

## § 941.205

to improve or harmonize with the neighborhoods they occupy, meet contemporary standards of modest comfort and liveability, promote security, and be attractive and marketable to the people they are intended to serve. Building design and construction shall strive to encourage in residents a proprietary sense, whether or not homeownership is intended or contemplated.

(b) Projects must comply with:

(1) A national building code, such as Uniform Building Code, Council of American Building Officials Code, or Building Officials Conference of America Code;

(2) Applicable State and local laws, codes, ordinances, and regulations; and

(3) Other Federal requirements, including any Federal fire-safety requirements and HUD minimum property standards (e.g., 24 CFR part 200, subpart S, and § 941.208).

(c) Projects for families with children shall consist to the maximum extent practicable of low-density housing (e.g., non-elevator structures, scattered sites or other types of low-density developments appropriate in the community).

(d) High-rise elevator structures shall not be provided for families with children regardless of density, unless the PHA demonstrates and HUD determines that there is no practical alternative. High-rise buildings for the elderly may be used if the PHA demonstrates and HUD determines that such construction is appropriate, taking into consideration land costs, the safety and security of the prospective occupants, and the availability of community services.

[61 FR 38017, July 22, 1996]

### § 941.205 PHA contracts.

(a) *ACC requirements.* In order to be considered as eligible project expenses, all development related contracts entered into by the PHA shall provide for compliance with the provisions of the ACC.

(b) *Contract forms.* HUD may prescribe the form of any development related contracts, and the PHA shall use such forms. If a form is not prescribed, the PHA may develop its own form; however, it must contain all applicable federal requirements.

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(c) *When HUD approval is required.* The PHA is authorized to execute all development-related contracts without prior HUD review or approval with the exception of:

(1) All forms of site or property acquisition contracts regardless of development method; and

(2) Contracts whose amount exceeds a contract approval threshold established by HUD for that PHA; and

(3) A contract for the selection of a program manager to develop and implement the PHA's proposal (see § 941.201(c)).

(d) Each PHA shall certify before executing any contract with a contractor that the contractor is not suspended, debarred, or otherwise ineligible under 24 CFR part 24. The PHA also shall ensure that all subgrantees, contractors, and subcontractors select only contractors who are not listed as suspended, debarred, or otherwise ineligible under 24 CFR part 24.

[61 FR 38018, July 22, 1996]

EFFECTIVE DATE NOTE: At 61 FR 38018, July 22, 1996, § 941.205 was revised. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 941.207 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, the PHA shall assure that it has taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* Only residential tenants who are eligible under 24 CFR 913.103 and who meet the PHA standards for tenancy established pursuant to 24 CFR 960.204 will be permitted to continue in occupancy. Any residential tenant who (though not required to move permanently) must relocate temporarily (e.g., to permit rehabilitation or major reconstruction) shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and

from the temporary housing, any increase in monthly rent/utility costs and incidental expenses.

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe and sanitary housing to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the project; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A “displaced person” (defined in paragraph (h) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24. A “displaced person” shall be advised of his/her rights under the Fair Housing Act (42 U.S.C. 3601–19), and, if the representative comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, such person also shall be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(d) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements in 49 CFR part 24, subpart B. With respect to the Turnkey method of development (see 24 CFR 941.102(b)), 49 CFR 24.101(a) (1) and (2) apply to the PHA/developer and developer/owner transactions, respectively.

(e) *Notices.* (1) As soon as possible after the date described in paragraph (h)(1)(i) of this section, the PHA shall issue a general information notice (described in 49 CFR 24.203(a)) to each occupant of the property.

(2) At the time of the initiation of negotiations (defined in paragraph (i) of

this section), the PHA shall issue an appropriate written notice to each person occupying the property. Those to be displaced shall be issued a notice of eligibility for relocation assistance. (This notice may be combined with the 90-day notice under 49 CFR 24.203(c).) Tenants (eligible under 24 CFR 913.103 and the standards for tenancy established in accordance with 24 CFR 960.204) who will not be displaced shall be issued a notice offering the tenant the opportunity to enter into a lease to continue in occupancy of the property under reasonable terms and conditions. (Also, see paragraph (h)(1)(iii) of this section.)

(f) *Appeals.* A person who disagrees with the PHA’s determination concerning whether the person qualifies as a “displaced person,” or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the PHA. A person who is dissatisfied with the PHA’s determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(g) *Responsibility of PHA.* (1) The PHA shall certify (i.e., provide assurance of compliance, as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party’s contractual obligation to the PHA to comply. The certification in the PHA’s “Resolution in Support of Public Housing Project” that the PHA will comply with all the requirements of 24 CFR part 941 shall constitute the PHA’s certification of compliance with the URA, the implementing regulations at 49 CFR part 24, and this section.

