, utility combinations and, if applicable, special engineering reports or rehabilitation work write-ups) and obtain assistance from other specialists in the AE Branch to determine that the proposed project concept is consistent with the agreements reached at the project planning conference and the following:

- a. Design and Construction Standards. The PHA proposal shall be reviewed to ensure that the design concepts are consistent with the requirements of the MPS and the public housing program standards (Chapter 3, section 11).
- b. Non-Dwelling Space. The schematic drawings shall be reviewed to determine that the amounts of management, maintenance, and community space proposed are consistent with the limitations identified in Chapter 3, Section 10. The comments of the AHM Chief shall be considered when making this determination.

- c. Architectural Treatment. The schematic drawings shall be reviewed to determine that the unit and building floor plans meet the functional planning and design criteria of the MPS and the public housing program standards (Chapter 3, Section 11). The design and selection of the exterior treatment shall be reviewed to determine that it is aesthetically pleasing and complements development in the neighborhood.
- d. Development Schedule. The PHA project development schedule (including the turnkey developer or PHA architect estimates of time) shall be reviewed to determine that the estimated time required to prepare design documents and construction documents, and to construct the proposed project is reasonable and is consistent with the applicable SPTs established in this Handbook.

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- e. Energy Savings. The PHA proposal documents shall be reviewed to ensure that the proposed design provides for cost effective energy conservation features (e.g., use of double glazed insulating windows, insulated exterior doors, and solar energy).
- 7-75. SITE PLAN. The design representative shall evaluate the proposed site plan for a new construction project to determine that it will provide for efficient and economical use of the site. This determination shall be made after considering the following:
- a. Public Utilities. Whether the accessibility of public facilities and services (paragraph 3-74) to the site and the siting of buildings will result in reasonable costs for utility extensions. The assurances as to the availability of utilities, including extensions by local agencies, shall be reviewed to determine that they are acceptable and demonstrate that utilities will be available in time for construction or occupancy and will be adequate to serve the proposed project.
 - b. Sheets. Whether the site is accessible to vehicular traffic and whether existing or proposed access streets are adequate to serve the proposed project residents.
 - c. Topography. Whether the structures, in relation to the topography, are sited to take advantage of existing site features and to avoid excessive costs for grading, retaining walls and special treatment of foundations.
 - d. Site Treatment. Whether the siting of dwelling and

non-dwelling structures and the treatment of open spaces and recreational areas are consistent with good planning and the placement (i.e., exposure) of structures will promote energy conservation.

7-76. SPECIAL SITE STUDIES. It may be necessary to have special engineering studies (e.g., subsurface investigations, environmental evaluations) performed for the AE Branch to make a final determination that the site is suitable for the proposed project. In such instances, the AE Branch shall identify any conditions that must be satisfied prior to acquisition of the site.

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7-77. DENSITY. The AE Branch shall review the PHA statement on the proposed density level to determine that the density is consistent with local and program requirements and provides for efficient and economical use of the proposed site. If applicable, the PHA demonstration for use of high-rise elevator structures shall be, reviewed to determine that it complies with the requirements of paragraph 3-75 and justifies approval of the use of high-rise elevator structures.

7-78 thru 7-80. RESERVED.

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7-44 thru 7-46

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Section 9. Cost Branch Review

7-81. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Cost Branch review of the PHA proposal is fifteen (15) calendar days from the PHA proposal receipt date to submission of the Cost Chief's recommendations and completed review checklist to the PCR Supervisor and the Valuation Chief. The timely completion of this review is critical to permit consideration of the AE Branch and Cost Branch recommendations and findings by the Valuation Chief.

7-82. PHA ARCHITECT'S CONTRACT. The, Cost Branch shall review the compensation included in the PHA Architect's contract and, if applicable, the turnkey developer's amount for architectural and engineering services. The purpose of this

review is to determine that the fees for all project architectural services are reasonable compared to the fees for similar projects in the area.

7-83. DWELLING CONSTRUCTION AND EQUIPMENT COST. For PHA proposals involving new construction, the Cost Branch shall review the estimates for dwelling construction and equipment to determine that the estimates do not exceed the adjusted project prototype cost. This is determined as follows:

- a. Base Project Prototype Cost. For a PHA located outside a central city allocation area, the base project prototype cost will have been previously determined when the Area Office request for PHA proposals was prepared (paragraph 5-12). The PHA proposal shall be reviewed to determine that the unit distribution is still valid. If changes are required (e.g., a reduced number of units because of the site, or because two or more turnkey proposals have been submitted), a revised base project prototype cost shall be developed for each PHA proposal with the same unit prototype cost previously used. For a PHA located inside a central city allocation area, the base project prototype cost shall be determined in accordance with paragraph 5-12 based on the number of units identified in the PHA proposal.
- b. Prototype Cost Adjustment Factor. The Cost Branch, using a commercial construction cost index (e.g., Boeckh or Marshall Swift) shall determine the percentage of actual changes (increases or decreases) in construction costs between the month of publication of the unit prototype cost (used to develop the base project prototype cost)

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and the month of receipt of the PHA proposal. The base project prototype cost shall be multiplied by the prototype cost adjustment factor to determine the maximum amount that may be approved for dwelling construction and equipment at the PHA proposal stage.

- c. PHA Proposal Cost Limitation. Any PHA proposal exceeding the adjusted base project prototype cost shall be rejected as unresponsive. However, in making this determination, consideration may be given to a PHA proposal that is less than 110% of the adjusted base project prototype cost provided that there is an increase in dwelling construction and equipment costs for the project attributable to:

- (1) changes in the MRS, the public housing program

standards, or local building requirements, which were not considered when the applicable unit prototype cost schedule was developed; or

- (2) the development of low-density housing on scattered sites.

7-84. PROJECT CONSTRUCTION COST (IMPROVEMENTS). For PHA proposals involving new construction or rehabilitation, the Cost Branch shall review the estimated construction cost for improvements to determine that the cost is reasonable compared to the cost for similar projects in the same prototype area. This includes the cost estimates for site improvements, dwelling construction and equipment, and non-dwelling construction and equipment. In determining that the cost estimates are reasonable, the Cost Branch shall consider the cost of comparable projects maintained in its "data bank", or, in the absence of recent data, generally available cost data for moderate income housing constructed in the area. Consideration shall also be given to changes in construction cost, as indicated by a commercial construction cost index, subsequent to the construction start date for the comparable projects used by the Cost Branch.

7-85. TOTAL DEVELOPMENT COST. For a PHA proposal involving rehabilitation or existing housing, the TDC may not exceed ninety (90) percent of what the TDC would be for a comparable newly constructed project (hypothetical project) that the Area Office would approve for development by the PHA. Accordingly, for PHA proposals involving rehabilitation or existing housing, the Cost Branch shall develop an estimated TDC for a hypothetical

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project for use by the Valuation Branch. This estimate shall be developed as follows:

- a. Dwelling Construction and Equipment Cost. The procedure identified in paragraph 7-83 shall be used to estimate the dwelling construction and equipment cost for the hypothetical project.
- b. Total Development Cost. The estimated dwelling construction and equipment cost shall be multiplied by 175% to determine the estimated TDC for the hypothetical project.

7-86 thru 7-90. RESERVED.

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Section 10. Valuation Branch Review

7-91. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Valuation Branch review of the PHA proposal is thirty (30) calendar days from the PHA proposal receipt date to submission of the Valuation Chief's recommendations and completed review checklist to the PCR supervisor.

7-92. STAFF ASSIGNMENT. The Valuation Chief shall assign the PHA proposal to a staff appraiser for review. The Valuation Chief shall also indicate the types of value findings (e.g., "as-is" value, fully improved value) to be made by the appraiser.

a. Valuation Branch Review. The staff appraiser is responsible for completing all Valuation Branch reviews and preparing recommendations for the Valuation Chief. This includes the review and recommendations as to the acceptability of the appraisal records prepared by fee appraisers.

* b. Fee Appraisers. The Valuation Chief should make every effort to determine whether the PHA's contractor for appraisal services/fee appraiser (paragraph 3-15) will be required prior to the scheduled project planning conference so that this may be discussed with the PHA. However this determination shall be made no later than two (2) working days after receipt of the PHA proposal. The Housing Director is authorized to approve the use of fee appraisers if condemnation or acquisition of one to four family properties is involved. In all other instances in which the Valuation Chief determines that use of a fee appraiser is warranted, a memorandum shall be prepared from the Housing Director to the Field Office Manager setting forth the justification and providing space for Field Office Manager approval of the use of a the appraiser. *

c. Notification to PHA. When use of a fee appraiser is authorized, the Valuation Chief shall immediately prepare a letter for the Housing Director's signature authorizing the PHA to solicit open and full competition for appraisal services. The letter shall:

(1) if the PHA requests, provide the names of potential commercial sources for appraisal services.

(2) identity required changes to the guideform appraisal agreement (HB 1378); *

(3) advise the PHA that assistance may be obtained from

the Valuation Chief or staff appraiser (name and telephone number); and

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- (4) Include appropriate information about the applicability of the Uniform Relocation Act (URA) and the name and phone number of the CPD Relocation Specialist who should be contacted to provide advice and guidance materials on the URA.

7-93. SITE INFORMATION. The Valuation Branch shall review the Preliminary site Report (Form HUD 52651-A) and attachments and any related recommendations from the AE&C Branch. In order to recommend approval, the Valuation Chief must make the following determinations:

- a. Suitability. The site must be suitable for the intended use.
- b. HUD Standards. The site must comply with the site and neighborhood standards identified in paragraph 3-74 through 3-76.
- c. Special Conditions. Any special conditions that must be satisfied prior to site acquisition (e.g., site engineering studies or zoning changes) by the PHA or turnkey developer.

7-94. ENVIRONMENTAL CLEARANCE. The Valuation Chief shall initiate environmental clearance processing in accordance with the requirements of Chapter 3, Section 7. For most PHA proposals, this requires preparation of Forms HUD-4128, Environmental Assessment for Subdivisions and Multifamily Projects, or 4128.1, compliance and LAC Conditions Record, whichever is applicable. If the use of a fee appraiser has been authorized, the fee appraiser shall provide whatever available environmental information that can be determined to the Valuation Chief, who is responsible for preparing Forms HUD-4128 or 4128.1 and making a determination of a Finding of No Significant Impact (FONSI) or an Environmental Impact statement (EIS) is required.

7-95. APPRAISALS. The Valuation Branch shall complete, or if authorized the PHA shall have the PHAs contractor for appraisal services/fee appraiser complete, an appraisal for each site or improved property to be acquired by the PHA or the turnkey developer.

- a. General. The appraiser shall visit each site and shall notify the PHA of the day and time that the site visit will be made. The PHA shall notify the owner of the scheduled site visit so that the owner has an opportunity to accompany the appraiser and the PHA representative.
- b. Procedure. The appraiser, unless otherwise specified in This section, shall use the procedures in the applicable HUD

Handbooks:

- (1) HB 4150.1, Valuation Analysis for Home Mortgage Insurance (one to four family properties);
- (2) HB 4465.1, Valuation Analysis for Project Mortgage Insurance; and

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- (3) HB 4480.1, multifamily Underwriting Reports and Forms catalog.

c. Format. The appraiser shall use one of the following forms:

- (1) Fannie Mae Form 1004, Uniform Residential Appraisal Report (one to four family properties); or
- (2) Form HUD-92264, Project Income Analysis and Appraisal (five or more family properties and vacant sites).

d. Fee Appraisals. Unless the Field Office determines otherwise pursuant to subparagraph 3-15(d), the Valuation Branch shall review the appraisal report prepared by the fee appraiser to determine that proper procedures were followed in arriving at the value conclusion. Modifications or supplementary reports may be required to obtain an acceptable appraisal and environmental information.

e. Memorandum of Appraisal. The staff appraiser shall prepare a memorandum from the Valuation Chief to the Housing Director (Attn: PCR supervisor) reporting the appraisal findings of the staff or fee appraiser. The memorandum shall identify:

- (1) the street address of the site;
- (2) the dimensions and square footage of the site; and
- (3) if applicable, a physical description of any improvements.

7-96. HIGHEST AND BEST USE. Generally, the appraised value must reflect the "as-is" value of the property. The Valuation Branch shall consider all readily marketable uses for which the property is suitable when appraising either a vacant or improved property. The highest use to be considered in determining the market value shall be the most profitable use permitted by current zoning of the property and building codes and for which the property is adaptable and readily marketable.

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7-97. URBAN RENEWAL LAND. The procedures in Handbook 4555.1, Rental Housing in Urban Renewal Areas for Project Mortgage Insurance, Section 201, shall be used to determine the appraised value of urban renewal land. However, the PHA price for acquisition of urban renewal land shall be determined in accordance with Section 107 of the Housing Act of 1949.

7-98. IMPROVED SITES. The appraiser, when appraising an improved property, must determine whether the existing structures contribute to the market value of the property in its "as-is" condition and must give consideration to the PHAs intended use.

a. PHA Use. The PHA proposal will indicate whether the PHA intends to:

- (1) use the existing structures in their "as-is" condition, including minor repairs;
- (2) rehabilitate the existing structures; or
- (3) demolish or remove the existing structures, to permit development of newly constructed housing.

b. "As-Is" Value. Generally, the "as-is" value can be determined using the market data and income approaches to value. However, a replacement cost approach may be required if, due to the age or condition of the existing improvements, the replacement cost would be a more meaningful value limitation. The "as-is" value of improved properties shall be determined using the applicable valuation procedures (paragraph 7-95) and consideration of the highest and best use of the property (paragraph 7-96).

c. "Cost to Cure Deficiencies." If the existing improvements are inferior to those of available comparables, it may be necessary to establish the "as-repaired" value of the property to arrive at the "as-is" value. In such instances, the following procedure shall be followed:

- (1) Determine the "as-repaired" value using established valuation procedures (paragraph 7-95) based on the highest and best use of the property (paragraph 7-96);

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- (2) Determine the estimated "cost to cure deficiencies" --i.e., the estimated cost to bring the property up to local building codes and zoning requirements;
 - (3) Deduct the "cost to cure deficiencies" from the "as-repaired" value to determine the "as-is" value;
 - (4) If the property has a negative value, the "as-is" value shall be the value of the land as if vacant, minus the cost of removing the existing structures;
 - (5) If the property has a neutral value, the "as-is" value shall be the value of the land as if vacant; and
 - (6) If the property has a positive value, the "as-is" value will be the value of the property for its highest and best use as currently improved.

7-99. VACANT SITES. Generally, the market data approach should be sufficient to determine the market value of vacant sites. The appraiser shall determine the value on the basis of the highest and best use of the site (paragraph 7-96). However, the valuation procedures established in HB 4465.1 and HB 4480.1 shall be modified as follows:

- a. Form FHA 2264. The appraiser shall complete Section J of the Project Income Analysis and Appraisal (Form FHA 2264) for all sites. However, if the site will be used for a project to be developed under the conventional method, Items 8 and 9 and Items 14(1) through 14(4) shall not be completed. The "as-is" value is the amount shown in Item 14(7).
- b. Off-Site Facilities. The following procedure shall be used to determine the increase in site value attributable to off-site facilities:
 - (1) the total cost of providing off-site facilities shall be obtained from the Cost Branch; and
 - (2) if the cost is nominal (i.e., the "as-is" value plus the "off-site" cost does not exceed the value of the site fully improved) a separate finding of value is not required; or

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- (3) if the cost is not nominal, a finding of value fully improved is required. The value contribution of the off-site facilities shall be determined by subtracting the "as-is" value from the value of the site fully improved. The lower of the value contribution or the estimated cost of off-site facilities is the maximum amount that can be approved (paragraph 3-136).

7-100. UNIFORM ACT. The Valuation Chief, in conjunction with the CPD Director, shall determine whether the requirements of Title II and Title III of the Uniform Act apply to the acquisition of the site or property. If the Uniform Act requirements are applicable, the Valuation Chief shall ensure compliance as required by Chapter 3, Section 9.

7-101. TURNKEY DEVELOPER'S PRICE. The valuation Branch shall make a preliminary determination of the reasonableness of the turnkey developer's price.

- a. Purpose. The preliminary estimate of project replacement cost is a measure of the reasonableness of a turnkey developer's price. This estimate shall be used as a guide, but not as an absolute limitation, in evaluating the reasonableness of a turnkey developer's price.
- b. Procedure. The replacement cost worksheet shall be used to make a preliminary determination of the reasonableness of a turnkey developer's price. In making this determination, the following shall be used:
- (1) the average construction loan interest rate prevailing in the private market;
 - (2) the construction period determined to be reasonable by the AE Branch;
 - (3) the site or property appraised value established by the Valuation Branch;
 - (4) a ninety (90) percent loan limited by replacement cost;
 - (5) a ten (10) percent Builder and Sponsor Risk Allowance (BSPRA); and

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- (6) the estimated amounts for insurance, taxes, title

and recording fees, legal and organization costs,
based on comparable HUD-insured projects.

7-102. ONE TO FOUR FAMILY PROPERTIES. The Valuation Branch shall review the documentation submitted by the PHA for rehabilitation (conventional method) or purchase (acquisition method) of one to four family properties. In order to recommend approval, the Valuation Branch shall determine:

- a. Neighborhood. The neighborhoods identified by the PHA are within the general locations identified in any applicable HAPs. In making this review, consideration shall also be given to the likelihood of the PHA selecting properties that will comply with the site and neighborhood standards.
- b. Availability of Housing. The PHA demonstration of the availability of housing shall be reviewed to determine that:
 - (1) housing is available in the identified neighborhoods;
 - (2) the price range for such housing is generally within the ninety (90) percent cost limitation, including the estimated cost of minor repairs or rehabilitation; and
 - (3) there is a reasonable expectation that the housing will be available within the one-year PHA acquisition plan.

7-103. TOTAL DEVELOPMENT COST. The Valuation Branch shall review the estimated TDC (including relocation costs) for a PHA proposal involving rehabilitation or existing housing to determine that it does not exceed ninety (90) percent of the Cost Branch estimate for a comparable newly constructed project (paragraph 7-85).

7-104 thru 7-110. RESERVED.

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Section 11. Mortgage Credit Branch Review

7-111. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Mortgage Credit Branch review of the PHA proposal is thirty-five (35) calendar days from the PHA proposal receipt date to submission of the Mortgage Credit Chief's recommendations and completed review checklist to the PCR Supervisor.

7-112. PREVIOUS PARTICIPATION. The Mortgage Credit Branch shall review the previous participation report prepared by the Participation and Compliance Division (Office of the Assistant Secretary for Housing) to determine whether there are any adverse findings. If there are any adverse findings regarding the principals, the Mortgage Credit Branch shall prepare a letter for the Housing Director's signature in accordance with established procedures recommending whether or not the PHA proposal should be approved.

7-113. PHA REQUEST FOR ADVANCES. The Mortgage Credit Branch shall review the Request for Approval of Advances for Non-Permanently Financed Projects (Form HUD 5216) to determine that the PHA amounts in columns (2) and (3) are reasonable and necessary for the three-month period (Chapter 3, section 14). In making this determination, the Mortgage Credit Chief shall consider the cost estimates developed by the Cost and Valuation Branches. The Mortgage Credit Chief shall resolve any discrepancies with the other Branch Chiefs, if necessary, and shall complete column (5).

7-114. PHA REQUISITION FOR FUNDS. The Mortgage Credit Branch shall review the Requisition for Funds (Form HUD 5402) to determine that the amount is consistent with the amount determined to be approvable (paragraph 7-113). Total advances may not exceed the amount of funds available for advances-- i.e., the bottom line in column (5) of Form HUD 5216.

7-115. DISTRIBUTION OF REQUISITION DOCUMENTS. The Mortgage Credit Branch shall be provided with an executed copy of the ACC and related documents when signed by the Housing Director. Upon receipt of the executed ACC:

- a. Forms HUD 5216 and HUD 5402. The Mortgage Credit Chief will process and sign the Request for Approval of Advances for Non-Permanently Financed Projects (Form HUD 5216) and the Requisition for Funds (Form HUD 5402).
- b. Dispatch Requisition and Related Documents. The Mortgage Credit Chief shall send the signed Form HUD 5402 and documents identified below to the Regional Financial Management Specialist for review. The Regional Financial

Management Specialist shall obtain the approval of the Associate Regional Counsel for Private Market Financing and, upon completing the review, shall forward the Form HUD 5402 to the Assistant Secretary for Administration (Attention: Office of Finance and Accounting) accompanied by an original signature copy of each of the following documents:

- (1) Form HUD 53010, Annual Contributions Contract;

- (2) Form HUD 274, Designation of Depositary for Direct Deposit for Loan or Grant Funds;
- (3) Form HUD 51999, General Depositary Agreement;
- (4) Form HUD 9204, Project Loan Note;
- (5) Form HUD 9d-01, Permanent Note; and
- (6) Form HUD 5412, Note Signature Certificate.

7-116. thru 7-120. RESERVED.

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7-66 thru 7-70

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Section 12. Proposal Approval and ACC Execution

7-121. STANDARD PROCESSING TIME. The standard processing time (SPT) for mailing the Field Manager's letter approving or disapproving the PHA proposal is fifty (50) calendar days from the PHA proposal

* receipt date. (See Chapter 3, Section 12 for statutory time frame requirements). *

7-122. PHA PROPOSAL APPROVAL LETTER. For each PHA proposal recommended for approval, the MHR, upon completion of the Field Office review, shall prepare a letter for the Field Manager's signature notifying the PHA that its PHA proposal has been approved. This letter shall be signed by the Field Manager but shall not be dated or dispatched until Congressional notification has been completed (paragraph 7-124).

a. All Development Methods. The letter shall also state;

- (1) the project number;
- (2) the number of units, housing type, household type, and development method;
- (3) the appraised value for the site, including any conditions that may affect the appraisal;
- (4) any conditions that must be satisfied by the PHA prior to acquiring the site or property;
- (5) any conditions that must be satisfied by the PHA architect or turnkey developer's architect with the submission of the design documents (or construction documents);
- (6) the PHA is authorized to execute the PHA architect's contract;

- (7) the attached preliminary development cost budget, prepared by the Field Office, establishes the maximum amounts for each account until the PHA obtains Field Office approval of its first budget to be submitted with the design documents; and
- (8) if applicable, the PHA is authorized to pay the fee appraiser.

b. Conventional Method. The letter, in addition to the information identified in subparagraph a, shall state:

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- (1) if applicable, the deadline date for PHA issuance of notices for relocation benefits under the Uniform Act;
 - (2) the PHA is authorized, subject to fulfillment of any conditions identified by the Area Office, to schedule closing on the site;
 - (3) the deadline date for PHA submission of the site acquisition documents; and
 - (4) the deadline date for PHA submission of the design documents.

c. Turnkey Method. The letter, in addition to the information identified in subparagraph a, shall state:

- (1) the PHA is authorized to advise the selected turnkey developer that the PHA proposal has been approved;
- (2) the PHA is required to advise the developer of any special site studies that must be submitted by the developer with the design documents;
- (3) if applicable, the PHA should notify the selected developer to issue an initial notice to all eligible site occupants advising them that the Area Office approved the turnkey proposal; and
- (4) the deadline date for submission of design documents.

d. Acquisition Method. The letter, in addition to the information identified in subparagraph a, shall state:

- (1) the PHA is authorized, subject to fulfillment of any conditions identified by the Field Office, to schedule closing on the property;

- (2) the deadline date for PHA submission of the site acquisition documents or the approved acquisition schedule for one to four family properties;
- (3) if applicable, the deadline date for PHA issuance of notices for relocation benefits under the Uniform Act; and
- (4) if the PHA proposed to acquire one to four family properties. the PHA shall be authorized to:

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- (a) execute purchase agreements for properties within the neighborhood identified in the PHA proposal and within the price ranges established by the Area Office; and
 - (b) employ a fee appraiser (from those identified by the Area Office) to prepare property appraisals for submission with the request for Area Office authorization to acquire a specific property.
- e. PHAs Located Inside Central City Allocation Areas. The letter shall state that the ACC and related documents identified in paragraph 5-15 are enclosed. These are to be signed by the PHA as soon as possible and, upon receipt by the Area Office, they will be reviewed by the Area Counsel in accordance with paragraph 7-34 and, if acceptable, executed by the Housing Director and returned to the PHA.
- 7-123. PROJECT ACCOUNTING DATA. For a PHA located inside a central city allocation area, the PCR Supervisor shall:
- a. Prepare Form HUD-52540. The PCR Supervisor shall prepare a Project Accounting Data (Form HUD-52540) for each PHA proposal to be approved and shall provide the MHR with the completed PAD to be included with the PHA proposal approval letter for signature by the Area Manager.
 - b. Obtain RAD Confirmation. The PCR Supervisor upon receipt of the signed Form HUD-52540 and the PHA proposal approval letter, shall send copies of each to the Regional Accounting Division (RAD) Director. The RAD Director shall reserve the funds as of the date the Form HUD-52540 is received and, within twenty-four (24) hours, shall notify the Housing Director by telegram or facsimile of the project number, number of units, amount of loan, contract, and budget

authority reserved and the reservation date.

*7-124. CONGRESSIONAL NOTIFICATION. For each PHA proposal to be approved from a PHA located inside a central city allocation area, the PCR Unit shall prepare the Congressional Notification (Form HUD-416.2). Upon receipt of the RAD confirmation, the PCR Unit shall send a copy of the Form HUD-416.2 by facsimile transmission and a second copy by air mail to the Assistant Secretary for Legislation and Congressional Relations. The PHA proposal approval letter, or other announcement of approval, shall not be released until five (5) working days have elapsed from the date of transmission of the facsimile. *

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7-125. DISPATCH OF APPROVAL DOCUMENTS. The PCR Unit, after Congressional Notification has been completed, shall notify the MHR and the Mortgage Credit Chief that the approval documents may be dated and dispatched.

a. PCR Unit. The PCR shall mail the PHA proposal approval letter to the PHA and copies to the Chief Executive Officer and the A-95 Clearinghouse. The PHA letter shall also include the following:

- (1) the original of the ACC executed by the Housing Director;
- (2) the approved PHA architect's contract;
- (3) the approved Preliminary Site Report;
- (4) the preliminary Development Cost Budget prepared by the Area Office; and
- (5) the approved Request for Approval of Advances for Non-Permanently Financed Projects (Form HUD 5216).

b. Mortgage Credit Branch. The Mortgage Credit Branch shall dispatch the approved requisition documents in accordance with paragraph 7-115.

7-126. PHA PROPOSAL DISAPPROVAL LETTER. If, upon completion of the Area Office review, it is determined that a PHA proposal cannot be approved, the MHR shall prepare a letter for the Area Manager's signature notifying the PHA that its PHA proposal has been disapproved.

a. PHAs Outside Central City Allocation Areas. The letter shall state the reasons why the PHA proposal cannot be approved and shall notify the PHA that:

- (1) the project is terminated; and
- (2) in order to be considered for future funding the PHA must submit a new Application for a Public Housing Project (Form HUD 52470).

b. PHAs Inside Central City Allocation Areas. The letter shall state the reasons why the PHA proposal cannot be approved and shall notify the PHA that:

- (1) the "set-aside" is terminated; and
- (2) the PHA will be given consideration for funding during the next fiscal year.

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7-127. PROJECT TERMINATION. For each PHA proposal to be disapproved, the PCR unit shall:

- a. PHAs Located Outside Central City Allocation Areas. Upon receipt of the PHA proposal disapproval letter, a Project Accounting Data (Form HUD 52540) shall be prepared and submitted for the Area Manager's signature. A copy of the PHA proposal disapproval letter and Form HUD 52540 indicating that the project is terminated shall be sent to the RAD. Upon receipt of the RAD confirmation that the funds have either been cancelled or recaptured, the PCR Supervisor shall notify the MHP Chief so that processing may be started for pipeline applications.
- b. PHAs Located Inside Central City Allocation Areas. Since funds for PHA proposals from such PHAs were not reserved, it is not necessary to process a Form HUD 52540. However, upon receipt of the PHA proposal disapproval letter, the PCR Supervisor shall notify the MHP Chief so that processing may be started for pipeline applications.

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CHAPTER 8. SITE (PROPERTY) ACQUISITION

Section 1. PHA Preparation of Site Acquisition Documents

- 8-1. APPLICABILITY. This chapter establishes the procedures for PHA acquisition of sites (including improved properties) under either the conventional or acquisition method. These procedures do not apply to projects being developed under the turnkey method since the turnkey developer has exclusive responsibility for acquiring sites identified in a turnkey proposal.
- 8-2. GENERAL. The PHA is responsible for preparing and submitting the site acquisition documents to the Field Office for approval. If Field Office assistance is required, the PHA should contact the designated MHR who will provide guidance to the PHA and will arrange for any other necessary Field Office technical assistance.
- 8-3. STANDARD PROCESSING TIME. The PHA shall prepare and submit the site acquisition documents to the Field Office within the established standard processing time (SPT). The SPT for the PHA to prepare and submit the site acquisition documents is forty-five (45) calendar days from the date of the Field Manager's PHA proposal approval letter to receipt of the site acquisition documents by the Field Office. For projects involving one to four family properties, the SPT is the date established in the PHA project development schedule approved by the Field Office for submission of specific property acquisition documents. (See Chapter 3, Section 12 for statutory time-frame requirements). *
- 8-4. PREREQUISITES FOR PHA SUBMISSION. Upon receipt of the Field Manager's PHA proposal approval letter, the PHA shall take the following actions, if applicable, to ensure that the site acquisition documents will be submitted to the Field Office within the established SPT. The PHA shall not make payment for any services relating to site acquisition until written authorization is obtained from the Field Office.
- a. Legal Services. The PHA shall retain an attorney (Chapter 3, Section 2) to perform any required title or settlement services.

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- b. Architectural Services. The PHA shall execute the PHA architect's contract and request that the design documents be prepared. For projects involving rehabilitation of

one to four family properties, the project description and preliminary cost estimates must be submitted for the specific properties to be acquired if the required information was not previously submitted and approved by the Area Office.

- c. Purchase Agreement. The PHA shall execute Part II of the Offer of Sale of Land (Form HUD 51971) for each site and shall submit it for the owner's acceptance prior to the expiration of the site option. The procedures to be followed by the PHA in executing the Form HUD 51971 are provided in paragraph 8-5.
- d. Site Studies. The PHA shall employ a qualified architectural or engineering firm to perform and submit a report to the PHA for any site engineering studies identified in the Area Manager's letter.
- e. Fee Appraiser. For one to four family properties (rehabilitation and existing housing) the PHA shall employ a single family fee appraiser (Chapter 3, Section 2) to prepare and submit an appraisal report to the PHA for each specific property to be acquired.

8-5. PURCHASE AGREEMENT. The site acquisition documents shall contain a copy of the Offer of Sale of Land (Form HUD 51971), for every parcel or property to be acquired for the project, as executed by the PHA and evidenced by the owner's acceptance. The executed Form HUD 51971 shall comply with the following:

- a. Purchase Price. The purchase price to be inserted by the PHA shall be:
 - (1) if Title III of the Uniform Act is not applicable, the owner's "asking price" provided that it does not exceed the appraised value established by the Area Office;
 - (2) if Title III of the Uniform Act is applicable, the appraised value established by the Area Office; or
 - (3) in the case of one to four family properties, the owner's "asking price" subject to the appraised value to be established by the Area Office.

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- b. Conditions. The PHA shall include in Part II of the Offer of Sale of Land (Form HUD 51971) any special conditions identified in the Area Manager's letter that must be satisfied prior to closing on the site. Generally, these conditions

will be limited to the completion of any site engineering studies required by the Area Office to determine whether the site is suitable for development of the proposed project.

- c. Closing Date. The PHA letter, transmitting the PHA executed Form HUD 51971 to the owner, shall indicate that the PHA will schedule a day (within 90 days of the owner's acceptance of the PHA offer) and place for closing the sale.
- d. Relocation Notices. If applicable, the PHA shall prepare "notices of displacement" or "notices of right to continue in occupancy" pursuant to Chapter 3, Section 9. The PHA shall issue such notices to each eligible occupant within thirty (30) calendar days (or such later date approved by the Area Office) of PHA execution of Part II of the Offer of Sale Land (Form HUD 51971).

8-6. SITE STUDIES. The PHA architect shall review any engineering studies to determine whether design modifications will be required to overcome unusual site conditions and whether the engineering report is sufficient for a final determination as to the suitability of the site for the proposed project. The PHA site acquisition documents shall include a copy of any engineering report and shall identify the fee for the professional services, including preparation of the engineering report.

8-7. MAPS. The PHA shall provide a site map clearly designating the parcels for which the PHA is submitting site acquisition documents. If applicable, the PHA shall also submit the following:

- a. Property Line Map. A property line map shall be submitted for sites consisting of two or more contiguous parcels. The property line map shall clearly designate the owners and the parcels to be acquired.
- b. Neighborhood Map. For projects involving acquisition of one to four family properties, a copy of the neighborhood map shall be submitted. The map shall clearly designate the properties previously approved by the Area Office and acquired by the PHA and the properties currently being submitted for Area Office approval.

8-8. ONE TO FOUR FAMILY PROPERTIES. This paragraph applies only to PHAs for which an ACC was executed to provide front-end funding for acquiring one to four family properties involving rehabilitation or existing housing. The PHA, in addition to the other site acquisition documents identified in this section shall submit the following for each specific property:

- a. Appraisal. A copy of the appraisal report prepared by the fee appraiser shall be submitted. The appraisal report should contain a copy of the owner's site plat, a statement concerning any zoning restrictions governing the re-use of the property for housing, photographs of exterior and interior views, a list of the work required and the estimated cost of such work.
- b. Work Write-Ups. For properties involving rehabilitation, the PHA shall submit preliminary work write-ups and related documents (paragraph 6-26) and preliminary cost estimates (paragraph 6-27). For existing properties, the PHA shall prepare a brief description (and cost estimates) of the required minor repairs.

