

§ 906.41

24 CFR Ch. IX (4-1-04 Edition)

it consistent with all applicable requirements of federal, state, and local law, including regulations as well as statutes. At a minimum, the attorney must certify that the documents to be used will ensure sales only to eligible families under § 906.15, compliance with the 5-year PRE sale guarantee in § 906.19(d), and compliance with the restriction of use of resale proceeds of § 906.27;

(g) *Board resolution.* A resolution by the PHA's Board of Commissioners, evidencing its approval of the program;

(h) *Section 8(y).* In any case where the PHA plans to provide families with assistance under the Section 8(y) homeownership option in connection with homeownership under this part, a certification that the PHA will comply with the requirements of the Section 8(y) statute and implementing regulations;

(i) *Other information.* Any other information that may reasonably be required for HUD review of the program. Except for the PHA-HUD implementing agreement under § 906.49 and the deed restriction required by § 906.39(n), HUD approval is not required for documents to be prepared and used by the PHA in implementing the program (such as contracts, applications, deeds, mortgages, promissory notes, and cooperative or condominium documents), if their essential terms and conditions are described in the program. Consequently, those documents need not be submitted as part of the program or the supporting documentation.

§ 906.41 Additional supporting documentation for acquisition of non-public housing for homeownership.

(a) *Proposal contents.* The PHA must submit an acquisition proposal to the HUD field office for review and approval before its homeownership plan containing acquisition of non-public housing can be approved. This proposal must contain the following:

(1) *Property description.* A description of the properties, including the number of housing units, unit types, and number of bedrooms, and any non-dwelling facilities on the properties to be acquired;

(2) *Certification.* If the housing units were constructed under a contract or an agreement that they be sold to the PHA, a certification that the developer/owner complied with all Davis-Bacon wage rate requirements under § 906.37, including all required contractual provisions and compliance measures, and that the PHA received all applicable HUD environmental approvals and all applicable HUD releases of funds before executing the contract or agreement, in accordance with § 906.47(d).

(3) *Site information.* A description of the proposed general location of the properties to be acquired, or where specific properties have been identified, street addresses of the properties;

(4) *Property costs.* The detailed budget of costs for acquiring the properties, including relocation and closing costs, and an identification of the sources of funding;

(5) *Appraisal.* An appraisal of the proposed properties by an independent, state-certified appraiser (when the sites have been identified);

(6) *Property acquisition schedule.* A copy of the PHA acquisition schedule;

(7) *Environmental information.* (i) The environmental information required by § 906.47(f), where HUD will perform the environmental review under 24 CFR part 50, or a statement identifying the responsible entity that has performed or will perform the review under 24 CFR part 58. This paragraph (a)(7)(i) does not apply to a property where a contract or agreement for sale to the PHA has already been executed and HUD has already given prior approval of the property following environmental review under 24 CFR part 50.

(ii) Where the PHA's homeownership program is submitted for approval to HUD and contemplates acquisition of properties not identified at the time of submission or approval, the procedures at § 906.47(e) apply.

(8) *Market analysis.* An analysis of the potential market of eligible purchasers for the homeownership units.

(9) *Additional HUD-requested information.* Any additional information that may be needed for HUD to determine whether it can approve the proposal.

(b) *Cost limit.* The acquisition cost of each property is limited by the housing cost cap limit, as determined by HUD.

§ 906.43 Where a PHA is to submit a homeownership program for HUD approval.

A PHA must submit its proposed homeownership program together with supporting documentation, in a format prescribed by HUD, to the Special Applications Center with a copy to the appropriate HUD field office.

§ 906.45 HUD criteria for reviewing a proposed homeownership program.

HUD will use the following criteria in reviewing a homeownership program:

(a) *Feasibility.* The program must be practically feasible, with sound potential for long-term success. Financial viability, including the capability of purchasers to meet the financial obligations of homeownership, is a critical requirement.

(b) *Legality.* Counsel for the PHA shall certify that the homeownership program is consistent with applicable law, including the requirements of this part and any other applicable federal, state, and local statutes and regulations, including existing contracts, and HUD shall accept such certification unless HUD has information indicating that the certification is incorrect.

(c) *Documentation.* The program must be clear and complete enough to serve as a working document for implementation, as well as a basis for HUD review.

(d) *PHA performance in homeownership.* The PHA (and any other entity with substantial responsibility for implementing the homeownership program) must have demonstrated the commitment and capability to successfully implement the homeownership program based upon the criteria stated in § 906.41(d).

§ 906.47 Environmental requirements.

(a) *General.* HUD environmental regulations at 24 CFR part 58 apply to this part, unless, under § 58.11 of this title, HUD itself performs the environmental review under 24 CFR part 50. The PHA conducting a homeownership program under this part must comply with this section and part 50 or 58, as applicable.

(b) *Assistance to facilitate the purchase of homes.* Where the PHA's homeownership program involves assistance provided under the 1937 Act solely to assist homebuyers to purchase existing dwelling units or dwelling units under construction, an environmental review is not required under part 58 or part 50 of this title. However, the requirements of § 58.6 or § 50.19(b)(15) of this title are still applicable.

(c) *Public housing units in the PHA's inventory.* Before the PHA rehabilitates or repairs units in its inventory for use for homeownership, or expends or commits HUD or local funds for such activities, the responsible entity must comply with part 58 and the PHA, where required, must submit and receive HUD approval of its request for release of funds, or HUD must have completed any part 50 environmental review and notified the PHA of its approval of the property. HUD may not release funds under this part before the appropriate approval is obtained.

(d) *Units to be acquired with federal funds and used for public housing homeownership.* A PHA may not enter into any contract for acquisition of real property to be used in a homeownership program unless the required environmental reviews have been performed and approvals have been obtained.

(e) *Specific units unidentified.* Where the PHA's homeownership program contemplates acquisition of properties not identified at the time of submission, the PHA must certify that it will comply with this section, including paragraph (f) of this section, prior to such acquisition or construction. HUD may conditionally approve such a homeownership program; however, HUD will not give final approval of any site or unit until the required environmental review has been completed.

(f) *Information.* The PHA shall supply all relevant information necessary for the responsible entity, or HUD, if applicable, to perform the environmental review for each property included in the homeownership program, and, if necessary, shall carry out mitigating measures or select alternate eligible properties. Where HUD performs the environmental review, the PHA shall comply with 24 CFR 50.3(h).