

(c) *Limit on number of units*—(1) *General*. A PHA may not develop public housing pursuant to this part beyond the lesser of the number of units that the PHA had under ACC on August 21, 1996, or the number of units for which it was receiving operating subsidy on that date, unless authorized by HUD. HUD may condition such authorization on the PHA's agreement that such incremental units, once developed, will be ineligible for capital and/or operating subsidies from HUD.

(2) *Replacement housing units*. With respect to units constructed to replace public housing units that were demolished or disposed of, a PHA may use (in whole or in part) funding from non-HUD sources or from HUD funding not provided under the Act. However, development of such units must be approved by HUD in advance for them to be eligible for inclusion under the ACC.

[61 FR 38016, July 22, 1996, as amended at 67 FR 76101, Dec. 10, 2002]

#### § 941.103 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

*Act*. The U.S. Housing Act of 1937 (42 U.S.C. 1437).

*Additional Project Costs (APC)* means the sum of the following HUD-approved costs related to the development of a public housing project, which costs are not subject to the Total Development Cost limit but are included in the maximum project cost, as described in § 941.306:

(1) Demolition of, or remediation of environmental hazards associated with, public housing units that will not be replaced on the site; and

(2) Extraordinary site costs that have been verified by an independent registered engineer (*e.g.*, removal of underground utility systems, and replacement of off-site underground utility systems, extensive rock and/or soil removal and replacement, and amelioration of unusual site conditions such as unusual slopes, terraces, water catchments, lakes, etc.)

*Annual Contributions Contract (ACC)*. A contract (in the form prescribed by HUD) for loans and contributions, which may be in the form of grants, whereby HUD agrees to provide finan-

cial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

*Community Renewal Cost (CRC)* means the sum of the following HUD-approved costs related to the development of a public housing project: planning (including proposal preparation), administration, site acquisition, relocation, demolition of, and site remediation of environmental hazards associated with, public housing units that will be replaced on the project site, interest and carrying charges, off-site facilities, community buildings and non-dwelling facilities, contingency allowance, insurance premiums, any initial operating deficit, on-site streets, on-site utilities, and other costs necessary to develop the project that are not covered under APC or Housing Construction Cost.

*Construction Contract*. A contract between the PHA and a contractor to build or rehabilitate a project using the conventional development method.

*Construction documents*. The working drawings and construction specifications and the rehabilitation work write-ups, where applicable, that set forth the work to be done under a construction contract or contract of sale.

*Contract of sale*. A contract between the PHA and a developer whereby the PHA agrees to purchase a completed project after construction or rehabilitation by a developer using the turn-key development method.

*Cooperation Agreement*. An agreement between a PHA and the applicable local governing body or bodies which assures exemption from real and personal property taxes, provides for local support and services for the development and operation of a public housing project, and provides for PHA payments in lieu of taxes.

*Design documents*. The preliminary drawings and specifications and the preliminary rehabilitation work write-ups, where applicable, in sufficient detail to define the extent of construction or rehabilitation and demonstrate compliance with HUD design and construction standards.

*Housing Construction Cost (HCC)* means the sum of the following HUD-

approved costs related to the development of a public housing project: dwelling unit hard costs (including construction and equipment); builder's overhead and profit; the cost of extending utilities from the street to the public housing project; finish landscaping; and the payment of Davis-Bacon wage rates.

*Proposal.* A document submitted by a PHA to HUD, in accordance with subpart C of this part, for approval of the development of a public housing project. As used in this part, "proposal" refers to both the "site acquisition proposal" (§941.303), and the "full proposal" (§941.304), unless specifically indicated otherwise.

*Public housing capital assistance* means assistance provided by HUD under the Act or the HOPE VI program in connection with the development of public housing under this part, including: Capital Fund assistance provided under section 9(d) of the Act, public housing development assistance provided under section 5 of the Act, Operating Fund assistance used for capital purposes under section 9(g)(1) or (g)(2) of the Act, and HOPE VI grant assistance.

*Reformulation.* The procedure by which HUD approves division of a project (including units and related funds) into two or more projects, or combining two or more projects into one, or redistributing units and related funds in a project among two or more projects, in order to provide PHAs with the flexibility to adapt to site availability, to resolve development problems, to acquire buildings ready for development (before acquisition of other buildings), and to save on interest and initial operating costs.

*Total Development Cost (TDC) limit.* The maximum amount of public housing capital assistance that can be used to pay for Housing Construction Costs and Community Renewal Costs in connection with the development of a public housing project, as determined under §941.306(b)(2). The TDC limit does not apply to Additional Project Costs.

[45 FR 60838, Sept. 12, 1980, as amended at 56 FR 13282, Apr. 1, 1991; 58 FR 62524, Nov. 29, 1993; 61 FR 5214, Feb. 9, 1996; 61 FR 38017, July 22, 1996; 62 FR 27125, May 16, 1997; 67 FR 76101, Dec. 10, 2002]

## Subpart B—PHA Eligibility and Program Requirements

### § 941.201 PHA eligibility.

(a) *General.* In order to participate in the public housing program, a PHA must be approved as an eligible PHA. HUD will determine eligibility based on a showing that the PHA has the legal authority and local cooperation required by this part.

(b) *Legal authority.* The PHA must demonstrate that it has the legal authority to develop, own, and operate a public housing project under the Act.

(c) *Troubled PHAs.* Unless HUD determines that a PHA that has been classified as troubled or modernization-troubled, in accordance with 24 CFR part 901, has adequate capacity to develop public housing units, the PHA so classified shall engage a HUD-approved program manager to develop and implement the PHA's proposal. HUD shall review the solicitation and the selection before award of a contract is made by such a PHA.

(d) *Local cooperation.* The PHA must provide a cooperation agreement between the PHA and the applicable local governing body for the area in which the public housing project is to be located as evidence that the local governing body will provide the local cooperation required by HUD pursuant to the Act. This local cooperation shall include exemption from real and personal property taxes, acceptance of PHA payments in lieu of taxes, and the provision at no cost or at no greater cost by the local governing body of the same public services and facilities normally furnished to others in the community.

[45 FR 60838, Sept. 12, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, as amended at 61 FR 38017, July 22, 1996]

### § 941.202 Site and neighborhood standards.

Proposed sites for public housing projects to be newly constructed or rehabilitated must be approved by the field office as meeting the following standards:

(a) The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed, and adequate utilities (e.g., water,