8-9 thru 8-20. RESERVED.

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8-4 thru 8-8

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Section 2. Processing Control and Reports Unit Review

- 8-21. STANDARD PROCESSING TIME. The standard processing time (SPT) for the PCR Unit is three (3) calendar days from receipt of the site acquisition documents by the PCR Unit to initiation of the Area Office staff reviews.
- 8-22. SITE FILE. The original of all PHA site acquisition and review documents shall be maintained by the PCR Unit in a project site file. This file should include a copy of the PCR Supervisor's memorandum establishing the site document receipt date and the site document review date, and the names of the Divisions and Housing Division Branches requested to review the site acquisition documents. In addition, all completed review checklists, recommendations and any accompanying memoranda shall be date stamped and retained in the project site file.
- 8-23. SITE DOCUMENT DISTRIBUTION. The PCR Unit shall make copies of the site acquisition documents for each reviewing Division or Branch. The PCR Supervisor shall immediately send a form memorandum transmitting the site documents and the applicable review checklist to each reviewer and establishing the:
- a. Site Document Receipt Date. The date the PHA site acquisition documents were received by the PCR Unit.
 - b. Site Document Review Date. The date the completed review checklists, comments and recommendations are due in the PCR Unit from each Division or Branch.

8-24. SITE DOCUMENT TRACKING. The PCR Unit shall monitor Area Office processing actions to determine that the reviews will be completed by the site document review date.

- a. Periodic Status. The PCR Supervisor shall contact each Division Director or Housing Division Branch Chief periodically to ensure that their review recommendations will be submitted by the site document review date. The PCR Supervisor shall immediately notify the MHR of any missing information noted by the reviewers and any problems observed that would delay completion of the Area Office review.

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- b. Final Recommendations. The PCR Supervisor shall forward the completed review checklists, comments and recommendations to the MHR immediately upon receipt. The PCR Supervisor shall also advise the MHR of any reviewers that have not submitted their recommendations by the established site document review date so that follow-up action may be initiated.

8-25 thru 8-30. RESERVED.

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8-10 thru 8-14

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Section 3. Legal Division Review

8-31. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Legal Division review of the site acquisition documents is ten (10) calendar days from the site document receipt date to submission of the Area Counsel's recommendations and completed review checklist to the PCR Supervisor.

8-32. PURCHASE AGREEMENT. The Legal Division shall review the Offer of Sale of Land (Form HUD 51971) to determine that it has been properly signed by the authorized PHA official and owner. In order to recommend approval, the Area Counsel must determine that the executed Form HUD 51971 is consistent with the terms of the ACC and that any special conditions established by the Area Office have been included. Special attention shall be given to any other modifications to the standard form or

special attachments.

8-33 thru 8-40. RESERVED.

8-15 thru 8-20

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Section 4. Architectural and Engineering Branch Review

8-41. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AE Branch review of the site acquisition documents is ten (10) calendar days from the site document receipt date to submission of the AE Chief's recommendations and completed review checklist to the PCR Supervisor, the Valuation Chief and, if applicable, to the Cost Chief.

8-42. SITE STUDIES. If site studies were required by the Area Manager's PHA proposal approval letter, the AE Branch shall review the site engineering reports submitted by the PHA.

- a. Acceptability of Engineering Firm. The design representative shall review any site engineering report to ascertain whether it is sufficient for a final determination by the AE Branch. If additional or clarifying information is required, the design representative shall immediately contact the PHA or the PHA architect and request that the additional information be provided by the engineering firm to permit a final determination by the AE Branch.
- b. Suitability of Site. The design representative shall review any site engineering report to determine whether the site is suitable for the proposed project. In making this determination consideration shall be given to:
 - (1) whether the schematic drawings submitted with the PHA proposal adequately address any subsurface soil conditions (Chapter 7, Section 8);
 - (2) whether reasonable design modifications may be made to correct any unusual site conditions; or
 - (3) whether the decision on the site must be made in conjunction with the design document review (Chapter 9).
- c. Payment of Engineering Firm. If a site engineering report is acceptable, the AE Chief shall indicate on the review checklist that the PHA is authorized to make payment for the engineering services. This authorization shall be indicated regardless of the AE Chief's recommendation concerning the suitability of the site for the proposed project.

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8-43. WORK WRITE-UPS. For one to four family properties if not previously approved the AE Branch shall review the work write-ups for projects involving rehabilitation or the description of minor repairs for existing housing. The AE Branch review shall be performed in accordance with the requirements of Chapter 7, Section 8.

8-44 thru 8-50. RESERVED.

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8-22 thru 8-26

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Section 5. Cost Branch Review

8-51. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Cost Branch review of the site acquisition documents is fifteen (15) calendar days from the site document receipt date to submission of the Cost Chief's recommendations and completed review checklist to the PCR Supervisor and the Valuation Chief.

8-52. PROJECT CONSTRUCTION COST (IMPROVEMENTS). The Cost Chief shall review the PHA cost estimates for projects involving rehabilitation or minor repairs to one to four family properties. The Cost Branch review shall be completed in accordance with paragraph 7-84. The purpose of this review is to determine whether the cost for the specific properties to be acquired and rehabilitated or repaired is reasonable. In making this determination, consideration shall be given to the cost of any specific properties previously approved by the Area Office and the effect that approval of the properties currently being considered will have on the PHA's ability to acquire and rehabilitate or repair the total units approved in the PHA proposal.

8-53. TOTAL DEVELOPMENT COST. If the Cost Chief, based on the PHA's cost estimates, determines there will be a change in the number of one to four family properties to be rehabilitated or acquired with minor repairs, the Cost Chief shall prepare a revised TDC for a hypothetical project in accordance with paragraph 7-85. The revised estimate for use by the

Valuation Branch shall be based on the cost of any properties previously approved by the Area Office and shall reflect the total number of units that are likely to be developed with the remaining funds.

8-54 thru 8-60. RESERVED.

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Section 6. Valuation Branch Review

8-61. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Valuation Branch review of the site acquisition documents is ten (10) calendar days from the site document receipt date to submission of the Valuation Chief's recommendations and completed review checklist to the PCR Supervisor. However, the SPT for projects involving site engineering studies or rehabilitation of one to four family properties is twenty (20) calendar days to permit completion of the AE Branch and Cost Branch reviews.

8-62. PURCHASE AGREEMENT. The Valuation Branch shall review the Offer of Sale of Land (Form HUD 51971) to determine that the purchase price is consistent with the requirements of paragraph 8-5 and does not exceed the appraised value established by the Valuation Chief. The Valuation Chief shall also consider any comments provided by the AE Chief and Cost Chief to determine whether their findings would have any effect on the appraised value.

8-63. FEE APPRAISALS. The Valuation Branch shall review the appraisal reports prepared by fee appraisers for one to four family properties to determine that the value conclusions are acceptable to the Valuation Chief. The fee appraisal reports shall be reviewed in accordance with Chapter 7, Section 10. If the appraisal report is acceptable, the Valuation Chief shall indicate on the review checklist that the PHA is authorized to pay the fee appraiser. This is not necessary for other than one to four family properties, since the appraisal was completed during PHA proposal review (Chapter 7, Section 10).

8-64. SITE LOCATION. The Valuation Branch shall review the PHA's site map to determine that site acquisition documents have been submitted for all parcels, sites, and properties identified on the map. In addition, the Valuation Branch shall complete the following:

- a. One to Four Family Properties. The neighborhood map shall be reviewed to determine whether the identified properties are within the neighborhoods previously approved by

the Area Office.

- b. All Other Properties. The site map and, if applicable, the property line map shall be reviewed to determine that:

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- (1) the sites identified on the site map are consistent with the approved Preliminary Site Report (Form HUD 52651); and
- (2) site acquisition documents were submitted for all sites identified on Form HUD 52651.

8-65. TOTAL DEVELOPMENT COST. The Valuation Branch shall review the TDC (including any relocation costs) for rehabilitation and existing housing projects to determine that it does not exceed ninety (90) percent of the Cost Branch estimate for a comparable newly constructed project (paragraph 8-53).

- a. One to Four Family Properties. The following procedure shall be used:

- (1) estimate the TDC for the properties being reviewed using the approved purchase price (appraised value), a pro rata share of the other allowable costs identified on the latest approved Development Cost Budget (Form HUD 52484), and:
 - (a) for existing housing, the cost estimate of minor repairs (provided that it does not exceed ten (10) percent of the TDC); or
 - (b) for properties involving rehabilitation, the cost estimates prepared by the Cost Branch (paragraph 8-52);
- (2) if the estimated TDC for properties being reviewed as well as the properties previously acquired is ninety (90) percent or less, no further review of the TDC is required;
- (3) if the finding is not as stated in subparagraph (2), the following procedure shall be used since the ninety (90) percent limitation is binding on a project basis rather than on a unit-by-unit basis:
 - (a) if applicable, combine the TDC for the properties being reviewed with the TDC for the properties previously approved to determine to what extent

the combined TDC is greater or less than ninety (90) percent; and

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(b) if greater, determine whether it is likely that the PHA will stay within the ninety (90) percent limitation after considering the number of units still to be acquired, and the availability of lower cost housing in the approved neighborhoods.

b. All Other Properties. The Valuation Branch shall verify that the Valuation Chief's earlier findings (paragraph 7-103) are still valid.

8-66 thru 8-70. RESERVED.

8-33 thru 8-36

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Section 7. Multifamily Housing Programs Branch Review

8-71. STANDARD PROCESSING TIME. The standard processing time (SPT) for the MHP Branch review of the site acquisition documents is fifteen (15) calendar days from the site document receipt date to preparation of a site approval (or disapproval) letter for the Housing Director's signature. However, the SPT for projects involving site engineering studies or rehabilitation of one to four family properties is twenty-five (25) calendar days to permit completion of the AE Branch and Cost Branch reviews.

8-72. EVALUATION OF REVIEW COMMENTS. The MHR shall evaluate the recommendations and findings submitted by all reviewers to determine that there are no recommendations for disapproval. The MHR shall, to the extent possible, reconcile any differences and if this cannot be done submit the MHP Branch recommendations to the Housing Director.

8-73. PHA NOTIFICATION. The MHR, after completing an evaluation of the Area Office review recommendations, shall prepare a letter for

the Housing Director's signature notifying the PHA of the Area Office decision.

a. Site Approval Letter. The site approval letter shall:

- (1) identify the project number;
- (2) identify each parcel, site, or property approved by the Area Office (a copy of the approved site acquisition documents shall be attached);
- (3) identify any changes to the purchase price (appraised value) resulting from Area Office review of any fee appraisal report or site engineering reports;
- (4) identify any conditions, based on site engineering studies, that must be incorporated by the PHA architect in the design documents (or construction documents);
- (5) as applicable, authorize the PHA to take title to the site or initiate condemnation proceedings;
- (6) for projects involving one to four family properties and exceeding the ninety (90) percent limitation, advise the PHA that approval is conditioned on the PHA submission of additional site acquisition documents for lower cost properties in order that this requirement can be achieved; and

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- (7) advise the PHA to submit the closing documents identified in Section 8 immediately after settlement.

b. Site Disapproval Letter. The site disapproval letter shall:

- (1) identify the project number;
- (2) identify each parcel, site, or property not approved by the Area Office;
- (3) identify the reasons for disapproval; and
- (4) for projects involving one to four family properties, advise the PHA to submit a revised project development schedule (paragraph 6-24).

8-74 thru 8-80. RESERVED.

Section 8. PHA Acquisition of Sites

8-81. CLOSING PROCEDURES. The PHA shall take title in accordance with the following requirements:

- a. Title Insurance. The PHA must obtain a title insurance policy, or other title guarantee acceptable to the Area Office, at closing. The title policy shall guarantee that the title is good and marketable and is free of any mortgage, lease, lien or other encumbrances, such as use or building restrictions, zoning ordinances, easements or rights-of-way which would affect the value or proposed use of the site. In those instances where several contiguous parcels are being acquired, a blanket title insurance policy should be obtained for the entire site.
- b. Curing Title Defects. The PHA attorney shall ensure that any outstanding mortgages, leases, or liens have been cleared.
- c. Settlement Record. The closing details for each transaction shall be recorded in triplicate on the Real Estate Settlement Record (Form HUD 51975) or a similar locally used and accepted settlement record.
- d. Deed Recordation. The PHA shall ensure that the deed is promptly recorded by its attorney.

8-82. CONDEMNATION PROCEDURES. The PHA, upon approval by the Area Office, shall immediately submit petitions for condemnation. If the "quick taking" provisions are being used, the PHA shall deposit with the court an advance payment in the amount suggested or required by state law. The PHA shall subsequently take title and make payment to the owner as prescribed by the court and in accordance with the closing procedures in paragraph 8-81.

8-83. LAND ACQUISITION REPORT. The PHA, upon taking title to all Sites identified in the Housing Director's site approval letter shall prepare and submit to the Area Office a Final Report on Completed Land Acquisition (Form HUD 5922) which certifies possession of all sites. The Form HUD 5922 shall be accompanied by a copy of the recorded deed, title insurance policy, or other title guarantee, and settlement record for each site.

8-84. DECLARATION OF TRUST. The Area Counsel shall review the Final Report on Completed Land Acquisition (Form HUD 5922) and accompanying documents to determine that they are legally acceptable. Upon completing this review, the Area Counsel shall prepare a letter for the Housing Director's signature transmitting the Declaration of Trust (Form HUD 52190) to the PHA. The letter shall instruct the PHA to execute and record the Declaration of Trust and to provide a copy to the Area Office as soon as it has been recorded.

CHAPTER 9. DESIGN DOCUMENTS

Section 1. Introduction

- 9-1. APPLICABILITY. This chapter establishes the requirements for the PHA submission and Field Office review of project design documents. These requirements apply to projects involving rehabilitation or new construction under either the conventional or turnkey method but do not apply to the acquisition method.
- 9-2. STANDARD PROCESSING TIME. The standard processing time (SPT) for the PHA submission and a decision by the Field Office is one-hundred and five (105) calendar days from the date of the Field Manager's PHA proposal approval letter. (See Chapter 3, Section 12 for statutory time-frame requirements). *
- a. PHA Submission. The SPT for PHA submission of design documents is sixty (60) calendar days from the date of the Field Manager's PHA proposal approval letter to receipt of the design documents by the Field Office. However, if the approved PHA project development schedule has a different date, the design documents shall be submitted by the scheduled deadline date.
 - b. Field Office Review. The SPT for Field Office review and decision on the design documents is forty-five (45) calendar days from receipt of the design documents by the PCR Unit to the date of the Housing Director's letter approving or disapproving the design documents. Each Field Office reviewer is also given an SPT for review of the design documents and is responsible for notifying the PCR Supervisor if any problems are noted during technical processing that would delay completion of the review by the established design documents review date.
- 9-3. DESIGN DOCUMENTS. The PHA, except as provided in paragraph 9-4, shall submit separate design documents for Field Office review and approval prior to submitting construction documents pursuant to Chapter 10.
- a. Definition. The PHA design document submission primarily consists of typical site, dwelling unit and building plans, related cost estimates, and the PHA proposed Development Cost Budget (Form HUD 52484). The term design documents as used in this chapter also includes, if applicable, detailed work write-ups for projects involving rehabilitation.

b. Purpose. The preliminary drawings are used by the Area Office to determine that the proposed project complies with HUD design and construction standards and any conditions identified in the Area Manager's PHA proposal approval letter. The preliminary drawings are also used as the basis for determining the project replacement cost, the reasonableness of the PHA project cost estimate, and compliance with the project prototype cost limit. In effect, the design document stage provides the PHA and the PHA architect or the turnkey developer an interim step to obtain Area Office approval of basic design and construction features prior to preparing the more costly and detailed construction documents.

9-4. OPTIONAL PROCESSING STAGE. The PHA need not prepare a separate design document submission. In order to save processing time, the design document requirements can be satisfied as follows:

a. PHA Proposal Stage. The PHA, with agreement of the selected PHA architect or turnkey developer, may submit a detailed PHA proposal by substituting the design documents identified in Section 2 for the applicable PHA proposal documents. In such instances, the Area Office staff would review the PHA proposal and design documents in accordance with the applicable provisions of Chapters 7 and 9.

b. Construction Document Stage. The PHA may request Area Office approval to go from the basic PHA proposal to the construction document stage. The PHA request should include evidence of the PHA architect's or selected turnkey developer's agreement to the "one-step" processing. Area Office approval will be based on the factors identified in paragraph 7-72 and, if the "one-step" approach is approved, the Area Office staff will review the construction documents in accordance with the requirements of Chapter 10.

9-5. AREA OFFICE REVIEW. The PHA design documents will be reviewed by the Area Office and, upon completion of the review, the PHA will be notified of the Area Office decision. Specifically:

a. Approved. Approval will be given if the design documents can be approved as submitted.

b. Approved with Conditions. Conditional approval will be given if only minor corrections to the design documents are required prior to approval. In such instances, the PHA will be advised

of any conditions that would have to be satisfied prior to PHA submission of the construction documents.

- c. Disapproved. Disapproval will be given if the design documents would require significant corrections to comply with the public housing program requirements or modifications cannot be made without a major change to the original project concept in the approved PHA proposal. In such instances, the PHA will be advised of all reasons for disapproval and, if applicable, what action would be required before the design documents would be reconsidered by the Area Office.

9-6 thru 9-10. RESERVED.

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Section 2. PHA Submission of Design Documents

9-11. GENERAL. This section establishes the requirements for projects being developed with a separate design document submission -- i.e., where these requirements are not being satisfied at the PHA proposal stage or, with Area Office approval, at the construction document stage. The PHA is responsible for submitting the design documents, including those prepared by the PHA architect or turnkey developer. If the design documents are submitted separately, they shall be based on the approved PHA proposal and shall comply with any conditions established in the Area Manager's PHA proposal approval letter and, if applicable, modifications required as a result of any site engineering studies.

9-12. SITE STUDIES. For projects being developed under the turnkey method, the PHA shall submit a copy of any required site engineering reports obtained by the turnkey developer. Since site engineering reports required for projects being developed under the conventional method will have been submitted and reviewed with the site acquisition documents (Chapter 8), these engineering reports need not be resubmitted with the design documents. However, the design documents for projects being developed under either method must address any unusual site conditions revealed by an engineering report.

9-13. PRELIMINARY DRAWINGS. The PHA shall submit three sets of the preliminary drawings prepared to scale by the PHA architect (conventional) or the developer (turnkey). For projects involving rehabilitation, preliminary drawings shall be submitted only if required to clearly demonstrate the adequacy of major structural changes (e.g., a proposal involving a change in building class).

- a. Site Plan. The site plan shall be drawn to a scale of

one inch to forty feet (1" = 40') or larger. The site plan shall address any unusual site conditions revealed by site engineering reports and shall show:

- (1) the North point, property lines and dimensions;
- (2) an outline of adjacent structures and streets;
- (3) an outline and dimensions of each structure (dwelling and non-dwelling) proposed for the site;
- (4) contours indicating original and final grades;

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7417.1 REV-1

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- (5) proposed drainage;
 - (6) the location and dimensions of any rights-of-way or easements;
 - (7) the location and dimensions of parking areas, including the number of parking spaces;
 - (8) the location and dimensions of paved areas such as streets, walks, and drives;
 - (9) the location and dimensions (square feet) of other land uses such as patios, recreation areas, and lawn areas;
 - (10) the proposed placement of trees and shrubs (noting existing plantings to be retained);
 - (11) the proposed layout and size of utilities (water, sewerage, gas, electric and telephone) and distance to utility lead-ins and service connections; and
 - (12) any required off-site work, including a progress report on completed construction and the responsible local agency, if applicable.
- b. Basement or Foundation Plan. A basement or foundation plan shall be drawn to a scale of one-eighth inch to one foot (1/8 " = 1'). The plan shall show for a typical building the details identified in paragraph 10-16.
- c. Building Floor Plan. A building floor plan shall be drawn to a scale of one-eighth inch to one foot (1/8" = 1'). The plan shall show for a typical building floor the details identified in paragraph 10-17. The building floor plan shall

also identify the gross and net areas (square feet) of any management, maintenance and community spaces.

- d. Unit Floor Plan. A unit floor plan, which may be included on the building floor plan, shall be drawn to a scale of one-quarter inch to one foot (1/4" = 1'). The plan shall show for each typical unit size (number of bedrooms) the details identified in paragraph 10-17. The plan shall also show basic furniture and equipment layouts (e.g., cabinets, counters, ranges, and refrigerators) to demonstrate the adequacy of spaces.

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- e. Building Elevations. Building elevations shall be drawn to a scale of one-eighth inch to one foot (1/8" = 1'). The drawings shall for a typical building show the details identified in paragraph 10-19.
 - f. Wall Sections. Scale drawings of typical wall sections shall be prepared to show the details identified in paragraph 10-20.
 - g. Details and Finish Schedules. Scale drawings of typical details and typical door, window and finish schedules shall be provided in accordance with paragraph 10-21.
- 9-14. WORK WRITE-UPS. For rehabilitation projects, the PHA shall submit a copy of the detailed work write-ups. The work write-ups shall identify the specific work, materials and equipment required for rehabilitating each dwelling unit and all non-dwelling spaces.
- 9-15. PROJECT CHANGES. The PHA shall not make any changes to the project concept (e.g., outline specifications, sites, number of units, structure types) identified in the approved PHA proposal except as authorized below.
- a. Turnkey Projects. The developer submitted a turnkey proposal to construct or rehabilitate a project for sale to the PHA at a fixed price upon completion. The amount to be specified in the contract of sale is the developer's turnkey proposal price as adjusted to reflect actual changes in construction costs between the deadline date specified in the applicable RFP and the date the contract of sale is executed. Since the turnkey developer was objectively and competitively selected on the basis of a specific turnkey proposal, changes that would have an effect on the basis for PHA selection shall not be authorized. In addition, since the developer is responsible for constructing the project in compliance with HUD standards, adjustments in the developer's turnkey

proposal price shall not be allowed for modifications which are the developer's responsibility (e.g., design changes to correct unusual site conditions, off-site facilities).

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- b. Conventional Projects. The project will be constructed or rehabilitated by a contractor who will submit a bid on the basis of the PHA architect's working drawings and specifications (construction documents), which are to be completed at a later stage (Chapter 10). Since no contractor has submitted a bid or been selected at the design documents stage, these documents may include changes to the PHA proposal provided that such changes are not inconsistent with the project concept identified in the approved PHA proposal. Such changes will generally be limited to substitute materials and equipment that are equivalent or better than those specified in the Outline Specification (Form HUD 5087) or design changes required as a result of any site engineering reports or adverse environmental conditions.

9-16. DEVELOPMENT COST BUDGET. The PHA shall submit a Development Cost Budget (Form HUD 52484) in accordance with the requirements of Chapter 3, Section 14. The budget estimates shall be based on construction costs as of the design document submission date and shall reflect the PHA architect's project cost estimates (conventional) or the developer's turnkey proposal price.

9-17 thru 9-30. RESERVED.

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9-10 thru 9-14

7417.1 REV-1

Section 3. Processing Control and Reports Unit Review

9-31. STANDARD PROCESSING TIME. The standard processing time (SPT) for the PCR Unit is three (3) calendar days from receipt of the design documents by the PCR Unit to initiation of the Area Office staff reviews.

9-32. DESIGN DOCUMENT FILE. The original of all PHA design documents (except rolled plans and specifications) and reviews shall be maintained by the PCR Unit in a project design document file.

The file shall include a copy of the PCR Supervisor's memorandum establishing the design document receipt date, the design document review date, and the names of the Branches requested to review the design documents. In addition, all completed review checklists and, if applicable, any accompanying memoranda shall be date stamped and retained in the project design document file. The official file copy of rolled plans and specifications shall be retained by the AE Branch.

9-33. DESIGN DOCUMENT DISTRIBUTION. The design documents will normally be reviewed only by Branches within the Housing Division. The MHR, following initial screening, will advise the PCR Supervisor if any other reviews are required. The PCR Unit shall make copies of the design documents, or parts thereof, for each reviewing Branch. The PCR Supervisor, within one (1) working day, shall send a form memorandum transmitting the design documents and the applicable review checklist to each reviewer indicating:

- a. Design Document Receipt Date. The date the design documents were received by the PCR Unit.
- b. Design Document Review Date. The date the review checklists, comments and recommendations are due in the PCR Unit from each Branch Chief.
- c. Staff Recommendations. If applicable, the Branch Chief's recommendations shall be accompanied by a memorandum which:
 - (1) if conditional approval is recommended, identifies all conditions that must be satisfied prior to PHA submission of construction documents; or

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- (2) if disapproval is recommended, identifies all reasons for disapproval and, if applicable, the action required before the design documents would be reconsidered by the Branch.

- d. Development Cost Budget. Each applicable Division Director or Branch Chief shall review the proposed Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. Each Branch Chief's recommendations concerning the Form HUD 52484 shall be sent directly to the Mortgage Credit Chief with a copy to the PCR Unit.

9-34. DESIGN DOCUMENT PROCESSING AND TRACKING. The PCR Unit shall monitor Area Office processing actions to determine that the reviews will be completed by the established design document

review date.

- a. Periodic Status. The PCR Supervisor shall contact each Branch Chief periodically to ensure that the review recommendations will be submitted by the design document review date. The PCR Supervisor shall immediately notify the MHR of any missing information noted by the reviewers and any problems observed that would delay completion of the Area Office review.
- b. Final Recommendations. The PCR Supervisor shall forward the completed review checklists, comments and recommendations to the MHR immediately upon receipt. The PCR Supervisor shall also advise the MHR of any reviewers that have not submitted their recommendations by the established design document review date so that follow-up action may be initiated.

9-35 thru 9-40. RESERVED.

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9-16 thru 9-20

7417.1 REV-1

Section 4. Multifamily Housing Programs Branch Review

- 9-41. STANDARD PROCESSING TIME. The standard processing time (SPT) for the MHP Branch review of the design documents is forty (40) calendar days from the design document receipt date to preparation of a design document approval (or disapproval) letter for the Housing Director's signature.
- 9-42. DESIGN DOCUMENT REVIEW. The MHR shall review the PHA submission within three (3) calendar days.
- a. Initial Screening. The design documents shall be reviewed to determine whether all documentation required by Section 2 has been submitted by the PHA and whether the design documents are generally consistent with the public housing program requirements and the project concept identified in the PHA proposal, including any conditions or requirements established by the Area Manager's PHA proposal approval letter and the Housing Director's site approval letter.
 - b. Additional Reviewers. The MHR, based on the initial screening and advice from Housing Division Branch reviewers, shall advise the PCR Supervisor if any reviews outside of the Housing Division (e.g., Area Counsel, Environmental Clearance Officer) are required.
 - c. Stop Technical Processing. The MHR shall advise the PCR

Supervisor to notify all reviewers to stop technical processing if any significant emissions, problems or variations are detected during initial screening and shall prepare a letter advising the PHA of changes required prior to reconsideration by the Area Office.

9-43. EVALUATION OF REVIEW COMMENTS. The MHR shall evaluate the recommendations and findings submitted by all reviewers to determine that there are no recommendations for disapproval or conflicting comments. The MHR shall, to the extent possible, reconcile any differences and shall prepare a summary of the review comments. This summary shall include a discussion of any recommended conditions for approval, reasons for disapproval, and recommendations of action

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to be taken to resolve any negative findings. Upon completion of this evaluation, the MHR shall prepare a letter for the Housing Director's signature notifying the PHA of design document approval (paragraph 9-102a) or disapproval (paragraph 9-102b).

9-44 thru 9-50. RESERVED.

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9-22 thru 9-24

7417.1 REV-1

Section 5. Assisted Housing Management Branch Review

9-51. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AHM Branch review of the design documents is ten (10) calendar days from the design document receipt date to submission of the AHM Chief's recommendations and completed review checklist to the PCR Supervisor and the AE Chief.

9-52. PRELIMINARY DRAWINGS. The AHM Branch shall review the building floor plans, mechanical drawings, and, if applicable, the basement plans. The AHM Chief, based on this review, shall determine whether the location, layout, and amount of maintenance, management and community space is adequate and is consistent with the PHA proposal, including any changes identified in the Area Manager's PHA proposal approval letter.

9-53. PROJECT CHANGES. If applicable, the AHM Branch shall review any proposed changes in the utility combination, and any proposed changes in materials or equipment, to determine that they will not reduce efficiency and economy in PHA maintenance and operation over the life of the project.

9-54 thru 9-60. RESERVED.

9-25 thru 9-28

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Section 6. Architectural and Engineering Branch Review

9-61. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AE Branch review of the design documents is twenty (20) calendar days from the design document receipt date to submission of the AE Chief's recommendations and completed review checklist to the PCR Supervisor and the Cost Chief. The timely completion of this review is critical to permit consideration of the AE Branch recommendations and findings by the Cost Chief.

9-62. SITE STUDIES. For turnkey projects, the AE Branch shall review any site engineering reports submitted by the PHA in response to the Area Manager's PHA proposal approval letter. The design representative, with assistance from the site engineer, shall review such a site engineering report to determine whether the site is suitable for the proposed project and whether use of the site is economically feasible as a result of any required design modifications. If additional or clarifying information is required, the design representative shall immediately contact the PHA and request that the additional information be provided by the PHA architect or turnkey developer to permit a final determination by the AE Branch.

9-63. PROJECT DESIGN. The design representative, taking the AHM Chief's recommendations into consideration, shall review the architectural exhibits (e.g., preliminary drawings, detailed work write-ups, outline specifications) to determine that the following requirements are met:

- a. PHA Proposal. The preliminary drawings or work write-ups are consistent with the original project concept (e.g., number of units, utility combinations) identified in the PHA proposal and any conditions or requirements previously established by the Area Office.
- b. Unusual Site Conditions. The design documents incorporate the most cost efficient or practical means of addressing any adverse or unusual site conditions.

- c. Environmental Concerns. The design documents incorporate special features to overcome any adverse environmental (e.g., noise, air pollution) conditions.

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7417.1 REV-1

- d. HUD Standards. The design documents comply with the design and construction standards identified in Chapter 3.
- e. Equipment and Materials. If applicable, any substitute materials or equipment are equivalent or better than those identified in the PHA proposal.

9-64. FORM FHA 2264. The design representative shall initiate the Rental Housing Project Income Analysis and Appraisal (Form FHA 2264). The design representative shall enter the location and description of property (Section A) and information concerning land or property (Section B) on Form FHA 2264 for each project.

9-65. PHA ARCHITECT'S CONTRACT. The design representative shall review the work completed by the PHA architect to determine that it complies with the PHA architect's contract. If all design work has been completed, the AE Chief's recommendation shall indicate that the PHA is authorized to pay its architect the fee specified in the PHA architect's contract for the completed work.

9-66 thru 9-70. RESERVED.

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9-30 thru 9-34

7417.1 REV-1

Section 7. Cost Branch Review

9-71. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Cost Branch review of the design documents is twenty-five (25) calendar days from the design document receipt date to submission of the Cost Chief's recommendations and completed review checklist to the PCR Supervisor and Valuation Chief. The timely completion of this review is critical to permit consideration of the AE Branch and Cost Branch recommendations and findings by the Valuation Chief.

9-72. DWELLING CONSTRUCTION AND EQUIPMENT COST. For projects involving new construction, the Cost Branch shall review the estimates for dwelling construction and equipment to ensure that they do not exceed the adjusted base project prototype cost. This is determined as follows:

- a. Base Project Prototype Cost. The Cost Branch shall use the base project prototype cost developed when the Area Office request for proposals was prepared or, if applicable, when the PHA proposal was approved. If changes are required (e.g., a reduced number of units because of the site) the base project prototype cost shall be revised in accordance with paragraph 7-83.
- b. Prototype Cost Adjustment Factor. The Cost Branch, using a commercial construction cost index (e.g., Boeckh or Marshall Swift), shall determine the percentage of actual changes in construction costs between the month of publication of the unit prototype cost (used to develop the base project prototype cost) and the month of receipt of the design documents. The base project prototype cost shall be multiplied by the prototype cost adjustment factor to determine the maximum amount that may be approved for dwelling construction and equipment at the design document stage.
- c. Cost Limitation. Projects exceeding the adjusted base project prototype cost shall not be approved. However, if one of the conditions identified in paragraph 7-83c exists, consideration may be given to approving such projects provided that the cost is less than 110 percent of the adjusted base project prototype cost.

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9-73. PROJECT CONSTRUCTION COSTS (IMPROVEMENTS). For projects involving new construction or rehabilitation, the Cost Branch shall prepare an independent construction cost estimate as follows:

- a. Forms FHA 2325 and 2326. A Report of Cost Processing-Work Sheet (Form FHA 2325) and a Project Cost Estimate (Form FHA 2326) shall be prepared using the procedure identified in Cost Estimation for Project Mortgage Insurance (HB 4450.1) and in the Multifamily Underwriting Reports and Forms Catalogue (HB 4480.1). However, the cost estimates shall be updated only to the design document receipt date.
- b. Form FHA 2264. The cost information developed on Forms

FHA 2325 and 2326 shall be transferred to Section G of the Rental Housing Project Income Analysis and Appraisal (Form FHA 2264) which was originated by the AE Branch.

9-74. TURNKEY DEVELOPER'S PRICE. The Cost Branch shall update the developer's turnkey proposal price for use by the Valuation Chief.

- a. Developer Delays. If applicable, the Cost Branch shall determine the extent (number of months) of any delays that were caused by the turnkey developer.
- b. Adjusted Developer's Price. The Cost Branch shall update the developer's turnkey proposal price as follows:
 - (1) determine the actual change in construction cost between the deadline date specified in the RFP for the applicable turnkey proposal and the design document receipt date;
 - (2) if applicable, multiply the monthly change in construction costs by the number of months resulting from developer caused delays; and
 - (3) multiply the developer's turnkey proposal price by the cost adjustment factor (excluding developer caused delays) for each item of the developer's price except site (property) and interest during construction.