(2) The cost of required assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs may also be paid from funds available from other sources.

(3) The PHA must maintain records in sufficient detail to demonstrate compliance with this section, including data indicating the race, ethnic, gender and disability status of displaced persons.

(h) *Definition of displaced person.* (1) For purposes of this section, the term *displaced person* means a person (household, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. The term “displaced person” includes, but may not be limited to:

(i) A person who moves permanently from the real property after receiving a notice from the PHA or property owner that requires such move, if the move occurs on or after:

(A) For conventional or acquisition projects, the date of approval by HUD of the PHA proposal incorporating the site, or for scattered sites, the date HUD approves the applicable site;

(B) For turnkey projects, the date the PHA proposal is submitted to HUD; or

(C) For major reconstruction of obsolete public housing projects, the date the PHA issues the invitation for bids for the project;

(ii) Any person, including a person who moves before the date described in paragraph (h)(1)(i) of this section, that the PHA or HUD determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project; or

(iii) A tenant-occupant of a dwelling unit who moves from the building/complex, permanently, after the “initiation of negotiations,” (defined in paragraph (i) of this section), if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the amount determined in accordance with 24 CFR 913.107; or

(iv) A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) The tenant is not offered payment for all reasonable out-of-pocket

expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or

(B) Other conditions of the temporary relocation are not reasonable; or

(v) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable; or

(2) Notwithstanding the provisions of paragraph (h)(1) 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:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and the PHA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the date described in paragraph (h)(1)(i) of this section, but before commencing occupancy, received written notice of the project, its possible impact on the person (e.g., that the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that he or she would not qualify as a “displaced person” (or for assistance under this section) as a result of the project;

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

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The PHA may, at any time, ask HUD to determine whether a displacement is or would be covered by this section.

(i) *Definition of initiation of negotiations.* For purposes of this section, the term “initiation of negotiations” means:

(1) For conventional or acquisition projects:

(i) Where the PHA purchases the real property through an arm’s-length transaction (as described in 49 CFR 24.101(a)(1)), the seller’s acceptance of the PHA’s written offer to purchase the property (i.e., the seller’s execution of form HUD-51971-II), provided the PHA later purchases the property; or such other date, as may be determined by the PHA with the approval of the HUD Field Office; or

(ii) Where the PHA’s purchase of the real property does not qualify as an arm’s-length transaction under 49 CFR 24.101(a)(1), the delivery of the initial written purchase offer from the PHA to the Owner of the property (i.e., the PHA executed form HUD-51971-II). However, if the PHA issues a notice of intent to acquire the property, and a person moves after that notice, but before the initial written purchase offer, the “initiation of negotiations” is the actual move of the person from the property;

(2) For turnkey projects, HUD Field Office approval of the PHA’s proposal incorporating the developer’s proposal, provided the contract of sale is later executed; or

(3) For major reconstruction of obsolete projects, the PHA’s issuance of the invitation for bids for the project.

[59 FR 29344, June 6, 1994]

#### § 941.208 Other Federal requirements.

(a) *General.* The PHA shall be subject to all statutory, regulatory, and executive order requirements applicable to public housing development (see, e.g., 24 CFR parts 5, 8, 35, 50, and 965), as may be more fully described by HUD in notices, handbooks, or other guidance.

(b) *Lead-based paint.* The relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, L,

and R of this title apply to the program.

[61 FR 38018, July 22, 1996, as amended at 64 FR 50228, Sept. 15, 1999]

#### § 941.209 Audit.

All PHAs that receive funds under this part for the development of low-income housing shall comply with audit requirements in 24 CFR part 44.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986]

### Subpart C—Application and Proposal

SOURCE: 61 FR 38018, July 22, 1996, unless otherwise noted.

#### § 941.301 Application.

If funding is made available for public housing development, HUD will provide information about fund allocation, application deadline, and selection criteria and procedures through a Notice of Funding Availability (NOFA).

EFFECTIVE DATE NOTE: At 61 FR 38018, July 22, 1996, § 941.301 was revised. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### § 941.302 Annual contributions contract; drawdowns and advances.

(a) A PHA wishing to develop public housing shall execute an ACC or ACC amendment covering the entire amount of reserved development funds or the amount of modernization funds (under section 14 of the Act, 42 U.S.C. 1437l) it proposes to use in accordance with this part. This ACC or ACC amendment must be executed by both the PHA and HUD before funds can be provided to the PHA.

(b) Until HUD has approved a PHA’s full proposal, a PHA may only draw down funds under the ACC for pre-development costs for materials and services related to proposal preparation and submission. Expenditures for pre-development costs shall not exceed three percent of the total development cost stated in the executed ACC.

(c) HUD may approve the following in writing: