

(b) “Operating subsidy” means additional annual contributions for operations under section 9 of the Act.

§ 969.104 Continuing eligibility for operating subsidy.

Until and after the Debt Service Completion Date for any project, HUD shall pay Operating Subsidy with respect to such project only in accordance with an ACC amendment providing for extension of the term of the ACC provisions related to project operation, pursuant to § 969.105 or § 969.106. The ACC amendment shall be in the form prescribed by HUD and shall specify the particular provisions of the ACC which relate to continued project operation and, therefore, remain in effect for the extended ACC term. These provisions shall include a requirement that the PHA execute and file for public record an appropriate document evidencing the PHA’s covenant not to convey, encumber or make any other disposition of the project before the end of the project’s ACC Expiration Date, without HUD approval.

§ 969.105 Extension of ACC upon payment of operating subsidy.

(a) *ACC amendment.* As a condition for the first HUD approval for payment of Operating Subsidy with respect to the projects under a particular ACC for a PHA fiscal year beginning after the effective date of this part, the PHA and HUD shall enter into an amendment to the ACC for all projects under the ACC. This ACC amendment shall provide that the ACC provisions related to project operation shall continue in effect with respect to each project under the ACC for a period of 10 years after the end of the last PHA fiscal year for which Operating Subsidy is paid with respect to the project.

(b) *Consolidated ACC.* Where a single ACC covers more than one project (Consolidated ACC), each annual Operating Subsidy payable under that ACC is a lump-sum amount, which is not divided into discrete amounts for the individual projects which are subject to the Consolidated ACC (see 24 CFR part 990). Accordingly, if a PHA, before submitting a request for Operating Subsidy pursuant to paragraph (a) of this section, determines that any project(s)

under the Consolidated ACC will not require Operating Subsidy and should not be subject to the provisions of paragraph (a), of this section the PHA shall accompany its request with a resolution certifying that no Operating Subsidy shall be utilized with respect to such project(s) after the effective date of this rule and that all financial records and accounts shall be kept separately for such project(s). In such case, the removal of the project(s) from the request for Operating Subsidy shall be reflected by the exclusion of that number of unit months available for the project(s) when making the calculations, under 24 CFR part 990, for determination of the total amount of Operating Subsidy payable under the Consolidated ACC. In any event, no Operating Subsidy payable under a Consolidated ACC or otherwise shall be used to pay, directly or indirectly, any costs attributable to a project which is ineligible or otherwise excluded from Operating Subsidy under § 969.104. Even if no Operating Subsidy is received with respect to a project, the PHA remains obligated to maintain and operate the project in accordance with the provisions of the ACC related to project operation so long as those ACC provisions remain in effect.

§ 969.106 ACC extension in absence of current operating subsidy.

Where Operating Subsidy under an ACC is not approved for payment during a time period which results in extension of the term of the ACC provisions related to project operation, with respect to a particular project, pursuant to § 969.105, the PHA shall, at least one year before the anticipated ACC Expiration Date for the project, notify HUD as to whether or not the PHA desires to maintain a basis for receiving Operating Subsidy with respect to the project after the anticipated ACC Expiration Date. This notification shall be submitted to the appropriate HUD Field Office in the form of a resolution of the PHA’s Board of Commissioners. If the PHA does not desire to maintain a basis for Operating Subsidy payments with respect to the project after the anticipated ACC Expiration Date, the

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resolution shall certify that no Operating Subsidy shall be utilized with respect to the project after the effective date of this rule and that all financial records and accounts for such a project shall be kept separately. If the PHA does desire to maintain a basis for such Operating Subsidy payments, the resolution shall include the PHA's request for extension of the term of the ACC provisions related to project operation, for a period of not less than one nor more than 10 years. Upon HUD's receipt of the request, HUD and the PHA shall enter into an ACC amendment effecting the extension for the period requested by the PHA, unless HUD finds that continued operation of the project cannot be justified under the standards set forth in 24 CFR part 970 (HUD's regulation on demolition or disposition of public housing).

§ 969.107 HUD approval of demolition or disposition before ACC expiration.

This part is not intended to preclude or restrict the demolition or disposition of a project pursuant to HUD approval in accordance with 24 CFR part 970. Subject to the requirements of 24 CFR part 970, HUD may authorize a PHA to demolish or dispose of public housing at any time before the ACC Expiration Date.

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

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AUTHORITY: 42 U.S.C. 1437p and 3535(d).

SOURCE: 50 FR 50894, Dec. 13, 1985, unless otherwise noted.

§ 970.1 Purpose.

This part sets forth requirements for HUD approval of a public housing agency's application for demolition or disposition (in whole or in part) of public housing projects assisted under Title I of the U.S. Housing Act of 1937 (the "Act"). The rules and procedures contained in 24 CFR part 85 are inapplicable.

[53 FR 8067, Mar. 11, 1988, as amended at 56 FR 923, Jan. 9, 1991]

§ 970.2 Applicability.

(a) This part applies to public housing projects that are owned by public housing agencies (PHAs) and that are subject to Annual Contributions Contracts (ACCs) under the Act. It also applies to Section 23 bond-financed projects that have received modernization (i.e., Comprehensive Improvement Assistance Program (CIAP) or Comprehensive Grant funds (CGP)). This part does not apply to the following:

(1) PHA-owned Section 8 housing, or housing leased under section 10(c) or section 23 of the Act, except for section 23 bond-financed projects that have received modernization funding under the CIAP or the Comprehensive Grant Programs;

(2) Demolition or disposition before the End of the Initial Operating Period (EIOP), as determined under the ACC, of property acquired incident to the development of a public housing project; (however, this exception shall not apply to dwelling units);

(3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower income families under section 21 of the Act, the Turnkey III/IV or Mutual Help Homeownership Opportunity Programs, or other homeownership programs established under sections 5(h) or 6(c)(4)(D) of the Act and in existence before February 5, 1988, the date of enactment of the 1987 Act. (Where a plan