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7417.1 REV-1

9-75. TOTAL DEVELOPMENT COST. For projects involving rehabilitation, the Cost Branch shall review the TDC previously provided to the Valuation Branch. If applicable, a revised estimate shall be prepared in accordance with paragraph 7-85.

9-76 thru 9-80. RESERVED.

9-37 thru 9-40

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9-81. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Valuation Branch review of the design documents is thirty (30) calendar days from the design document receipt date to submission of the Valuation Chief's recommendations and completed review checklist to the PCR Supervisor and the Mortgage Credit Chief. The timely completion of this review is critical to permit an analysis by the Mortgage Credit Chief.

9-82. PROTECT REPLACEMENT COST. The Valuation Branch shall complete Section G (lines 51 thru 74, excluding lines 56 thru 59 which apply only to the mortgage insurance programs) of the Rental Housing Project Income Analysis and Appraisal (Form FHA 2264) transmitted by the Cost Branch and shall determine if the project construction costs are reasonable.

a. Conventional Projects. The lower of the following is the maximum project cost amount that can be approved:

- (1) the PHA architect's cost estimates; or
- (2) the project replacement cost identified on Form FHA 2264.

b. Turnkey Projects. The lower of the following is the maximum project cost amount that can be approved:

- (1) the developer's turnkey proposal price as updated by the Cost Branch (paragraph 9-74); or
- (2) the project replacement cost identified on Form FHA 2264.

c. Cost Revisions. If the project replacement cost is the lower amount, the Valuation Chief shall promptly notify the designated MHR to schedule a meeting with the PHA and the PHA architect or turnkey developer. The purpose of this meeting is to discuss cost differences in detail to ensure that there is no misunderstanding of the work identified in the design documents on which the cost estimates are based. If applicable, a revised Form FHA 2264 shall be prepared based on agreements reached at the meeting.

9-83. TOTAL DEVELOPMENT COST. The Valuation Branch shall review the TDC (including relocation costs) for a PHA proposal involving rehabilitation to determine that it does not exceed ninety (90)

percent of the Cost Branch estimate for a comparable newly constructed project (paragraph 9-75).

9-84 thru 9-90. RESERVED.

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9-42 thru 9-44

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Section 9. Mortgage Credit Branch Review

9-91. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Mortgage Credit Branch review of the design documents is thirty-five (35) calendar days from the design document receipt date to submission of the Mortgage Credit Chief's recommendations and completed review checklist to the PCR Supervisor.

9-92. DEVELOPMENT COST BUDGET. The Mortgage Credit Branch shall review the Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. The financial analyst shall determine whether any differences in the various accounts between the preliminary budget prepared by the Area Office and the PHA submission are reasonable. If there is a major difference for any account, the PHA justification shall be reviewed and, if necessary, discussed with the reviewing Division or Branch responsible for the cost item in question. Upon completion of the Area Office review, the Mortgage Credit Chief shall conform the Form HUD 52484 to reflect the Area Office staff recommendations.

9-93 thru 9-100. RESERVED.

9-45 thru 9-48

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Section 10. Design Document Approval

9-101. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Housing Director's approval of the design documents is forty-five (45) calendar days from the design document receipt date to dispatch of the Housing Director's letter to the PHA.

9-102. PHA NOTIFICATION. The MHR, upon completing an evaluation of the Area Office review recommendations, shall prepare a

letter for the Housing Director's signature notifying the PHA of the Area Office decision:

- a. Design Document Approval Letter. A design document approval letter shall:
- (1) identify the project number, the number of units, housing type, household type, and development method;
 - (2) if applicable, identify design changes that could result in lower construction costs (e.g., a more cost effective approach for addressing unusual site or environmental conditions);
 - (3) identify any design deficiencies that must be corrected prior to submission of the construction documents;
 - (4) if applicable, authorize the PHA to pay the PHA architect for completed work;
 - (5) if applicable, advise the PHA to notify the developer of the approved developer's price for a turnkey project;
 - (6) transmit a copy of the approved Development Cost Budget (Form HUD 52484), identifying changes made by the Area Office and explaining the reasons for such changes;
 - (7) advise the PHA of the deadline date for submission of the construction documents; and
 - (8) if applicable, the deadline date for PHA action under the Uniform Act or comparable action by the turnkey developer.

- b. Design Document Disapproval Letter. A design document disapproval letter shall:
- (1) identify the project number, the number of units, housing type, household type, and development method;
 - (2) identify the reasons for disapproval and list any required changes;
 - (3) advise the PHA that revised design documents will

be considered if resubmitted within thirty (30) calendar days of the Housing Director's letter;

- (4) advise the PHA to submit, within thirty (30) calendar days of the Housing Director's letter, a Development Cost Budget (Form HUD 5-484) identifying the actual costs incurred for the project as of the date of the Housing Director's letter;
- (5) notify the PHA that the project will be terminated if revised design documents are not received by the deadline date, and that in the event of such termination the funds (excluding actual costs identified by the PHA before the thirty (30) day deadline date) are withdrawn.

9-103. PROJECT TERMINATION. The PCR Unit, upon receipt of the PHA Development Cost Budget (Form HUD 52484) or thirty (30) days from the date of the Housing Director's letter, shall notify the MHR. The MHR, in conjunction with the Mortgage Credit Chief, shall review the Form HUD 52484 and request the PCR Supervisor to prepare a Project Accounting Data (Form HUD 52540) indicating that the project is being terminated and a letter to the PHA for the Area Manager's signature indicating that the funds have been withdrawn and that an amended ACC is being prepared to reflect actual costs incurred by the PHA. Upon receipt of the Area Manager's letter and RAD confirmation, the PCR Supervisor shall dispatch the letter and notify the MHP Chief so that processing may be started for pipeline applications.

CHAPTER 10. CONSTRUCTION DOCUMENTS

Section 1. Introduction

- 10-1. APPLICABILITY. This chapter establishes the requirements for the PHA submission and Field Office review of project construction documents. These assignments apply to projects involving rehabilitation or new construction under either the conventional or turnkey method but do not apply to the acquisition method.
- 10-2. STANDARD PROCESSING TIME. The standard processing time (SPT) for PHA submission and a decision by the Field Office is one hundred and thirty-five (135) calendar days from the date of the Housing Director's design document approval letter or, if the Field Office approved "one step" processing, the SPT is one hundred and sixty-five (165) calendar days from the date of the Field Manager's PHA proposal approval letter. (See Chapter 3, Section 12 for statutory time-frame requirements).
- a. PHA submission. The SPT for PHA submission of construction documents is ninety (90) calendar days from the date of the Housing Director's design document approval letter to receipt of the construction documents by the Field Office. If the "one step" approach was approved, the SPT for PHA submission of construction documents is one hundred and twenty (120) calendar days from the date of the Field Manager's PHA proposal approval letter to receipt of the construction documents by the Field Office. However, if the approved PHA project development schedule has a different date, the construction documents shall be submitted by the scheduled deadline date.
- b. Field Office Preview. The SPT for Field Office review and decision on the construction documents is forty-five (45) calendar days from receipt of the construction documents by the PCR Unit to the date of the Housing Director's letter approving or disapproving the construction documents. Each Field Office reviewer is also given an SPT for review of the construction documents and is responsible for notifying the PCR Supervisor if any problems are noted during technical processing that would delay completion of the review by the established construction document review date.
- 10-3. CONSTRUCTION DOCUMENTS. The PHA shall submit construction documents for Field Office review and approval prior to inviting construction bids (conventional) or executing the contract of sale (turnkey) pursuant to Chapter 11. The construction documents shall be prepared and submitted following Field Office approval of the design documents, unless the PHA was authorized to use the "one step" processing procedures described in paragraph 9-4.

- a. New Construction Projects. The PHA construction document submission for projects involving new construction consists of the following:
- (1) working drawings and construction specifications;
 - (2) if applicable, documents for off-site work;
 - (3) project construction cost estimates;
 - (4) an architectural certification from the PHA architect or turnkey developer;
 - (5) turnkey contract documents or conventional bid documents;
and
 - (6) PHA requisition for funds.
- b. Rehabilitation Projects. The PHA construction document submission for projects involving rehabilitation is determined at the PHA proposal or design document approval stages following a joint (Area Office, PHA, and PHA architect or turnkey developer) inspection and Area Office approval of the rehabilitation work write-ups. Based on the Area Office determination, the PHA shall submit the documents listed in paragraph a except for the following modifications:
- (1) when the interior of the structure is to be "gutted" and there are extensive structural modifications or additions to be made to the existing structure, complete drawings and details (similar to those for new construction) are required;
 - (2) for projects with minor changes in space arrangement or structural and mechanical systems, drawings showing only the existing conditions and construction specifications for the proposed work (as opposed to complete drawings) are required;
 - (3) if the rehabilitation can be adequately described in a construction specification format, no drawings are required; and
 - (4) if drawings are required, they must be adequate to clearly define the concept of the rehabilitation, demolition or removal, rehabilitation, and replacement.

- c. Purpose. The construction documents, which become part of the construction contract or contract of sale, prescribe the construction details and specifications of all work to be done under the applicable contract. The construction documents are used by the Area Office to determine that the proposed project will be constructed or rehabilitated in accordance with HUD design and construction standards, including any requirements established by the Area Office at previous processing stages. The construction documents are also used to determine that the project construction cost estimates are within the cost limitations that can be approved by the Area Office.

10-4. AREA OFFICE REVIEW. The PHA construction documents will be reviewed by the Area Office and, upon completion of the review, the PHA will be notified of the Area Office decision. Specifically:

- a. Approved. Approval will be given if the construction documents can be approved as submitted.
- b. Approved with Conditions. Conditional approval will be given if only minor corrections to the construction documents are required prior to approval. In such instances, the PHA will be advised of any conditions that would have to be satisfied prior to PHA submission of the contract of sale documents (turnkey), or prior to advertising for bids (conventional).
- c. Disapproved. Disapproval will be given if the construction documents would require significant corrections to comply with the public housing program requirements or modifications cannot be made without a major change to the original project concept in the approved PHA proposal. In such instances, the PHA will be advised of all reasons for disapproval and, if applicable, what action would be required before the construction documents would be reconsidered by the Area Office.

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10-11. GENERAL. This section establishes the requirements for a construction document submission. The PHA is responsible for submitting the construction documents, including those prepared by the PHA architect or turnkey developer. The construction documents shall be based on the approved PHA proposal and shall comply with any conditions established at the PHA proposal stage, the site document stage, and, if applicable, the design document stage. The PHA architect or turnkey developer is responsible for ensuring that the construction documents comply with State and local laws, codes, ordinances and regulations.

10-12. WORKING DRAWINGS. The PHA shall submit three (3) sets of the working drawings and construction specifications that were prepared by the PHA architect (conventional) or the developer (turnkey) in accordance with the requirements of paragraph 10-13 through 10-24. The working drawings shall be accompanied by the following:

- a. Project Identification. A cover sheet shall provide a summary description of the proposed project and shall include the following:
 - (1) the project number;
 - (2) the street address and community for which the project is proposed;
 - (3) the name, address, and telephone number for the PHA Executive Director and the PHA architect or the turnkey developer;
 - (4) the total number of units, including the number of units for each structure type and unit size (number of bedrooms);
 - (5) the total number of buildings, including the number of buildings for each structure type and the number of stories for each building;
 - (6) the number of units by household type and unit size for each building;
 - (7) the number of parking spaces, including parking lots and pads, carports, and garages; and

- (8) the square feet to be provided for management, maintenance and community spaces, stated separately.

- b. Index. The index shall identify each drawing or construction specification by name with the corresponding architectural sheet or page number.

10-13. OFF-SITE WORK. The PHA shall submit a detailed description of any work that is not within the boundaries of the project site but is essential to the proposed project. The documentation (e.g., narrative, drawings, specifications) for any off-site work must show the approval of the responsible local agency.

- a. Contract Work. Off-site work to be performed under the construction contract (conventional) or the contract of sale (turnkey) must be clearly described on the plot plan and in the construction specifications. In addition, if the off-site work is being performed by others, the relationship to the proposed project shall be noted on the working drawings, including local agency approval.
- b. Work by Local Agency. If the off-sits work is being performed or funded by a local agency, the PHA shall obtain a written statement from each applicable agency indicating:
 - (1) utility (i.e., water, sewerage, gas, electric, telephone) extensions and connections will be in place or under construction before construction is started on the public housing project;
 - (2) other off-site work (e.g., streets, sidewalks) will be in place or under construction before construction is started on the public housing project; and
 - (3) the current status of construction work in progress and the anticipated completion date of all project related off-site work.

10-14. SITE SURVEY. The PHA shall submit a current site survey prepared by a surveyor. Generally, this will be in the form of a dated certification from the surveyor who prepared the site survey (paragraph 6-25) at the PHA proposal stage that the survey was reviewed and it is still current. If changes are noted (e.g., utility or street extensions, unusual subsurface conditions), the surveyor shall be requested to prepare a revised site plat to reflect current conditions.

10-15. SITE PLANS. The PHA shall submit a separate plot plan,

grading plan, and landscaping plan.

- a. Plot Plan. The plot plan shall be drawn to a scale of one inch to forty feet (1" = 40') or larger showing:
- (1) the North point, property lines, and dimensions;
 - (2) an outline of adjacent structures and streets;
 - (3) an outline and dimensions of each structure proposed for the site, including designation of the applicable building and unit floor plans, and distance from other buildings or locating points;
 - (4) the location and dimensions of any rights-of-way or easements;
 - (5) the location and dimensions of parking areas, including the number of parking spaces and distance from buildings;
 - (6) the location and dimensions of other paved areas such as streets, walks, curbs, and drives, including the distance from buildings and identification of the areas to be dedicated for public use and maintenance;
 - (7) the location and dimensions of site related development, such as patios, steps, ramps, and recreation and sitting areas;
 - (8) the proposed layout and size of utilities (i.e., water, sewerage, gas, electric and telephone), including distance from buildings, distance to utility lead-ins, and depth from final grades; and
 - (9) the location and dimensions, if applicable, of lamp posts, lawn hydrants and sprinkler systems, fire hydrants, retaining walls, guard rails, and fences or other similar items.
- b. Grading Plan. A separate grading plan shall be submitted only if the required information cannot be clearly shown on the plot plan. The grading plan shall also be drawn to a scale of one inch to forty feet (1" = 40') or larger showing:

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- (1) the North point, property lines and dimensions;
 - (2) contours indicating original (dotted line) and final

(solid line) grades;

- (3) first floor building elevations and original and final grade elevations at all building corners;
- (4) final grade elevations for all entrances, walks, streets or drives, curbs, parking areas, patios or terraces, walls, and steps;
- (5) controlling grades and dimensions of all tile lines for terrain and roof drainage;
- (6) swales, culverts, catch basins, drain inlets, gutters and curbs; and
- (7) invert elevations of main sewers and direction of flow.

c. Landscaping Plan. The landscaping plan shall be drawn to a scale of one inch to twenty feet (1" = 20') showing:

- (1) the North point, property lines and dimensions;
- (2) an outline and dimensions of each structure proposed for the site;
- (3) an outline of paved areas (e.g., streets, walks, parking areas, patios) ;
- (4) the location of existing trees and shrubs, identifying those to be removed;
- (5) the location of trees and shrubs to be planted, size (height and spread), in relation to the proposed construction;
- (6) an outline of planting beds, including plant species and quantity of plants;
- (7) an outline of lawn areas; and
- (8) a list of plant materials, including the common plant name, and an identification number with cross reference to the landscaping plan.

10-16. BASEMENT OR FOUNDATION PLAN. The PHA shall submit a basement plan or, if basements are not being provided, a foundation plan for each structure type. The basement or foundation plan shall be drawn to a scale of one-eighth inch to one foot (1/8" = 11).

- a. Basement Details. The plan shall, if applicable, show:
- (1) the name and dimensions of each basement area, such as laundry rooms, tenant storage space, boiler rooms, craft rooms, equipment rooms, and unexcavated areas;
 - (2) the basic furniture and equipment layout for non-dwelling areas to demonstrate the adequacy of such spaces;
 - (3) the area to be used for dwelling units, including a designation of the applicable unit floor plan;
 - (4) the location of piers, columns, girders, walls and partitions, including dimensions; and
 - (5) the location and dimensions of doors, windows, halls, lights and switches, drains, and sump pumps.
- b. Foundation Details. The plan shall, if applicable, show the location and dimensions of other structural work such as footings, pilings, caissons, or underpinings.

10-17. BUILDING AND UNIT FLOOR PLANS. The PHA shall submit building floor plans and unit floor plans. The building and unit floor plans may be combined on a single set of drawings provided that they are drawn to a scale of one-quarter inch to one foot (1/4" = 1') and show all required information.

- a. Building Floor Plans. Each building floor plan shall be drawn to a scale of one-eighth inch to one foot (1/8" = 1') showing:
- (1) the designation of all buildings for which the plan is proposed, with a cross reference to the plot plan;
 - (2) the designation of all buildings and building floors for which the plan is proposed, with a cross reference to the applicable unit floor plans;
 - (3) the relationship of dwelling units to each other, including dimensions, partition arrangements and

fenestration of end units, corner units and units at off-sets, and other variations from the typical unit plans; and

(4) the relationship of rooms in adjacent dwelling units, including the material and thickness of separating walls.

b. Unit Floor Plans. Unit floor plans are required for each unit size (number of bedrooms) and major variation thereof and for each structure type. Each unit floor plan shall be drawn to a scale of one-quarter inch to one foot (1/4" = 1') showing:

- (1) the designation of each building floor plan for which the unit floor plan is proposed;
- (2) the dimensions of each room, closets, and halls;
- (3) window locations and door swings, including dimensions and cross-reference to the finish schedule;
- (4) stair locations, including dimensions, treads, landings, and handrails;
- (5) plumbing fixtures such as sinks, bathtubs, and showers;
- (6) kitchen cabinets and equipment;
- (7) electrical fixtures such as lights, switches, exhaust fans, receptacles and special power outlets; and
- (8) the location of structural elements such as columns, lintels, joists, girders, and bearing walls, including dimensions, spacing, and direction.

10-18. ROOF PLANS. The PHA shall submit a roof plan for each structure type.

a. Scale. The roof plan shall be drawn to a scale of one-eighth inch to one foot (1/8" = 1').

b. Illustration. The roof plan shall show:

- (1) the building designation;
- (2) the pitch and direction of slopes;

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- (3) the relationship and intersection of various roof lines;
 - (4) projections above the roof, such as parapets, chimneys

and vents; and

(5) the location and dimensions of gutters and downspouts.

10-19. BUILDING ELEVATIONS. The PHA shall submit general and detail building elevations.

a. General Elevations. General elevations shall be drawn to a scale of one-eighth inch to one foot (1/8" = 1') showing:

- (1) the building designation;
- (2) the exterior design of each building side;
- (3) original and final grades at each building side;
- (4) floor lines and elevations;
- (5) roofs, parapets, cornices, vents, gutters and downspouts; and
- (6) an outline of openings (some with doors and windows shown).

b. Detail Elevations. Detail elevations shall be drawn to a scale of one-quarter inch to one foot (1/4" = 1') showing:

- (1) the building designation; and
- (2) each type of facade detailing the exterior design, including materials, jointing, windows, doors, cornices, and parapets.

10-20. WALL SECTIONS. The PHA shall submit drawings of wall sections showing each type of exterior wall and bearing wall from footings to roof.

a. Outline Sections. Outline sections shall be drawn to a scale of one-quarter inch to one foot (1/4" = 1'). The drawings shall show a cross section of the building and floor levels.

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b. Exterior Wall Sections. Exterior wall sections shall be drawn to a scale of three-eighths inch to one foot (3/8" = 1') showing construction details of:

- (1) exterior walls, including dimensions at each floor;
- (2) foundation walls and footings, including basements;
- (3) window heads, sills, and heights;
- (4) flashing, furring, waterproofing, insulation, and vapor barriers; and
- (5) floor and wall anchorage and bearings.

c. Bearing Wall and Partition Sections. Bearing wall or partition sections shall be drawn to a scale of three-eighths inch to one foot ($3/8" = 1'$) showing construction details of:

- (1) bearing walls, including columns, girders, and footings;
- (2) interior walls;
- (3) floors, ceilings, and roofs, including room height, and attic space; and
- (4) the size and spacing of joists, splices, girders, sub-flooring and finished floors.

10-21. DETAILS AND FINISH SCHEDULES. The PHA shall submit detail drawings and finish schedules.

a. Details. Detail sections shall be drawn to a scale of three-eighths inch to one foot ($3/8" = 1'$), if applicable, showing construction details of:

- (1) front and rear entrances, including elevations;
- (2) entrance lobbies, including special features;
- (3) stairs and landings, including stringers, treads, risers, handrails, newels, and rise, run and headroom;
- (4) kitchen and bathroom accessories, such as cabinets;
- (5) platforms and areaways; and

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- (6) special interior and exterior details such as bay windows, dormers or built-in accessories.

b. Door Schedule. The door schedule shall show the size,

thickness, and design of each door with a cross reference to the applicable drawings. Fire doors and approved ratings shall be separately identified.

- c. Window Schedule. The window schedule shall show the size, thickness, and design of each window with a cross reference to the applicable drawings.
- d. Finishes. The finish schedule shall identify the material or type of floor, wall and ceiling finishes, including moulding or trim.

10-22. STRUCTURAL PLANS. The PHA shall submit plans which include complete structural information.

- a. Title. The structural drawings shall be titled, dated, and signed by a registered architect or engineer.
- b. Illustration. The structural plans shall show:
 - (1) general structural design notes such as live and dead loads, seismic zone, table of allowable stress and elasticity for all structural materials, limits of deflection-to-span ratio and other pertinent data;
 - (2) structural details as necessary to show connection of members, foundations, anchorage, and details of unusual or special structural features; and
 - (3) achievement of a level of safety against progressive collapse.

10-23. MECHANICAL PLANS. The PHA shall submit separate drawings for each mechanical system. Special mechanical systems such as solar heating and domestic hot water systems and vertical transportation systems shall be separately identified. Information provided in the construction specifications need not be duplicated on the mechanical drawings.

- a. Heating System. The drawings for the heating system shall show:
 - (1) location and size of boilers and furnaces, including the make, model number or type, and net output;

- (2) location and layout of supply and return ducts, including sizes, piping, risers, branches, and insulation;

- (3) location, size and output of radiators, registers, grills and panels, valves, vents, traps, dampers and other accessories, including the make, model number or type;
- (4) location and firing rate of all firing equipment and other system components such as controls, pumps, blowers, and filters, including the make, model number or type;
- (5) location of domestic water heating and related system components such as layout and size of piping, control equipment and safety devices, including the make, model number or type; and
- (6) system design data, such as outside design temperature, boiler operating temperature, pressure or temperature drops, pump or fan capacities, heat loss, system output, and heat load.

b. Plumbing System. The drawings for the plumbing system shall show:

- (1) horizontal sewer and drain system, including soil, waste and vent stacks; branch wastes and vents; drains, cleanouts, traps, and sump pumps; connections to sewer; sizes of all lines and stacks; diagram of typical stack;
- (2) cold water distribution system, size of mains and branches, location of hose bibs, valves and drains;
- (3) hot water distribution system, including circulating lines and pumps, valves, size of mains and branches; and
- (4) gas distribution system, including size of mains, branches, and meters.

c. Electrical System. The drawings for the electrical system shall show:

- (1) service lines, primary and secondary distribution, service characteristics and wire sizes;

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- (2) location and mounting of meters and panels;
- (3) interior distribution and wiring of typical dwelling

units;

- (4) lights, receptacles, switches, special purpose outlets and connections to all equipment if not shown on other plans; and
- (5) yard lighting and lighting of all public spaces within the project buildings and grounds.

d. Air Conditioning System. The drawings for the air conditioning system shall show:

- (1) the location and cooling capacity of individual cooling units, cooling tower, or compressor, including the make, model number, and rating;
- (2) the location and layout of supply and return ducts, including sizes, piping, insulation, valves, vents, dampers, and controls;
- (3) layout of electric wiring and location of motors, fans, pumps, switches, including load requirements; and
- (4) system design data such as load requirements, CFM space requirements, blower ratings, inlet and outlet water temperature and water flow rate in GPM.

10-24. CONSTRUCTION SPECIFICATIONS. The PHA shall submit three (3) sets of the construction specifications which define the scope of construction or rehabilitation and establish the quality of materials and workmanship. The construction specifications shall be consistent with the approved PHA proposal and, if applicable, approved design documents.

a. Format. The construction specifications, which may be written in "performance" or "prescriptive" language, shall include:

- (1) a cover sheet which identifies the project number, the community, and the name, address and telephone number of the PHA Executive Director, PHA architect or turnkey developer;
- (2) an index which identifies each division and section by title and page number, and for each trade a

- (3) the sixteen (16) divisions in conformance with the Uniform System for Construction Specifications; and
- (4) separate sections describing the work to be done by each of the applicable trades (including landscape work). This shall include descriptions of the "Scope of Work," "Workmanship," and "Materials" and the manufacturer, grade, or model designation of each item of equipment. The description shall also include any specific instructions for coordinating the work with other trades, as well as specific instructions and detailed descriptions of work not clearly evident from the drawings. Cash or lump sum provisions are not acceptable in the construction specifications, since this would limit the responsibility of the contractor to the amount allowed, rather than require completion of the item in question.

b. Content. The construction specifications shall set forth in detail and prescribe the work to be done, the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, electrical and site work. In addition, the construction specifications shall:

- (1) identify, if applicable two or three comparable products, since the use of comparables can substantially reduce the need for change orders. Building materials need not be specified by brand names and comparables when it is neither customary nor desirable to do so. When there are basic classifications and referenced test control data, materials so classified may be specified as meeting the industry accepted norm. For example, it is preferable to specify that asphalt for use in built-up roof coverings will comply with ASTM D-312 or FS SS-A-666 rather than to use the names of several manufacturers producing such materials.
- (2) avoid use of the words "or equal" and general references to the MPS, materials bulletins and releases.

10-25. CERTIFICATIONS. The PHA shall submit a copy of the PHA architect's or turnkey developer's certification which indicates that the following requirements have been met:

- a. HUD Standards. The project design, working drawings and

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construction specifications comply with all HUD design and

construction standards, including the MPS, the public housing program standards, environmental requirements, and requirements for accessibility and usability by the physically handicapped.

- b. Building Codes. The project design, working drawings and construction specifications comply with all applicable Federal, State and local laws, codes and ordinances, including any waivers granted by the appropriate local agency.
- c. Local Approval. All required approvals and agreements have been obtained from Federal (except HUD), State and local agencies having jurisdiction over the project. This includes, if applicable, agreements from local agencies that are providing funds, equipment and services in support of the public housing project such as:
 - (1) preventive health care facilities;
 - (2) central kitchen and dining facilities;
 - (3) child care facilities;
 - (4) commercial facilities;
 - (5) housekeeping services in congregate care facilities; and
 - (6) other social service programs.

10-26. WAGE REQUIREMENTS. Public housing construction contracts must provide for the payment of prevailing wages as determined by the Department of Labor pursuant to the Davis-Bacon Act. Since the Department of Labor wage determinations may be effective for only 120 calendar days from the date of issuance, the PHA architect or the turnkey developer shall identify the anticipated date for execution of the construction contract (conventional) or the contract of sale (turnkey). This date is critical for determining when the Area Office will request a wage determination from the Department of Labor in order that they are effective on the date of contract execution. In the meantime, informal advice may be obtained from the Cost Chief for purposes of developing project cost estimates.

10-27. PROJECT CONSTRUCTION COST ESTIMATE. The PHA shall submit the project cost estimate prepared by the PHA architect or turnkey developer in accordance with the following:

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- a. Form FHA 2328. The cost estimates for projects being

developed under the conventional or turnkey methods shall be submitted on the Contractor's and/or mortgagor's Cost Breakdown (Form FHA 2328). This is necessary for the Area Office determination of the project replacement cost.

- b. Form HUD 52396. For conventional projects, the PHA architect shall complete the Analysis of Proposed Main Construction Contract (Form HUD 52396) by transferring the applicable cost estimates from the Form FHA 2328 to Column 2 of the Form HUD 52396. If the PHA is required to award separate contracts for general construction and mechanical trades, a separate Form HUD 52396 shall be prepared for the work under each prime trade contract as well as a summary Form HUD 52396 for all construction work.
- c. Content. The cost estimate shall be projected to the anticipated contract execution date identified in the PHA project development schedule. Generally, the contract execution date for conventional projects should not exceed five (5) months and for turnkey projects should not exceed three (3) months from submission of the construction documents.

10-28. TURNKEY CONTRACT DOCUMENTS. The PHA, in preparation for the contract of sale conference, shall submit the following information for projects being developed under the turnkey method:

- a. Developer's Financing. A statement from the developer's lending institution indicating that the developer will be able to obtain construction financing for the proposed project, as well as the anticipated interest rate.
- b. Contract of Sale. The PHA shall prepare the proposed Contract of Sale (Form HUD 53015) and shall identify any proposed modifications to the Form HUD 53015.
- c. Development Cost Budget. The PHA shall prepare the proposed Development Cost Budget (Form HUD 52484) for the contract of sale stage in accordance with Chapter 3, Section 14. The Form HUD 52484 shall be based on the turnkey developer's construction document price and shall include all applicable PHA costs.
- d. PHA Insurance. The PHA shall prepare a statement indicating that it has or will obtain any required insurance pursuant to Chapter 3, Section 3.

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10-29. CONVENTIONAL BID DOCUMENTS. The PHA shall submit the bid

documents identified in this paragraph for projects being developed under the conventional method. The PHA and the PHA architect shall ensure that these documents comply with State and local laws, codes, and regulations governing the public solicitation of bids. Any modifications required to comply with local bidding requirements shall be discussed with the Area Counsel to ensure that such changes are not in conflict with Federal laws or regulations.

- a. Invitation for Bids. The invitation for bids shall be prepared in the form prescribed by the Area Office for public advertising and solicitation of bids.
- b. Instructions to Bidders. The Instructions to Bidders (Form HUD 5369) shall be used to inform interested contractors of the general bidding requirements, responsibilities of each party, and the factors to be considered in determining the successful bidder.
- c. Construction Contract. The construction contract shall be prepared in the form prescribed by the Area Office and shall include the General Conditions (Form HUD 5370). In preparing the construction contract, consideration shall be given to the following:
 - (1) Changes: Any changes in the General Conditions shall be made by appropriate amendment written into the Special Conditions. Since some provisions of the General Conditions reflect Federal statutes, Executive Orders or established HUD policy and must be incorporated verbatim and without qualifications, proposed modifications should be discussed with the Area Counsel before they are drafted. The PHA is responsible for recognizing a need for modification of the printed General Conditions and also for conforming the contract documents with State and local laws, codes, ordinances and regulations.
 - (2) Separate Construction Contracts: Main construction work shall be performed under a single construction contract unless otherwise approved by the Area Office. If the PHA proposes to obtain separate bids for

portions of the work, the request for Area Office approval should be accompanied by evidence that the proposed method is required by State law or that it is in the best interest of the development of the project. Under the laws of some States, public

works contracts must be made separately for general construction, mechanical, and other specific trades. The PHA shall determine whether local requirements of this type are applicable to its contracts and shall inform the Area Office of the basis of this determination. Where separate bidding is used, it is most important that the scope of work under each contract be clearly defined without gaps or overlapping of work specified in related contracts.

- (3) Project Completion Time: A realistic construction period should be determined for the contract. Such things as type of construction, project size and location, season and prospective weather conditions, availability of skilled labor and materials should be considered.
- (4) Liquidated Damages: A liquidated damages rate should be established which will reasonably approximate the loss which might be sustained by the PHA through failure of the contractor to complete the project on time. This includes loss of rental income, increased administrative costs, interest and carrying charges, and other expenses related to the period of delay in delivery of the project. An unreasonably high rate of liquidated damages may discourage bidders, may result in higher bids, and may be construed as a penalty. An unreasonably low rate may encourage late completions.
- (5) Wage Requirements: The Davis-Bacon wage rates determined by the Department of Labor and provided by the Area Office must be incorporated in the Special Conditions without modification. To avoid delay in preparation of the contract package, it is desirable to incorporate the wage rates by addendum. All documentation should be prepared so as to permit inclusion of the wage rates as soon as they are received.
- (6) Equipment: Equipment such as ranges, water heaters and refrigerators may be acquired through the HUD

Consolidated Supply Program, through separate contracts, or included in the main construction contract. Use of either of the first two methods is recommended. If dwelling equipment is not to be included in the main construction contract, the contract must include proper provision for

reception of the items and appropriate coordination clauses. If the equipment is purchased by methods other than the Consolidated Supply Program, the PHA should ensure that price and warranty are equivalent to that available through the Consolidated Supply Program.

- (7) Demolition: Whenever feasible, demolition work should be included in the main construction contract. If this is not done, the standard bidding documents may be used with minor modifications for demolition work. Since there may be salvage value, the form of bid should allow for the possibility of a sum being deducted (equal to the salvage value) from the amount to be paid to the contractor.

10-30. PHA REQUISITION. Upon approval of the construction documents, the PHA may incur additional financial obligations. If funds will be required, a Requisition for Funds (Form HUD 5402), a Request for Approval of Advances for Non-Permanently Financed Projects (Form HUD 5216), and a detailed justification should be submitted as part of the construction documents. The amount requisitioned should be sufficient to meet anticipated obligations within the first 90 days after approval.

