

Force account labor. Labor employed directly by the PHA on either a permanent or a temporary basis. See § 968.120.

Hard costs. The physical improvement costs in development accounts 1450 through 1475 of the Low-Rent Housing Accounting Handbook 7510.1, as revised, which include: Account 1450 Site Improvements; Account 1460 Dwelling Structures; Account 1465.1 Dwelling Equipment—Nonexpendable; Account 1470 Nondwelling Structures; and Account 1475 Nondwelling Equipment.

Homebuyer agreement. A Turnkey III Homebuyer Ownership Opportunity Agreement.

Modernization funds. Funds derived from an allocation of budget authority for the purpose of funding physical and management improvements.

Modernization program. A PHA's program for carrying out modernization, as set forth in the approved CIAP budget or CGP Annual Statement.

Modernization project. The improvement of one or more existing public housing developments under a unique number designated for that modernization program. For each modernization project, HUD and the PHA shall enter into an ACC amendment, requiring 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 terms "modernization project number" and "comprehensive grant number" are used interchangeably.

Non-routine maintenance. Work items that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.

Partnership process. A specific and ongoing process that is designed to ensure that residents, resident groups,

and the PHA work in a cooperative and collaborative manner to develop, implement and monitor the CIAP or CGP. At a minimum, a PHA shall ensure that the partnership process incorporates full resident participation in each of the required program components.

PHMAP. The Public Housing Management Assessment Program (PHMAP) is a process designed to allow HUD and the PHA to identify PHA management capabilities and deficiencies, and to lead to overall better management of the public housing program, in accordance with 24 CFR part 901.

Reasonable cost. Total unfunded hard cost needs for a development that do not exceed 90 percent of the computed Total Development Cost (TDC) for a new development with the same structure type and number and size of units in the market area.

Soft costs. The non-physical improvement costs which exclude any costs in development accounts 1450 through 1475.

[54 FR 52689, Dec. 21, 1989, as amended at 56 FR 922, Jan. 9, 1991; 57 FR 5573, Feb. 14, 1992; 58 FR 13931, Mar. 15, 1993; 61 FR 5216, Feb. 9, 1996; 61 FR 8738, Mar. 5, 1996]

§ 968.108 Displacement, relocation, and real property acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, PHAs must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* Residents who will not be required to move permanently, but who must relocate temporarily (e.g., to permit rehabilitation), 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 and any increase in monthly rent/utility costs; and

(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 resident 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 (g) 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 development is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the PHA’s determination concerning whether the person qualifies as a “displaced person,” or the amount of the relocation assistance for which the person is eligible, may file a written appeal of that determination with the PHA. A lower-income 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.

(f) *Responsibility of PHA.* (1) The PHA shall certify that it will comply (i.e., provide assurance of compliance, as required by 49 CFR part 24) 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 with these provisions.

(2) The PHA shall maintain records in sufficient detail to demonstrate compliance with these provisions. The PHA shall maintain data on the race, ethnic, gender, and handicap status of displaced persons.

(g) *Definition of displaced person.* (1) For purposes of this section, the term *displaced person* means a person (family, individual, 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. This includes any permanent, involuntary move for an assisted project, including any permanent move from the building/complex that is made:

(i) On or after the date of the “initiation of negotiations” (defined in §968.108(h)), if the person is the resident of a dwelling and any one of the following three situations occurs:

(A) The resident has not been provided, before the move, a written notice offering the resident the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the total tenant payment, as determined under 24 CFR 913.107; or

(B) The resident is required to relocate temporarily, does not return to the building/complex, and either:

(1) The resident is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

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

(C) The resident is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable; or

(ii) Before the “initiation of negotiations,” if the PHA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project;

(2) Notwithstanding the provisions of paragraph (g)(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 submission of the Annual Statement (CGP) or application (CIAP) and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., that the person may be displaced or temporarily relocated) 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 ask HUD, at any time, to determine whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a resident who is displaced by rehabilitation or demolition, the term *initiation of negotiations* means 45 calendar days before (1) the issuance of the invitation for bids for the project or (2) the start of force account work, whichever is applicable.

(Approved by the Office of Management and Budget under OMB Control Number 2506-0121)

[58 FR 13931, Mar. 15, 1993, as amended at 61 FR 8738, Mar. 5, 1996]

§ 968.110 Other program requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, the PHA shall comply with the following program requirements:

(a) *Nondiscrimination and equal opportunity.* The PHA shall comply with Title II of the Americans with Disabilities Act and 28 CFR part 35; section 504 of the Rehabilitation Act of 1973 and 41 CFR part 60-471; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and 24 CFR part 40.

(b) [Reserved]

(c) *Environmental clearance.* Before approving a proposed project, HUD will comply with the requirements of 24 CFR part 50, implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.) and related requirements of 24 CFR 50.4.

(d) *Flood insurance.* HUD will not approve for acquisition, construction, or improvement, a building located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards, unless the following conditions are met:

(1) Flood insurance on the building is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.); and

(2) The community in which the area is situated is participating in the National Flood Insurance Program in accord with 44 CFR parts 59-79, or less than one year has passed since FEMA notification regarding flood hazards.

(e) *Wage rates—(1) Davis-Bacon.* With respect to modernization work or contracts over \$2,000 (except for nonroutine maintenance work), all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed by the PHA or its contractors shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5).

(2) *HUD-determined.* With respect to all nonroutine maintenance work or contracts, all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed by the PHA or its contractors shall be paid not less than the wages prevailing in the locality, as determined or adopted by HUD pursuant