

§ 964.210

by residents, including assessing the feasibility of other housing (including HUD owned or held single or multi-family) affordable for purchase by residents.

(6) *General.* (i) Required training on HUD regulations and policies governing the operation of low-income public housing including contracting/procurement regulations, financial management, capacity building to develop the necessary skills to assume management responsibilities at the project and property management;

(ii) Purchasing hardware, i.e., computers and software, office furnishings and supplies, in connection with business development. Every effort must be made to acquire donated or discounted hardware;

(iii) Training in accessing other funding sources; and

(iv) Hiring trainers or other experts (RCs/RMCs must ensure that this training is provided by a qualified housing management specialist, a community organizer, the HA, or other sources knowledgeable about the program).

§ 964.210 Notice of funding availability.

A Notice of Funding Availability shall be published periodically in the FEDERAL REGISTER containing the amounts of funds available, funding criteria, where to obtain and submit applications, and the deadline for submissions.

§ 964.215 Grant agreement.

(a) *General.* HUD shall enter into a grant agreement with the recipient of a technical assistance grant which defines the legal framework for the relationship between HUD and a resident council or resident management corporation for the proposed funding.

(b) *Term of grant agreement.* A grant shall be for a term of three to five years (3-5 years), and renewable at the expiration of the term.

§ 964.220 Technical assistance.

(a) *Financial assistance.* HUD will provide financial assistance, to the extent available, to resident councils or resident management corporations for technical assistance and training to

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further the activities under this subpart.

(b) *Requirements for a management specialist.* If a resident council or resident management corporation seeks to manage a development, it must select, in consultation with the HA, a qualified housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties in connection with the daily operations of the project.

§ 964.225 Resident management requirements.

The following requirements apply when a HA and its residents are interested in providing for resident performance of several management functions in one or more projects.

(a) *Resident management corporation responsibilities.* Resident councils interested in contracting with a HA must establish a resident management corporation that meets the requirements for such a corporation, as specified in subpart B. The RMC and its employees must demonstrate their ability and skill to perform in the particular areas of management pursuant to the management contract.

(b) *HA responsibilities.* HAs shall give full and serious consideration to resident management corporations seeking to enter into a management contract with the HA. A HA shall enter into good-faith negotiations with a corporation seeking to contract to provide management services.

(c) *Duty to bargain in good faith.* If a HA refuses to negotiate with a resident management corporation in good faith or, after negotiations, refuses to enter into a contract, the corporation may file an informal appeal with HUD, setting out the circumstances and providing copies of relevant materials evidencing the corporation's efforts to negotiate a contract. HUD shall require the HA to respond with a report stating the HA's reasons for rejecting the corporation's contract offer or for refusing to negotiate. Thereafter, HUD shall require the parties (with or without direct HUD participation) to undertake

or to resume negotiations on a contract providing for resident management, and shall take such other actions as are necessary to resolve the conflicts between the parties. If no resolution is achieved within 90 days from the date HUD required the parties to undertake or resume such negotiations, HUD shall serve notice on both parties that administrative remedies have been exhausted (except that, pursuant to mutual agreement of the parties, the time for negotiations may be extended by no more than an additional 30 days).

(d) *Management contract.* A management contract between the HA and a resident management corporation is required for property management. The HA and the resident management corporation may agree to the performance by the corporation of any or all management functions for which the HA is responsible to HUD under the ACC and any other functions not inconsistent with the ACC and applicable state and local laws, regulations and licensing requirements.

(e) *Procurement requirements.* The management contract shall be treated as a contracting out of services, and must be subject to any provision of a collective bargaining agreement regarding the contracting out of services to which the HA is subject. Provisions on competitive bidding and requirements of prior written HUD approval of contracts contained in the ACC do not apply to the decision of a HA to contract with a RMC.

(f) *Rights of families; operation of project.* If a resident management corporation is approved by the tenant organization representing one or more buildings or an area of row houses that are part of a public housing project for purposes of part 941 of this chapter, the resident management program may not, as determined by the HA, interfere with the rights of other residents of such project or harm the efficient operation of such project.

(g) *Comprehensive improvement assistance with RMCs.* (1) The HA may enter into a contract with the RMC to provide comprehensive improvement assistance under part 968 of this chapter to modernize a project managed by the RMC.

(2) The HA shall not retain, for any administrative or other reason, any portion of the comprehensive improvement assistance provided, unless the PHA and the RMC provide otherwise by contract.

