

§ 965.301

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

a contractor, the PHA must obtain, from the insurer of the contractor performing this type of work in accordance with a contract, a certificate of insurance providing evidence of such insurance and naming the PHA as an additional insured; or obtain such insurance directly. Insurance must remain in effect during the entire period of lead-based paint activity and must comply with the following requirements:

(1) *Named insured.* If purchased by the PHA, the policy shall name the PHA as insured. If purchased by an independent contractor, the policy shall name the contractor as insured and the PHA as an additional insured, in connection with performing work under the PHA's contract pertaining to lead-based paint activities. If the PHA has executed a contract with a Resident Management Corporation (RMC) to manage a building/project on behalf of the PHA, the RMC shall be an additional insured under the policy in connection with the PHA's contract related to lead-based paint activities. (The duties of the RMC are similar to those of a real estate management firm.)

(2) *Coverage limits.* The minimum limit of liability shall be \$500,000 per occurrence written, with a combined single limit for bodily injury and property damage.

(3) *Deductible.* A deductible, if any, may not exceed \$5,000 per occurrence.

(4) *Supplementary payments.* Payments for such supplementary costs as the costs of defending against a claim must be in addition to, and not as a reduction of, the limit of liability. However, it will be permissible for the policy to have a limit on the amount payable for defense costs. If a limit is applicable, it must not be less than \$250,000 per claim prior to such costs being deducted from the limit of liability.

(5) *Occurrence form policy.* The form used must be an "occurrence" form, or a "claims made" form that contains an extended reporting period of at least five years. (Under an occurrence form, coverage applies to any loss regardless of when the claim is made.)

(6) *Aggregate limit.* If the policy contains an aggregate limit, the minimum acceptable limit is \$1,000,000.

(7) *Cancellation.* In the event of cancellation, at least 30 days' advance notice is to be given to the insured and any additional insured.

(c) *Exception to requirements.* Insurance already purchased by the PHA or contractor and enforced on the day this section is effective which provides coverage for lead-based paint activities shall be considered as meeting the requirements of this section until the expiration of the policy. This section is not applicable to architects, engineers or consultants who do not physically perform lead-based paint activities.

(d) *Insurance for the existence of lead-based paint hazards.* A PHA may also purchase special liability insurance against the existence of lead-based paint hazards, although it is not a required coverage. A PHA may purchase this coverage if, in the opinion of the PHA, the policy meets the PHA's requirements, the premium is reasonable and the policy is obtained in accordance with applicable procurement standards. (See part 85 of this title and § 965.205 of this title.) If this coverage is purchased, the premium must be paid from funds available under the Performance Funding System or from reserves.

[59 FR 31930, June 21, 1994, as amended at 64 FR 50228, Sept. 15, 1999]

Subpart C—Energy Audits and Energy Conservation Measures

SOURCE: 61 FR 7969, Feb. 29, 1996, unless otherwise noted.

§ 965.301 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart C is to implement HUD policies in support of national energy conservation goals by requiring PHAs to conduct energy audits and undertake certain cost-effective energy conservation measures.

(b) *Applicability.* The provisions of this subpart apply to all PHAs with PHA-owned housing, but they do not apply to Indian Housing Authorities. (For similar provisions applicable to Indian housing, see part 950 of this

chapter.) No PHA-leased project or Section 8 Housing Assistance Payments Program project, including a PHA-owned Section 8 project, is covered by this subpart.

§ 965.302 Requirements for energy audits.

All PHAs shall complete an energy audit for each PHA-owned project under management, not less than once every five years. Standards for energy audits shall be equivalent to State standards for energy audits. Energy audits shall analyze all of the energy conservation measures, and the payback period for these measures, that are pertinent to the type of buildings and equipment operated by the PHA.

§ 965.303 [Reserved]

§ 965.304 Order of funding.

Within the funds available to a PHA, energy conservation measures should be accomplished with the shortest payback periods funded first. A PHA may make adjustments to this funding order because of insufficient funds to accomplish high-cost energy conservation measures (ECM) or where an ECM with a longer pay-back period can be more efficiently installed in conjunction with other planned modernization. A PHA may not install individual utility meters that measure the energy or fuel used for space heating in dwelling units that need substantial weatherization, when installation of meters would result in economic hardship for residents. In these cases, the ECMs related to weatherization shall be accomplished before the installation of individual utility meters.

§ 965.305 Funding.

(a) The cost of accomplishing cost-effective energy conservation measures, including the cost of performing energy audits, shall be funded from operating funds of the PHA to the extent feasible. When sufficient operating funds are not available for this purpose, such costs are eligible for inclusion in a modernization program, for funding from any available development funds in the case of projects still in development, or for other available funds that HUD

may designate to be used for energy conservation.

(b) If a PHA finances energy conservation measures from sources other than modernization or operating reserves, such as a loan from a utility entity or a guaranteed savings agreement with a private energy service company, HUD may agree to provide adjustments in its calculation of the PHA's operating subsidy eligibility under the PFS for the project and utility involved based on a determination that payments can be funded from the reasonably anticipated energy cost savings (See § 990.107(g) of this chapter).

§ 965.306 Energy conservation equipment and practices.

In purchasing original or, when needed, replacement equipment, PHAs shall acquire only equipment that meets or exceeds the minimum efficiency requirements established by the U.S. Department of Energy. In the operation of their facilities, PHAs shall follow operating practices directed to maximum energy conservation.

§ 965.307 Compliance schedule.

All energy conservation measures determined by energy audits to be cost effective shall be accomplished as funds are available.

§ 965.308 Energy performance contracts.

(a) *Method of procurement.* Energy performance contracting shall be conducted using one of the following methods of procurement:

(1) Competitive proposals (see 24 CFR 85.36(d)(3)). In identifying the evaluation factors and their relative importance, as required by § 85.36(d)(3)(i) of this title, the solicitation shall state that technical factors are significantly more important than price (of the energy audit); or

(2) If the services are available only from a single source, noncompetitive proposals (see 24 CFR 85.36(d)(4)(i)(A)).

(b) *HUD Review.* Solicitations for energy performance contracting shall be submitted to the HUD Field Office for review and approval prior to issuance. Energy performance contracts shall be submitted to the HUD Field Office for review and approval before award.