

Management Assessment Program (PHMAP); or

(2) Designated as Troubled, but has a reasonable prospect of acquiring management capability through CIAP-funded management improvements and administrative support. A Troubled PHA is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement or equivalent under §901.140 of this chapter or has obtained alternative oversight of its management functions.

*Modernization capability.* A PHA has modernization capability if it is:

(1) Not designated as Modernization Troubled under part 901 of this chapter, PHMAP; or

(2) Designated as Modernization Troubled, but has a reasonable prospect of acquiring modernization capability through CIAP-funded management improvements and administrative support, such as hiring staff or contracting for assistance. A Modernization Troubled PHA is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement or equivalent under §901.140 of this chapter or has obtained alternative oversight of its modernization functions. Where a PHA does not have a funded modernization program in progress, the Field Office shall determine whether the PHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

*Other Modernization (modernization other than emergency).* A type of modernization program for a development that includes one or more physical work items, where HUD determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, and/or one or more development specific or PHA-wide management work items (including planning costs), and/or lead-based paint activities.

*Work item.* Any separately identifiable unit of work constituting a part of a modernization program.

[61 FR 8741, Mar. 5, 1996, as amended at 64 FR 50229, Sept. 15, 1999]

**§ 968.210 Procedures for obtaining approval of a modernization program.**

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD will notify PHAs of the time frame for submission of the CIAP application and other pertinent information.

(b) *Distribution of funding.* HUD will distribute the available funding under this subpart to every eligible PHA that responds to the notice issued pursuant to paragraph (a) of this section based on two equally-weighted factors: a PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD will also provide a vacancy preference, consisting of an additional increment of funding, to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at §968.205.

(c) *ACC amendment.* HUD and the PHA shall enter into an ACC amendment in order for the PHA to draw down modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). The PHA Executive Director, where authorized by the Board of Commissioners and permitted by State law, may sign the ACC amendment on behalf of the PHA. HUD has the authority to condition an ACC amendment (e.g., to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(d) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust, as

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provided under the ACC, to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

[64 FR 33637, June 23, 1999]

### § 968.215 Resident and homebuyer participation.

A PHA shall establish a Partnership Process, as defined in § 968.105, to develop, implement and monitor the CIAP. Before submission of the CIAP application, a PHA shall consult with the residents, the resident organization, or the resident management corporation (see part 964, subpart C of this chapter) (herein referred to as the resident) of the development(s) being proposed for modernization, regarding its intent to submit an application and to solicit resident comments. A PHA shall give residents a reasonable opportunity to present their views on the proposed modernization and alternatives to it and shall give full and serious consideration to resident recommendations. A PHA shall respond in writing to the residents, indicating its acceptance or rejection of resident recommendations, consistent with HUD requirements and the PHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, a PHA shall inform the residents of the approved work items and its progress during implementation. Where HUD does not approve the modernization program, a PHA shall so inform the residents.

### § 968.225 Budget revisions.

(a) A PHA shall not incur any modernization cost in excess of the total HUD-approved CIAP budget. A PHA shall submit a budget revision, in a form prescribed by HUD, if the PHA plans to deviate from the originally approved modernization program, as it was competitively funded, by deleting or substantially revising approved work items or adding new work items that are unrelated to the originally approved modernization program, or to change the method of accomplishment from contract to force account labor,

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except as provided in paragraph (b)(4) of this section.

(b) In addition to the requirements of paragraph (a) of this section, a PHA shall comply with the following requirements:

(1) A PHA is not required to obtain prior HUD approval if, in order to complete the originally approved modernization program, the PHA needs to delete or revise approved work items or add new related work items consistent with the original modernization program. In such case, a PHA shall certify that the revisions are necessary to carry out the approved work and do not result in substantial changes to the competitively funded modernization program.

(2) A PHA shall not incur any modernization cost on behalf of any development that is not covered by the original CIAP application.

(3) Where there are funds leftover after completion of the originally approved modernization program, a PHA may, without prior HUD approval, use the remaining funds to carry out eligible modernization activities at developments covered by the original CIAP application.

(4) If a PHA is both an overall high performer and a modernization high performer under the Public Housing Management Assessment Program (PHMAP), the PHA is not required to obtain prior HUD approval to change the method of accomplishment from contract to force account labor.

### § 968.230 Progress reports.

For each six-month period ending March 31 and September 30, until completion of the modernization program or expenditure of all funds, a PHA shall submit to HUD a progress report, in a form prescribed by HUD. Where HUD determines that a PHA is having implementation problems, HUD may require more frequent reporting.

### § 968.235 Time extensions.

A PHA shall not obligate or expend funds after the obligation or expenditure deadline date approved by HUD in the original implementation schedule without a time extension, as follows:

(a) *Certification.* A PHA may extend an obligation or expenditure deadline