(3) In assessing the modernization needs of its projects under 24 CFR part 968, or other grant mechanisms established by the Housing and Community Development Act of 1987, the HAs must consult with the tenant management corporation regarding any project managed by the corporation, in order to determine the modernization needs and preferences of resident-managed projects. Evidence of this required consultation must be included with a HA's initial submission to HUD.

(h) *Direct provision of operating and capital assistance to RMC—(1) Direct provision of assistance to RMC.* The ACC shall provide for the direct provision of operating and capital assistance by HUD to an RMC if:

(i) The RMC petitions HUD for the release of funds;

(ii) The contract provides for the RMC to assume the primary management responsibilities of the PHA;

(iii) The RMC has been designated as at least a "standard performer" under the Public Housing Assessment System (PHAS) (see 24 CFR part 902); and

(iv) The RMC is not in violation of any financial, accounting, procurement, civil rights, fair housing or other program requirements that HUD determines call into question the capability of the RMC to effectively discharge its responsibilities under the contract.

(2) *Use of assistance.* Any direct capital or operating assistance provided to the RMC must be used for purposes of performing eligible activities with respect to public housing as may be provided under the contract.

(3) *Responsibilities of PHA.* If HUD provides direct funding to a RMC under paragraph (h)(1) of this section, the PHA is not responsible for the actions of the RMC.

(i) *Prohibited activities.* A HA may not contract for assumption by the resident management corporation of the HA's underlying responsibilities to HUD under the ACC.

(j) *Bonding, insurance, and licensing*—
 (1) *Bonding and insurance.* Before assuming any management responsibility under its contract, the RMC must provide fidelity bonding and insurance, or equivalent protection that is adequate (as determined by HUD and the PHA) to protect HUD and the PHA against loss, theft, embezzlement, or fraudulent acts on the part of the RMC or its employees.

(2) *Licensing and other local requirements.* An RMC must be in compliance with any local licensing, or other local requirement, governing the qualifications or operations of a property manager.

(k) *Waiver of HUD requirements.* Upon the joint request of a resident management corporation and the HA, HUD may waive any requirement that HUD has established and that is not required by law, if HUD determines, after consultation with the resident management corporation and the HA, that the requirement unnecessarily increases the costs to the project or restricts the income of the project; and that the waiver would be consistent with the management contract and any applicable collective bargaining agreement. Any waiver granted to a resident management corporation under this section will apply as well to the HA to the extent the waiver affects the HA's remaining responsibilities relating to the resident management corporation's project.

(l) *Monitoring of RMC performance.* The HA must review periodically (but not less than annually) the management corporation's performance to ensure that it complies with all applicable requirements and meets agreed-upon standards of performance. (The method of review and criteria used to judge performance should be specified in the management contract.)

[59 FR 43636, Aug. 24, 1994, as amended at 65 FR 42515, July 10, 2000]

§ 964.230 Audit and administrative requirements.

(a) *TOP grant recipients.* The HUD Inspector General, the Comptroller General of the United States, or any duly authorized representative shall have access to all records required to be retained by this subpart or by any agree-

ment with HUD for the purpose of audit or other examinations.

(1) Grant recipients must comply with the requirements of OMB Circulars A-110 and A-122, as applicable.

(2) A final audit shall be required of the financial statements made pursuant to this subpart by a Certified Public Accountant (CPA), in accordance with generally accepted government audit standards. A written report of the audit must be forwarded to HUD within 60 days of issuance.

(b) *Resident management corporations.* Resident management corporations who have entered into a contract with a HA with respect to management of a development(s) must comply with the requirements of OMB Circulars A-110 and A-122, as applicable. Resident management corporations managing a development(s) must be audited annually by a licensed certified public accountant, designated by the corporation, in accordance with generally accepted government audit standards. A written report of each audit must be forwarded to HUD and the HA within 30 days of issuance. These requirements are in addition to any other Federal law or other requirement that would apply to the availability and audit of books and records of resident management corporations under this part.

Subpart D—Family Investment Centers (FIC) Program

§ 964.300 General.

The Family Investment Centers Program provides families living in public housing with better access to educational and employment opportunities by:

(a) Developing facilities in or near public housing for training and support services;

(b) Mobilizing public and private resources to expand and improve the delivery of such services;

(c) Providing funding for such essential training and support services that cannot otherwise be funded; and

(d) Improving the capacity of management to assess the training and service needs of families, coordinate the provision of training and services that meet such needs, and ensure the long-term provision of such training