
CHAPTER 3. DEVELOPMENT REQUIREMENTS

Section 1. General

- 3-1. INTRODUCTION. This chapter establishes the general program standards and policies and the statutory requirements related to the development of public housing. These requirements must be satisfied for each project at the applicable processing stage indicated in this Handbook.
- 3-2. LOANS AND DONATIONS. The PHA may accept loans or donations to assist in project planning activities or to offset the cost of developing a public housing project. This may include loans or donations of funds, real property, equipment, or services.
- a. Sources. Loans or donations may be made by the unit of general local government from Community Development Block Grant (CDBG) or other local funds, or may be obtained from other sources such as private individuals and businesses, or other public agencies.
 - b. Loans. Loans to be repaid from the project development cost may not be accepted by the PHA without prior Area Office approval of the value, purpose, and eligibility as an authorized project expense.
 - c. Donations. Although prior Area Office approval is not required, the PHA shall ensure that in accepting donations it complies with any applicable HUD requirements. For example, in accepting a donation of real property, a waiver of rights under Title III of the Uniform Act may be required (Section 9). Also, appropriate insurance coverage should be obtained (Section 3) for any donated real property.
- 3-3. CONFLICT OF INTEREST. The ACC contains requirements with respect to conflict of interest. When the ACC is executed, the conflict of interest provisions will apply to any PHA activities related to project development whether or not such activities took place before execution of the ACC.
- 3-4. STATE AND LOCAL REQUIREMENTS. The PHA must comply with all State and local laws and ordinances relating to the development of a project. This includes State and local requirements relating to fair housing opportunities, the purchase of supplies, materials and equipment, employment, obtaining bonds and licenses, and complying with building codes and zoning requirements.
- 3-5 thru 3-10. RESERVED.

Section 2. PHA Contracts

- 3-11. GENERAL. The PHA must use the contract forms identified in this Handbook or otherwise prescribed by the Area Office. All PHA contracts relating to project development must provide for compliance with the provisions of the ACC. PHA contracts are subject to the requirements of this section and the equal opportunity requirements identified in Section 4 of this chapter.
- 3-12. PREVAILING WAGE RATES. Development related contracts entered into by the PHA shall provide for the payment of prevailing wages.
- a. Architects and Technicians. All architects, technical engineers, draftsmen and technicians employed in the development of the project shall be paid not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by HUD (42 U.S.C. 1437j).
 - b. Laborers and Mechanics. All laborers and mechanics employed in the development of a project shall be paid not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276).
- 3-13. ADVANCES. Advances shall be authorized only for PHA activities or expenses that are covered by the ACC. Although PHA expenses incurred prior to ACC execution may be eligible project expenses, funds shall only be advanced after execution of the ACC for the purposes and amounts approved by the Area Office.
- 3-14. AREA OFFICE APPROVAL. The PHA, except as provided below, shall obtain the written approval of the Area Office prior to executing development related contracts to ensure that the purposes and amounts specified comply with all program requirements and are eligible project expenses. This applies to contracts for project planning and design, site and property acquisition, construction contracts, contracts of sale and contracts for construction inspections.
- a. Pre-ACC Activities. The PHA may employ individuals or firms to provide management or professional services to prepare a PHA proposal. The PHA is not required to obtain prior Area Office approval for the following PHA proposal preparation activities:

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- (1) retaining an attorney on an hourly or per diem basis to provide legal assistance relating to title services, a surveyor to prepare a land survey and site plat, or an architect or other registered professional to assist the PHA in identifying sites, provided that the cost for such services does not exceed \$200 per unit; and
 - (2) executing site options, provided that the cost of the option does not exceed the lesser of ten (10) percent of the owner's asking price or \$10,000 for all sites for the proposed project.

b. Post-ACC Activities. Upon execution of the ACC the PHA may, without prior Area Office approval, execute contracts or agreements for professional, management, legal, or other services related to project development provided that:

- (1) the term of the agreement or contract (including renewals) does not exceed two years;
- (2) the amount specified in the agreement or contract does not exceed the amount approved by the Area Office for such purposes on the latest project development cost budget;
- (3) the agreement or contract is not for legal or other services in connection with litigation; or
- (4) the agreement or contract is for the purchase of supplies, materials, equipment or services that are exempt from competitive bidding pursuant to the ACC or, the services are to be performed under PHA supervision and paid on a time basis (e.g., hourly, daily).