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Section 3. Processing Control and Reports Unit Review

10-41. STANDARD PROCESSING TIME. The standard processing time (SPT) for the PCR Unit is three (3) calendar days from receipt of the construction documents by the PCR Unit to initiation of the Area Office staff reviews.

10-42. CONSTRUCTION DOCUMENT FILE. The original of all PHA construction documents (except rolled plans and specifications) and reviews shall be maintained by the PCR Unit in a project construction document file. The file shall include a copy of the PCR Supervisor's memorandum establishing the construction document receipt date, the construction document review date, and the names of the Divisions or Branches requested to review the construction documents. In addition, all completed review checklists and, if applicable, any accompanying memoranda shall be date stamped and retained in the project construction document file. The official file copy of rolled plans and specifications shall be retained by the AE Branch.

10-43. CONSTRUCTION DOCUMENT DISTRIBUTION. The construction documents

will normally be reviewed only by the Area Counsel and Branches within the Housing Division. The MHR, following initial screening, will advise the PCR Supervisor if any other reviews are required. The PCR Unit shall make copies of the construction documents, or parts thereof, for each reviewing Branch. The PCR Supervisor, within one (1) working day, shall send a form memorandum transmitting the construction documents and the applicable review checklist to each reviewer indicating:

- a. Construction Document Receipt Date. The date the construction documents were received by the PCR Unit.
- b. Construction Document Review Date. The date the review checklists, comments and recommendations are due in the PCR Unit from each Branch Chief.
- c. Staff Recommendations. If applicable, the Branch Chief's recommendations shall be accompanied by a memorandum which:
 - (1) if conditional approval is recommended, identifies all conditions that must be satisfied prior to the invitation for bids (conventional) or the contract of sale conference (turnkey); or

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- (2) if disapproval is recommended, identifies all reasons for disapproval and, if applicable, the action required before the construction documents would be reconsidered by the Branch.
 - d. Development Cost Budget. Each applicable Division Director or Branch Chief shall review the proposed Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. Each Branch Chief's recommendations concerning the Form HUD 52484 shall be sent directly to the Mortgage Credit Chief with a copy to the PCR Unit.
- 10-44. CONSTRUCTION DOCUMENT PROCESSING AND TRACKING. The PCR Unit shall monitor Area Office processing actions to determine that the reviews will be completed by the established construction document review date.
- a. Periodic Status. The PCR Supervisor shall contact each Branch Chief periodically to ensure that their review recommendations will be submitted by the construction document review date. The PCR Supervisor shall immediately notify the MHR of any missing information noted by the reviewers and any problems observed that would delay

completion of the Area Office review.

- b. Final Recommendations. The PCR Supervisor shall forward the completed review checklists, comments and recommendations to the MHR immediately upon receipt. The PCR Supervisor shall also advise the MHR of any reviewers that have not submitted their recommendations by the established construction document review date so that follow-up action may be initiated.

10-45 thru 10-50. RESERVED.

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Section 4. Legal Division Review

10-51. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Legal Division review of the construction documents is ten (10) calendar days from the construction document receipt date to submission of the Area Counsel's recommendations and completed review checklist to the PCR Supervisor.

10-52. CONVENTIONAL BID DOCUMENTS. The Area Counsel shall review the contract and bid documents submitted for projects being developed under the conventional method. The Area Counsel shall ensure that all statutory and legal requirements have been met and that the documents are acceptable for the PHA to invite construction bids.

10-53. TURNKEY CONTRACT OF SALE. The Area Counsel shall review the proposed contract of sale submitted for projects being developed under the turnkey method. The Area Counsel shall ensure that all statutory and legal requirements have been met and that the contract of sale is acceptable for execution by the PHA and the turnkey developer.

10-54. CERTIFICATIONS. The Area Counsel shall review the PHA architect's or turnkey developer's certification that the project complies with all HUD standards, building laws and that all local approvals have been obtained, to determine whether it is acceptable.

10-55 thru 10-60. RESERVED.

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10-41 thru 10-44

Section 5. Multifamily Housing Programs Branch Review

- 10-61. STANDARD PROCESSING TIME. The standard processing time (SPT) for the MHP Branch review of the construction documents is forty (40) calendar days from the construction document receipt date to preparation of a construction document approval (or disapproval) letter for the Housing Director's signature.
- 10-62. CONSTRUCTION DOCUMENT REVIEW. The MHR shall review the PHA submission within three (3) calendar days.
- a. Initial Screening. The construction documents shall be reviewed to determine whether all documentation required by Section 2 has been submitted by the PHA and whether the construction documents are generally consistent with the public housing program requirements, including any conditions or requirements established in the PHA proposal, site acquisition and design document approval letters.
 - b. Additional Reviewers. The MHR, based on the initial screening and advice from Housing Division Branch reviewers, shall advise the PCR Supervisor if any reviews outside of the Housing Division (e.g., Environmental Clearance Officer) are required.
 - c. Stop Technical Processing. The MHR shall advise the PCR Supervisor to notify all reviewers to stop technical processing if any significant omissions, problems or variations are detected during initial screening and shall prepare a letter advising the PHA of changes required prior to reconsideration by the Area Office.
- 10-63. WAGE REQUIREMENTS. The Area Office is responsible for furnishing Department of Labor wage determinations to the PHA. Since these determinations may expire or be modified, the following responsibilities and timing are crucial to successful project development.
- a. Responsibilities. The Labor Relations Staff is responsible for requesting a schedule of Davis-Bacon wage rates from the Department of Labor (see Labor Standards, All Programs, HUD Handbook 1340.3A). The MHR is responsible for advising the Labor Relations Staff to submit the Area Office request to the Department of Labor in time to support the PHA project development schedule.

b. Timing. Unless the PHA has requested an alternative time frame, the MHR's advice to the Labor Relations Staff shall be based on:

- (1) Turnkey: Turnkey projects should proceed quickly to final negotiation and contract of sale after approval of the construction documents. The MHR should request wage rates on an expedited basis upon receipt of the construction documents.
- (2) Conventional: Conventional projects will take considerably longer to begin construction than turnkey projects due to bidding and contract award requirements. Wage rates should be requested in time so that they may be included in the PHA's invitation for bids.
- (3) Status of Documents. The MHR should consult reviewers very early in the construction document review period to assess the extent of required modifications. If many changes will be required, the MHR should delay advising the Labor Relations Staff until most of the problems are resolved.

10-64. EVALUATION OF REVIEW COMMENTS. The MHR shall evaluate the recommendations and findings submitted by all reviewers to determine that there are no recommendations for disapproval or conflicting comments. The MHR shall, to the extent possible, reconcile any differences and shall prepare a summary of the review comments. This summary shall include a discussion of any recommended conditions for approval, reasons for disapproval, and recommendations of action to be taken to resolve any negative findings. Upon completion of this evaluation, the MHR shall prepare a letter for the Housing Director's signature notifying the PHA of construction document approval (paragraph 10-132a) or disapproval (paragraph 10-132b).

10-65 thru 10-70. RESERVED.

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Section 6. Assisted Housing Management Branch Review

10-71. STANDARD PROCESSING TIME. The AHM Branch will review the project at this stage only if no separate design document submission was made. The standard processing time (SPT)

for the AHM Branch review of the construction documents is ten (10) calendar days from the construction document receipt date to submission of the AHM Chief's recommendations are completed review checklist to the PCR Supervisor and the AE Chief.

10-72. WORKING DRAWINGS. The AHM Branch shall review the building floor plans, mechanical drawings and, if applicable, the basement plans. The AHM Chief, based on this review, shall determine whether the location, layout, and amount of maintenance, management, and community space is adequate and is consistent with the PHA proposal, including any changes identified in the Area Manager's PHA proposal approval letter.

10-73. PROJECT CHANGES. If applicable, the AHM Branch shall review any proposed changes in the utility combination, and any proposed changes in materials or equipment, to determine that they will not reduce efficiency and economy in PHA maintenance and operation over the life of the project.

10-74 thru 10-80. RESERVED.

10-51 thru 10-54

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Section 7. Architectural and Engineering Branch Review

10-81. STANDARD PROCESSING TIME. The standard processing time (SPT) for the AE Branch review Of the construction documents is twenty (20) calendar days from the construction document receipt date to submission of the AE Chief's recommendations and completed review checklist to the PCR Supervisor and the Cost Chief. The timely completion of this review is critical to permit consideration of the AE Branch recommendations and findings by the Cost Chief.

10-82. WORKING DRAWINGS. The design representative shall review the working drawing to determine that they are suitable for processing to the contract of sale (turnkey) or invitation for bids (conventional) and subsequent project construction or rehabilitation. In making this determination, the design representative shall ascertain that the working drawings are complete, that all conditions and mandatory requirements established at prior processing stages have been included and that the project will be developed in compliance with HUD design and construction requirements.

10-83. CONSTRUCTION SPECIFICATIONS. The design representative shall review the construction specifications to ensure that they

provide for all construction work, materials and equipment identified on the working drawings. For projects involving rehabilitation, the design representative shall ascertain that the specified work, materials and equipment are suitable for rehabilitating each dwelling unit and all non-dwelling spaces. In determining the adequacy of materials and equipment, consideration shall be given to the purchase price, installation cost, and maintenance cost upon completion of the project.

10-84. CONVENTIONAL BID DOCUMENTS. The design representative shall review the bid documents submitted for conventional projects to determine that they comply with the public housing program requirements and clearly identify all work to be done.

10-85. FORM FHA 2264. The design representative shall review the Rental Housing Project Income Analysis and Appraisal (Form FHA 2264) prepared at the design document stage to determine that the information identified in Sections A and B is still valid for the proposed project. The design representative shall prepare a new Form FHA 2264 (incorporating any approved changes) for use by the Cost Branch in updating the construction cost estimates.

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10-86. PHA ARCHITECT'S CONTRACT. The design representative shall review the work completed by the PHA architect to determine that it complies with the PHA architect's contract. If all work has been satisfactorily completed to this point, the AE Chief's recommendation shall indicate that the PHA is authorized to pay its architect the fee specified in the PHA architect's contract for the completed work.

10-87 thru 10-100. RESERVED.

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10-56 thru 10-60

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Section B. Cost Branch Review

10-101. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Cost Branch review of the construction documents

is twenty-five (25) calendar days from the construction document receipt date to submission of the Cost Chief's recommendations and completed review checklist to the PCR Supervisor and the Valuation Chief. The timely completion of this review is critical to permit consideration of the AE Branch and Cost Branch recommendations and findings by the Valuation Chief.

10-102. DWELLING CONSTRUCTION AND EQUIPMENT COST. For projects involving new construction, the Cost Branch shall review the estimates for dwelling construction and equipment to ensure that they do not exceed the adjusted base project prototype cost. This is determined as follows:

- a. Base Project Prototype Cost. The Cost Branch shall use the base project prototype cost developed when the Area Office request for proposals was prepared unless revisions were made pursuant to paragraph 7-83.
- b. Prototype Cost Adjustment Factor. The Cost Branch, using a commercial construction cost index (e.g., Boeckh or Marshall Swift), shall determine the actual changes in construction costs between the month of publication of the unit prototype cost (used to develop the base project prototype cost) and the scheduled month for execution of the construction contract or contract of sale. The base project prototype cost shall be multiplied by the prototype cost adjustment factor to determine the maximum amount that may be approved for dwelling construction and equipment at the contract award stage.
- c. Cost Limitation. Projects exceeding the adjusted base project prototype cost shall not be approved. However, if one of the conditions identified in paragraph 7-83c exists, consideration may be given to approving such projects provided that the cost is less than 110 percent of the adjusted base project prototype cost.

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10-103. PROJECT CONSTRUCTION COSTS (IMPROVEMENTS). For projects involving new construction or rehabilitation, the Cost Branch shall prepare an independent construction cost estimate for comparison with the Contractor and/or Mortgagor's Cost Breakdown (Form FHA 2328) as follows:

- a. Forms FHA 2325 and 2326. A Report of Cost Processing Work Sheet (Form PHA 2325) and a Project cost Estimate (Form FHA 2326) shall be prepared using the procedure

identified in Cost Estimation for Project Mortgage Insurance (HB 4450.1) and in the Multifamily Underwriting Reports and Forms Catalog (HB 4480.1). The cost estimates shall be projected to the contract execution date identified in the PHA submission.

- b. Form FHA 2264. The cost information developed on Forms FHA 2325 and 2326 shall be transferred to Section G of the revised Rental Housing Project Income Analysis and Appraisal (Form FHA 2264) which was originated by the AE Branch.

10-104. TURNKEY DEVELOPER'S PRICE. The Cost Branch shall prepare an analysis of the turnkey developer's price for use by the Valuation Chief.

- a. Developer Delays. If applicable, the Cost Branch shall determine the extent (number of months) of any delays that were caused by the turnkey developer.
- b. Adjusted Developer's Price. The Cost Branch shall prepare an independent update of the developer's turnkey proposal price as follows:
 - (1) determine the actual change in construction cost between the deadline date specified in the RFP for the applicable turnkey proposal and the construction document receipt date;
 - (2) multiply the average monthly change by the number of months from the construction document receipt date to the anticipated date of execution of the contract of sale;
 - (3) if applicable, multiply the monthly change in construction costs by the number of months resulting from developer caused delays; and

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- (4) multiply the developer's turnkey proposal price by the cost adjustment factor (excluding developer caused delays) for each item of the developer's price except site (property) and interest during construction.

10-105. TOTAL DEVELOPMENT COST. For projects involving rehabilitation, the Cost Branch shall review the TDC previously provided to the Valuation Branch. If applicable, a revised estimate shall be

prepared in accordance with paragraph 7-85.

10-106 thru 10-110. RESERVED.

10-63 thru 10-68

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Section 9. Valuation Branch Review

10-111. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Valuation Branch review of the construction documents is thirty (30) calendar days from the construction document receipt date to submission of the Valuation Chief's recommendations and completed review checklist to the PCR Supervisor and the Mortgage Credit Chief.

10-112. PROJECT REPLACEMENT COST. The Valuation Branch shall complete Section G (lines 51 thru 74, excluding lines 56 thru 59 which apply to mortgage insurance programs) of the revised Rental Housing Project Income Analysis and Appraisal (Form FHA 2264) transmitted by the Cost Branch and shall determine if the project construction costs are reasonable. The cost estimates shall be projected to the contract execution date identified in the PHA submission.

a. Conventional Projects. The lower of the following is the maximum project cost amount that can be approved:

- (1) the PHA architect's cost estimates; or
- (2) the project replacement cost identified on Form FHA 2264.

b. Turnkey Projects. The lower of the following is the maximum project cost amount that can be approved:

- (1) the revised developer's price submitted by the turnkey developer with the construction documents;
- (2) the developer's turnkey proposal price as updated by the Cost Branch (paragraph 10-104); or
- (3) the project replacement cost identified on Form FHA 2264.

c. Cost Revisions. If the Area Office cost limitation is the lower amount, the Valuation Chief shall promptly notify the designated MHR to schedule a meeting with the PHA and the PHA architect or turnkey developer. The purpose of this meeting is to discuss cost differences in detail to

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ensure that there is no misunderstanding of the work identified in the construction documents on which the cost estimates are based. If applicable, a revised Form FHA 2264 shall be prepared based on agreements reached at the meeting.

10-113. TOTAL DEVELOPMENT COST. The Valuation Branch shall review the TDC (including relocation costs) for a project involving rehabilitation to determine that it does not exceed ninety (90) percent of the Cost Branch estimate for a comparable newly constructed project (paragraph 10-105).

10-114 thru 10-120. RESERVED.

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Section 10. Mortgage Credit Branch Review

10-121. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Mortgage Credit Branch review of the construction documents is thirty-five (35) calendar days from the construction document receipt date to submission of the Mortgage Credit Chief's recommendations and completed review checklist to the PCR Supervisor.

10-122. TURNKEY DEVELOPER CAPABILITY. The Mortgage Credit Branch shall review the submission of evidence that the turnkey developer will be able to finance the completion of the improvements to ensure that it is acceptable.

10-123. DEVELOPMENT COST BUDGET. The Mortgage Credit Branch shall review the Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. The financial analyst shall determine whether any differences in the various accounts between the design document budget and the construction document budget are reasonable. If there is a major difference for any account, the PHA justification shall be reviewed and, if necessary, discussed with the reviewing Division or Branch responsible for the cost item in question. Upon completion of the Area Office review, the Mortgage Credit Chief shall conform the Form HUD 52484 to reflect the Area Office staff

recommendations.

10-124. PHA REQUISITION FOR FUNDS. The Mortgage Credit Branch shall review any PHA submission of Forms HUD 5216 and HUD 5402 and related documentation pursuant to Chapter 7, Section 11. In consultation with other reviewers, as necessary, the Mortgage Credit Branch shall ensure that the amounts requested are properly justified by the PHA and are reasonable for the ninety (90) day period. Following approval, the requisition documents shall be distributed pursuant to paragraph 7-115.

10-125 thru 10-130. RESERVED.

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Section 11. Construction Document Approval

10-131. STANDARD PROCESSING TIME. The standard processing time (SPT) for the Housing Director's approval of the construction documents is forty-five (45) calendar days from the construction document receipt date to dispatch of the Housing Director's letter to the PHA.

10-132. PHA NOTIFICATION. The MHR, upon completing an evaluation of the Area Office review recommendations, shall prepare a letter for the Housing Director's signature notifying the PHA of the Area Office decision:

- a. Construction Document Approval Letter. A construction document approval letter shall state:
 - (1) for all development methods,
 - (a) the project number, the number of units, the housing type and household type and the development method;
 - (b) the estimated date by which the Davis-Bacon wage rates requested from the Department of Labor will be available; and
 - (c) any conditions that must be satisfied and approved by the Area Office prior to the invitation for bids (conventional) or execution of the contract of sale (turnkey);
 - (2) for conventional projects if no conditions or modifications are required,
 - (a) authorize the PHA to publish the invitation

for bids upon receipt of the Davis-Bacon wage rates; and

- (b) authorize the PHA to pay the PHA architect for completed work;
- (3) for turnkey projects if no conditions or modifications are required,
- (a) notify the PHA to arrange a date with the turnkey developer, that is within three (3) weeks of the date of the Housing Director's

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letter, for a contract of sale conference to be held in the Area Office; and

- (b) transmit a copy of the proposed contract of sale and the Development Cost Budget (Form HUD 52484), with an explanation of any changes made by the Area Office.

b. Construction Document Disapproval Letter. A construction document disapproval letter shall:

- (1) identify the project number, the number of units, housing type, household type, and development method;
- (2) state the reasons for disapproval and list required changes;
- (3) advise the PHA that revised construction documents will be considered if resubmitted within thirty (30) calendar days of the Housing Director's letter;
- (4) advise the PHA to submit, within thirty (30) calendar days of the Housing Director's letter, a Development Cost Budget (Form HUD 52484) identifying the actual costs incurred for the project as of the date of the Housing Director's letter; and
- (5) notify the PHA that the project will be terminated if revised construction documents are not received by the deadline date, and that in the event of such termination the funds (excluding actual costs identified by the PHA before the thirty (30) day deadline date) are withdrawn.

10-133. PROJECT TERMINATION. The PCR Unit, upon receipt of the PHA Development Cost Budget (Form HUD 52484) or thirty (30) days from the date of the Housing Director's letter, shall notify the MHR. The MHR, in conjunction with the Mortgage Credit Chief, shall review the Form HUD 52484 and request the PCR Supervisor to prepare a Project Accounting Data (Form HUD 52540) indicating that the project is being terminated and prepare a letter to the PHA for the Area Manager's signature indicating that the funds have been withdrawn and that an amended ACC is being prepared to reflect actual costs incurred by the PHA. Upon receipt of the Area Manager's letter and RAD confirmation, the PCR Supervisor shall dispatch the letter and notify the MHP Chief so that processing may be started for pipeline applications.

CHAPTER 11. CONTRACT EXECUTION AND AWARD

Section 1. Introduction

- 11-1. APPLICABILITY. This chapter establishes the requirements for PHA execution and award of contracts for the construction or rehabilitation of public housing projects. These requirements apply to projects involving rehabilitation or new construction under either the conventional or turnkey method but do not apply to the acquisition method. Section 2 applies to projects being developed under the conventional method and establishes the requirements for inviting and evaluating construction bids and PHA execution of the construction contract. Section 3 applies to projects being developed under the turnkey method and establishes the requirements for a contract of sale conference and PHA execution of the contract of sale.
- 11-2. STANDARD PROCESSING TIME. The standard processing time (SPT) for PHA submission and a decision by the Field Office on the contract award documents is as follows: (See Chapter 3, Section 12 for statutory time-frame requirements). *
- a. PHA Submission. The SPT for PHA submission of the contract award documents is the number of calendar days from the date of the Housing Director's construction document approval letter to receipt of the contract award documents by the Field Office.
- (1) Conventional Method. The SPT for projects being developed under the conventional method is sixty (60) days and includes the time for inviting and evaluating bids as well as the PHA preparation and submission of the contract award documents.
- (2) Turnkey Method. The SPT for projects being developed under the turnkey method is thirty (30) days.
- b. Field Office Review. The SPT for Field Office review and decision on the contract award documents is fifteen (15) calendar days from receipt of the contract award documents by the PCR Unit to the date of the Housing Director's letter authorizing the PHA to execute the construction contract (conventional) or the contract of sale (turnkey).
- 11-3. CONTRACT RESPONSIBILITIES. The PHA is responsible for entering into the construction contract (conventional) or the contract of sale (turnkey) and for enforcing the provisions of such contracts to ensure retention of its contract rights. The Field Office is responsible for reviewing and approving
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PHA execution of the contract to ensure compliance with Federal laws and requirements and protection of the Federal Government and PHA interest. The PHA shall not execute the construction contract or contract of sale until written authorization is obtained from the Area Office.

11-4 thru 11-10. RESERVED.

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Section 2. Conventional Method Bids and Contract Award.

11-11. GENERAL. This section establishes the requirements for inviting and evaluating bids for projects involving new construction or rehabilitation under the conventional bid method. In addition, this section establishes the requirements for PHA submission of the contract award documents for Field Office review and approval.

11-12. INVITATION FOR BIDS. The PHA shall publish an invitation for construction bids upon receipt of the Housing Development Division Director's construction document approval letter but only if a copy of the Department of Labor wage rates is attached. Otherwise, the PHA shall publish the invitation immediately upon receipt of the Housing Director's letter transmitting the wage rates.

a. Bid Package. The PHA shall prepare a standard bid package. Each copy of the bid package shall be numbered sequentially for control purposes. A copy of the bid package shall be sent to the Field Office and a copy of the complete bid package shall be provided to each bidder whether or not bids are being invited for a single construction contract or separate trades (e.g., plumbing, electrical, mechanical) contracts. The standard bid package shall consist of the following:

- (1) the PHA invitation for bids, including the day, time, and place that bids will be opened.
- (2) Form HUD 5369, Instructions to Bidders;
- (3) Form HUD 5370, General Conditions;

* (4) Form HUD 2530, Previous Participation Certificate; *

- (5) the bound construction specifications and working drawings;
 - (6) the Department of Labor determination of Davis-Bacon wage rates; and
 - (7) the bid form.
- b. Publication. The PHA shall give full opportunity for open and competitive bidding by publishing the invitation for bids at least once a week for two consecutive weeks in local newspapers and trade journals. A copy of the invitation for bids shall be provided

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to minority media, local community based groups, the local association of minority contractors and businesses meeting the criteria of 24 CFR 135, Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects. The PHA shall also extend an invitation to contractors who have previously expressed an interest to participate in the housing programs to the PHA or the Field Office.

- c. Bid Period. The PHA shall establish a deadline date for acceptance of construction bids which allows sufficient time for bidders to evaluate the bid package, estimate project construction costs, and submit their bids to the PHA. The bid period shall be for the number of days required by State or local law. Furthermore, for projects being developed under a single construction contract, the bid period shall be at least thirty (30) calendar days from the date of publication of the initial invitation for bids. However, if an addendum is issued within seven (7) calendar days of the deadline date, the bid opening shall be postponed for at least seven (7) calendar days from the date of the addendum.
- d. Deposit. The PHA shall require a deposit in an amount that is based on local practice. The amount of the deposit should at least be sufficient to off-set the cost of reproducing a copy of the bid package. A deposit is not required for bid packages issued to a builder's exchange or similar building service organization. All deposit checks or drafts shall be made payable to the PHA.
- e. Alternate Bids. The PHA is not authorized to request alternate bids without the prior approval of the Field Office. This includes requesting alternate bids for major project components (e.g., two different structural systems), "deductive alternatives" or a "base bid with add-ons" but does not include alternate materials and equipment to the extent provided in the construction specifications.

Field Office approval of requests for alternate bids will be limited to those items where the relative advantage and comparative costs of the alternatives are difficult to determine without going to the competitive bidding process.

- f. Addendum to Bid Package. Changes to the standard bid package shall be issued by the PHA in the form of an addendum. The PHA shall not interpret the meaning of bid documents except by addendum. Each addendum shall be numbered sequentially and a copy provided to each bidder of record.

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to each place where bidding documents are on file and to the Area Office. The addendum shall also specify, if applicable, the revised deadline date for submission of bids.

- g. Control Record. The PHA shall maintain, or authorize the PHA architect to maintain, a record of all bidding documents. This record shall identify the following for each individual or firm that requested a bid package:

- (1) the bid package control number;
- (2) the name and address of the individual or firm;
- (3) if applicable, the number of the addendum and date sent,
- (4) the amount of deposit and the date received, including the return or forfeiture of the deposit;
- (5) the date and time the bid was received; and
- (6) the date the individual or firm was notified as to the successful low bidder.

11-13. BID OPENING. The PHA shall not open the bids until the date and time specified in the invitation for bids. Upon receipt of each bid (including late bids), the PHA shall mark the date and time on the envelope. The bids shall be opened in public and read aloud at the specified time and place. Any bids received after the date and time specified in the invitation for bids shall not be opened and shall be returned to the bidder with a letter indicating that the bid was not received by the specified deadline.

11-14. BID REJECTION OR WITHDRAWAL. The PHA, after the public opening,

shall not reject or disqualify the lowest bidder or allow any bidder to withdraw a bid without the prior written approval of the Area Office.

a. Withdrawal. If a bidder seeks to withdraw a bid before the end of the bid holding period or the execution date of the construction contract, whichever is earlier, the PHA shall submit the following for review and approval by the Area Office:

- (1) a notarized statement from the bidder indicating that an error was made with an explanation of how it occurred;

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- (2) a copy of the bidders cost estimating worksheets or other evidence provided by the bidder in support of the withdrawal request;
- (3) a legal opinion prepared by the PHA's attorney indicating whether or not the bidder is bound by the bid; and
- (4) a letter from the PHA recommending Area Office approval or disapproval, including the reasons, of the withdrawal request.

b. Rejection. The lowest bid shall not be rejected unless the PHA can demonstrate that the bidder should be disqualified. If the PHA proposes to reject the lowest bidder, the PHA shall notify the bidder of the reasons and provide the bidder an opportunity to submit supporting evidence as to why the bid should not be rejected. The PHA shall submit the following for review and approval by the Area Office:

- (1) a copy of the PHA letter advising the bidder of the reasons that the bid is being rejected;
- (2) a written statement from the bidder explaining why the bid should not be rejected by the PHA; and
- (3) a letter from the PHA recommending Area Office approval or disapprovals including a discussion of any statements made by the bidder, the amount of the bid and the amount of the next lowest bid.

c. Bidder Notification. Upon receipt of the Area Office decision, the PHA shall notify the bidder as to whether or not the withdrawal request has been approved or disapproved or whether or not the bid has been rejected. If

authorized by the Area Office, the PHA shall also return the bid guarantee to the bidder.

11-15. REJECTION OF ALL BIDS. The PHA may recommend, because of the high bids received or other justifiable causes, to reject all bids. In such cases, the PHA shall consult with the Area Office and obtain written authorization before rejecting the bids.

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- a. Reasons for Rejection. The PHA, PHA architect and Area Office staff shall review the bids received to determine the reason that the construction contract cannot be awarded. The purpose of this review is to ascertain that;
- (1) the bid amounts for dwelling construction and equipment exceed the project prototype cost limit;
 - (2) the estimated project construction costs exceed the project replacement cost limit;
 - (3) the project is overdesigned;
 - (4) the bids are unreasonably high due to unusual circumstances affecting construction in the housing market area; or
 - (5) the award cannot be made for other causes that are identified.
- b. HUD Cost Limits. If it is determined that the project prototype cost limit or project replacement cost limit are incorrect, the Area Office shall take prompt action to make any necessary corrections prior to the expiration of the bid-holding period.
- c. Overdesign. If it is determined that the high bids are due to project overdesign, the PHA, PHA architect, and the Area Office staff shall identify design modifications that would likely result in lower bids. The PHA will be required to submit revised construction documents for Area Office approval pursuant to Chapter 10. The PHA architect shall be held responsible for making any design modifications pursuant to the terms of the PHA architect's contract.
- d. Invitation for Bids. Upon approval of the revised construction documents by the Area Office (Chapter 10), the PHA shall be authorized to issue a subsequent

invitation for bids pursuant to this chapter.

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- 11-16. PHA SUBMISSION OF CONTRACT AWARD DOCUMENTS. The PHA, after the bid opening, shall submit the following documents as well as any other pertinent information for Area Office review and approval of the contract award:
- a. Bid Tabulation. The bid tabulation shall identify the following for each bid received by the PHA:
 - (1) the name and address of the bidder;
 - (2) the amount of the bid; and
 - (3) the amount and type of bid guarantee.
 - b. Proposed Bid. A copy of the bid (if applicable, a copy of the non-collusive affidavit) that the PHA proposes to accept shall be submitted. The PHA's submission shall be accompanied by the following, if applicable:
 - (1) if the PHA proposes to accept other than the lowest bid, a copy of the PHA's letters and contractor's statement pursuant to paragraph 11-14b; or
 - (2) if the lowest bid is irregular but the PHA nevertheless proposes to accept it, a PHA statement identifying the irregularity of the bid and setting forth the PHA reasons for not disqualifying the bid. The PHA statement shall be accompanied by an opinion from its attorney that the irregular bid may be accepted under state law.
 - c. PHA Resolution. A certified copy of the PHA resolution shall be submitted which authorizes PHA award of the construction contract after Area Office approval.
 - d. Development Cost Budget. The PHA shall submit a Development Cost Budget (Form HUD 52484) in accordance with the requirements of Chapter 3, Section 14. The Form HUD 52484 shall be based on the Analysis of Proposed Main Construction Contract (Form HUD 52396). A copy of the Form HUD 52396 shall accompany the PHA submission. If the PHA is required to award separate contracts for general construction and mechanical trades, a separate Form HUD 52396 shall be prepared for the work under each trade contract as well as a summary Form HUD 52396 for all construction work.

- e. PHA Insurance. The PHA shall submit a certification that it has (or will have upon Field Office approval of the contract award) the PHA insurance required by Chapter 3, Section 3.

11-17. FIELD OFFICE REVIEW OF CONTRACT AWARD DOCUMENTS. The Field Office staff shall review the contract award documents in accordance with the procedures established in this paragraph.

- a. Standard Processing Time. The standard processing time for Field Office staff reviews is ten (10) calendar days from the date the contract award documents are received by the PCR Unit to submission of the Branch Chief's recommendations and completed review checklist to the PCR Supervisor.

- b. General. The contract award documents will normally be reviewed only by the Branches within the Housing Division. However, any potential legal problems or questions shall be submitted to the

* Field Counsel for review (e.g., the PHA must own the site before contract award). The applicable Branch Chiefs shall review the* proposed Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. The Branch Chief's recommendations concerning the Form HUD 52484 shall be sent directly to the Mortgage Credit Chief within five (5) working days with a copy to the PCR Unit.

- c. PCR Unit. The PCR unit within one (1) working day shall:

- (1) make copies of the contract award documents and transmit them to each reviewing Branch indicating the contract award document review date; and

* (2) initiate Previous Participation clearance in accordance with Chapter 3, Section 5. *

- d. AE Review. The design representative shall review the contract award documents to ascertain that the bid which the PHA proposes to accept is:

- (1) the lowest bid or, if not the lowest bid, that the PHA supporting documentation is acceptable; and

- (2) consistent with the PHA invitation for bids and bid package previously approved by the Field Office.

- e. Cost Review. The cost analyst shall review the contract award documents to ascertain that:

- (1) the amounts shown on the Analysis of Proposed Main Construction Contract (Form HUD 52396) are correct and are consistent with the bid amounts; and

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- * (2) the bid amount will not result in costs in excess of the cost limits authorized under 24 CFR 941.406; If costs cannot be reduced to an amount approvable by the Field Office, the project must be referred to the Regional Office. *

f. Valuation Branch. The Valuation Branch shall review the contract award documents to ascertain that the project construction cost does not exceed the current project replacement cost identified on Rental Housing Project Income Analysis and Appraisal (Form HUD 92264) as adjusted to reflect actual changes in construction costs to the proposed contract execution date.

g. Mortgage Credit. The Mortgage Credit Branch shall review the Development Cost Budget (Form HUD 52484) in accordance with Chapter 3, Section 14. The financial analyst shall ascertain that the amount for the various accounts are consistent with the applicable amounts identified in the lowest bid.

h. MHP Branch. The MHR shall evaluate the recommendations and findings submitted by all reviewers to determine that there are no recommendations for disapproval. The MHR within fifteen (15) calendar days of the contract award documents receipt date shall prepare a letter for the Housing Director's signature which:

- (1) authorizes the PHA to award the construction contract; requests the PHA to schedule a date, time, and place for the construction conference; and transmits a copy of the approved Development Cost Budget (Form HUD 52484); or
- (2) notifies the PHA that the proposed contract award is not approved, including an explanation of the reasons and, if applicable, actions to be taken by the PHA before the Field Office would reconsider the contract award documents.

