

(h) *Right to appeal.* Before withholding some or all of the PHA's annual grant, declaring a breach of the ACC grant amendment, or reallocating funds that have been withheld, HUD will notify the PHA and give it an opportunity, within a prescribed period of time, to present to the Assistant Secretary for Public and Indian Housing any arguments or additional facts and data concerning the proposed action.

(i) *Notification of residents.* The PHA's Board of Commissioners must notify affected residents of HUD's final determination to withhold funds, declare a breach of the ACC grant amendment, or reallocate funds, as well as the basis for, and the consequences resulting from, such a determination.

(j) *Recapture.* In addition, HUD may recapture for good cause any grant amounts previously provided to an PHA, based upon a determination that the PHA has failed to comply with the requirements of the CGP program. Before recapturing any grant amounts, HUD will notify the PHA and give it an opportunity to appeal in accordance with paragraph (h) of this section. Any reallocation of recaptured amounts will be reallocated in accordance with paragraph (g) of this section. The PHA's board of Commissioners must notify affected residents of HUD's final determination to recapture any funds.

(k) *Cumulative remedies.* The authority to condition, withhold, reallocate or recapture a PHA's grant, as provided in this section, is in addition to the authority contained in §968.310(c) to reduce a PHA's formula allocation based upon its designation as a mod troubled PHA.

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**Subpart D—Vacancy Reduction Program**

SOURCE: 59 FR 30478, June 13, 1994, unless otherwise noted.

**§968.416 Fund requisitions.**

To request funds against the total approved vacancy reduction program budget, a PHA must submit a request to HUD in accordance with HUD requirements.

**§968.419 Grantee's oversight responsibilities.**

Each grantee shall provide, by contract or otherwise, adequate and competent supervisory and inspection personnel to assure work quality and progress during modernization, whether work is performed by contract or force account labor and with or without the services of an architect/engineer.

**§968.422 Progress reports and completion schedule.**

(a) *Reports required.* Until completion of the activities funded under the vacancy reduction program, the grantee shall submit to HUD, in a form and at a time prescribed by HUD, the following:

(1) A report on modernization fund expenditures;

(2) A narrative report that includes an accounting of the grantee's progress against the milestones established in its vacancy reduction plan. The report shall include the number of both funded and regular turn-over units that have been made ready for occupancy; and

(3) Any additional information as HUD may require.

(b) *Completion schedule.* HUD expects that most work items funded under this program will be completed within one year. Work items must be completed within two years from the date of funding, or by some other time as may be specified in the Notice of Funding Availability, unless prior approval is obtained from HUD.

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**§968.425 HUD review of grantee performance.**

(a) *Performance reviews.* HUD shall carry out such reviews of the performance of each funded PHA as may be necessary or appropriate to determine

compliance with the PHA's vacancy reduction plan and related HUD requirements. In these reviews HUD will determine whether the PHA has:

(1) Carried out its vacancy reduction activities in a timely manner and in accordance with its vacancy reduction plan;

(2) Completed, or made reasonable progress toward completing, the physical items funded under the vacancy reduction plan, and whether the work items being carried out conform with the modernization and energy standards in §968.115 of this chapter;

(3) Implemented, or made reasonable progress toward implementing, the management improvements funded under the vacancy reduction program; and

(4) Made reasonable progress in meeting the goals established in its vacancy reduction plan.

(b) *Notice of deficiency.* If HUD finds any deficiency in a review of a grantee's performance under this part, HUD may issue to the grantee a notice of deficiency stating the specific program requirements that the grantee has violated and requesting the grantee to take corrective action.

(c) *Corrective action order.* (1) *Issuance.* If HUD finds any of the deficiencies listed in paragraph (c)(3) of this section in its review of the grantee's performance, HUD may issue to the grantee a corrective action order, whether or not a notice of deficiency has previously been issued on the specific deficiency. The corrective action order shall notify the grantee of the specific program requirements that the grantee has violated and shall specify the corrective action.

(2) *Consultation with grantee.* Before ordering corrective action, HUD will give the grantee an opportunity to consult with HUD regarding the proposed action.

(3) *Bases for corrective action.* HUD may order a grantee to take corrective action only if HUD determines:

(i) The grantee has not submitted a performance report as required by HUD;

(ii) The grantee has not carried out activities under its vacancy reduction program in a timely manner and in accordance with HUD requirements;

(iii) The grantee does not have continuing capacity to carry out activities in its vacancy reduction plan; or

(iv) An audit conducted in accordance with 24 CFR part 44, or pursuant to other HUD reviews, reveals deficiencies that HUD reasonably believes require corrective action.

(d) *Nature of corrective action.* (1) HUD shall design corrective action to prevent a continuation or recurrence of the same or a similar deficiency or to mitigate to the greatest extent feasible any adverse effects of the deficiency.

(2) HUD may order a grantee to take the corrective action that HUD determines appropriate for carrying out the elements of the vacancy reduction plan. Corrective action may include, but is not limited to, suspension of grantee's authority to incur costs against the vacancy reduction funding and reimbursement, from sources other than HUD funds, of any amount spent improperly.

(e) *Failure to take corrective action.* In cases where HUD has ordered corrective action and the grantee has failed to take the required action within a reasonable time, as specified by HUD, HUD may take one or more of the following steps:

(1) Withhold vacancy reduction funds from the grantee;

(2) Declare a breach of the ACC by the grantee; and

(3) Any other sanctions authorized by law or regulation.

#### §968.428 Program closeout.

(a) *Requirements for grantees.* Upon completion of the activities funded in accordance with this part, the grantee shall submit to HUD, and in a form prescribed by HUD, the actual modernization cost certificate for HUD's review, audit verification, and approval. The grantee shall immediately remit any excess funds provided by HUD. If the audited modernization cost certificate discloses unauthorized expenditures, the grantee shall take such corrective actions as HUD may direct.

(b) *Audit.* The audit shall follow the guidelines prescribed in 24 CFR part 44, Non-Federal Government Audit Requirements.

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