

§ 1006.401

24 CFR Ch. IX (4-1-05 Edition)

(2) Other conditions of the move are not reasonable.

(ii) Notwithstanding the provisions of paragraph (c)(6)(i) of this section, a person does not qualify as a “displaced person” (and is not eligible for relocation assistance under the URA or this section), if:

(A) The person moved into the property after the submission of the housing plan to HUD, but before signing a lease or commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a “displaced person” or for any assistance provided under this section as a result of the project;

(B) The person is ineligible under 49 CFR 24.2(g)(2); or

(C) The DHHL determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination.

(iii) The DHHL may at any time ask HUD to determine whether a specific displacement is or would be covered under this section.

(7) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a person displaced as a direct result of rehabilitation or demolition of the real property, the term “initiation of negotiations” means the execution of the agreement covering the rehabilitation or demolition (*See* 49 CFR part 24).

(d) *Audits.* The DHHL must comply with the requirements of the Single Audit Act and OMB Circular A-133, with the audit report providing a schedule of expenditures for each grant. A copy of each audit must be submitted to HUD concurrent with submittal to the Audit Clearinghouse.

**Subpart E—Monitoring and Accountability**

**§ 1006.401 Monitoring of compliance.**

(a) *Periodic reviews and monitoring.* At least annually, the DHHL must review the activities conducted and housing

assisted with NHHBG funds to assess compliance with the requirements of the Act and this part. This review must encompass and incorporate the results of the monitoring by the DHHL of all contractors involved in the administration of NHHBG activities.

(b) *Review.* Each review under paragraph (a) of this section must include on-site inspection of housing to determine compliance with applicable requirements.

(c) *Results.* The results of each review under paragraph (a) of this section must be:

(1) Included in a performance report of the DHHL submitted to HUD under § 1006.410; and

(2) Made available to the public.

**§ 1006.410 Performance reports.**

(a) *Requirement.* For each fiscal year, the DHHL must:

(1) Review the progress the DHHL has made during that fiscal year in achieving goals stated in its housing plan; and

(2) Submit a report in a form acceptable to HUD, within 60 days of the end of the DHHL’s fiscal year, to HUD describing the conclusions of the review.

(b) *Content.* Each report submitted under this section for a fiscal year shall:

(1) Describe the use of grant amounts provided to the DHHL for that fiscal year;

(2) Assess the relationship of the use referred to in paragraph (b)(1), of this section, to the goals identified in its housing plan;

(3) Indicate the programmatic accomplishments of the DHHL; and

(4) Describe the manner in which the DHHL would change its housing plan as a result of its experiences administering the grant under the Act.

(c) *Public availability.* (1) *Comments by Native Hawaiians.* In preparing a report under this section, the DHHL shall make the report publicly available to Native Hawaiians who are eligible to reside on the Hawaiian Home Lands and give a sufficient amount of time to permit them to comment on that report, in such manner and at such time as the DHHL may determine, before it is submitted to HUD.

(2) *Summary of comments.* The report under this section must include a summary of any comments received by the DHHL from beneficiaries under paragraph (c)(1) of this section, regarding the program to carry out the housing plan.

(d) *HUD review.* HUD will:

(1) Review each report submitted under the Act and this part; and

(2) With respect to each such report, make recommendations as HUD considers appropriate to carry out the purposes of the Act.

**§ 1006.420 Review of DHHL's performance.**

(a) *Objective.* HUD will, at least annually, review DHHL's performance to determine whether the DHHL has:

(1) Carried out eligible activities in a timely manner;

(2) Carried out and made certifications in accordance with the requirements and the primary objectives of the Act and this part and with other applicable laws;

(3) A continuing capacity to carry out the eligible activities in a timely manner;

(4) Complied with its housing plan; and

(5) Submitted accurate performance reports.

(b) *Basis for review.* In reviewing DHHL's performance, HUD will consider all available evidence, which may include, but not be limited to, the following:

(1) The DHHL's housing plan and any amendments thereto;

(2) Reports prepared by the DHHL;

(3) Records maintained by the DHHL;

(4) Results of HUD's monitoring of the DHHL's performance, including field evaluation of the quality of the work performed;

(5) Audit reports;

(6) Records of drawdowns on the line of credit;

(7) Records of comments and complaints by citizens and organizations; and

(8) Litigation.

(c) The DHHL's failure to maintain records may result in a finding that the DHHL failed to meet the applicable requirement to which the record pertains.

**§ 1006.430 Corrective and remedial action.**

(a) *General.* One or more corrective or remedial actions will be taken by HUD when, on the basis of a performance review, HUD determines that the DHHL has not:

(1) Complied with the requirements of the Act and this part and other applicable laws and regulations, including the environmental responsibilities assumed under § 1006.350;

(2) Carried out its activities substantially as described in its housing plan;

(3) Made substantial progress in carrying out its program and achieving its quantifiable goals as described in its housing plan; or

(4) Shown the continuing capacity to carry out its approved activities in a timely manner.

(b) *Action.* The action taken by HUD will be designed, first, to prevent the continuance of the deficiency; second, to mitigate any adverse effects or consequences of the deficiency; and third, to prevent a recurrence of the same or similar deficiencies. The following actions may be taken singly or in combination, as appropriate for the circumstances:

(1) Issue a letter of warning advising the DHHL of the performance problem(s), describing the corrective actions that HUD believes should be taken, establishing a completion date for corrective actions, and notifying the DHHL that more serious actions may be taken if the performance problem(s) is not corrected or is repeated;

(2) Request the DHHL to submit progress schedules for completing activities or complying with the requirements of the Act and this part;

(3) Recommend that the DHHL suspend, discontinue, or not incur costs for the affected activity;

(4) Recommend that the DHHL redirect funds from affected activities to other eligible activities;

(5) Recommend that the DHHL reimburse its program account or line of credit under the Act in the amount improperly expended and reprogram the use of the funds; and

(6) Recommend that the DHHL obtain appropriate technical assistance using existing grant funds or other