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11-18. PHA CONTRACT AWARD. Upon receipt of the Housing Director's letter authorizing award of the construction contract, the PHA shall contact the successful bidder (if separate trade contracts are to be executed, the PHA shall contact each successful bidder) to schedule a date for execution of the construction contract.

- a. Contractor Notification. The PHA shall send a registered letter to the successful bidder indicating:
 - (1) the date, time and place scheduled for PHA and contractor execution of the construction contract;
 - (2) the contractor must provide a performance and payment bond (or other assurance) in the amount identified in the PHA's Instruction to Bidders (Form HUD-5369); and
 - (3) the bond shall bear the same date or a date subsequent to the date of execution of the construction contract and shall be accompanied by a properly executed power of attorney.
- b. Contract Execution. The PHA, prior to executing the construction contract, shall ensure that the performance and payment bond (or other assurances) meets the requirements of the Instructions to Bidders (Form HUD-5369). The PHA shall prepare four original sets of the contract documents (i.e., construction contract, bound construction specifications, bound working drawings, and any addenda). The PHA and contractor (including trade contractors if separate construction contracts are to be executed) shall sign the first and last page of the four sets of construction specifications, working drawings and any applicable addenda. If separate trade contracts are to be executed, each trade contractor shall also be required to sign the first and last page of the applicable trade division of the construction specifications.
- c. Distribution of Executed Documents. The PHA shall retain one original copy of the performance and payment bond, power of attorney, and the contract documents for its files. Two copies shall be sent to the Area Office and the contractor's copy retained for attachment to the PHA's notice to proceed.

- d. Department of Labor Notification. Within ten (10) calendar days of contract award (including subcontracts) for each construction contract of \$10,000 or more, the AE Chief shall send a notice of contract award to the Regional Office of

Federal Contract Compliance Programs of the Department of Labor. This notification is required by Executive Order 11246 and shall include:

- (1) the name, address, and telephone number of the contractor;
 - (2) the employer identification number;
 - (3) the dollar amount of the contract;
 - (4) the estimated construction start and completion dates; and
 - (5) the project number and community in which the project is being built.
- e. Construction Conference. The PHA shall schedule a date (within ten calendar days from the date of contract execution) for a construction conference (Paragraph 12-2) to be held in the Area Office. The PHA in scheduling the construction conference shall consult with the PHA architect, the contractor, and the AE Chief to arrange a date that is acceptable to all parties.
- f. Notice to Proceed. The PHA shall prepare two original copies of the notice to proceed to be issued to the contractor, together with the contractor's set of the executed contract documents, at the construction conference. The notice to proceed is the official PHA order directing the contractor to start work on the project. The contractor shall be requested to sign the notice to proceed, designating receipt and acceptance, and return one signed original to the PHA.

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Section 3. Turnkey Method Contract Award

11-26. GENERAL. This section establishes the requirements for executing the contract of sale for projects involving new construction or rehabilitation under the turnkey method.

11-27. CONTRACT OF SALE CONFERENCE. A contract of sale conference will be held in the Area Office on the date arranged by the PHA to execute the contract of sale. The MHR shall coordinate the meeting and lead the discussion. The PHA Executive Director, or designee, and the turnkey developer and the developer's representatives (e.g., architect, attorney, cost estimator) shall attend the meeting. A representative designated by each Branch

Chief in the Housing Division -- Valuation, Cost, AE, and Mortgage Credit -- the Area Counsel and FHEO Director shall attend to represent their technical areas.

11-28. CONTRACT OF SALE. The Area Office representatives shall discuss the content and requirements (including modifications) of the Contract of Sale (Form HUD-53015) transmitted by the Housing Director's construction document approval letter.

- a. Construction Documents. The approved construction documents (i.e., working drawings, construction specifications, and any addenda approved by the Area Office) shall be incorporated into the contract of sale.
- b. Davis-Bacon Wages. A copy of the Davis-Bacon wage rates issued by the Department of Labor shall be incorporated into the contract of sale.
- c. Developer's Price. The developer's price to be included in the contract of sale shall be the amount determined pursuant to paragraph 10-112. This amount shall be adjusted to reflect any changes (increases or decreases) that would affect the developer's price submitted with the construction documents provided that the adjusted turnkey developer's price does not exceed the project replacement cost determined by the Area Office or that the adjusted developer's amount for dwelling construction and equipment cost does not exceed the project prototype cost limit. The final developer's price shall be adjusted to reflect the:

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- * (1) developer's actual cost of money for construction financing; and *
- (2) developer's project construction costs (except construction financing and site or property acquisition) based on actual changes in construction costs between the construction document receipt date and the actual contract of sale execution date, rather than the projected costs developed in accordance with paragraph 10-98 provided that any delays were not caused by the developer.
- d. Contract Execution. The PHA and turnkey developer shall execute four copies of the contract of Sale (Form HUD 53015). The Housing Director shall indicate HUD approval by signing in the designated space. A copy of the executed contract of sale shall be provided to the PHA, the turnkey developer, and the turnkey developers lender. One copy of

the executed contract shall be sent to the PCR Unit for the project construction document file.

- e. Department of Labor Notification. within ten (10) calendar days of contract award (including subcontracts) for each construction contract of \$10,000 or more, the AE&C Chief shall send a notice of contract award to the Regional office of Federal Contract Compliance Programs of the Department of Labor. This notification is required by Executive Order 11246 and shall include:
- (1) the name, address, and telephone number of the contractor;
 - (2) the employer identification number;
 - (3) the dollar amount of the contract;
 - (4) the estimated construction start and completion dates; and
 - (5) the project number and community in which the project is being built.
- f. Construction Conference. All parties shall agree to a date and time for a construction conference (paragraph 12-2) to be held in the Field Office. The scheduled date shall be no later than ten (10) calendar days from the date of execution of the contract of sale.

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11-29. PHA ANNOUNCEMENT. Upon receipt of the executed contract of sale, the PHA shall prepare a public announcement of the award. The announcement shall identify the turnkey developer, the street location and the total price for the project, and shall be published in the same newspapers in which the PHA request for proposals was published.

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CHAPTER 12. PROJECT CONSTRUCTION AND COMPLETION

Section 1. Introduction

- 12-1. GENERAL. This chapter establishes the procedures for PHA administration of the construction contract and the contract of sale, inspections during construction, acceptance of the construction work, and settlement upon project completion. If assistance is required, the PHA should contact the AE Chief or the designated construction analyst who will provide guidance and assistance to the PHA. Except where otherwise specified, the following terms are used throughout this chapter:
- a. Contract. This term refers to the construction contract (conventional) or the contract of sale (turnkey).
 - b. Contractor. This term refers to the general contractor (conventional) or the developer (turnkey).
 - c. Construction. This term refers to new construction and rehabilitation.
- 12-2. CONSTRUCTION CONFERENCE. A construction conference will be held within ten (10) calendar days of execution of the contract by the PHA and the contractor to discuss the public housing program construction requirements. This is necessary to provide for the timely construction of the proposed project by eliminating any misunderstanding of the program regulations and procedures, contract requirements, and the responsibilities of the PHA, the PHA architect, the contractor, and the Area Office.
- a. Participants. The AE Chief will coordinate the meeting and will lead the discussion. The designated construction analyst and representatives from the Labor Relations Staff and the FHEO Division shall attend to discuss and answer questions concerning their technical requirements. The MHR shall also attend the meeting. The PHA Executive Director, or designee, the PHA architect, and the contractor and any subcontractors shall also attend the meeting.
 - b. Discussion Items. The PHA may submit a list of specific discussion items (including items identified by the contractor) to the construction analyst prior to the date scheduled for the construction conference. In addition to the items identified by the PHA, the following should be discussed:

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- (1) the content and requirements of the contract;
 - (2) the project construction and completion requirements identified in this chapter;
 - (3) the PHA and contractor insurance requirements identified in Chapter 3 (Section 3);
 - (4) the FHEO requirements identified in Chapter 3 (Section 4);
 - (5) the prevailing wage rate requirements identified in Chapter 3 (Section 2); and
 - (6) the need for the PHA to promptly notify the construction analyst of any problems being encountered so that assistance may be provided by the Area Office staff to keep project construction on schedule.

- c. Minutes of Meeting. The construction analyst, immediately following the construction conference, shall prepare a summary of the items discussed at the meeting. A copy of this summary shall be sent to each of the Area Office participants and to the PHA.

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Section 2. Contract Administration

12-11. PUBLIC HOUSING AGENCY. The PHA pursuant to the ACC is responsible for enforcing the PHA architect's contract and the construction contract or contract of sale and for ensuring retention of all contractual rights.

- a. Contracting Officer. The PHA shall designate an employee as its contracting officer. The scope and limitation of the contracting officer's responsibility shall be identified in writing and copies shall be provided to the PHA architect and the contractor.
- b. Contract Administrator. The PHA shall designate a qualified professional to administer the contract. Unless otherwise authorized by the Area Office, the PHA architect will be designated as the contract administrator.

- c. Start of Work. The PHA shall advise the AE Chief in writing of the date that construction work begins. The PHA letter shall also indicate for conventional projects that the evidence of insurance (Chapter 3, Section 3) has been received by the PHA and is in compliance with the construction contract.
- d. Reports. The PHA shall obtain the reports and construction documents required by the contract and this chapter from the PHA architect and contractor. A copy of these reports will be retained by the PHA and, as required, a copy will be sent to the AE Chief.
- e. HUD Construction Forms. The PHA shall maintain a supply of required HUD Forms for use by the PHA, the PHA architect, and the contractor. An initial supply of HUD Forms will be provided by the Area Office upon approval of the contract (paragraph 12-13).
- f. Construction Progress Meetings. The PHA Executive Director shall meet with the PHA architect and the contractor on a monthly basis. These meetings will be held to discuss the progress of construction work, any problems or deficiencies noted during inspection visits, overdue reports and the construction schedule. The PHA shall prepare a written record of the items discussed at each meeting and a copy shall be placed in the PHA project construction file.

- g. Correction of Deficiencies. The PHA, upon being notified by the PHA architect or the Area Office construction analyst of construction deficiencies, shall promptly notify the contractor in writing of the deficiencies observed. This notification shall also advise the contractor that failure to make timely corrections would be an infraction of the contract and that the contractor is liable for any resulting losses or delays.
- 12-12. PHA ARCHITECT. The PHA architect is responsible for ensuring that the project is constructed in accordance with the construction documents approved by the Area Office, as well as applicable State and local requirements.
- a. Basic Services. The PHA architect, as an agent of the PHA, is responsible for providing the services identified in the PHA architect's contract such as:
 - (1) making periodic site visits to determine the quality

and progress of work and compliance with the contract;

- (2) advising the PHA of any deficiencies noted and preparing a notification to the contractor to correct such work;
- (3) preparing applicable change orders (conventional) to the contract and submitting change orders to the PHA for Area Office approval;
- (4) for conventional projects, reviewing the contractor's schedule for construction contract payments and recommending payments to be made by the PHA in accordance with the contract; and
- (5) participating in the final inspection, identifying punch list items and amounts to be withheld until such work is corrected, and signing the project completion documents.

b. Additional Services. The PHA architect's contract may require the architect to employ representatives to provide daily on-site supervision of work in progress. This generally will be limited to projects with more than fifty (50) units. In such instances, the number of on-site inspectors specified in the PHA architect's contract shall not exceed the following:

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- (1) Projects of fifty (50) to one hundred (100) units: one full-time inspector for the entire contract period; or
- (2) Projects of more than one hundred (100) units: one full-time "clerk of the works" for the entire contract period and one full-time inspector for one-half of the contract period.

c. Reports. The PHA architect shall prepare and promptly submit the following reports to the PHA:

- (1) Deficiencies: a written report of any deficiencies or disputes that the PHA architect brought to the contractor's attention but which the contractor has not corrected or has refused to correct; and
- (2) Construction Report: a Construction Report (Form HUD 5378) shall be prepared on the first and sixteenth day of each month during the construction period -- from the date of contract execution to final inspection.

12-13. AREA OFFICE. The Area Office is responsible for ensuring that the PHA, in accordance with the terms of the ACC, is enforcing the PHA architect's contract and the construction contract or contract of sale, including the construction documents approved by the Area Office.

a. General. The Area Office will provide technical assistance and guidance to the PHA concerning contract administration and enforcement, reporting, interpretation of construction documents, and other related matters such as:

- (1) PHA supervision of the PHA architect and contractor;
- (2) completing standard HUD Forms;
- (3) reviewing and approving change orders and revisions to the construction documents;
- (4) PHA acceptance of completed work; and
- (5) procedures for resolving disputes and contract enforcement by the PHA.

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b. HUD Construction Forms. As soon as the contract is approved by the Housing Development Division Director, the PCR Unit shall send a sixty (60) day supply of standard HUD Forms to the PHA.

(1) Turnkey Projects: The following HUD Forms shall be sent:

Number	Title	
* Form HUD 5372	Construction Progress	*
Form HUD 5378	Construction Report	
Form HUD 51002	Schedule of Change Orders	

(2) Conventional Projects: The following HUD Forms as well as the HUD Forms for turnkey projects shall be sent:

Number	Title	
* Form HUD 51000	Schedule of Amounts for Contract Payments	*
Form HUD 51001	Periodic Estimate for Partial Payment	

(3) Site Visits. The construction analyst, designated by the AE Chief all visit the construction site at least monthly to evaluate project construction and PHA administration activities. The construction analyst shall review such matters as the following:

- (1) general performance of the PHA in administering all project related contracts in accordance with the ACC;
- (2) PHA records to determine that required insurance coverage is in force;

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(3) construction work, material, and equipment to determine that the contract requirements are being met; and

(4) the contractor's payroll records, employment practices, material invoices and project accounting records, to ensure the contract requirements are being met.

d. Reports. The construction analyst, upon concluding each site visit, shall discuss any observations or findings with the PHA Executive Director or PHA architect and advise the PHA to take necessary action to correct any deficiencies that were observed. The construction analyst shall subsequently prepare a HUD Representatives Trip Report (Form HUD 5379) and submit it to the AE Chief and send a copy to the PHA.

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Section 3. General Requirements for Project Construction

12-21. SUBCONTRACTORS. All contracts between the contractor and any subcontractors shall contain the FHEO employment requirements (Chapter 3, Section 4) and the prevailing wage rate requirements (Chapter 3, Section 2). The contractor is responsible for

determining that potential subcontractors are not on the HUD consolidated list of debarred, suspended or ineligible contractors.

12-22. CONTRACTOR PAYROLL. The contractor is responsible for paying prevailing wage rates (Chapter 3, Section 2) to all employees engaged in work under the contract and ensuring that any subcontractors also pay prevailing wage rates.

- a. Payroll Report. The contractor shall submit a certified payroll report to the PHA each week during the contract period --i.e., from execution of the contract to project completion and acceptance by the PHA. A separate payroll report shall be submitted for the contractor and subcontractor.
- b. Payroll Forms. The contractor's report shall be submitted on the Payroll Form (WH 347) and Statement of Compliance (WH 348). Such forms can be obtained from the Government Printing Office, Washington, D.C. 20402. The contractor may substitute computer generated forms, instead of the Payroll Form (WH 347), provided that all of the required information is included.
- c. Retention. The PHA shall retain all payroll reports for three years from the date of project completion and acceptance by the PHA.

12-23. AS-BUILT DRAWINGS. The PHA shall be provided with a copy of the as-built drawings for its project construction file upon project completion. These drawings shall include all significant deviations from the working drawings approved by the Field Office.

- a. Responsibility. The as-built drawings shall be prepared as follows:
 - (1) Turnkey projects: The turnkey developer is responsible for preparing and submitting the as-built drawings to the PHA.

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- (2) Conventional projects: The general contractor is responsible for providing all necessary information to the PHA architect in order that the PHA architect may prepare the as-built drawings.
- b. Utilities. The proposed underground utility lines are usually identified on the working drawings in diagram form. The actual location of underground utilities shall be recorded on the as-built drawings to indicate:
 - (1) the depth of underground lines from finished grade

and the distance from buildings;

- (2) the depth from finished grade and the distance from buildings of related underground work such as bands, cleanouts, connections, branches, cutoffs and sewer ends; and
- (3) the invert elevations of the storm and sanitary sewer systems.

c. Other. All significant deviations from the working drawings shall be noted on the applicable architectural sheet. Detailed descriptions and changes may be made to the applicable sheet or a note may be made referring to attachments, other sheets, or to change orders. Separate attachments or drawings shall cross reference the related architectural sheet.

12-24. PHA SUBMISSION OF CHANGE ORDERS. The PHA shall not order or agree to any changes in the contract work without the prior written approval of the Area Office. Changes in construction work that are beyond the scope of the contract shall be limited to work that is required to provide a necessity, appropriate betterment, or equivalent, for the proposed project.

a. Limitation. Changes in work shall be authorized by the Area Office only when such changes are clearly in the interest of the PHA. Changes generally will be limited to work required for the safety of the occupants or to protect the structural soundness of the project. In addition, the cost of such changes must be within the applicable project prototype cost limit.

b. Preparation. Change orders shall be prepared by the following:

- (1) Turnkey projects. The turnkey developer is responsible for preparing and submitting change orders to the PHA.

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(2) conventional projects. The PHA architect is responsible for determining whether a change is necessary and preparing and submitting change orders to the PHA. The general contractor is responsible for submitting any information required by the PHA architect.

c. Content. Changes in contract work shall be documented by a change order. A change order is a written agreement, executed by all parties to the contract, which describes the changes in work to be performed. Change orders shall be prepared

in the form prescribed by the Area Office and shall include the following:

- (1) a detailed description of the proposed change in work;
 - (2) a reference to the applicable working drawings and specifications;
 - (3) a fixed price (credit, debit, or no change) for the change in contract work;
 - (4) an estimate of any additional time required to complete the work;
 - (5) the contractor's itemized breakdown of the cost of materials and labor and, for conventional projects, an itemized breakdown for any applicable subcontractors; and
 - (6) the change indicated on the architectural drawings, if applicable.
- d. Submission. A proposed change order shall be signed by the PHA architect and by the contractor and the PHA. A copy of each proposed change order and the supporting documentation shall be submitted to the Area Office for review and approval.
- e. Numbering. The PHA shall assign a consecutive number to each change order submitted to the Area Office. The prefix "T" shall be used for turnkey projects and "G" for conventional projects. However, for conventional projects having separate trade contracts the following prefixes shall be used: demolition (D); plumbing (P); heating (H); electrical (E); and landscaping (L).

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- f. PHA Register. The PHA shall maintain a separate change order register for each project--i.e., on a project-by-project basis. This is required to provide a permanent record of all actions taken in connection with each project. The register shall identify:
- (1) the change order number;
 - (2) a brief description of the change;
 - (3) the cost of the proposed change;
 - (4) the date submitted to the Area Office;

- (5) any critical deadline dates that must be met by the Area Office;
- (6) the date of Area Office approval or disapproval, and the action taken; and
- (7) the amount of any additional time required by the contractor.

12-25. AREA OFFICE APPROVAL OF CHANGE ORDERS. The AE Chief is responsible for coordinating the review and recommending approval (or disapproval) of change orders by the Housing Director.

- a. Standard Processing Time. The standard processing time (SPT) is the number of calendar days from receipt of the proposed change order by the PCR Unit and a decision by the Housing Director. The SPT for Area Office review and action on a change order is ten (10) calendar days.
- b. AE Branch. The AE Chief, in order to recommend approval, shall determine, with respect to the proposed change that:
 - (1) it is not within the scope of the contract;
 - (2) it is a necessity and in the interest of the PHA;
 - (3) it is consistent with the standards for the public housing program;
 - (4) it cannot practicably be performed under a separate contract after completion of the project; and
 - (5) any additional time required for the change is reasonable.

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- c. Cost Branch: The Cost Chief in order to recommend approval shall determine and advise the AE Chief that:
 - (1) the fixed price for the change order is reasonable; and
 - (2) any additional costs can be approved based on the project prototype cost limit.
- d. Mortgage Credit Branch. The Mortgage Credit Chief shall review the proposed change order to determine that any additional costs can be made available from the contingency account.

- e. AHM Branch. Change orders that would affect project management or maintenance operations (e.g., substitute materials or equipment, changed utility combinations) shall be submitted to the AHM Branch for review. The AHM Chief shall promptly submit any recommendations to the AE Chief.
- f. Legal Division The Area Counsel shall be requested to provide assistance if there is reason to believe that a proposed change is within the scope of the original contract, or to correct work which is the responsibility of the PHA architect or the contractor.
- g. PHA Notification. The AE Chief, upon determining that the change order is approvable, shall sign the change order as the authorized Area Office official if signature authority has been delegated by the Housing Director. If a change order is disapproved, a letter shall be prepared for the AE Chief's signature, if signature authority has been delegated, advising the PHA of the reasons for disapproval.

12-26. TIME EXTENSIONS. The contractor is responsible for completing the project within the time established in the contract. Accordingly, the PHA shall not authorize any time extensions without the prior written approval of the Area Office.

- a. PHA Records. The PHA, upon project completion, shall determine the number of calendar days and reasons for any delays beyond the date established in the contract. The PHA shall maintain a record of potential causes for delays which will be used as the basis for granting time extensions or for determining the amount of liquidated damages to be assessed against the general contractor for conventional projects (paragraph 12-46). The PHA shall maintain a record of the following:

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- (1) the daily temperature;
 - (2) the daily amount of precipitation;
 - (3) delays in obtaining labor and materials, including the duration and reason;
 - (4) labor disputes or strikes, including the duration, and the applicable construction trade;
 - (5) delays experienced by others in completing non-contract public improvements (whether on-site or off-site); and

- (6) other causes for delays, such as fires, floods, vandalism or court orders.

- b. Basis for Time Extensions. In order to be considered for approval by the Area Office, requests for time extensions must meet the following criteria:
 - (1) the contractor must have submitted a written notice to the PHA within ten (10) calendar days of the start of any delay;
 - (2) the severity and extent of adverse weather could not have been reasonably foreseen by the contractor (normal seasonal levels of rain, snow, cold, or heat should have been considered by the contractor);
 - (3) the cause of the delay was beyond the contractor's control; and
 - (4) any additional cost attributable to the delay is being borne by the contractor.

- c. Contractor Request. The PHA immediately upon receipt of a contractor's notification of delay or request for time extension shall send a letter of acknowledgement to the contractor. The letter shall indicate:
 - (1) immediate attention will be given to the contractor's request and that a "finding of fact" will be submitted to the Area Office for consideration and approval; or
 - (2) the actual delay in the work is difficult to determine and a "finding of fact" will be sent to the Area Office for consideration and approval upon completion of work.

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- d. PHA Finding of Fact. The PHA shall review its records to ensure that the information provided by the contractor is accurate, to determine the cause of the delay and the extent that it was within the general contractor's control, and the request meets the criteria established in subparagraph b. The PHA, based on its review, shall prepare a "finding of fact" with the assistance of the PHA architect and PHA attorney and submit its recommendation to the Area Office for approval.

- e. Area Office Approval. The AE Chief shall review each PHA "finding of fact". In order to recommend approval, the AE Chief must determine that:

- (1) the contractor's request, as documented by the PHA "finding of fact," meets the requirements of subparagraph b;
- (2) the additional time requested by the contractor is reasonable based on the nature and duration of the delay; and
- (3) if there is some question of the contractor's liability for the delay, the PHA "finding of fact" shall be reviewed in accordance with paragraph 12-27.

12-27. DISPUTES AND CLAIMS. The PHA shall promptly notify the Area Office of any problems or disputes experienced during construction which could result in a claim by the PHA architect or the contractor. This may include claims for extra costs due to delays, claims for time extensions or extra costs based on PHA actions, or claims resulting from contract changes.

- a. PHA Records. It is imperative that the PHA maintain a complete written and dated record of any actions that may result in a dispute or claim for damages. This is required to protect the PHA interest during any litigation proceedings that may subsequently arise. In such instances, the PHA shall, at a minimum, maintain the following:
 - (1) a complete and detailed (daily job record;
 - (2) a disputes and claims file, cross-referencing other pertinent files, for each dispute or claim, and
 - (3) any correspondence relating to the dispute, including written minutes of any meetings, which identify actions taken by the PHA, PHA architect or contractor and decisions or agreements made concerning the dispute.

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- b. Contractor Notice. The contractor must submit a written notice of claim to the PHA within ten (10) calendar days from the date of the incident on which the claim is based. The contractor's initial notice must identify the nature and scope of the claim, including extra costs sought by the contractor. The contractor will subsequently be required to submit a detailed description and supporting evidence for the claim.
- c. PHA Acknowledgement. The PHA immediately upon receipt of a contractor's notice shall date stamp the notice and shall send a letter to the contractor acknowledging receipt of the claim. The PHA's letter shall also indicate:

- (1) if the claim was filed within the ten (10) day period, that the contractor is required to submit a detailed justification for the claim; or
- (2) if the claim was not filed within the ten (10) day period, the contractor's claim is not eligible for consideration.

d. PHA Finding of Fact. The PHA shall review its records to assure that the information provided by the contractor is accurate. The PHA, based on its review of the contractor's claim and its knowledge of the circumstances, shall prepare a "finding of fact" with the assistance of the PHA architect and PHA attorney and submit its recommendations for a determination by the Area Office.

e. Area Office Approval. The AE Chief, in conjunction with the Area Counsel, shall review the PHA "finding of fact" and proposed disposition of the claim. In making this review, consideration shall be given to the contractor's claim and the PHA recommendations in light of the obligations of both parties under the contract. Upon completion of the review, the AE Chief shall prepare a letter for the Housing Director's signature (with the concurrence of the Area Counsel) instructing the PHA to promptly:

- (1) notify the contractor of the PHA decision (as approved by the Area Office);
- (2) if applicable, request the PHA architect to prepare a change order to reflect any modifications to the contract as a result of the decision;
- (3) notify the Area Office, if the Area Office decision is not acceptable to the PHA; or

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- (4) notify the Area Office, if the contractor does not accept the decision (if court action is taken, the PHA shall submit a copy of the contractor's assertions to the Area Office).

12-28 thru 12-40. RESERVED.

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Section 4. Construction Requirements for Conventional Projects

- 12-41. CONSTRUCTION PROGRESS SCHEDULE. A construction progress schedule shall be prepared to monitor construction activities from the date specified in the "notice to proceed" through the actual project completion date.
- a. Contractor Schedule. The contractor shall prepare a Construction Progress Schedule (Form HUD 5372) for each project immediately after PHA issuance of a "notice to proceed". The information shall be realistic and consistent with the information provided by the general contractor on the approved Schedule of Amounts for Contract Payments (Form HUD 51000a). The contractor may substitute alternate forms (e.g., tracings) provided that all information identified on Form HUD 5372 is included.
 - b. PHA Approval. The PHA architect shall review the general contractor's construction progress schedule to determine that the scheduled dates and amount of work to be completed are reasonable and consistent with the construction contract. If acceptable, the PHA architect shall sign the schedule and forward it to the PHA for approval. Upon approval by the PHA, the approved construction progress schedule shall be returned to the general contractor and a copy forwarded to the AE Chief.
- 12-42. SCHEDULE OF AMOUNTS FOR CONTRACT PAYMENTS. The Schedule of Amounts for Contract Payments (Form HUD 51000a) approved by the Area Office is used by the PHA for making progress payments to the general contractor.
- a. Contractor Schedule Immediately after execution of the construction contract, the general contractor shall prepare a Form HUD 51000a. The completed form shall be sent to the PHA to review and obtain Area Office approval.
 - b. PHA Review. The completed Form HUD 51000a shall be reviewed by the PHA and the PHA architect to determine that the scheduled work to be completed by the specified dates and the amount of payment for such work is reasonable. If acceptable to the PHA, the Form HUD 51000a shall be submitted to the Area Office.
 - c. Area Office Approval. The AE Chief shall review the Form HUD 51000a completed by the general contractor as well as PHA recommendations. The AE Chief shall prepare a letter for the Housing Director's signature advising the PHA that:

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- (1) the Form HUD 51000a is either approved as submitted or as modified by the Area Office;
 - (2) it should promptly send a copy of the approved Form HUD 51000a to the general contractor for acceptance; and
 - (3) it is authorized to make progress payments to the general contractor in accordance with paragraph 12-43.

12-43. CONTRACT PAYMENTS. The PHA is responsible for making progress payments to the general contractor based on the Schedule of Amounts for Contract Payments (Form HUD 51000a) approved by the Area Office. Generally, progress payments for acceptable work and materials delivered and stored on the site are made at thirty (30) day intervals.

- a. Area Office Approval. Area Office authorization of progress payments, based on the approved Form HUD 51000a, is not required. However, written Area Office approval is required before any of the monthly retainage is advanced or before final payment is made.
- b. Contractor Request for Payment. The general contractor must submit a request for payment on Periodical Estimate for Partial Payment (Form HUD 51001) for each project. The request shall be accompanied by the general contractor's written designation of a certifying officer. In addition, the general contractor must submit the following documentation, if applicable, with each Form HUD 51001:
 - (1) Schedule of Change Orders, Form HUD 51002;
 - (2) Schedule of Materials Stored, Form HUD 51003; and
 - (3) Summary of Materials Stored, Form HUD 51004.
- c. PHA Approval. The PHA shall review each general contractor request and shall approve the advance if the following conditions have been met:
 - (1) the general contractor request is consistent with the approved Schedule of Amounts for Contract Payments (Form HUD 51000a);
 - (2) the request does not include the amount to be retained by the PHA pursuant to the construction contract;

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- (3) the work covered by the payment has been performed in accordance with the construction documents;
 - (4) the Form HUD 51001 has been properly executed and all applicable supporting documentation submitted; and
 - (5) the general contractor has submitted all required reports (e.g., payroll reports).

d. Distribution of Documents. The PHA shall retain the original Periodical Estimate for Partial Payment (Form HUD 51001) and any applicable supporting documentation for its project file. A copy of the PHA approved forms shall be sent to the AE Chief and to the general contractor.

12-44. PROJECT PHOTOGRAPHS. The PHA shall periodically take photographs to illustrate the progress of construction work. In addition, these photographs may be required to protect the PHA interest in disputes relating to defective workmanship, cave-ins, or accidents.

a. Prints. Prints shall be at least five (5) inches by seven (7) inches. Each print shall be identified as follows:

- (1) project number and name;
- (2) city and state;
- (3) date photograph taken;
- (4) description of view (e.g., block, street and special features); and
- (5) the camera position identified on a site diagram.

b. Site Diagram. The site diagram, prepared by the PHA architect, shall be used to indicate camera positions. The diagram shall be an eight by eleven inch (8" x 11") photo reduction of the construction contract site plan showing the PHA architect's name, the PHA, the project number, a graphic scale, streets, and the North point.

12-45. SHOP DRAWINGS AND MATERIALS. Shop drawings and material samples shall be prepared and submitted in accordance with the agreements reached at the construction conference.

a. Contractor Submission. The contractor is responsible for

preparing and submitting shop drawings to the PHA architect. The contractor's letter shall list the shop drawings being submitted and state whether the shop drawings deviate from the approved construction documents. Each shop drawing shall include:

- (1) a descriptive title and drawing number;
- (2) a brief description of the work involved;
- (3) the project number and name;
- (4) the contractor's and any subcontractor's name; and
- (5) evidence of the contractor's approval.

b. PHA Architect's Approval. The PHA architect shall review the shop drawings to determine whether they are consistent with the construction documents. The PHA architect shall require that any corrections be made prior to approval. upon approval, the PHA architect shall:

- (1) sign and date each shop drawing and include the following statement: "This shop drawing is approved, but the general contractor shall verify and shall be responsible for all related documents and job conditions on the work."
- (2) send a letter to the general contractor indicating that the shop drawing was approved and advising the contractor that:
 - (a) "This approval of the enclosed shop drawing is general and does not relieve the contractor of the responsibility for adherence to the contract, nor is the contractor relieved of the responsibility for any error which may exist", and
 - (b) if applicable, "The modification shown on the enclosed shop drawing is approved in the interest of the PHA to effect an improvement for the project and is ordered with the understanding that it does not involve any change in the contract price or time; it is subject to all contract stipulations. and covenants; and it is without prejudice to any and all rights of the PHA under the contract and bond."

c. Distribution of Documents. The PHA architect shall

retain a copy of the approved shop drawing, and shall forward a copy to the general contractor and the PHA.

- d. Samples. The general contractor shall submit certificates, material samples, and test results to the PHA architect for approval. The PHA architect shall advise the general contractor of the reasons for any disapproval and request that another sample be submitted. Approved samples and data shall be retained both at the PHA office and the project office for comparison during construction.

12-46. LIQUIDATED DAMAGES. The general contractor is responsible for completing the project within the time established in the construction contract unless time extensions are authorized in accordance with paragraph 12-26. If the construction work is not completed by the contract date, the general contractor shall be liable for liquidated damages resulting from such unexcused delays.

- a. Finding of Fact. The PHA shall prepare a "finding of fact" pursuant to paragraph 12-26 and shall submit it to the Area Office for review and approval.
- b. Amount of Damages. The PHA's "finding of fact" shall identify the amount of liquidated damages to be assessed against the general contractor and the basis used in determining the amount. Liquidated damages shall be assessed at the rate established in the construction contract and shall be withheld from any payment due the contractor.
- c. Area Office Approval. The AE Chief, in consultation with The Area Counsel, shall review the PHA "finding of fact" to determine whether the contractor is responsible for the delay and the amount of damages established by the PHA is reasonable. Upon completing this review, the AE Chief shall prepare a letter for the Housing Director's signature advising the PHA to:
 - (1) send a letter to the general contractor identifying the amount of liquidated damages being assessed and the reasons;
 - (2) send a letter to the general contractor's bonding company identifying the amount of liquidated damages being assessed on the general contractor; and

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- (3) send copies of both letters to the AE Chief.

