

(vii) It will take all steps necessary to ensure that, in the event of a foreclosure or other adverse action brought against the owner entity with respect to the housing units (including, but not limited to, the public housing units), the operation of the public housing units developed under this subpart shall not be adversely affected.

(9) Such additional documentation as may be required by HUD.

(b) *Subsidy layering analysis.* After the PHA submits the documentation required under paragraph (a) of this section, HUD (or its designee) shall carry out a subsidy layering analysis pursuant to section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (see 24 CFR part 4) to determine whether the amount of assistance being provided for the development is more than necessary to make the assisted activity feasible after taking into account the other governmental assistance.

EFFECTIVE DATE NOTE: At 61 FR 19716, May 2, 1996, §941.610 was added. 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.

**§941.612 Disbursement of grant funds.**

(a) *Front-end drawdowns.* A PHA may request front-end assistance for both scattered or non-scattered site development in accordance with the following requirements:

(1) Front-end assistance may be used to pay for materials and services related to proposal development, and may also be used to pay for costs related to the demolition of existing units on a proposed site or for preliminary development work;

(2) HUD shall determine on a case-by-case basis the maximum amount that may be drawn down by a PHA to pay for preliminary development costs, based upon a consideration of the nature and scope of activities proposed to be carried out by the PHA;

(3) Before a request for front-end assistance may be approved, the PHA must provide HUD with such information and documentation as HUD deems appropriate from the list set forth at §941.606. In determining the extent of the PHA's submissions under this para-

graph (a), HUD shall ensure that it has adequate information or documentation to enable it to carry out any statutory, executive order, or other mandatory upfront reviews under this subpart. These reviews shall include, but shall not be limited to, environmental reviews (including NEPA and historic preservation), intergovernmental review, section 213 clearance (24 CFR part 791, subpart C), and subsidy layering. If, upon completing these reviews, HUD determines that the proposed development is approvable, it may execute with the PHA a front-end ACC amendment and the special mixed-finance amendment to the ACC (and/or grant agreement) to provide advances for the purposes, and in the amounts, approved by HUD.

(b) *Standard drawdown requirements.* HUD will review the evidentiary materials and other documents submitted pursuant to §941.610, and, upon determining that such documents are satisfactory, may approve a drawdown of development funds, consistent with the following requirements:

(1) A PHA may only draw down public housing development funds in an approved ratio to other public and private funds, in accordance with a draw schedule prepared by the PHA and approved by HUD. The PHA and its partner shall certify, in a form prescribed by HUD, prior to the initial drawdown of public housing development funds that the PHA will not draw down and the partner will not request more public housing grant funds than necessary to meet the PHA's pro rata share of the development costs. The PHA shall draw down public housing development funds only when payment is due and *after* inspection and acceptance of work covered by the draw. The PHA shall release funds to its partner promptly, normally within two working days of receipt of the funds from HUD, and only in accordance with the ratio approved by HUD. The PHA's partner shall take prompt action to distribute the funds, normally within two working days of receipt of the funds from the PHA;

(2) Each drawdown of public housing development funds constitutes a certification by the PHA that:

(i) All the representations and warranties of the PHA, as submitted in accordance with this subpart, continue to be valid, true, and in full force and effect;

(ii) The PHA is in full compliance with all of the PHA's obligations pursuant to this part which, by their terms, are applicable at the time of the drawdown of the public housing development funds, and that to the best of the PHA's knowledge, it is not in default under the ACC, as amended;

(iii) All conditions precedent to the PHA's authority to draw down the public housing grant funds have been satisfied;

(iv) The public housing grant funds to be drawn down will be used for eligible costs actually incurred or to be incurred in accordance with the provisions of this subpart and the approved proposal; and

(v) The ratio for the draw down of funds is satisfied.

(c) The standard drawdown requirements set forth in paragraph (b) of this section (including the requirement that public housing development funds must be drawn down in an approved ratio to other public and private funds) do not apply to front-end assistance approved by HUD pursuant to paragraph (a) of this section.

**§ 941.614 HUD monitoring and review.**

HUD shall monitor and review the implementation of the PHA's approved proposal in accordance with requirements prescribed by HUD in a special mixed-finance amendment to the ACC (and/or grant agreement).

**§ 941.616 Sanctions.**

In the event the public housing units that are proposed to be developed under this subpart are not developed in accordance with the projected development schedule, the approved proposal, and all applicable Federal requirements, or if the units are not operated in accordance with applicable requirements, HUD may impose sanctions on the PHA, and/or seek legal and equitable relief, in accordance with requirements prescribed by HUD in the special mixed-finance amendment to the ACC (and/or grant agreement).

**PART 943—PUBLIC HOUSING AGENCY CONSORTIA AND JOINT VENTURES**

**Subpart A—General**

Sec.

943.100 What is the purpose of this part?

**Subpart B—Consortia**

943.115 What programs are covered under this subpart?

943.118 What is a consortium?

943.120 What programs of a PHA are included in a consortium's functions?

943.122 How is a consortium organized?

943.124 What elements must a consortium agreement contain?

943.126 What is the relationship between HUD and a consortium?

943.128 How does a consortium carry out planning and reporting functions?

943.130 What are the responsibilities of participating PHAs?

**Subpart C—Subsidiaries, Affiliates, Joint Ventures in Public Housing**

943.140 What programs and activities are covered by this subpart?

943.142 In what types of operating organizations may a PHA participate?

943.144 What financial impact do operations of a subsidiary, affiliate, or joint venture have on a PHA?

943.146 What impact does the use of a subsidiary, affiliate, or joint venture have on financial accountability to HUD and the Federal government?

943.148 What procurement standards apply to PHAs selecting partners for a joint venture?

943.150 What procurement standards apply to a PHA's joint venture partner?

943.151 What procurement standards apply to a joint venture itself?

AUTHORITY: 42 U.S.C. 1437k and 3535(d).

SOURCE: 65 FR 71207, Nov. 29, 2000, unless otherwise noted.

**Subpart A—General**

**§ 943.100 What is the purpose of this part?**

This part authorizes public housing agencies (PHAs) to form consortia, joint ventures, affiliates, subsidiaries, partnerships, and other business arrangements under section 13 of the United States Housing Act of 1937 (42 U.S.C. 1437k). Under this authority, PHAs participating in a consortium