

§ 968.104

24 CFR Ch. IX (4-1-02 Edition)

units are demolished, disposed of, or converted, HUD shall reduce the formula amount for the PHA or IHA over a 3-year period to reflect removal of the units from the ACC;

(2) *Determination of one percent cap.* In determining whether more than one percent of the units are affected on a cumulative basis, HUD will compare the units eligible for funding in the initial year under formula funding with the number of units eligible for funding for formula funding purposes for the current year, and shall base its calculations on the following:

(i) Increases in the number of units resulting from the conversion of existing units will be added to the overall unit count so long as they are under ACC amendment by the first day in the FFY in which the formula is being run;

(ii) Units which are lost as a result of demolition, disposition or conversion shall not be offset against units subsequently added to a PHA's or IHA's inventory;

(iii) For purposes of calculating the number of converted units, HUD shall regard the converted size of the unit as the appropriate unit count (e.g., a unit that originally was counted as one unit under paragraph (j) of this section, but which later was converted into two units, shall be counted as two units under the ACC).

(3) *Phased-in reduction of units.* (i) *Reduction less than one percent.* If HUD determines that the reduction in units under paragraph (k)(2) of this section is less than one percent, the PHA or IHA will be funded as though no change had occurred;

(ii) *Reduction greater than one percent.* If HUD determines that the reduction in units under paragraph (k)(2) of this section is greater than one percent, the number of units on which formula funding is based will be the number of units reported as eligible for funding for the current program, plus two thirds of the difference between the initial year and the current year in the first year, plus one third of the difference in the second year, and at the level of the current year in the third year;

(iii) *Exception.* A unit which is conveyed under the Mutual Help or Turnkey III programs will result in an auto-

matic (rather than a phased-in) reduction in the unit count. Paid-off Mutual Help or Turnkey III units continue to be counted until they are conveyed.

(4) *Subsequent reductions in unit count.*

(i) Once a PHA's or IHA's unit count has been fully reduced under paragraph (k)(3)(ii) of this section to reflect the new number of units under the ACC, this new number of units will serve as the base for purposes of calculating whether there has been a one percent reduction in units on a cumulative basis;

(ii) A reduction in formula funding, based upon additional reductions to the number of a PHA's or IHA's units, will also be phased in over a three-year period, as described in paragraph (k)(2) of this section.

[57 FR 5571, Feb. 14, 1992, as amended at 59 FR 30477, June 13, 1994; 59 FR 44837, Aug. 30, 1994; 61 FR 8737, Mar. 5, 1996; 63 FR 46107, Aug. 28, 1998]

§ 968.104 Reserve for emergencies and disasters.

(a) *Emergencies—(1) Eligibility for assistance.* A PHA (including a PHA that has been designated as mod troubled under PHMAP) may obtain funds at any time, for any eligible emergency work item as defined in § 968.305 (for CGP PHAs) or for any eligible emergency work item (described as emergency modernization in § 968.205) (for CIAP PHAs), from the reserve established under § 968.103(b). However, emergency reserve funds may not be provided to a CGP PHA that has the necessary funds available from any other source, including its annual formula allocation under § 968.103 (e) and (f), other unobligated modernization funds, and its replacement reserves. A PHA is not required to have an approved comprehensive plan under § 968.315 before it can request emergency assistance from this reserve. Emergency reserve funds may not be provided to a CIAP PHA unless it does not have the necessary funds available from any other source, including unobligated CIAP, and no CIAP modernization funding is available from HUD for the remainder of the fiscal year.

(2) *Procedure.* To obtain emergency funds, a PHA must submit a request, in a form to be prescribed by HUD, which

demonstrates that without the requested funds from the set-aside, the PHA does not have adequate funds available to correct the conditions which present an immediate threat to the health or safety of the residents. HUD will immediately process a request for such assistance and, if it determines that the PHA's request meets the requirements under paragraph (a)(1) of this section, it shall approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* A CGP PHA that receives assistance for its emergency needs from the reserve under § 968.103(b) must repay such assistance from its future allocations of assistance, where available. For CGP PHAs, HUD shall deduct up to 50 percent of a PHA's succeeding year's formula allocation under § 968.103 (e) and (f) to repay emergency funds previously provided by HUD to the PHA. The remaining balance, if any, shall be deducted from a PHA's succeeding years' formula allocations. A CIAP PHA is not required to repay assistance for its emergency needs from the reserve.

(b) *Natural and other disasters—(1) Eligibility for assistance.* A PHA (including a PHA that has been designated as mod troubled under PHMAP) may request assistance at any time from the reserve established under § 968.103(b) for the purpose of permitting the PHA to address a natural or other disaster. To qualify for assistance, the disaster must pertain to an extraordinary event affecting only one or a few PHAs, such as an earthquake or hurricane. Any disaster declared by the President (or which HUD determines would qualify for a Presidential declaration if it were on a larger scale) qualifies for assistance under this paragraph. A PHA may receive funds from the reserve regardless of the availability of other modernization funds or reserves, but only to the extent that its needs are in excess of its insurance coverage or other Federal assistance. A CGP PHA is not required to have an approved comprehensive plan under § 968.315 before it can request assistance from the reserve under § 968.103(b);

(2) *Procedure.* To obtain funding for natural or other disasters under § 968.103(b), a PHA must submit a re-

quest, in a form to be prescribed by HUD, which demonstrates that the PHA meets the requirements of paragraph (b)(1) of this section. HUD will immediately process a request for such assistance and, if it determines that the request meets the requirements under paragraph (b)(1) of this section, it shall approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* Funds provided to a PHA under § 968.103(b) for natural and other disasters are not required to be repaid.

[57 FR 5575, Feb. 14, 1992, as amended at 59 FR 44838, Aug. 30, 1994. Redesignated and amended at 61 FR 8738, Mar. 5, 1996]

#### § 968.105 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

*Act.* The United States Housing Act of 1937, as amended, (42 U.S.C. 1437 et seq.).

*Annual contributions contract (ACC).* A contract under the Act between HUD and the PHA containing the terms and conditions under which the Department assists the PHA in providing decent, safe, and sanitary housing for low-income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization, and/or operation of a low-income housing project under the Act, and the PHA agrees to develop, modernize, and operate the project in compliance with all provisions of the ACC and the Act, and all HUD regulations and implementing requirements and procedures.

*CGP.* The Comprehensive Grant Program, which provides modernization funds on a formula basis to PHAs with 250 or more public housing units.

*CIAP.* The Comprehensive Improvement Assistance Program, which provides modernization funds on a competitive basis to PHAs with fewer than 250 public housing units.

*Development.* The term *development* has the same meaning as that provided for *low-income housing project*, as that term is defined in section 3(b)(1) of the Act.

*FFY.* Federal fiscal year.