12-47. PARTIAL PROJECT ACCEPTANCE. The PHA, with Area Office approval, may accept part of a project for occupancy prior to settlement.

a. Conditions. The PHA may not permit early occupancy unless the following conditions are met:

- (1) the dwelling units to be accepted (except punch list items) have been completed and are ready for occupancy;
- (2) the general contractor agrees to early occupancy and completion of the punch list items;
- (3) early occupancy will not inconvenience or represent a safety risk to the occupants while the unfinished work is being completed;
- (4) the PHA has obtained occupancy permits from the responsible local agency for each unit to be accepted; and
- (5) the PHA has executed an occupancy agreement with the general contractor indicating that the PHA partially accepts specified work provided that the contractor accepts the responsibility to complete the project by the established completion date.

b. Occupancy Agreement. The PHA shall submit the proposed occupancy agreement to the Area Office for approval prior to execution by the PHA.

c. Area Office Approval. The construction analyst shall review the proposed occupancy agreement to determine whether the conditions identified in subparagraph a have been satisfied. Upon completion of this review, the construction analyst shall prepare a letter for the AE Chief's signature advising the PHA of the Area Office decision:

- (1) if approvable, the letter shall:
 - (a) authorize the PHA to execute the occupancy agreement; and
 - (b) request that a copy of the occupancy agreement be submitted to the AE Chief after execution by the PHA and the general contractor.

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- (2) if not approvable, the letter shall identify the

reasons for disapproval, including the work to be completed or corrected prior to reconsideration by the Area Office.

12-48 thru 12-60. RESERVED.

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Section 5. Project Completion and Final Inspection

12-61. GENERAL. The contractor is responsible for providing the PHA with a forty-five (45) day written notice of the expected date by which the project will be completed and ready for final inspection. This section establishes the inspection requirements which must be met prior to acceptance of completed work and contract settlement (Section 6).

12-62. PHA ARCHITECT'S INSPECTION. The PHA architect shall schedule with the contractor a date to inspect the project and prepare a punch list of the incomplete work.

a. Content of Punch List. A separate punch list shall be prepared for each building which identifies the:

- (1) date of the inspection;
- (2) name and title of the contractor representative;
- (3) each incomplete or unsatisfactory work item; and
- (4) specific location of each item of incomplete work.

b. Contractor Notification. The PHA architect shall send a letter to the contractor which:

- (1) transmits a copy of the punch list;
- (2) advises the contractor to promptly correct each item of incomplete or unsatisfactory work; and
- (3) requests that the contractor promptly notify the PHA of the date by which the corrective work will be complete so that the PHA can schedule a final inspection prior to contract settlement.

c. Deductions for Incomplete Work. The PHA shall consult with the PHA architect to determine if it would be advantageous to accept a project prior to final inspection. In such instances, the PHA architect shall prepare a deductive

change order for Area Office approval prior to the final inspection. The amount of deductions from the contract price shall be based on current replacement cost for correcting any incomplete or unsatisfactory work.

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12-63. FINAL INSPECTION. A final project inspection shall be made when all work is completed. Until the final inspection has been made and approved by the Area Office, the PHA shall not advance any of the retainage (conventional project) or make the final payment to the contractor.

- a. Inspection Date. Upon receipt of the contractor's notification of the date when the corrective work will be completed, the PHA shall schedule a final inspection. Each member of the inspection team shall be given a fifteen (15) day notification of the scheduled inspection date.
- b. Inspection Participants. The final inspection shall be conducted by:
 - (1) a PHA representative;
 - (2) the PHA architect;
 - (3) the AHM Chief, the AE Chief and the construction analyst;
and
 - (4) a contractor representative.
- c. Inspection Conference. The inspection team shall meet after completing the final inspection to determine whether:
 - (1) the work has been completed in accordance with the construction documents;
 - (2) there are any minor items of incomplete or unsatisfactory work (or seasonal work such as planting of shrubs and lawns) and reach agreement on the items to be included on the PHA architect's final punch list; or
 - (3) there are any major deficiencies which must be corrected by the contractor so that another final inspection can be made prior to contract settlement.
- d. Inspection Report. The PHA architect shall prepare a final inspection report and certificate of completion based on the agreements reached at the inspection conference. The certificate of completion will show the amount of payment

to be withheld for any incomplete work provided that such work is not of a major nature requiring correction before settlement.

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- e. Area Office Approval. The PHA shall submit a copy of the PHA architect's final inspection report and the proposed certificate of completion to the Area Office for approval. The AE Chief shall review the PHA submission to determine that the final inspection report is acceptable and, if applicable, any amount to be withheld is sufficient to complete the corrective work. If approvable, the AE Chief shall prepare a letter for the Housing Director's signature authorizing the PHA to accept the project and prepare for settlement.

12-64 thru 12-70. RESERVED.

12-47 thru 12-54

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Section 6. Contract Settlement

12-71. GENERAL. The PHA, upon receipt of written authorization from the Area Office, shall notify the contractor to prepare for settlement. The PHA shall also advise the contractor to submit the documentation identified in this section for PHA and Area Office approval prior to settlement.

12-72. SETTLEMENT DOCUMENTS. The contractor is responsible for preparing and submitting the following to the PHA:

- a. Conventional and Turnkey Projects. The following documents are required for all projects, whether developed under the conventional or turnkey method.

(1) a certificate of occupancy issued by the responsible local agency for each building;

(2) two notarized originals of the contractor's release and certification which indicates:

(a) the work was completed in accordance with the

construction documents (including change orders) except any minor items identified on the PHA architect's final inspection report;

- (b) the total amount due the contractor and a separately stated amount for each unsettled claim against the PHA;
- (c) the PHA is released of all claims, other than those stated in the contractor's release; and
- (d) wages paid to laborers or mechanics were consistent with the wage rate requirements of the contract, and there are no outstanding claims for unpaid wages.

(3) an assignment of all guarantees and warranties to the PHA.

- b. Conventional Projects. In addition to the documents identified in paragraph a, the general contractor shall submit a "final" Periodical Estimate for Partial Payment (Form HUD 51001).

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- c. Turnkey Projects. In addition to the documents identified in subparagraph a, the turnkey developer shall submit the following:

- (1) the as-built drawings (paragraph 12-23);
- (2) a copy of the receipt for real property taxes paid by the developer during the construction period;
- (3) the title binder, evidencing that good and marketable title will be conveyed to the PHA; and
- (4) a copy of the proposed deed.

12-73. PHA CONTRACT SETTLEMENT REPORT. The PHA in consultation with the PHA architect and attorney shall review the contractor's settlement documents and prepare a report on its findings.

- a. PHA Review. The PHA shall review the construction documents, the PHA records, and completed work, to determine whether the contractor's statements concerning compliance with the construction documents (including change orders) and identified work to be completed are accurate.
- b. PHA Report. Upon completing its review, the PHA shall prepare

a contract settlement report indicating PHA agreement with the contractor's statements. The PHA report shall also identify:

- (1) the current status of any incomplete or seasonal work;
- (2) any outstanding disputes or claims;
- (3) any PHA exceptions to the contractor's settlement documents; and
- (4) the PHA attorney statement as to the adequacy of the proposed deed and title information (turnkey projects only).

c. Certificate of Completion. The PHA or PHA architect shall prepare the proposed certificate of completion in the form prescribed by the Area Office.

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d. PHA Submission The PHA shall submit a copy of the following to the Area Office for approval:

- (1) all settlement documents identified in paragraph 12-72 for the applicable development method;
- (2) the PHA contract settlement report; and
- (3) the proposed certificate of completion.

12-74. AREA OFFICE REVIEW. The AE Chief is responsible for coordinating the review and recommending approval of the certificate of completion.

a. Standard Processing Time. The standard processing time (SPT) is the number of calendar days from receipt of the settlement documents and certificate of completion by the PCR Unit and a decision by the Housing Director. The SPT for Area Office review and approval (or disapproval) of the certificate of completion is ten (10) calendar days.

b. AE Branch. The AE Chief in order to recommend approval must determine that:

- (1) all work has been completed in accordance with the construction documents;
- (2) the proposed certificate of completion is acceptable; and

- (3) the amount to be withheld from the contractor is sufficient to complete any items on the PHA architect's punch list, including seasonal work.
- c. Legal Division. The Area Counsel, in order to recommend approval, must determine and advise the AE Chief that:
- (1) the contractor's release and certification is consistent with the terms of the contract;
 - (2) for turnkey projects, the proposed deed and title information is acceptable and are consistent with the contract of sale; and
 - (3) for turnkey projects, the scheduled closing date.

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- d. Labor Relations Staff. The Labor Relations Staff, in order to recommend approval, must determine and advise the AE Chief that the contractor's wage certification is acceptable.
 - e. PHA Notification. The AE Chief, upon determining that the contract settlement documents are in order, must sign the certificate of completion and submit it for the Housing Director's signature. The original shall be promptly sent to the PHA. If applicable, the PHA and turnkey developer shall be advised of the scheduled closing date.
- 12-75. PAYMENT OF CONTRACTOR. The PHA upon receipt of the approved certificate of completion is authorized to make payment to the contractor of the amounts approved by the Area Office. For turnkey projects, payment shall be made at the closing of the sale.
- a. Contract Payment. The PHA payment to the contractor shall be the amount specified in the certificate of completion approved by the Area Office and shall not include any amount to be retained for:
 - (1) warranty retainage or disputed items; and
 - (2) incomplete work, such as punch list or seasonal items.
 - b. Final Payments. The PHA is not authorized to make final payment of any amounts withheld without prior Area Office

approval. When punch list or seasonal work items are completed, the PHA shall submit a revised certificate of completion for Area Office approval.

12-76. TURNKEY CLOSING PROCEDURES. The closing for turnkey projects shall take place in accordance with the following requirements:

- a. Title Insurance. The PHA must obtain a title insurance policy, or other title guarantee acceptable to the Area Office, at closing. The title policy shall guarantee that title is good and marketable and is free of any mortgage, lease, lien or other encumbrances, such as use or building restrictions, zoning ordinances, easements or rights-of way which would affect the value or proposed use of the site. In those instances where several contiguous parcels are being acquired, a blanket title insurance policy should be obtained for the entire site.

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- b. Curing Title Defects. The PHA attorney shall ensure that any outstanding mortgages, leases, or liens have been cleared.
- c. Settlement Record. The closing details for each transaction shall be recorded in triplicate on the Real Estate Settlement Record (Form HUD 51975) or a similar locally used and accepted settlement record.
- d. Deed Recordation. The PHA shall ensure that the deed is promptly recorded by its attorney.
- e. Declaration of Trust. The PHA shall execute and record the Declaration of Trust (Form HUD 52190) prepared by the Area Counsel. A copy of the executed Declaration of Trust shall be returned to the Area Office as soon as it has been recorded.

12-77. WARRANTY INSPECTIONS. The PHA is responsible for performing required warranty inspections during the warranty period and promptly notifying the contractor in writing to remedy any defects.

- a. Applicability. These requirements apply to projects developed under either the conventional or turnkey method and include:
 - (1) manufacturer or contractor warranties on equipment and systems; and
 - (2) contractor warranty on materials and workmanship.
- b. Contractor Responsibility. The contractor, upon receipt

of PHA written notice, shall promptly remedy any defects due to the use of faulty equipment or materials, or poor workmanship. The contractor is also responsible for paying for any damage to other work resulting from such defects.

- c. Warranty Period. The warranty period for all construction work shall be at least 365 calendar days from the date specified on the certificate of completion that is applicable to the work in question or such longer period otherwise specified in the construction contract.
- d. PHA Inspection. The PHA shall inspect each dwelling unit at least every three months during the warranty period. If any deficiencies are noted, the PHA shall take prompt action to protect its rights under the applicable warranty.

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- e. Final Inspection. The PHA shall schedule a final warranty inspection prior to the expiration of the one-year warranty period. The final inspection shall be performed by the PHA, the PHA architect, and the AE Chief and the AHM Chief to determine whether there are any deficiencies and whether such deficiencies are the responsibility of the PHA or contractor.

12-78 thru 12-90. RESERVED.

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12-60 thru 12-66

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Section 7. Date of Full Availability

12-91. DEFINITION. The date of full availability (DOFA) is the last day of the month in which all housing units in a project are available for occupancy. A unit is considered available if an occupancy certificate has been obtained from the responsible local agency. It is not necessary for the purpose of establishing DOFA that construction work such as landscaping and punch list items be completed.

- a. Turnkey Projects. DOFA shall be established as the last day of the month in which settlement takes place.

- b. Conventional Projects. DOFA shall be established as the last day of the month in which substantially all units (e.g., 95 percent) are available for occupancy.
- c. Acquisition Projects. DOFA shall be established as the last day of the month in which settlement takes place. For scattered site projects, DOFA shall be established as the last day of the month in which substantially all the units (e.g., 95 percent) have been acquired by the PHA.

12-92. PHA REPORTING. The PHA is responsible for notifying the Field Office when DOFA is achieved. It is critical that the PHA report DOFA promptly, since DOFA establishes the date on which interest * stops accruing toward the development cost of the project and * serves as the basis for determining the End of the Initial Operating Period.

- * a. PHA Submission. The PHA shall submit for Field Office approval two signed originals of the Notice of Date of Full Availability (Form HUD-52423).
- b. Delinquent PHA Submission. The construction analyst shall periodically determine if there is any project, based on occupancy agreements or construction progress reports, for which DOFA has not been but should have been reported by the PHA. If applicable, the construction analyst shall prepare a letter for the Housing Development Division Director's signature advising the PHA that:
 - (1) it appears, based on Field Office records, that DOFA has been achieved;
 - (2) if DOFA has been achieved, the PHA must submit the documents identified in subparagraph a within thirty (30) calendar days of the date of the Housing Development Division Director's letter;

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- (3) if DOFA has not been achieved, the PHA must submit an explanation of the reasons for delay within thirty (30) calendar days of the date of the Housing Development Division Director's letter; and
- (4) if the required information is not received by the thirty (30) day deadline date, the Field Office will prepare and execute the Form HUD-52423.

12-93. FIELD OFFICE REVIEW. The construction analyst shall review the PHA submission (including delinquent submissions) to verify that

substantially all housing units were satisfactorily completed and were available for occupancy on the date established by the PHA.

- a. Approval. If the DOFA date is approvable, the construction analyst shall prepare a letter, for the Housing Development Division Director's signature transmitting a copy of the approved Notice of Date of Full Availability (Form HUD-52423) signed by the Housing Development Division Director. A copy of the signed Form HUD-52423 shall be sent to the AHM Chief, the Mortgage Credit Chief, the Regional Financial Management Specialist, and the Assistant Secretary for Administration (Attention: Office of Finance and Accounting).
- b. Disapproval. If the DOFA date is not approvable, the construction analyst shall prepare a letter for the Housing Development Division Director's signature indicating that the Form HUD-52423 was not approved, the reasons for disapproval, and conditions which the PHA must meet before submitting a revised Form HUD-52423 to the Field Office.
- c. Unusual Conditions. The construction analyst, in consultation with the designated MHR and Mortgage Credit Chief, shall review any PHA submissions which indicate that DOFA will be delayed because of unusual circumstances. For example, the PHA may be experiencing difficulty in obtaining bids for rehabilitation of scattered site housing or existing housing may not be available to permit timely achievement of DOFA. In such instances, consideration shall be given to establish a separate project for all units that have been completed and to issue a Form HUD-52423 for those units that have been acquired and are available for occupancy. This action is necessary to stop the accrual of interest and minimize the amount of the initial operating deficit charged to the development cost of the project.

12-94 thru 12-100. RESERVED.

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12-68 thru 12-74

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Section 8. End of Initial Operating Period

12-101. DEFINITION. The end of the initial operating period (EIOP) is the last day of the first calendar quarter (March, June, September, December) after DOFA, provided that ninety-five (95) percent of the units are occupied. However, if ninety-five (95) percent occupancy is not achieved, EIOP is automatically established as the last day of the second calendar quarter after DOFA.

12-102. PHA REPORTING. The PHA is responsible for promptly notifying

the Area Office of the EIOP date. It is critical that the PHA report EIOP promptly, since EIOP establishes the day that the project is eligible for operating subsidies.

- a. Determination of Date. The PHA shall determine EIOP in accordance with the following examples that are based on the assumption that DOFA was established on November 30, 1980.
 - (1) Example 1. Ninety-five (95) percent occupancy is achieved on February 10, 1981. In this example EIOP would be established as March 31, 1981 -- the end of the first calendar quarter after DOFA.
 - (2) Example 2. Ninety-five (95) percent occupancy is not achieved by March 31, 1981 -- the end of the first calendar quarter. In this example, EIOP would automatically be established as June 30, 1981 -- the end of the second calendar quarter after DOFA.
- b. PHA Submission. As soon as EIOP is determined, the PHA shall submit two signed originals of the Notice of End of Initial Operating Period (Form HUD 52344) to the Area Office.
- c. Delinquent PHA Submission. The AHM Chief shall determine at the end of each calendar quarter if there are any projects that have achieved DOFA for which EIOP has not been reported by the PHA. If applicable, the AHM Chief shall prepare a letter for the Housing Director's signature advising the PHA that:
 - (1) the first calendar quarter has passed and the PHA has not reported EIOP;

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- (2) the Area Office has prepared a Notice of End of Initial Operating Period (Form HUD 52344) which must be signed by the PHA and returned to the Area Office within (30) calendar days of the date of the Housing Director's letter; and
- (3) if the signed Form HUD 52344 is not returned by the thirty (30) day deadline date, the Area Office will execute it on behalf of the PHA.

12-103. AREA OFFICE REVIEW. The AHM Chief shall review the PHA submission (including delinquent submissions). If approvable, the AHM Chief shall sign the Form HUD 52344 and return it to the PHA. Otherwise, the AHM Chief shall contact the PHA to ascertain the correct date. A copy of the signed Form HUD 52423 shall

also be sent to the Mortgage Credit Chief, the Regional Financial Management Specialist, and the Assistant Secretary for Administration (Attention: Office of Finance and Accounting).

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Section 9. Actual Development Cost

12-111. PHA REPORTING. The PHA is responsible for promptly notifying the Area Office when all project development activities are completed and the PHA has made payment for all obligations incurred in the development of a public housing project..

- a. Reporting Date. The PHA shall submit its report as soon as the actual development cost for the project is known. However, unless written Area Office authorization is obtained, the PHA report shall be submitted within
- * twenty-four (24) months after DOFA. PHA requests for an extension shall be accompanied by a detailed explanation of the reasons that are beyond PHA control (e.g., litigation unresolved disputes, pending claims), justifying Area Office approval of an extension. *
- b. PHA ADCC Submission. The PHA upon determining the actual development cost for a specific public housing project shall submit the following for Area Office approval:
- (1) Actual Development Cost Certificate (ADCC), Form HUD-52427;
 - (2) a copy of an Independent Public Accountant (IPA) audit including comments on the ADCC;
 - * (3) Statement of Actual Development Cost prepared on Form HUD-52484 (Development Cost Budget/Cost Statement); and *
 - (4) if applicable, a detailed explanation of any actual costs incurred that exceed the amount for any development cost account (total) of the latest Area Office approved development cost budget on Form HUD-52484.

12-112. AREA OFFICE MONITORING. The Mortgage Credit Chief is responsible for ensuring the timely development close-out of all public housing projects.

- a. Control Record. The Mortgage Credit Chief shall

establish a control record for all projects reaching
DOFA so that:

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- * (1) each PHA shall be notified one year after DOFA to be *
prepared for an IPA audit and arrange for submission
of the ADCC by the deadline date;
- * (2) the Assisted Housing Management (AHM) Branch shall be
notified to incorporate the project's costs in the
regularly scheduled biennial IPA audit. If the
project's costs cannot practicably be incorporated in
the regularly scheduled biennial IPA audit, then a
separate audit for purposes of the ADCC shall be
arranged to be completed in sufficient time to permit
the ADCC to be submitted within the deadline. The
cost of such an audit shall be included in the
development cost for the project; *
- (3) the Regional Inspector General for Audit (RIGA) shall
be advised of all overdue ADCCs so that IPA audits
may be rejected if they fail to address ADCC audits
(see Handbooks in the 7476 series);
- * (4) in those instances where the IPA auditor indicates
to the RIGA that it will not be possible to make a
final determination of Actual Development Cost for
purposes of the ADCC, the RIGA shall notify the
Housing Director. For projects that cannot be
audited, the Housing Director is responsible for
determining how many and which personnel will be
detailed to establish the actual TDC cost using the
actual cost in the latest approved development cost
budget, the funds advanced and the Housing Agency's
records of expenditures. The Housing Director is to
submit to the Area Office Manager for approval a
written recommendation of the amount to become the
actual development cost for each such project. If
the Area Office Manager does not agree with the
recommendation, the Regional Administrator is to be
advised. The Regional Administrator shall determine
whether or not Regional assistance can be provided. If
the Regional Administrator determines it appropriate,
Headquarters guidance and/or assistance shall be
requested; and *
- (5) close-out actions for each project shall be closely

monitored and a quarterly report transmitted to the Regional Project Financing Specialist and RIGA on all projects that have achieved DOFA but ADCCs have not been approved by the Area Office.

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b. Delinquent ADCC Submission. Where a PHA has not submitted an ADCC by the deadline date and has not requested an extension, the Mortgage Credit Chief shall prepare a letter for the Housing Director's signature advising the PHA that:

- (1) the PHA has not submitted the ADCC by the required date;
- (2) the PHA must submit the documents identified in subparagraph 12-111 within sixty (60) days or must submit documentation justifying Area Office approval for an extension within thirty (30) days;
- (3) the PHA is not authorized to make payment after the date of the Housing Director's letter for any PHA obligations with respect to the project without prior written Area Office approval;
- (4) PHA requests to make payments must be accompanied by a current Development Cost Budget (Form HUD-52484) and an IPA audit;

* (5) in the event that the PHA fails to submit the budget and audit, the Area Office shall arrange for the IPA audit and shall charge it to the development cost for the project; and

- (6) if the documentation required by paragraph 12-111 is not received within sixty (60) days or by the approved extended date, the Area Office will use the development costs (actual and committed) identified on the latest approved Development Cost Budget/Cost Statement, Form HUD-52484, as the basis for amending the ACC, the Permanent Note, the Development Cost Budget and approval of the ADCC and shall notify the PHA in writing. *

12-113. AREA OFFICE REVIEW. Each PHA submission shall be reviewed to determine that it is acceptable.

* a. Mortgage Credit Branch. In order to recommend approval of the Statement of Actual Development Cost and the ADCC, the Mortgage Credit Chief must determine that: *

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- (1) the actual costs incurred for each development account (totals), do not exceed the amounts identified on the latest Area Office approved development cost budget, Form HUD-52484, and do not exceed the amount of advances authorized by the Area Office;
 - (2) all disputed, contingent or unliquidated items have been satisfied;
 - (3) the amounts identified in Accounts 1450 thru 1475 are consistent with the construction documents (including change orders);
 - (4) there is a zero entry for contract work in progress (Account 1480); and
- * (5) if applicable, the PHA's explanation of cost overruns for each account justifies Area Office approval but does not exceed the approved estimated TDC specified in the ACC.

b. AHM Branch.

- (1) in order to recommend approval of the ADCC, the AHM Chief must determine that no development deficiencies have been identified in the initial engineering survey, in accordance with the procedures set forth in the Project Management Handbook RHM 7460.1 SUPP 1, or in subsequent operations which have not been corrected. Development deficiencies are deficiencies in a project that relate to errors or inadequacies in the design or construction of a project which become known before approval of the ADCC. Design deficiencies result from the use of plans and specifications that fail to meet HUD and other applicable design standards in effect at the time of project approval. Construction deficiencies result from the use of improper construction methods or materials, poor workmanship, or failure to complete the project in accordance with HUD-approved plans.
- (2) If the AHM Chief determines that there are uncorrected development deficiencies, the AHM Chief shall not recommend approval of the ADCC and shall provide to the Chiefs, Multifamily Housing Programs, AE, and Mortgage Credit, a written description of the deficiencies and related cost estimates. Upon

correction of the deficiencies, the AHM Chief shall recommend approval. *

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- * c. Area Office Approval. If the Statement of Actual Development Cost and the ADCC are approvable, the Mortgage Credit Chief shall recommend approval by signing both documents, the AHM Chief shall recommend approval by signing the ADCC; and the Housing Director shall approve the ADCC and Statement of Actual Development Cost by signing both documents.
- d. PHA Notification. The Mortgage Credit Chief shall prepare a letter for the Housing Director's signature transmitting the approved ADCC and Statement of Actual Development Cost to the PHA. The letter shall also instruct the PHA to:
- (1) if the project has been permanently financed through the sale of bonds, deposit any excess development funds in the advance amortization fund;
 - (2) if the project has not been permanently financed through the sale of bonds, send any excess funds to the Assisted Housing Accounting Division, OFA, in Headquarters for application against outstanding financing and:
 - (a) the PHA is not authorized to use these funds for any purposes; and
 - (b) the Area Office will forward an amended ACC and Permanent Note for PHA execution to reflect the TDC amount identified on the ADCC.
- e. ACC and Permanent Note Amendments. If the amount in the approved ADCC differs from the TDC specified in the ACC and the project is not permanently financed by bonds, the Mortgage Credit Chief shall initiate amendments to the ACC and the Permanent Note and either reserve additional or recapture excess development funds. If the project is permanently financed by bonds, the procedure is the same except Permanent Notes are not required. In no event shall the reserved funds be reduced for an amount less than the amount required to pay the debt service on the outstanding bonds. The current and appropriate AC rate is used for the entire amount of the development cost. *
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- * (1) When additional funds are required the PCR Supervisor shall be requested to prepare a Project Accounting Data (HUD-52540) and a notification letter shall be signed by the Area Manager and processed by the Regional Accounting Director. The Area Counsel shall be requested to prepare an amended ACC and a revised Permanent Note based on the approved ADCC (a revised Permanent Note is issued only when the project was not financed by New Housing Agency Bonds). The amended ACC and Permanent Note shall be forwarded to the PHA simultaneously for execution. Upon receipt of the amended ADCC and Permanent Note executed by the PHA, the Housing Director shall execute them for HUD.
- (2) When it is necessary to recapture excess funds, the Area Counsel shall be requested to prepare an amended ACC and a revised Permanent Note based on the approved ADCC (a revised Permanent Note is issued only when the project was not financed by New Housing Agency Bonds). The amended ACC and Permanent Note shall be forwarded to the PHA simultaneously for execution. Upon receipt of the amended ACC and Permanent Note executed by the PHA, the Housing Director shall execute them for HUD. The PCR Supervisor shall then be requested to prepare a Project Accounting Data (HUD-52540) for the Area Manager's signature. The Form HUD-52540 and a copy of the amended ACC shall be transmitted to the Regional Accounting Director for processing.
- f. Distribution of Documents. The distribution of these documents should be made in accordance with Chapter 7, paragraph 7-115(b).
- g. Incurring Additional Obligations. After HUD approval of the ADCC, PHAs are prohibited from incurring additional obligations of development funds without the prior written approval of the Assistant Secretary for Housing. Approval will be given in writing and a copy will be sent to the Office of Finance and Accounting. In the event additional development work is approved, the PHA shall be instructed to submit revised Forms HUD-52427 and HUD-52484 (Statement of Actual Development Cost) when work is completed. The same general procedures as set forth in this Section shall pertain to the processing of the revised forms. *

PART 941—PUBLIC HOUSING DEVELOPMENT

Subpart A—General

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941.103 Definitions.

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- 941.501 Site and property acquisition.
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941.504 Acceptance of work and contract settlement.
941.505 Completion of development.

AUTHORITY: Secs. 4, 5, and 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f; sec. 7(d), Dept. of HUD Act (42 U.S.C. 3535(d)).

SOURCE: 45 FR 60838, Sept. 12, 1980, unless otherwise noted. Redesignated at 49 FR 6714, Feb. 23, 1984.

EDITORIAL NOTE: Nomenclature changes affecting this part appear at 49 FR 6714, Feb. 23, 1984.

Subpart A—General

§ 941.101 Purpose and scope.

(a) **Purpose.** The U.S. Housing Act of 1937 (Act) authorizes HUD to assist public housing agencies (PHAs) with the development and operation of lower income housing projects and financial assistance in the form of loans and contributions, or grants, under sections 4, 5, and 9 of the Act. This part is the regulation under which lower income housing (excluding Indian housing), herein called public housing, is developed. The regulations for development of other housing assisted under the Act are contained in Part 905 of this chapter (Indian housing) and in Chapter VIII (Section 8 housing). The requirements for the administration of a PHA and for the operation and management of public housing projects are stated in this chapter, in Chapter VII, and in the Annual Contributions Contract (ACC). Regulations that relate to the public housing program include:

(1) Part 791—Application review and fund allocations.

(2) Part 799—Waiver authority.

(3) Part 912—Definition of family and single person occupancy.

(4) Part 960—Income limits, tenant selection, and rents.

(5) Part 965—Project management.

(6) Part 966—Lease and grievance procedure.

(7) Part 967—Personnel policies and compensation.

(8) Part 968—Modernization.

(9) Part 969—Demolition and disposition.

(10) Part 990—Operating subsidy.

(11) Part 999—Waiver authority.

(b) **Scope.** This regulation establishes two different procedures to be followed for inviting proposals for public housing projects from PHAs based on whether the PHA is located inside or outside a central city allocation area.

(1) A PHA located inside a central city allocation area will not be required to submit an application. Such PHAs will be invited to submit proposals (subpart D) when funds are allocated pursuant to 24 CFR part 791.

(2) A PHA located outside a central city allocation area will be required to submit an application (subpart C) which provides sufficient data for the field office to evaluate the community's housing needs and priorities relative to other communities within the field office jurisdiction. The applications will be rated by the field office and placed in an application pipeline. Such PHAs, based on the priority rating of their pipeline applications, will be invited to submit proposals (subpart D) when funds are allocated pursuant to 24 CFR part 791.

(45 FR 60838, Sept. 12, 1980. Redesignated and amended at 49 FR 6714, 6715, Feb. 23, 1984, and further amended at 56 FR 13282, Apr. 1, 1991)

EFFECTIVE DATE NOTE: At 56 FR 13282, Apr. 1, 1991, § 941.101 was amended by revising the first sentence of paragraph (a), effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.101 Purpose and scope.

(a) **Purpose.** The U.S. Housing Act of 1937 (Act) authorizes HUD to assist public housing agencies (PHAs) for the development and operation of lower income housing projects and financial assistance in the form of loans and annual contributions under sections 4, 5 and 9 of the Act. . . .

§ 941.102 Development methods.

A PHA may use one of three different methods to develop a project. The following are brief summaries of these development methods.

(a) **Conventional.** The conventional method may be used for either new construction or rehabilitation. The PHA is responsible for selecting a site or property and designing the project. After field office approval of a PHA proposal which identifies a site or property, the ACC is executed, site engineering studies or property inspections are performed, and the PHA acquires the sites or property. The PHA contracts with an architect to prepare the project design and construction documents. Following field office ap-

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proval of these documents, the PHA advertises for competitive bids to build or rehabilitate the project on the PHA-owned site and, after field office approval, awards a construction contract to the lowest responsible bidder. The contractor is required to furnish a 100 percent performance and payment bond or, notwithstanding 24 CFR 85.36(h), other assurances approved by the field office. The contractor receives progress payments from the PHA during construction or rehabilitation and a final payment upon completion of the project in accordance with the construction contract.

(b) **Turnkey.** The turnkey method may be used for either new construction or rehabilitation. The PHA advertises for and selects the turnkey developer who submits the best housing package for a site or property owned or to be purchased by the developer. The PHA then submits a proposal, incorporating the turnkey developer's submission, to the field office for approval. After field office approval of the PHA proposal, the ACC is executed and the developer prepares the design and construction documents. Following PHA and field office approval of these documents, the developer and PHA enter into a contract of sale which is approved by the field office. The developer is responsible for providing a completed housing project, which includes obtaining construction financing. Upon completion of project construction or rehabilitation in accordance with the contract of sale, the PHA purchases the project from the developer.

(c) **Acquisition.** The acquisition method may be used only to purchase existing properties that require little or no repair work (not to exceed in the aggregate 10 percent of the project total development cost). The PHA identifies the specific properties and after an appraisal and field office approval, the ACC is executed, and the PHA acquires the properties. Repair work is completed after acquisition, either by the PHA contracting to have the work done or by having the staff of the PHA perform the work.

(45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 2664, Mar. 11, 1988)

§ 941.103 Definitions.

Act. The U.S. Housing Act of 1937 (42 U.S.C. 1437).

Allocation area. A municipality, county, or group of contiguous municipalities or counties identified by the field office or in an approved areawide housing opportunity plan for the purpose of allocating housing assistance to support economically feasible housing projects (24 CFR part 791).

Annual Contributions Contract (ACC). A contract (in the form prescribed by HUD) for loans and contributions, which may be in the form of grants, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

Application. A preliminary submission pursuant to subpart C by a PHA located outside a central city allocation area which addresses local hous-

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ing need and development priority. The application is used by the field office to determine the extent that public housing funds will be allocated to specific allocation areas and which of several PHAs, competing for contract authority within an allocation area, should be given the first opportunity to submit a proposal for developing a project.

Central city allocation area. The central city of a standard metropolitan statistical area, or a formula entitlement community development block grant recipient, either of which is established as a separate allocation area by the field office pursuant to 24 CFR part 781.

Community. A municipality or other general purpose political subdivision below the county level.

Construction Contract. A contract (in the form prescribed by HUD) between the PHA and a contractor to build or rehabilitate a project using the conventional development method.

