

(b) *Approved proposal.* Units developed under this part shall be developed only in accordance with an approved proposal.

(c) *Approved amendments.* Material changes in the approved proposal, including any increase in the budget or any change in the payment schedule, require an amendment to the proposal, which must be approved by HUD. The determination of what constitutes a material change will be made by HUD.

§ 941.306 Maximum project cost.

(a) *Calculation of maximum project cost.* The maximum project cost represents the total amount of public housing capital assistance used in connection with the development of a public housing project, and includes: (1) project costs that are subject to the TDC limit (*i.e.*, Housing Construction Costs and Community Renewal Costs); and (2) project costs that are not subject to the TDC limit (*i.e.*, Additional Project Costs). The total project cost to be funded with public housing capital assistance, as set forth in the proposal and as approved by HUD, becomes the maximum project cost stated in the ACC. Upon completion of the project, the actual project cost is determined based upon the amount of public housing capital assistance expended for the project, and this becomes the maximum project cost for purposes of the ACC.

(b) *TDC limit.* (1) Public housing capital assistance may not be used to pay for Housing Construction Costs and Community Renewal Costs in excess of the TDC limit, as determined under paragraph (b)(2) of this section. However, HOPE VI grantees will be eligible to request a TDC exception for public housing and HOPE VI funds awarded in Fiscal Year 1996 and prior years. No exceptions to HCC limits will be granted within the TDC limit.

(2) *Determination of TDC limit.* HUD will determine the TDC for a public housing project as follows:

(i) *Step 1: Unit construction cost guideline.* HUD will first determine the applicable "construction cost guideline" averaging the current construction costs as listed in two nationally recognized residential construction cost indices for publicly bid construction of a

good and sound quality for specific bedroom sizes and structure types. The two indices HUD will use for this purpose are the R.S. Means cost index for construction of "average" quality and the Marshal & Swift cost index for construction of "good" quality. HUD has the discretion to change the cost indices to other such indices that reflect comparable housing construction quality through a notice published in the FEDERAL REGISTER.

(ii) *Step 2: Bedroom size and structure types.* The construction cost guideline is then multiplied by the number of units for each bedroom size and structure type.

(iii) *Step 3: Elevator and non-elevator type structures.* HUD will then multiply the resulting amounts from step 2 by 1.6 for elevator type structures and by 1.75 for non-elevator type structures.

(iv) *Step 4: TDC limit.* The TDC limit for a project is calculated by adding the resulting amounts from step 3 for all the public housing units in the project.

(3) *Costs not subject to the TDC limit.* Additional Project Costs are not subject to the TDC limit described in paragraph (b)(2) of this section.

(4) *Funds not subject to the TDC limit.* A PHA may use funding sources not subject to the TDC limit (*e.g.*, CDBG funds, HOME funds, low-income tax credits, private donations, private financing, etc.) to cover project costs that exceed the TDC limit or the Housing Construction Cost limit described in paragraph (c) of this section. Such funds, however, may not be used for items that would result in substantially increased operating, maintenance or replacement costs, and must meet the requirements of section 102 of the HUD Reform Act (42 U.S.C. 3545). These funds must be included in the project development cost budget and legally acceptable written commitments for such funds must be provided by the PHA for HUD approval.

(c) *Housing Construction Costs.* (1) *General.* A PHA may not use public housing capital assistance to pay for Housing Construction Costs in excess of the amount determined under paragraph (c)(2) of this section.

(2) *Determination of Housing Construction Cost limit.* HUD will determine the

Housing Construction Cost limit as listed in at least two nationally recognized residential construction cost indices for publicly bid construction of a good and sound quality for specific bedroom sizes and structure types. The two indices HUD will use for this purpose are the R.S. Means cost index for construction of “average” quality and the Marshal & Swift cost index for construction of “good” quality. HUD has the discretion to change the cost indices to other such indices that reflect comparable housing construction quality through a notice published in the FEDERAL REGISTER. The resulting construction cost guideline is then multiplied by the number of public housing units in the project based upon bedroom size and structure type. The Housing Construction Cost limit for a project is calculated by adding the resulting amounts for all public housing units in the project.

(3) The Housing Construction Cost limit is not applicable to the acquisition of existing housing, whether or not such housing will be rehabilitated. The Total Development Cost limit is applicable to such acquisition.

(d) *Community Renewal Costs.* Public housing capital assistance may be used to pay for Community Renewal Costs in an amount equivalent to the difference between the Housing Construction Costs paid for with public housing capital assistance and the TDC limit.

(e) *Rehabilitation of existing public housing projects.* The HCC limit is not applicable and the TDC limit for modernization of existing public housing is 90% of the TDC limit as determined under § 941.306(b)(2). This limitation does not apply to the rehabilitation of any property acquired pursuant to § 941.102.

[67 FR 76102, Dec. 10, 2002]

Subpart D—Project Development

SOURCE: 61 FR 38020, July 22, 1996, unless otherwise noted.

§ 941.401 Site and property acquisition.

(a) *Applicability.* The provisions of this section apply to projects being developed under the conventional, acqui-

sition, and force account methods, and may apply to other development methods, as deemed appropriate by HUD.

(b) *Purchase agreement.* The purchase agreement shall reflect any conditions established by HUD, such as the site engineering studies that must be completed to determine whether the site is suitable for development of the project.

(c) *Title.*—(1) *General.* After HUD approves the site or property acquisition contract and notifies the PHA that it is authorized to take title, the PHA shall obtain title in accordance with the following certification. The PHA shall certify to HUD that it obtained a title insurance policy that guaranteed that the title was good and marketable before taking title and that it promptly recorded the deed and declaration of trust in the form prescribed by HUD.

(2) *Limitation.* After HUD notifies a PHA that has been determined to be troubled or modernization troubled in accordance with part 901 of this chapter, or a PHA that has for other reasons been notified in writing that it may not use the procedure specified in paragraph (c)(1) of this section, that the site or property acquisition contract has been approved, the PHA shall submit to HUD evidence that title to the site or property is good and marketable. If HUD approves the title evidence, it will inform the PHA that it is authorized to acquire title to the site or property. The PHA shall record promptly the deed and declaration of trust in the form prescribed by HUD, and HUD may require the PHA to submit evidence of such recordation.

§ 941.402 Project design and construction.

(a) *Compliance with HUD construction standards and Federal procurement requirements.*

(1) *General.* A PHA may certify that its proposed design and construction plans for the development are in accordance with HUD’s design and construction standards at § 941.203, and that its bidding procedures are in accordance with Federal procurement requirements.

(2) *Limitation.* In the case of a PHA determined to be troubled or modernization troubled in accordance with part 901 of this chapter or a PHA that