3-15. APPRAISERS. If a site or property will be acquired through condemnation, fee appraisers must be used to eliminate any appearance of prejudice in the condemnation proceedings because of the contractual relationship between HUD and the PHA. The use of fee appraisers is also required for acquisition of single family (one to four family) properties (Chapter 8). The Area Office may also authorize the use of a fee appraiser if a staff appraiser is not available to make the appraisal on a timely basis.

a. Selection. When the Area Manager has authorized the use of a fee appraiser, the Valuation Chief will prepare a letter for the Housing Director's signature authorizing the PHA to employ a fee appraiser. The letter will state the

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- * instructions for the PHA to solicit full and open competition for appraisal services that is consistent with procurement standards for small purchase procedures (contracts up to \$25,000) or competitive proposal procedures (contracts over \$25,000) set forth in 24 CFR 85.36. The letter will also state that the PHA has thirty (30) days (or longer, if competitive proposal procedures are involved) from the date of the Housing Director's letter to select an appraiser and execute an appraisal agreement. The PHA shall select an appraiser who qualifies under local and state licensing requirements and who can complete the appraisal in a timely manner. If the PHA requests, HUD will provide the names of potential commercial sources for appraisal services. *
- * b. Appraisal Agreement. The PHA shall use the guideform agreement for appraisal services contained in Handbook 1378, Relocation and Real Property Acquisition. The guideform agreement shall be amended to add that the appraiser shall provide whatever available environmental information that can be determined to the Valuation Chief, who is responsible for preparing an Environmental Review, Forms HUD-4128 or 4128.1, whichever is applicable, required under HUD regulations implementing the National Environmental Policy Act (NEPA) of 1969 at 24 CFR Part 50, and making a determination of a Finding of No significant Impact (FONSI) or an Environmental Impact statement (EIS) is required. The agreement shall also be amended to reflect the procurement requirements of 24 CFR 85.36(i). If assistance is required, the PHA should contact the Valuation Chief. *
- * c. Compensation. The PHA shall perform a cost or price analysis to ensure that the appraisal price is fair and reasonable. All procurement funded by HUD shall be conducted consistent with the standards of 24 CFR 85.36. Also, all procurement for appraisal services must comply with local and state procurement regulations.
- (1) Small Purchases Procedures: Where the PHA requires appraisal services and the estimated cost of the contract is \$25,000 or lower, if required by State law, the PHA may use small purchase procedures. Under these procedures, the PHA shall obtain either oral or written price quotations from an adequate number (at least three) qualified appraisers, keep a written record of the quotations, make a documented selection based on price and

other specified factors, and issue a purchase order to bind the agreement.

- (2) Competitive Proposal Procedures: where the PHA requires appraisal services and the estimated cost of the contract is over \$25,000, the PHA shall use competitive proposal procedures. Under these procedures, requests for proposals shall be publicized in a newspaper, trade journal or other media and identify all evaluation factors and their relative importance. Proposals will be solicited from an adequate number of qualified appraisers, including small, minority and women enterprises whenever possible, with awards made to the responsible appraiser whose proposal is most advantageous to the program, with price and other factors considered.
- (3) Forms HUD-4128 or 4128.1: The statement of work for the PHA's appraisal contract shall contain the requirement for providing whatever environmental information is available relating to Forms HUD-4128 or 4128.1, whichever is applicable. The Valuation Chief shall utilize this information in preparing the Environmental Assessment. No additional compensation shall be provided to the appraiser for such purposes unless authorization is provided by the Valuation Chief.

* (4) Expert Witness: Expert witnesses may be-used to testify in condemnation proceedings and related pretrial hearings or conferences. In such cases, the appraisal contract shall contain pricing for expert witness appearances based on the standard rate in the area. *

* d. Field Office Review. The fee appraisal report must be reviewed by the Valuation Chief to determine that proper procedures were followed in arriving at the value conclusion. Modifications or supplementary reports may be required to obtain an acceptable appraisal and environmental information. However, as a risk management tool, the Field Office may on the basis of experience with the PHA and the fee appraiser, elect to not review the fee appraisal report. *

3-16. Architects. Project planning, design, and administration of construction contracts require the services of an architect or other professional registered to provide the necessary services in the State in which the project will be located. The PHA shall determine the services required and shall select a qualified individual in compliance with the program requirements.