Construction documents. The working drawings and construction specifications and the rehabilitation work write-ups, where applicable, that set forth the work to be done under a construction contract or contract of sale.

Contract of sale. A contract (in the form prescribed by HUD) between the PHA and a developer whereby the PHA agrees to purchase a completed project after construction or rehabilitation by a developer using the turn-key development method.

Cooperation Agreement. An agreement between a PHA and the applicable local governing body or bodies which assures exemption from real and personal property taxes, provides for local support and services for the development and operation of a public housing project, and provides for PHA payments in lieu of taxes.

Design documents. The preliminary drawings and specifications and the preliminary rehabilitation work write-ups, where applicable, in sufficient detail to define the extent of construction or rehabilitation and demonstrate compliance with HUD design and construction standards.

Field Office. See HUD.

Housing Assistance Plan. A local housing assistance plan approved by the field office meeting the requirements of the community development block grant regulation (24 CFR part 570) whether or not the unit of general local government submitting the plan is a participant in the block grant program.

Household type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family (24 CFR part 781; 24 CFR part 812 of this chapter defines elderly, family and handicapped).

Housing type. The three housing types are (1) new construction, (2) rehabilitation and (3) existing housing (24 CFR part 781).

HUD. The Department of Housing and Urban Development, including the Regional Office and the Area or Service Office (herein called field office) which has been delegated authority to perform functions pertaining to this part.

Proposal. A detailed PHA submission pursuant to subpart D of all informa-

tion, including identification and evidence of site control, necessary for the field office to approve a public housing project.

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

Reformulation. The procedure by which HUD approves division of a project (including units and related funds) into two or more projects, or combining two or more projects into one, or redistributing units and related funds in a project among two or more projects, in order to provide PHAs with the flexibility to adapt to site availability, to resolve development problems, to acquire buildings ready for development (before acquisition of other buildings), and to save on interest and initial operating costs.

Total Development Cost. The sum of all HUD approved costs for planning, (including proposal preparation), administration, site acquisition, relocation, demolition, construction and equipment, interest and carrying charges, on-site streets and utilities, non-dwelling facilities, a contingency allowance, insurance premiums, off-site facilities, any initial operating deficit, and other costs necessary to develop the project. The total development cost in the proposal when reviewed and approved by the field office becomes the maximum total development cost stated in the ACC. Upon completion of the project, the actual development cost is determined and this becomes the maximum total development cost of the project for purposes of the ACC.

[48 FR 60824, Sept. 12, 1990, as amended at 56 FR 13282, Apr. 1, 1991]

Effective Date Note: At 56 FR 13282, Apr. 1, 1991, § 941.103 was amended by revising the definition of "Annual Contributions Contract (ACC)" and by adding a new definition for "Reformulation," effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.103 Definitions.

Annual Contributions Contract (ACC). A contract (in the form prescribed by HUD) for loans and annual contributions whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

Subpart B—PHA Eligibility and Program Requirements

§ 941.201 PHA eligibility.

(a) **General.** In order to participate in the public housing program, a PHA must be approved as an eligible PHA. The field office will determine eligibility based on a showing that the PHA has the legal authority and local cooperation required by this part.

(b) **Legal authority.** The PHA must demonstrate that it has the legal authority to develop, own, and operate a public housing project under the Act.

(c) **Local cooperation.** The PHA must provide a cooperation agreement between the PHA and the applicable local governing body for the area in which the public housing project is to be located as evidence that the local governing body will provide the local cooperation required by HUD pursuant to the Act. This local cooperation shall include exemption from real and personal property taxes, acceptance of PHA payments in lieu of taxes, and the provision at no cost or at no greater cost by the local governing body of the same public services and facilities normally furnished to others in the community.

§ 941.202 Site and neighborhood standards.

Proposed sites for public housing projects to be newly constructed or rehabilitated must be approved by the field office as meeting the following standards:

(a) The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed, and adequate utilities (e.g., water, sewer, gas and electricity) and streets must be available to service the site.

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

(c) The site for new construction projects must not be located in:

(1) An area of minority concentration unless (i) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (ii) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable; or

(2) A racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

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

(e) The site must be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank back-ups, sewage hazards or mudslides; harmful air pollution, smoke or dust; excessive noise vibration, vehicular traffic, rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

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(f) The site must comply with any applicable conditions in the local housing assistance plan approved by the field office.

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

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

(i) The project may not be built on a site that has occupants unless the relocation requirements referred to in § 941.207 are met.

(j) The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

§ 941.203 Design and construction standards.

Projects shall not be of elaborate or extravagant design or materials, and shall be developed to promote serviceability, efficiency, economy, and stability, and to promote the economic and social well being and advancement of the prospective occupants. Projects must comply with:

(a) HUD Minimum Property Standards or, if applicable, the HUD Minimum Design Standards for Rehabilitation for Residential Properties.

(b) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly, or handicapped.

(c) HUD requirements pertaining to noise abatement and control.

(d) Applicable State and local laws, codes, ordinances, and regulations.

(e) Projects for families with children shall to the maximum extent practicable consist of low-density housing (e.g., non-elevator structures, scattered sites or other types of low-density developments appropriate in the community).

(f) High-rise elevator structures shall not be provided for families with children regardless of density unless the PEA demonstrates and the field office determines that there is no practical alternative. High-rise buildings for the elderly may be used if the PEA demonstrates and the field office determines that such construction is appropriate taking into consideration land costs, the safety and security of the prospective occupants, and the availability of community services.

(45 FR 80323, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 41599, Oct. 24, 1988)

§ 941.204 Cost guidelines.

(a) *General.* (1) HUD will establish cost guidelines to ensure that the cost of developing modest non-luxury Public Housing is reasonable. The guidelines will be used for the purpose of reserving funds for new Public Housing projects and, except as provided in § 941.408(a), will represent the maximum total development cost (TDC) that may be approved for a project.

(2) Cost guidelines represent HUD's determination of the current total development costs within a market area for modest, non-luxury Public Housing that is developed in conformity with the minimum property standards, local building codes and requirements, and the housing design and construction standards contained in this part. The cost guidelines are issued for specific unit sizes (i.e., number of bedrooms) and structure types (i.e., detached, semidetached, row, walkup, or elevator) in each market area. For the purposes of this part, market areas are those areas within which trade conditions and economic influences tend to make development costs substantially the same. Each cost guideline is developed with consideration being given to, among other things, the current cost of dwelling and non-dwelling construction and equipment, land, demolition, site improvements and PEA administrative costs.

(b) *Issuance of cost guidelines.* HUD will issue cost guidelines periodically (usually on an annual basis) by notice sent to Public Housing Agencies.

(c) *Interim revisions.* (1) A PEA or HUD field office may request revisions to cost guidelines established for a market area (or the establishment of a separate market area within an existing market area) before the issuance of the next regularly scheduled cost guidelines as described in paragraph (b) of this section. The request must be in the manner and form prescribed by HUD and must be based upon the actual costs to develop modest non-luxury Public Housing. The Assistant Secretary may issue revised guidelines for a market area (or establish a separate market area) if HUD determines that the evidence submitted clearly demonstrates that the actual cost of development within the market area (or within a separate market area within the existing market area) is higher than the most recently issued guidelines for the market area.

(2) HUD will issue with its cost guidelines, a description of the methodology used to compute the cost guidelines and a description of the documentation that must be submitted in support of a request for interim revisions.

(53 FR 41599, Oct. 24, 1988)

§ 941.205 PEA contracts.

(a) *ACC requirements.* In order to be considered as eligible project expenses, all development related contracts entered into by the PEA shall provide for compliance with the provisions of the ACC.

(b) *Contract forms.* All development related contracts shall be in the form prescribed by the field office.

(c) *Field Office approval.* The PEA, unless otherwise authorized, shall obtain the written approval of the field office prior to executing, or making payments pursuant to, any development related contracts. This includes but is not limited to contracts for project design, site and property acquisition, construction contracts, contracts of sale, and contracts for construction inspections.

§ 941.206 Eligible properties.

(a) *Properties assisted under the Act.* Proposals involving properties already assisted under the Act, or which received assistance within one year of the date the application or proposal is submitted to the Field Office, may not be approved without the prior written approval of the Assistant Secretary.

(b) *Local or State properties.* Proposals (including, for purposes of this paragraph only, Development Programs pursuant to Program Reservations issued before October 1, 1980) for the transfer of existing PHA-owned, city, county or State-assisted projects to the Federal public housing program under the U.S. Housing Act of 1937 may not be approved, except with the prior written approval of the Assistant Secretary.

(c) *Properties secured by an FHA-insured or HUD-held mortgage or owned by HUD.* Proposals (including, for the purpose of this paragraph only, Development Programs pursuant to Program Reservations issued before October 1, 1980) involving the acquisition, with or without rehabilitation, of properties secured by an FHA-insured or HUD-held mortgage, or owned by HUD, may not be approved except with the prior written approval of the Assistant Secretary, and subject to other applicable statutory and regulatory provisions.

(49 FR 46962, Oct. 17, 1983)

§ 941.207 Relocation and acquisition.

(a) *Applicability of Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (42 U.S.C. 4601-4655) and HUD implementing regulations in part 42 of this title apply to the acquisition of real property by a PEA for a project assisted under this part and to any displacement that results from such acquisition.

(b) *Exceptions.* The provisions of the Uniform Act do not apply to the following:

(1) PEA acquisition of a site or property that results from a voluntary transaction as described in § 42.101(a)(1) of this title, except the Uniform Act relocation requirements do apply to the displacement of any renter-occupant of such site or property. For purposes of relocation eligibility for such renter-occupants, the "initiation of negotiations" shall be the date of the seller's acceptance of the PEA's written offer to purchase the property.

(2) Acquisition of any property by a turnkey developer (but see paragraph (d) of this section).

(c) *Notices.* Persons scheduled to be displaced shall be given written notices and information by the PEA as specified in § 42.203 of this title. Per-

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sons not scheduled to be displaced shall be informed of the acquisition and given notice by the PHA of their opportunity to enter into a lease with the PHA. If the PHA has determined their eligibility under part 960 of this chapter.

(d) *Displacement resulting from turnkey development.* (1) Residential renter occupants who were in occupancy on the date the proposal was approved by the field office and are required to move (other than for cause) for purposes of developing the turnkey project, shall be entitled to relocation assistance. Each eligible occupant shall be provided with the following as prescribed by HUD:

(i) Appropriate advisory services to minimize hardships in adjusting to temporary or permanent relocation;

(ii) Permanent relocation to a suitable replacement dwelling unit or temporary relocation followed by permanent relocation when a suitable replacement dwelling unit becomes available;

(iii) Reimbursement for reasonable moving and related expenses; and

(iv) Advance written notice, of at least thirty (30) days, indicating the date by which the occupant is expected to move.

(2) Residential renter occupants who move into a property after field office approval of the proposal shall not be eligible for relocation assistance if, prior to occupancy, they are given written notification of their potential displacement because the property has been approved for development as public housing. The turnkey developer shall be responsible for assuring that prior notification is given to any such occupant.

(3) If a residential renter occupant moves into a property after field office approval of the proposal and is thereafter required to move (other than for cause), the turnkey developer shall be responsible for reimbursing such occupant for reasonable moving and related expenses without cost to the project or the PHA. In addition,

(i) Any such occupant who meets the Section 8 eligibility requirements shall be provided advisory services and permanent relocation in a HUD assisted housing unit in accordance with the priority criteria for displaced; or

(ii) Any such occupant who does not meet the Section 8 eligibility requirements shall be provided advisory services and assistance in finding a suitable replacement dwelling unit.

[45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 51 FR 8613, Feb. 27, 1986]

§ 941.208 Other Federal requirements.

(a) *Equal Opportunity requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-3620), Executive Orders 11063, 11248, and 11375, section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and all related rules, regulations and requirements.

(b) *Environmental requirements.* Participation in this program requires compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321), the Clean Air Act (42 U.S.C. 1857), the Federal Water Pollution Control Act (33 U.S.C. 1151), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the National Historic Preservation Act of 1966 (Pub. L. 89-665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291), Executive Order 11593 relating to the Protection and Enhancement of the Cultural Environment (including the procedures prescribed by the Advisory Council on Historic Preservation at 38 CFR part 800), E.O. 11988 on Floodplain Management, Executive Order 11990 for the Protection of Wetlands, and all related rules, regulations and requirements.

(c) *Accessibility requirements.* Participation in this program requires compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Executive Order 11914, and title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-3620) (Fair Housing Act), relating to nondiscrimination against the handicapped, and all related rules, regulations and requirements.

(d) *Prevailing wages.* Participation in this program requires that not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276) shall be paid to all laborers and mechanics employed in the development of a project. All architects, technical engineers, draftsmen and technicians shall be paid not less than the wages prevailing in the locality as determined or adopted by HUD (42 U.S.C. 1437j). Prevailing wages determined under State law are inapplicable under the circumstances set out in § 941.503(d).

(e) *Minority business enterprise.* Participation in this program requires compliance with E.O. 11625, Prescribing Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise.

(f) *Age discrimination.* Participation in this program requires compliance with the Age Discrimination Act of 1975, and all related rules, regulations, and requirements.

(g) *Applicability of 24 CFR part 85.* The Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments set forth in 24 CFR part 85 are applicable to grants made under this part on or after October 1, 1986, except that § 941.502 is not subject to § 85.36(g), and as otherwise specified in this part.

(h) *Lead-based paint.* All existing properties constructed prior to 1978 (or substantially rehabilitated prior to 1978) and proposed to be acquired for family projects (whether or not they will need rehabilitation) under this part shall be tested for lead-based paint on applicable surfaces (including defective paint surfaces) as described in 24 CFR 968.9(e)(2). If lead-based paint is found, the cost of testing and abatement shall be considered when: (1) Making the cost comparison to justify new construction as well as (2)

meeting maximum total development cost limitations. If units containing lead-based paint are acquired, compliance with 24 CFR part 35 and 24 CFR part 965 subpart H is required, and abatement as described in 24 CFR 965.705 shall be completed prior to occupancy.

(i) *Intergovernmental Review.* Participation in this program requires compliance with Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR part 52. This order allows each State to establish its own process for review and comment on proposed Federal financial assistance programs.

[45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 51 FR 8046, Mar. 11, 1986; 51 FR 20402, June 6, 1986, 53 FR 30216, Aug. 10, 1988; 56 FR 13282, Apr. 1, 1991]

Effective Date Note: At 56 FR 13282, Apr. 1, 1991, § 941.208 was amended by revising paragraphs (a) and (c) and adding paragraph (i), effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.208 Other Federal requirements.

(a) *Equal Opportunity requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601), Executive Orders 11063, 11248, and 11375, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and all related rules, regulations and requirements.

(c) *Rehabilitation Act.* Participation in this program requires compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), relating to nondiscrimination against the handicapped, Executive Order 11514, and all related rules, regulations and requirements.

§ 941.209 Audit.

All PHAs that receive funds under this part for the development of lower-income housing shall comply with audit requirements in 24 CFR part 44.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986]

Subpart C—Application

§ 941.301 General.

(a) *Applicability.* Applications under this subpart may be filed only by PHAs located outside a central city allocation area. Such a PHA may submit one or more applications for a public housing project or projects at any time.

(b) *Purpose.* The application gives a PHA which must compete with other PHAs in the same allocation area an opportunity to advise the field office of the extent to which the application would address local housing needs, of the relationship of the proposed public housing project to other local development activities, and of any factors entitling the application to a priority rating. Applications with a high priority rating will be retained in the field office pipeline and, when funds become available to the field office, PHA with pipeline applications will be

correction, Thursday, May 27, 1991

invited to submit proposals pursuant to subpart D. In this way, a PHA will not have to make front-end expenditures to prepare proposals and option sites until the PHA has a reasonable assurance of obtaining funding for a project.

(c) *Revisions.* Each PHA with an application being held in the field office pipeline pursuant to § 941.303, during the month of July shall notify the field office in writing that the PHA has reviewed the contents of its application and determined that no changes are required or, if applicable, the PHA shall submit a revised application.

§ 941.302 Content.

(a) *General.* Each application shall be for a specific project, and separate applications shall be submitted by housing type, development method, and community for which the project is proposed. If a PHA submits more than one application for a community, the PHA shall assign a priority rating to each application for that community based on the PHA assessment of local housing need and priorities.

(b) *PHA eligibility.* The application shall include a showing that the PHA has met the eligibility and local cooperation requirements of § 941.201.

(c) *PHA administrative capability.* The application shall include evidence from a new PHA or updated information, if any, that the PHA has the capability to develop the project and operate all of its projects in compliance with the program requirements.

(d) *Tenant selection experience.* The application shall include:

(1) A statement of the PHA experience in selecting tenants whose habits or practices may reasonably be expected to have a positive effect on the project or other tenants; and

(2) A statement of the PHA experience in selecting a cross section of tenants with a broad range of incomes and rent paying abilities that is representative of the range of incomes for lower income families in the community.

(e) *Housing need and local priorities.* The application shall include:

(1) A statement of the extent the application would address local housing need in the community for which the project is proposed to meet any applicable three-year HAP goals or, in the absence of a HAP, other housing needs identified in State, regional, or local housing surveys or plans;

(2) Information concerning local housing priorities and relationship of the proposed project to local community development activities.

(f) *Project description.* The application shall indicate the:

- (1) Community for which the housing is proposed;
- (2) Development method;
- (3) Housing type; and
- (4) Number of units by household type, unit size (number of bedrooms) and structure type.

§ 941.303 Pipeline.

(a) *Application review.* Each application shall be reviewed by the field office for completeness and consistency with the program requirements.

(b) *Application rating.* Each approval application will be assigned a general priority rating based on housing need and relationship of the proposed project to other local activities. In establishing the priority rating, consideration also shall be given to local priorities identified in the application and the PHA's ability to develop additional public housing.

(c) *Retention in application pipeline.* Approvable applications shall be retained in the application pipeline by the field office until sufficient funds become available or until applications with a higher priority rating are received. The number of units in the pipeline applications shall not exceed the number of units that can reasonably be expected to be funded in a three-year period. If the number of units in pipeline applications exceeds this level, only the applications with the highest priority rating shall be retained by the field office.

(d) *Disposition of applications.* Unapprovable applications and those receiving a rating which places them below the anticipated three-year funding level will be returned to the PHA with an explanation of the reasons for the action.

Subpart D—Proposal

§ 941.401 Fund allocation.

Funds for public housing projects are allocated to each field office and specific allocation areas pursuant to 24 CFR part 781, subpart D. Each field office develops an allocation plan which establishes the amount of public housing funds to be made available for specific allocation areas and announces the estimated number of units, by housing type and household type, that these funds are expected to produce in such allocation areas.

§ 941.402 PHAs inside central city allocation areas.

(a) *Issuance of invitation.* When public housing funds become available for a central city allocation area, the field office shall send an invitation to the PHA, identifying the amount of public housing funds allocated and inviting the PHA to submit proposals pursuant to this subpart. Prior to proposal submission, the PHA shall be invited to provide the following information within a specified time:

(1) Evidence that the PHA has met the eligibility and local cooperation requirements of § 941.201;

(2) Evidence of the PHA administrative capability and tenant selection experience pursuant to § 941.302(c) and § 941.302(d);

(3) Identify, for each proposal the development method and the housing type;

(4) Identify, for each proposal the number of units by household type; unit size (number of bedrooms) and structure type, and the total units;

(5) A schedule for the submission of each proposal (all proposals must be received by the field office prior to June 30 of the fiscal year for which the allocation was made).

(b) *Project planning conference.* The field office invitation will advise the PHA that a project planning conference has been scheduled for a speci-

fied date to discuss the program requirements and the PHA and field office actions related to project planning and development.

(c) *Front-end expenditures.* A PHA inside a central city allocation area is expected to provide necessary funding related to the preparation and submission of proposals. Such a PHA may request front-end funding assistance by HUD only for:

(1) Scattered-site housing involving rehabilitation under the conventional method; or

(2) Scattered-site existing housing to be purchased under the acquisition method.

(d) *ACC preparation and execution.* The ACC shall be prepared and sent to the PHA upon approval of the proposal. The PHA shall be requested to execute the ACC and return it to the field office for execution. However, if execution of an ACC has been approved to provide front-end funding assistance, the PHA shall be requested to execute the ACC and return it to the field office for execution prior to submission of the proposal.

§ 941.403 PHAs outside central city allocation areas.

(a) *Issuance of invitation.* When funds become available for other than central city allocation areas, the field office shall invite PHAs with high rated applications in the pipeline to submit proposals pursuant to this subpart. If there are insufficient pipeline applications for a particular housing type or household type, the field office may send letters requesting PHAs to submit additional applications prior to inviting proposals.

(b) *Project planning conference.* The field office invitation will advise the PHA that a project planning conference has been scheduled for a specified date to discuss the program requirements and the PHA and field office actions related to project planning and development and to establish a deadline date for proposal submission.

(c) *Front-end expenditures.* Except as provided in this paragraph, PHAs outside a central city allocation area are expected to provide necessary funding related to the preparation and submission of proposals. Such a PHA may request front-end funding assistance by HUD only if the PHA is:

(1) A newly established or small PHA proposing to build, rehabilitate, or acquire housing in communities that are not entitlement cities under the community development block grant program;

(2) Proposing to build or rehabilitate scattered-site housing under the conventional method or proposing to purchase scattered-site existing housing under the acquisition method; or

(3) Other specific causes approved by the Assistant Secretary to permit a PHA, that would otherwise be precluded, to participate in the public housing program without front-end funding assistance by HUD.

(d) *ACC preparation and execution.* The ACC shall be prepared on the basis of the PHA application and will be sent to the PHA by the field office. The PHA shall be requested to execute the ACC and return it to the field

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office with its proposal, so that the field office can execute the ACC when the proposal is approved. However, if execution of an ACC has been approved to provide front-end funding assistance, the PHA shall be requested to execute the ACC and return it to the field office for execution prior to submission of the proposal.

§ 941.404 Proposal content.

Each proposal shall be prepared in the form prescribed by HUD and shall include, at a minimum, the following:

(a) *Project description.* A description of the housing, including the number of units, schematic drawings of the proposed building and unit plans, outline specifications or rehabilitation work write-ups, and the types and amounts of non-dwelling space to be provided.

(b) *Site information.* An identification and description of the proposed site, site plan, neighborhood, and evidence of PHA or turnkey developer control of the site for at least sixty (60) days after proposal submission.

(c) *Project construction cost estimate.* For conventional projects, a preliminary project construction cost estimate based on the schematic drawings and outline specifications and current construction costs prevailing in the area. For turnkey projects, the developer's price for the project based on the deadline date specified in the PHA's advertisement for turnkey developers.

(d) *Zonings.* Evidence that construction or rehabilitation is permitted by current zoning ordinances or regulations or evidence to indicate that needed rezoning is likely and will not delay the project.

(e) *Facilities.* A statement addressing the adequacy of existing or proposed facilities and services for the prospective occupants of the project and, if applicable, a statement addressing the minority enrollment and capacity of the school system to absorb the number of school aged children expected to reside in the project.

(f) *Relocation.* Information concerning any displacement of site occupants, including identification of each displacee, the PHA distribution plan for notices, and the anticipated cost and source of funding for relocation benefits.

(g) *Financial feasibility.* A PHA subject to the performance funding system shall demonstrate the financial feasibility of the project by showing that the estimated operating expenses will not exceed the estimated operating income for the first fiscal year of operation. If expenses are greater than income, the PHA may consider the amount of operating subsidy that would be made available to the project under a separate or consolidated ACC. A PHA that is not subject to the performance funding system shall provide a demonstration of financial feasibility in accordance with the procedures determined by the Assistant Secretary.

(h) *Utility analysis.* An analysis of utility costs demonstrating that the best utility combination is being proposed, based on initial installation costs and long term operation and maintenance costs, energy conservation, and evidence that the selected

utilities will be available for the proposed project.

(i) *Contracts.* A copy of the proposed contract between the PHA and its design or inspecting architect and, if applicable, the PHA executed ACC.

(j) *Turnkey projects.* For projects being developed using the turnkey method, a copy of the PHA advertisement and information furnished to developers, the housing package submitted by the PHA selected turnkey developer, and a certification that the PHA selection was based on an objective rating system using such factors as site location, project design, price, and developer experience.

(k) *Acquisition projects.* For existing housing, a certification by the PHA and owner that the property was not constructed with the intent that it would be sold to the PHA.

(l) *Project development schedule.* A copy of the PHA development schedule, including the PHA architect or turnkey developer estimates of the time required to complete each major development stage.

(m) *Intergovernmental Review.* New construction projects and substantial rehabilitation projects which involve: a change in land use; an increase in project density; or a change from rental to homeownership, must meet the Intergovernmental Review requirements of 24 CFR part 52. The PHA must certify that the State Single Point of Contact (SPOC) was notified, by providing a copy of the signed and dated Standard Form SF-424 with its Proposal. If there is no SPOC, or public housing development is not a program or activity selected for the State process, the PHA must submit evidence that the SF-424 was sent directly to affected state, area-wide, regional and local entities.

(n) *Special Procedures for Scattered-Site Projects.* PHAs may, in lieu of submission of the complete proposal described in this section, submit a limited proposal if: the proposal is for a project involving scattered-site acquisition or a scattered-site conventional new construction or rehabilitation development; if the proposal has been determined to be eligible for front-end funding pursuant to § 941.402(c) or § 941.403(e); and if the diversity of ownership of the properties is expected to make site control difficult. The special proposal procedures provided by this paragraph do not apply to scattered-site projects involving turnkey development. Each limited proposal shall be prepared in the form prescribed by HUD and shall include, at a minimum, the following:

(1) A project development schedule;

(2) the PHA demonstration of financial feasibility;

(3) a neighborhood map or maps, identifying the specific neighborhoods in which acquisitions are proposed ("jurisdiction-wide" proposals are not acceptable);

(4) a description of each neighborhood, identifying the range of structure types, unit sizes (number of bedrooms), ages of units, general condition, and price ranges by unit size;

(5) a description of each neighborhood, identifying its racial composition, availability of schools, shopping and social services, and transportation routes;

(6) evidence that the type of housing to be acquired is regularly available;

(7) data regarding occupancy (owner/tenant) and an estimate of relocation costs, if any;

(8) the ACC and related documents, executed by the PHA; and

(9) if applicable, a copy of the signed and dated SF-424 evidencing initiation of Intergovernmental Review (see subparagraph (m) above).

HUD shall review the limited proposal, in accordance with § 941.405, and upon approval of the proposal, HUD shall execute the ACC and permit advances for the purposes and amounts described in § 941.408(b)(3). The PHA shall select individual properties in accordance with its approved limited proposal, but shall not acquire a property or make a commitment to acquire without specific HUD site approval, including approval of work write-ups, plans and specifications, or repair lists; and a determination that the property, including the resultant total development cost, is consistent with the approved limited proposal.

(48 FR 60838, Sept. 12, 1980, as amended at 56 FR 13282, Apr. 1, 1991)

Effective Date Note: At 56 FR 13282, Apr. 1, 1991, § 941.404 was amended by revising the introductory text and adding paragraphs (m) and (n), effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.404 Proposal content.

Each proposal shall be prepared in the form prescribed by HUD and shall include at least the following:

§ 941.405 Technical processing and approval.

(a) *Initial screening.* The field office shall perform an initial screening to determine that all required documentation has been submitted. The field office shall advise the PHA of any deficiencies in the proposal and that additional information will be accepted if it is received by a specified date.

(b) *Technical processing.* Upon determining that a proposal is acceptable for technical processing, the field office will:

(1) Send a notification to the chief executive officer (or designee) of the unit of general local government pursuant to section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439), inviting a response within thirty (30) calendar days from the date of the field office transmittal letter;

(2) Evaluate the proposal to determine compliance with all program requirements including, if applicable, the comments received as a result of Intergovernmental Review, or from the unit of general local government.

(3) Complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969; and

(4) Determine the appraised value of the site or property.

(c) *Proposal approval.* The field office shall send a notification letter to the PHA stating that the proposal has been approved or disapproved. For approved proposals, the field office letter shall indicate the approved total development cost and the appraised

value of the site or property. The ACC will be sent to the PHA for execution or, where the PHA has already executed the ACC, the field office will execute the ACC and send a copy to the PHA.

(d) **Cancellation of fund reservation.** The field office may cancel the fund reservation if the PHA fails to develop the project within the 30 months, dating from the time of fund reservation, allowed for a start (the beginning of construction or rehabilitation), or for completion (acquisition of existing housing) pursuant to section 5(k) of the Act. During this 30-month period, the PHA may, in accordance with HUD requirements, change the site of the public housing project, or reformulate the project, provided that the change in site or reformulation results in not less than the original number of dwelling units to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of the 30-month period any delay in the beginning of construction or rehabilitation of the project caused by: failure of HUD to process the project within a reasonable period of time; any environmental review requirement; any legal action affecting the project; or any other factor beyond the control of the PHA. Extensions beyond 30 months must be approved in writing by the Regional Administrator. In the event the PHA defaults on its obligations with regard to development of the project, advances made to the PHA shall be repaid by the PHA from any funds or assets available for that purpose.

[45 FR 60638, Sept. 12, 1980, as amended at 48 FR 29218, June 24, 1983. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 56 FR 13283, Apr. 1, 1991]

EFFECTIVE DATE NOTE: At 56 FR 13283, Apr. 1, 1991, § 941.405 was amended by revising paragraph (b) introductory text and (b)(2), and adding paragraph (d), effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.406 Technical processing and approval.

(b) **Technical processing.** Upon determining that a proposal is acceptable for technical processing, the field office shall:

- (1)
- (2) Evaluate the proposal to determine compliance with all program requirements and, if applicable, the comments received from the unit of general local government;

§ 941.406 Maximum development cost and advances.

(a) **Maximum total development cost (TDC).** The maximum total development cost (TDC) is calculated by multiplying the number of units for each bedroom size and structure type in the project times the applicable cost guidelines for the bedroom size and structure type and adding the resulting amounts for all units in the project.

(1) The total project cost that may be approved and reserved for a proposed project at the time of the initial reservation of funds may not exceed 100 percent of the maximum TDC based on the most recently issued cost guidelines.

(2)(i) After initial fund reservation and subject to the availability of funds:

(A) A Field Office may approve costs (which include any local donations) and reserve funds for a project up to 100 percent of the maximum TDC based on the most recently issued cost guidelines;

(B) The Regional Administrator may authorize the Field Office to approve costs (which include any local donations) and reserve funds for a project up to 105 percent of the maximum TDC based on the most recently issued cost guidelines; and

(C) The Assistant Secretary may authorize the Field Office to approve costs and reserve funds for a project above 105 percent of the maximum TDC based on the most recently issued cost guidelines.

(ii) The Regional Administrator or Assistant Secretary, as appropriate, may approve increases under paragraph (a)(2)(i) of this section, if the costs are reasonable and necessary to develop a modest non-luxury project that provides for efficient design, durability, energy conservation, safety, security, economical maintenance, and healthy family life in a neighborhood environment.

(3) If project costs can not be brought within the approvable maximum TDC, the project must be submitted in the form and manner prescribed by HUD to the Headquarters Technical Review Panel. The panel will consider the extent to which cost reduction alternatives are possible to bring the project within the approvable TDC. If the project can not be brought within the approvable maximum TDC, the panel may recommend that the Assistant Secretary approve a higher TDC or terminate the project.

(b) **Development advances.** Funds shall only be advanced to the PHA after execution of the ACC by the PHA and the field office. Funds shall be advanced pursuant to a PHA requisition approved by the field office.

(1) Advances may be provided to pay for materials and services related to proposal development, such as PHA staff salaries and travel, professional services for selection of sites or preparation of invitations for housing projects under the turnkey method, site options, site engineering studies and site acquisition.

(2) For projects being developed under the turnkey method, advances prior to execution of the contract of sale shall be limited to one percent of the total development cost stated in the executed ACC.

(3) For projects being developed under the conventional or acquisition method, advances prior to recordation of the deed and the declaration of trust for sites or properties shall be limited to one percent of the total development cost stated in the executed ACC. However, after approval of the proposal by the field office, an additional amount may be advanced for site or property acquisition not to exceed the amount approved by the field office for site and property acquisition.

(c) **Termination of advances.** The field office may terminate advances if the PHA fails to develop the project in accordance with the approved project

development schedule. In the event the PHA defaults on its obligations with regard to development of the project, the amount of advances made to the PHA shall be repaid by the PHA from any funds or assets available for that purpose. Cancellation of fund reservation is governed by § 941.405(d).

(d) **Recapture of funds.** In the event that the development of a project is terminated by the field office, any unused or uncommitted funds (including repayments) will be recaptured.

[45 FR 60638, Sept. 12, 1980, as amended at 47 FR 39482, Sept. 8, 1982. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 41808, Oct. 24, 1988; 56 FR 13283, Apr. 1, 1991]

EFFECTIVE DATE NOTE: At 56 FR 13283, Apr. 1, 1991, § 941.406 was amended by revising paragraph (c), effective May 1, 1991. For the convenience of the user, the superseded text follows:

§ 941.406 Maximum development cost and advances.

(c) **Termination of advances.** The field office may terminate advances if the PHA fails to develop the project in accordance with the approved project development schedule. In the event the PHA defaults on its obligations with regard to development of the project, the amount of advances made to the PHA shall be repaid by the PHA from any funds or assets available for such purposes.

Subpart E—Project Development

§ 941.501 Site and property acquisition.

(a) **Applicability.** The provisions of this section apply to projects being developed under the conventional or acquisition methods.

(b) **Purchase agreement.** The PHA, upon approval of the proposal, shall exercise its site option and execute a purchase agreement with the owner. The purchase agreement shall reflect any conditions established by the field office such as the appraised value for the site or property or site engineering studies that must be completed to determine whether the site is suitable for development of the project.

(c) **Title.** The field office shall notify the PHA that it is authorized to take title to the site or property. The PHA shall be required to obtain a title insurance policy or other title evidence acceptable to the field office which guarantees that the title is good and marketable. The PHA shall ensure that the deed and declaration of trust in the form prescribed by HUD are promptly recorded.

§ 941.502 Project design and execution of contracts.

(a) **General.** The PHA, unless otherwise authorized by the field office, shall submit interim or preliminary design documents for field office approval prior to preparing and submitting the detailed construction documents. The field office shall review both the design documents and the construction documents for consistency with the proposal, to determine that all HUD design and construction standards have been met, and to ensure that the project development

APPENDIX 1

costs are reasonable and are within the applicable cost limitations.

(b) *Conventional method.* (1) The design documents and the construction documents shall be prepared in accordance with HUD criteria for approval by the field office.

(2) The project total development cost estimates (excluding site or property purchase) shall be adjusted on the basis of a commercial construction cost index to reflect actual changes in construction costs between the date the proposal was submitted and the date the construction documents are approved. An additional adjustment shall be made to reflect anticipated changes in construction costs from the date the construction documents are approved to the scheduled date for execution of the construction contract.

(3) After the Field Office has approved the construction documents and construction cost estimates, the PHA shall advertise for bids. In order to approve execution of the construction contract, the Field Office shall determine that the low bid is responsive to the PHA invitation and will result in a total development cost that does not exceed the Field Office estimate of replacement cost or the maximum total development cost approvable by the Field Office under § 941.406(a).

(4) After field office approval, the construction contract shall be executed by the PHA and the contractor and the PHA shall issue a notice to proceed with construction or rehabilitation in accordance with the construction contract and the approved construction documents.

(c) *Turnkey method.* (1) The design documents and the construction documents shall be prepared in accordance with HUD criteria for approval by the field office.

(2) The developer's price (excluding site or property purchase and interest during construction) shall be adjusted on the basis of a commercial construction cost index to reflect actual changes in construction costs between the deadline date specified in the PHA invitation for project submissions under the turnkey method and the date that the contract of sale is executed. However, such adjustments shall not be made for any time period attributable to developer caused delays.

(3) The developer's amount for interest during construction shall be adjusted to reflect the actual construction loan interest rate prevailing in the area at the time the contract of sale is executed.

(4) In order to approve execution of the contract of sale, the Field Office shall determine that the developer's price does not exceed the Field Office estimate of replacement cost, or result in a maximum total development cost in excess of that approvable by the Field Office under § 941.406(a).

(5) After field office approval, the contract of sale shall be executed by the PHA and the developer and by the field office to indicate HUD approval. The developer shall then proceed with construction or rehabilitation of the project in accordance with the contract of sale and the approved construction documents.

(d) *Acquisition method.* The field office shall determine that the PHA estimate of the project total development cost, including the acquisition price and the cost for minor repairs, is reasonable and does not exceed the field office estimate of replacement cost. After field office approval, the PHA shall purchase the property and complete the required repairs in accordance with HUD requirements.

[45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 41899, Oct. 24, 1988]

§ 941.503 Construction requirements.

(a) *Economy.* The PHA shall complete development of the project, in accordance with the project development schedule, at the lowest possible cost, within the total development cost identified in the ACC, and consistent with HUD construction requirements.

(b) *Contract changes.* The PHA shall not agree to any changes or additions to the work required under the construction contract or contract of sale or as agreed to under the acquisition method, except as authorized by the provisions of these contracts or by the field office.

(c) *Contract administration.* The PHA shall be responsible for contract administration and shall contract for the services of an architect, or other person licensed under State law, to assist and advise the PHA in contract administration and inspections to assure that the work is done in accordance with HUD requirements. A field office representative will periodically visit the project site to monitor PHA contract administration.

(d)(1) A prevailing wage rate determined under State law shall be inapplicable to the development of a project whenever:

(i) The development of the project is otherwise subject to State law requiring the payment of wage rates determined by a State or local government or agency to be prevailing; and

(ii) The wage rate (including fringe benefits, if any, and basic hourly rate) determined under State law to be prevailing with respect to an employee in any trade employed in the development of a project exceeds:

(A) The wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq.) to be prevailing in the locality with respect to such trade.

(B) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the Department of Labor or a DOL-recognized State Apprenticeship Agency or

(C) An applicable trainee wage rate based thereon specified in an DOL-certified trainee program.

(2) Whenever paragraph (d)(1)(i) is applicable:

(i) Any solicitation of bids or proposals issued by the PHA and any contract executed by the PHA for development of the project shall include a statement that any prevailing wage rate determined under State law to be prevailing with respect to an employee in any trade employed under the contract is inapplicable to the contract and shall not be enforced against the contractor or any subcontractor with respect to employees engaged under

the contract whenever such prevailing wage rate exceeds:

(A) The wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq.) to be prevailing in the locality with respect to such trade.

(B) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the Department of Labor or a DOL-recognized State Apprenticeship Agency or

(C) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

Failure to include this statement may constitute grounds for requiring resolicitation of the bid or proposal;

(ii) The PHA itself shall not be required to pay any prevailing wage rate determined under State law and described in paragraph (d)(1)(ii) to any of its own employees who may be engaged in the development of the project; and

(iii) No prevailing wage rate determined under State law and described in paragraph (d)(1)(iii) shall be enforced against the PHA or any of its contractors or subcontractors with respect to employees engaged in the development of the project.

(3) Nothing in this paragraph (d) shall affect the applicability of any wage rate established in a collective bargaining agreement with a PHA or its contractors or subcontractors where such wage rate equals or exceeds the applicable prevailing wage rate determined by the Secretary of Labor or an applicable apprentice or trainee wage rate based thereon, nor does this paragraph (d) impose a ceiling on wage rates a PHA or its contractors or subcontractors may choose to pay independent of State law.

(4) The provisions of this paragraph (d) shall be applicable to work performed under any prime contract entered into as a result of a solicitation of bids or proposals issued on or after October 6, 1988 and to any work performed by employees of a PHA on or after October 6, 1988.

[45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 30216, Aug. 10, 1988]

§ 941.504 Acceptance of work and contract settlement.

(a) *Notification of completion.* The contractor or developer shall notify the PHA in writing when the contract work, including any approved off-site work, will be completed and ready for inspection. No work shall be accepted by the PHA without prior field office approval. The final inspection will be made jointly by representatives of the PHA, the field office and the contractor or developer.

(b) *Acceptance.* If upon inspection, the PHA and the field office determine that the work is complete and satisfactory, except for work that is appropriate for delayed completion, the work shall be accepted. The PHA shall determine any hold-back for items of delayed completion, the amount due and payable for the work that has been accepted including any conditions precedent to payment that are stated in the construction contract or contract of sale. The field office

shall review and, if acceptable, approve the PHA determination concerning work to be accepted and the amount to be paid to the contractor or developer. The contractor or developer shall be paid for items of delayed construction only after inspection and acceptance of this work by the PHA and the field office.

(c) *Title.* If the PHA and field office determine that the turnkey developer completed the work in accordance with the contract of sale, the field office shall notify the PHA that it is authorized to take title to the completed project. The PHA shall be required to obtain a title insurance policy or other title evidence acceptable to the field office which guarantees that the title is good and marketable. The PHA shall ensure that the deed and declaration of trust in the form prescribed by HUD are promptly recorded.

(d) *Guarantees and warranties.* The construction contract or contract of sale shall specify the project guaranty period and amounts to be withheld and shall provide for assignment to the PHA of all manufacturer and supplier warranties required by the construction documents. The PHA shall inspect each dwelling unit and the overall project approximately three months after the beginning of the project guaranty period and three months before its expiration and also as may be necessary to exercise its rights before expiration of any warranties. The PHA shall require repair or replacement, prior to the expiration of the guaranty or warranty periods, of any defective items.

§ 941.505 Completion of development.

(a) *Initial operating period.* Total development cost shall include an amount for any net PHA operating deficit incurred during an initial operating period commencing with the date of execution of the ACC and ending on the date established by the field office pursuant to the ACC.

(b) *Actual development cost.* When all development has been completed and paid for, but not later than 12 months after the end of the initial operating period unless a longer period is approved by the field office, the PHA shall submit a statement of the actual development cost. The field office shall review the statement and establish the actual development cost of the project which becomes the maximum total development cost for purposes of the ACC.

Offer of Sale of Real Property

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required for developing a public housing project pursuant to HUD regulations 24 CFR 941. The information will be used to provide HUD with sufficient information to enable a determination that funds should or should not be reserved or a contractual commitment made. This information collection is mandated pursuant to the U.S. Housing Act of 1937. The information requested does not lend itself to confidentiality.

1. In consideration of the sum of \$ _____ and other valuable consideration herein called "option price," the receipt whereof is hereby acknowledged, the undersigned (**hereinafter called the "seller"**), being the owner of the property described below, hereby offers and agrees to sell and convey the property to the _____

(hereinafter called the "Public Housing Agency" (PHA) or its assignee or nominee for the sum of \$ _____.

In the event that a Purchase Agreement (form HUD-51971-II) is executed but closing cannot be consummated for the reasons stated in paragraph 3 or 5 of the Purchase Agreement, the seller hereby agrees that the option price or portion thereof shall be returned to the PHA as provided in the Purchase Agreement.

2. The property is located in (**city or town and county**) _____

in the State of _____ and the property is described as follows (**include street address or other specific location, attach list of any renter occupants by name, address, and number of persons in household, and identify any exceptions to the offer**):

3. This offer shall be irrevocable for a period of _____ days (**insert at least 90 days**) from the date hereof and shall remain in force thereafter until terminated by the seller by giving 30 days prior written notice to the PHA of such termination. Until the offer is terminated, the PHA or its designee shall have the right to enter said property for the purpose of appraisal, survey and inspection.

4. The PHA shall evidence acceptance of this offer by executing at least three copies of form HUD-51971-II, Purchase Agreement, a copy of which is attached as an exhibit, and by mailing at least two executed copies to the seller at the address specified below so that the seller may execute both copies and return one to the PHA.

5. Upon closing, the seller shall: (a) convey (**subject to any exceptions specifically set forth in paragraph 2 hereof and liens for current taxes and assessments**) to the PHA or its designee or nominee by general warranty deed a good and marketable fee-simple title thereto, together with all improvements, hereditaments, and appurtenances thereunto belonging, free and clear of all liens, easements, restrictions, delinquent taxes and assessments, leases and encumbrances of any kind, existing or inchoate, with proper release of dower, curtesy, and waiver of homestead rights, if any, together with all of the seller's rights, title, and interest in and to any streets or alleys adjoining or abutting thereon; (b) provide documentary evidence that the zoning permits the PHA's proposed use of the property; and (c) deliver possession to the PHA which shall be responsible for relocation of any renter occupants in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

6. Loss or damage to the property by any cause shall be at the risk of the seller until title has been conveyed to the PHA.

7. The seller agrees, so long as this offer remains in effect, not to sell, mortgage, encumber, or otherwise dispose of the property or any part thereof, or interest therein, except to the PHA.

8. This offer is made voluntarily. The PHA will not use its power of eminent domain to acquire this property if the seller and the PHA are unable to reach an amicable agreement as to the purchase price. The PHA will inform the seller of the amount it believes is the fair market value of the property. If that amount is less than the proposed sale price in paragraph 1 of this Offer of Sale, the seller may withdraw the offer and return the option price to the PHA. The seller understands that the seller is not and will not be eligible to receive relocation assistance under the URA implementing regulations at 49 CFR Part 24, or HUD program regulations. This offer shall be binding upon the seller and the seller's heirs, executors, administrators, successors, and assignees.

Witness	Seller
	Date
Witness	Address

Purchase Agreement

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required for developing a public housing project pursuant to HUD regulations 24 CFR 94I. The information will be used to provide HUD with sufficient information to enable a determination that funds should or should not be reserved or a contractual commitment made. This information collection is mandated pursuant to the U.S. Housing Act of 1937. The information requested does not lend itself to confidentiality.

1. The _____ (hereinafter called the "Public Housing Agency" (PHA) agrees to purchase, and _____ (hereinafter called the "seller") agrees to sell, the property described in paragraph 2 of the attached Offer of Sale of Real Property (form HUD-51971-I, executed by the seller on _____ (date)(hereinafter called the "Offer of Sale"), for the sum of \$ _____. The Department of Housing and Urban Development (hereafter called "HUD") has, on the basis of its appraisal, determined the fair market value of the property to be \$ _____. (If the fair market value of the property is greater than the price specified in paragraph 1 of the Offer of Sale, the seller may withdraw its offer of sale. If the seller withdraws the offer of sale, the option price shall be returned to the PHA). The Purchase Agreement incorporates all conditions stated in the Offer of Sale.
2. The PHA shall specify the place and time of closing, which shall not be more than 90 days after the date of seller's execution of this Purchase Agreement or such later date as may be acceptable to seller; however, if additional time is needed for required zoning changes, the closing date shall be extended for an additional 90 days or such additional time as may be acceptable to seller.
3. Upon closing, the seller shall deliver title to the property in compliance with paragraph 5 of the Offer of Sale. If there are defects in the title which can be remedied by legal action within a reasonable time as agreed to by the seller and the PHA, the seller shall take such action promptly at the seller's own expense and the date for closing shall be extended for such period of time. If there be defects in title which cannot be or are

not remedied within such time, this Purchase Agreement shall be terminated, the seller shall return the option price to the PHA and both parties shall be released from all liability for damages by reason of any defect in title.

4. Prior to closing, the site must be determined to meet the requirements of HUD. The seller grants permission to the PHA or its designee to enter said property for the purpose of conducting the following studies or tests which must be completed to make the determination, prior to closing, that the property meets HUD requirements:
5. In the event that title is in compliance with paragraph 5 of the Offer of Sale, but closing cannot be consummated because the studies or tests result in a determination that the site does not meet HUD requirements, or any required zoning changes have not been obtained, one-half of the option price as provided in paragraph 1 of the Offer of Sale shall be returned to the PHA.
6. All expenses of examination of title, transfer tax, and of preparation and recording the Deed shall be paid by the PHA. Payment of the above-stated purchase price shall be made upon transfer of title to the PHA.
7. Current taxes shall be prorated as of the time of closing. Any outstanding special assessments or future installments thereon, remaining unpaid against the property shall be paid in full at time of closing by the seller.

Certification: We hereby certify that to the best of our knowledge and belief no member, officer, or employee of the PHA, no official of the locality (city, county, etc.) and no member of the locality's governing body has any interest, direct or indirect, in this Purchase Agreement or in any proceeds or benefits arising therefrom.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

PHA Execution		Seller Execution	
Signature	Date	Signature	Date
Title of PHA Official		Title	
PHA Address		Address	
Witness		Witness	
Notary		Notary	

Form HUD-51971-I, Offer of Sale of Real Property

Form HUD-51971-II, Purchase Agreement

- Purpose:** A Public Housing Agency (PHA) is responsible for selecting a site or property for its proposed public housing project under the conventional and acquisition methods. As stated in the form HUD-51971-I, Offer of Sale of Real Property (**Offer of Sale**), the offer is voluntary and the PHA will not use its power of eminent domain to acquire the property if the seller and the PHA are unable to reach an amicable agreement on the purchase price. Paragraph 1 of the Purchase Agreement indicates the amount HUD believes is the fair market value of the property. As a consequence of these disclosures, the purchase is not subject to any of the policies of Title III (Uniform Real Property Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and the seller is not eligible for relocation assistance. Renter-occupants of the property are, however, eligible for relocation assistance under Title II (Uniform Relocation Assistance) of the URA. All documentation evidencing the voluntary nature of the transaction, e.g., invitation, newspaper and other listings, etc., must be retained by the PHA. The form HUD-51971-II, Purchase Agreement, is to be used by the PHA to indicate the amount which the PHA is authorized to pay to purchase the site or property and to identify any studies or tests required to determine if the site or property meets HUD requirements.
- Prepared By:** The form HUD-51971-I, Offer of Sale, is completed by a prospective seller. The form HUD-51971-II, Purchase Agreement, is prepared by the PHA and executed by both the PHA and the seller. Adaptations required by state or local law may be made to forms HUD-51971-I and HUD-51971-II with the approval of the HUD Office Counsel.
- Number:** At least three executed copies of the form HUD-51971-I, Offer of Sale, and form HUD-51971-II, Purchase Agreement.
- Distribution:** As an attachment to its PHA proposal, a PHA shall submit one copy of the form HUD-51971-I to the HUD Office for each site or property comprising a public housing project to be developed under the conventional or the acquisition methods. One copy of the forms HUD-51971-I and 51971-II shall be an attachment to the PHA's submission of the site acquisition documents. If there are renter occupants on the site, and if delays in closing beyond 30 days of PHA execution of the Purchase Agreement are anticipated (**due to zoning changes, site studies, HUD Office approvals, etc.**), the PHA should submit, with its PHA Proposal, a request for HUD Office approval of an appropriate specified extension of time for providing the required relocation notices.

5. PHA Instructions Concerning Preparation:

A. Form HUD-51971-I, Offer of Sale of Real Property

Paragraph 1. In the first space state the dollar amount of the consideration. In the second space state the legal name of the PHA. In the third space state the seller's asking price for the property described in paragraph 2.

Paragraph 2. In the first space identify the city or town and county or equivalent political subdivision in which the property is located. In the second space identify the State (**or equivalent**) in which the property is located. Describe the property in the large space, beginning with the street address or other specific location. Also in this space identify any exceptions to the offer and list any renter occupants by name, address, and number of persons in the household. Use a continuation page if required.

Paragraph 3. Insert a time period of at least 90 days taking into consideration time necessary for any anticipated special requirements such as site studies or zoning changes.

Signature Area. The seller's signature and typed name, date and address should be included in this area with the signatures of two witnesses who have seen the seller sign. Space is also provided for notarization or acknowledgement if required by local law.

B. Form HUD-51971-II, Purchase Agreement

Paragraph 1. In the first space state the legal name of the PHA. In the second space state the name of the seller. In the third space state the date the seller signed the Offer of Sale (form HUD-51971-I) and attach a copy of the Offer of Sale to the Purchase Agreement. In the fourth space insert the amount authorized by the HUD Office as the purchase price. In the fifth space indicate the amount determined to be the fair market value of the property by HUD. If the proposed sale price in paragraph 1 of the Offer of Sale of Real Property (HUD-51971-I) is less than the HUD determined fair market value, the seller may withdraw the Offer of Sale and return the option price to the PHA.

Paragraph 4. In the space provided identify any studies or tests required to be completed prior to closing to make the determination that the property meets HUD requirements.

Paragraph 7. The second provision, that the seller pay any out-standing assessments, is based on the assumption that the value of any improvements for which the assessment is made has been included in the HUD-approved purchase price of the property.

Signature Area. The first signature is that of the authorized PHA official and signifies the PHA's acceptance of the seller's offer, with or without changes in the price and with or without the specified studies or tests. The second signature is that of the seller and confirms that there is an agreement. Both signatures attest to the certification immediately preceding the signature area. The signatures of two witnesses are required for each party to the agreement and spaces are provided for any locally required notarization or acknowledgement.

Instructions for Sales Contract

Property Disposition Program

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0306 (exp. 01/31/2017)

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required in order to administer the Property Disposition Sales Program (24 CFR Part 291). The collection of information is required in order to provide a binding contract between the property purchaser and HUD. A real estate broker or one of its agents completes this form. If this information were not collected, HUD would not be able to administer the Property Disposition Sales Program properly to avoid waste, mismanagement, and abuse. While no assurances of confidentiality are pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

Privacy Act Statement: The Department of Housing and Urban Development is authorized to collect this information by the National Housing Act, Section 235(b), P.L. 479, 48 Stat. 12 U.S.C. 1701 et seq. HUD is authorized to collect the Social Security Number (SSN) by Section 165(a) of the Housing and Community Development Act of 1987, P.L. 100-242, and by Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, P.L. 100-628. The information is being collected to determine the amount of assistance (if any) the applicant is entitled. The information is also used as a tool for managing the program(s) related to this form, and for protecting the Government's financial interests. **The information may be used to conduct computer-matching programs to check for underreported or unreported income.** The SSN is used as a unique identifier. The information may be released to appropriate Federal, State, and local agencies, and when relevant, to civil, criminal, or regulatory investigators and/or prosecutors. This information will not be otherwise disclosed or released outside of HUD except as permitted or required by law. It is mandatory that you provide all of the requested information, including all SSN(s), for you and all other household members age six years and older. Failure to provide SSN(s) and required documents will result in a delay or loss of assistance payments.

This **Sales Contract**, identified as form HUD-9548, must be prepared and transmitted in accordance with the following instructions. The form provides an original for fiscal and legal review, signed copy for the Purchaser, and unsigned information copies for the Purchaser, the selling Broker, and HUD's designated representative..

Remove this Instruction Sheet and type the HUD Case Number in the box in the upper right.

- Item 1: Type Purchaser(s) name and complete property address.
- Item 2: Enter name(s) and style in which title will be taken.
- Item 3: Enter Bid Amount and amount of earnest money Purchaser has deposited.
Enter holder of earnest money deposit in accordance with Seller's instructions.
- Item 4: Enter when appropriate, strictly in compliance with Seller's offering. If Seller has offered the property with insured financing available, and Purchaser is buying under such means, check the first block and the applicable type of insured financing, and complete the down payment and mortgage information. If the insured mortgage involves a repair escrow (and has been so offered by Seller), also check the appropriate block and insert the amount of the repair escrow.
Note: The amounts shown for "cash due at closing" and "balance by mortgage" do not include the FHA Mortgage Insurance Premium, prepaid expenses or closing costs Seller has agreed to fund into the mortgage.
Note: If Purchaser is paying cash or applying for conventional or other financing not involving FHA, check appropriate block.
- Item 5: Enter amount of financing/closing costs Seller is expected to pay.
Note: If the amount stated in Item 5 exceeds actual and typical allowable financing and/or closing costs, such excess shall not be paid by Seller and may not be used by Purchaser to reduce amount(s) owing to Seller.
- Item 6: Enter dollar amount Seller is expected to pay, including any selling bonus if offered by Seller. The commission will be paid by Seller upon completion of closing.
- Item 7: Enter net amount due Seller (purchase price [Item 3], less Items 5 and 6). Contract will be awarded on the basis of the greatest acceptable net return to Seller.
- Item 8: Enter appropriate occupancy information. If left blank, Purchaser will be considered as an investor. If purchaser qualifies for discount, enter percent. Discount will be reduced by amounts, if any, on Line Items 5 and 6. (Do not enter discounted price on contract.)
- Item 9: Enter in accordance with HUD's instructions.
- Item 10: Enter appropriate back-up offer information.
- Item 11: Enter if an addendum is to be attached to and made a part of this contract.
Note: Addendum not previously approved by Seller may not be made a part of this Contract. Approved addendum must be signed by, and in the same style as, those signing as Purchaser(s).
- Item 12: Purchaser(s) must initial in appropriate space.
- Other:**
- a. **Failure of the Purchaser to perform in accordance with this contract may cause the Seller to retain all or a portion of the earnest money deposit. Broker must be certain this is fully explained to and understood by the Purchaser(s).**
 - b. **Enter Selling Broker's Name and Address Identifier (NAID). If broker has not been issued a SAMS NAID, complete forms SAMS-1111, Payee Name and Address, and SAMS-1111-A, Selling Broker Certification, along with required documentation, and attach to this contract. Contact HUD's local designated representative.**
 - c. **The Broker is required to inform Purchaser of the Conditions of Sale on the reverse of the Sales Contract, and particularly of Purchaser's right and responsibility for satisfying itself as to the full condition of the property prior to submitting an offer to purchase and that Seller will provide no warranty or perform any repairs after acceptance of the Contract.**

Signatures: Sign Original, leaving carbon inserts intact, making certain that the signature(s) appears on all copies.

Transmittal: Forward the Original with Copies 1 and 2 to HUD's designated representative. Copies 3 and 4 are to be retained by Broker and Purchaser as information copies. Upon acceptance, HUD's designated representative will return the signed Copy 1 to Broker for delivery to Purchaser(s). HUD's designated representative will retain Copy 2.

Sales Contract

U.S. Department of Housing and Urban Development

Property Disposition Program

Office of Housing
Federal Housing Commissioner

HUD Case No.

1. I (We), (Purchaser(s)) agree to purchase on the terms set forth herein, the following property, as more particularly described in the deed conveying the property to the Secretary of Housing and Urban Development:

(street number, street name, unit number, if applicable, city, county, State)

2. The Secretary of Housing and Urban Development (Seller) agrees to sell the property at the price and terms set forth herein, and to prepare a deed containing a covenant which warrants against the acts of the Seller and all claiming by, through or under him. Title will be taken in the following name(s) and style:

3. The agreed purchase price of the property is 3. \$ Purchaser has paid \$ as earnest money to be applied on the purchase price, and agrees to pay the balance of the purchase price, plus or minus prorations, at the time of closing, in cash to Seller. The earnest money deposit shall be held by

4. Purchaser is applying for FHA insured financing [203(b), 203(b) repair escrow, 203(k)] with a cash down payment of \$ due at closing and the balance secured by a mortgage in the amount of \$ for months (does not include FHA Mortgage Insurance Premium, prepaid expenses or closing costs Seller has agreed to fund into mortgage.)

Said mortgage involves a repair escrow amounting to \$

Purchaser is paying cash or applying for conventional or other financing not involving FHA.

5. Seller will pay reasonable and customary costs, but not more than actual costs, nor more than paid by a typical Seller in the area, of obtaining financing and/or closing (excluding broker's commission) in an amount not to exceed 5. \$

6a. Upon sales closing, Seller agrees to pay to the broker identified below a commission (including selling bonus, if offered by seller) of 6a. \$

6b. If broker identified below is not the broad listing broker, broad listing broker will receive a commission of: 6b. \$

7. The net amount due Seller is (Purchase price [Item 3] less Items 5 and 6) 7. \$

8. Purchaser is: owner-occupant (will occupy this property as primary residence) investor nonprofit organization public housing agency other government agency. Discount at closing: %

Discount will reduced by amounts, if any, listed on Line Items 5 and 6.

9. Time is of the essence as to closing. The sale shall close not later than days from Seller's acceptance of contract. Closing shall be held at the office of Seller's designated closing agent or

10. If Seller does not accept this offer, Seller may may not hold such offer as a back-up to accepted offer.

11. Lead based paint addendum is is not attached; Other addendum is is not attached hereto and made part of this contract.

12. Should Purchaser refuse or otherwise fail to perform in accordance with this contract, including the time limitation, Seller may, at Seller's sole option, retain all or a portion of the deposit as liquidated damages. The Seller reserves the right to apply the earnest money, or any portion thereof, to any sums which may be owed by the Purchaser to the Seller for rent. Purchaser(s) Initials: Seller's Initials:

13. This contract is subject to the Conditions of Sale on the reverse hereof, which are incorporated herein and made part of this contract.

Certification of Purchaser: The undersigned certifies that in affixing his/her/its signature to this contract he/she/it understands:

(1) all the contents thereof (including the Conditions of Sale) and is in agreement therewith without protest; (2) he/she/it is responsible for satisfying itself as to the full condition of the property; and (3) that Seller will not perform repairs after acceptance of this contract.

Purchaser(s): (type or print names & sign)

Purchaser(s) Address:

Purchaser(s) Social Security Number (SSN) or Employer Identification Number (EIN) (include hyphens) Phone No:

Date Purchaser(s) Signed Contract:

Seller: Secretary of Housing and Urban Development By: (type name & title, & sign)

Date Contract Accepted by HUD:

X

Certification of Broker: The undersigned certifies that: (1) neither he/she nor anyone authorized to act for him/her has declined to sell the property described herein to or to make it available for inspection or consideration by a prospective purchaser because of his/her race, color, religion, sex, familial status, national origin, or disability; (2) he/she has both provided and explained to the purchaser the notice regarding use of Seller's closing agent; (3) he/she has explained fully to the purchaser the entire terms of the contract, including Condition B on the reverse hereof; and (4) he/she is in compliance with Seller's earnest money policy as set forth on HUD forms SAMS-1111, Payee Name and Address, and SAMS-1111-A, Selling Broker Certification, which he/she has executed and filed with Seller.

Broker's Business Name & Address: (for IRS reporting) (include Zip Code)

Broker's EIN or SSN: (include hyphens)

SAMS NAID:

Signature of Broker:

Broker's Phone No:

X

Type or print the name and phone number of sales person:

This section for HUD use only. Broker notified of:

Acceptance Back-Up No.

Rejection Return Earnest Money Deposit

Authorizing Signature & Date:

X

Conditions of Sale

- A. All assessments, including improvement assessments which are available for payment without interest or penalty for advance payment, taxes, rent, and ground rent, if any, shall be prorated as of the closing date.
- B. Seller makes no representations or warranties concerning the condition of the property, including but not limited to mechanical systems, dry basement, foundation, structural, or compliance with code, zoning or building requirements and will make no repairs to the property after execution of this contract. Purchaser understands that regardless of whether the property is being financed with an FHA-insured mortgage, Seller does not guarantee or warrant that the property is free of visible or hidden structural defects, termite damage, lead-based paint, or any other condition that may render the property uninhabitable or otherwise unusable. Purchaser acknowledges responsibility for taking such action as it believes necessary to satisfy itself that the property is in a condition acceptable to it, of laws, regulations and ordinances affecting the property, and agrees to accept the property in the condition existing on the date of this contract. It is important for Purchaser to have a home inspection performed on the property in order to identify any possible defects. If FHA insured financing is used, up to \$200 of the cost to perform the inspection may be financed into the mortgage. Names of home inspection companies can be found in the yellow pages of your telephone directory under the heading "Home Inspection Services."**
- C. If financing is involved in this transaction (Item 4), Purchaser agrees that should he/she/it fail to provide documentation indicating that proper loan application was made in good faith within 10 calendar days of the date this contract was accepted by Seller, and/or thereafter otherwise to put forth good faith efforts to obtain necessary financing, Seller shall have the option of rescinding this contract and retaining all or a portion of Purchaser's earnest money deposit.
- D. Seller may rescind this contract and return all or a portion of Purchaser's earnest money deposit under the following conditions:
1. Seller has not acquired the property.
 2. Seller is unable or unwilling to remove valid objections to the title prior to closing.
 3. Seller determines that purchaser is not an acceptable borrower.
- Tender of the deposit shall release the Seller from any and all claims arising from this transaction.
- E. Purchaser may not perform repairs nor take possession of the property until sale is closed. Risk of loss or damage is assumed by Seller until sale is closed, unless Purchaser takes possession of the property prior thereto, in which case State law shall apply. (1) If sale involves FHA insured financing and after damage the property no longer meets the intent of Minimum Property Standards (MPS), Seller may, at its option, perform repairs or cancel the contract and return Purchaser's full earnest money deposit. If, after damage, the property still meets the intent of MPS, Purchaser has the option of accepting the property as-is, with a purchase price adjustment at Seller's sole discretion, or cancelling the contract and receiving refund of full earnest money deposit. (2) If sale does not involve FHA insured financing, Seller will not repair damage but may, at Seller's sole discretion, reduce the sale price. Purchaser has option to cancel the contract and receive refund of full earnest money deposit. Tender of the earnest money shall release Seller from any claims arising from this transaction.
- F. If this property is being offered with FHA insured mortgage financing available, Seller's acceptance of this contract constitutes a commitment to insure, conditioned upon Purchaser being determined by Seller or Direct Endorsement Underwriter to be an acceptable borrower and further conditioned upon Seller's authority to insure the mortgage at the time the sale is closed.
- G. Purchaser understands that Seller's listing price is Seller's estimate of current fair market value.**
- H. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.
- I. Purchaser and Seller agree that this contract shall be binding upon their respective heirs, executors, administrators, successors or assigns but is assignable only by written consent of the Seller.
- J. If this property was constructed prior to 1978, Seller has inspected for defective paint surfaces (defined as cracking, scaling, chipping, peeling or loose paint on all interior and exterior surfaces). Seller's inspection found no defective paint surfaces, or if defective paint surfaces were found, Seller has treated or will treat such defective surfaces in a manner prescribed by Seller prior to closing. **Purchaser understands and agrees that the Seller's inspection and/or treatment is not intended to, nor does it guarantee or warrant that all lead-based paint and all potential lead-based paint hazards have been eliminated from this property.** Purchaser acknowledges that he/she/it has received a copy of a pamphlet which discusses lead-based paint hazards and has signed, on or before the date of this contract, the Lead-Based Paint Addendum to Sales Contract - Property Built Before 1978. Purchaser understands that the Lead-Based Paint Addendum must be signed by all Purchasers and forwarded to Seller *with* this contract. Contracts which are not in conformance with these requirements will not be accepted by Seller.
- K. The effective date of this contract is the date it is accepted (signed) by the Seller.
- L. If the amount stated in Item 5 exceeds actual and typical financing and/or closing costs, such excess shall not be paid by Seller and may not be used by Purchaser to reduce amount(s) due Seller.
- M. Seller's policies and requirements with regard to earnest money (including forfeiture thereof), extensions of time in which to close the sale, back-up offers, and allowable financing and/or closing costs are detailed in instructions issued to selling brokers.
- N. Seller makes no representations or guarantees that the property will, in the future, be eligible for FHA insured mortgage financing, regardless of its condition or the repairs which may be made.
- O. Warning: Falsifying information on this or any other form of the Department of Housing and Urban Development is felony. It is punishable by a fine not to exceed \$250,000 and/or a prison sentence of not more than two years. (18 U.S.C. 1010, 3559; 3571)**
- P. This contract contains the final and entire agreement between Purchaser and Seller and they shall not be bound by any terms, conditions, statements, or representations, oral or written, not contained in this contract.