- a. Scope of Services. The extent of architectural services will vary depending on the development method selected by the PHA.
- (1) Conventional Method: Under the conventional method, the architect provides all required professional services for project planning, design, and administration of the construction contract. This includes the development of design concepts, preparation of design and construction documents, rehabilitation work write-ups, and project cost estimates; evaluation of construction bids; inspection of materials and workmanship during construction; notifying the contractor and the PHA of problems observed; and certification that construction is performed in accordance with the construction contract.
 - (2) Turnkey Method: Under the turnkey method, the architect is generally responsible only for performing construction inspections and certifying that construction is performed in accordance with the contract of sale.
 - (3) Acquisition Method: Under the acquisition method, an architect usually is not necessary due to the limited scope of repair work. However, the PHA may employ an architect for project planning and administration of the repair contract, if appropriate.
- b. Selection. The PHA shall select an architect on the basis of professional and technical competence, experience, knowledge of local building codes, and capability to provide professional services in a timely manner. Every effort should be made to retain an architect prior to the project planning conference (Chapter 6).
- c. Area Office Approval. The PHA, upon selecting an architect, shall prepare and submit the PHA architect's contract to the Area Office for approval prior to execution by the PHA. The Agreement Between Owner and Architect (Form HUD 51915) is used for projects being developed under the conventional and acquisition methods. The Contract for Inspection Services (Form HUD 5084) is used for projects being developed under the turnkey method.

d. Compensation. At the time the contract for architectural services is prepared the PHA and the architect, subject to Area Office approval, shall agree upon the compensation to be specified in the contract. Architectural fees shall be consistent with those which prevail for similar projects and services in the area. The amount of compensation is usually stated as a percent of the estimated construction cost for the project, an hourly rate, per sheet fee or lump sum amount. In determining fees, consideration should be given to the following:

- (1) scope of basic services;
- (2) type of project, size, and complexity of design;
- (3) extent that previously completed architectural drawings are being used;
- (4) extent that prefabricated or modular components are being used;
- (5) extent that a project consists of repetitive basic structures;
- (6) the number of construction contracts - prime and separate trades contracts - to be administered; and
- (7) anticipated complexity of the Turnkey Developer's Packet and developer response.

3-17. ATTORNEYS. The PHA may retain an attorney to review and prepare contracts, perform title searches, provide legal services for site and property acquisition, and provide other legal services that may be required in the development of a project. These services may be provided by the PHA staff attorney (or an attorney retained by the local governing body whose services are available to the PHA) or the services may be provided by an attorney on a contract basis.

a. Selection. If a staff attorney is not available, the PHA may request a proposal for legal services on a contract basis. The PHA should identify the scope of services to be provided, and should request that the attorney prepare and submit an agreement for legal services, identifying the services to be provided and the compensation to be paid by the PHA.

b. Scope of Services. The PHA request should identify the scope of services to be included, such as:

- (1) preparing and reviewing public housing development related contracts;
- (2) representing the PHA at settlement proceedings;
- (3) examining titles and curing defects;
- (4) preparing legal descriptions of property and recording title papers; and
- (5) if applicable, preparing petitions and providing other legal services in connection with condemnation proceedings.

c. Compensation. Compensation shall be based on the fee schedule prevailing in the area for similar legal services.

3-18. COST ESTIMATORS. Area Office cost analysts generally evaluate project cost estimates. If a staff cost analyst is not available, the Area Office may authorize the use of a professional cost estimator for a lump sum amount or on a time basis to prepare an independent cost estimate for a turnkey project only. (The PHA architect prepares the cost estimate for conventional projects.)

a. Selection. When the Area Manager has authorized the use of an independent cost estimator, the Cost Chief will prepare a letter for the Housing Director's signature authorizing the PHA to employ a professional cost estimator. The letter will state the maximum dollar amount and will identify three cost estimators that the Area Office has determined are qualified to provide such services. The letter will also state that the PHA has fifteen (15) days from the date of the Housing Director's letter to select a cost estimator and submit the agreement to the Area Office.

b. Area Office Approval. The PHA shall select one of the three cost estimators based on the amount to be charged for the cost estimate and timely performance. The PHA shall identify its selected cost estimator by submitting, for Area Office approval, a proposed agreement for cost estimating services.

- c. Compensation. Compensation shall be based on the fee schedule or time rate prevailing in the area for similar professional services.
- d. Area Office Review of Cost Estimates. All independent cost estimates must be reviewed by the Cost Chief before the PHA makes payment to the cost estimator. Modifications or supplementary information may be required to obtain an acceptable cost estimate.

3-19. DEVELOPMENT MANAGERS. The PHA normally functions as the development manager for a public housing project. In this capacity, the PHA staff would be responsible for selecting and contracting with other participants (e.g., PHA architect, turnkey developer), for dealing with such participants under the applicable contract, for preparing any required demonstrations and documentation that is not provided by such participants, for expediting and coordinating the preparation of required documentation for submission to the Area Office, and for following up to ensure timely actions by the Area Office. It may be desirable for the PHA to enter into a contract with an individual or firm to perform such services when the PHA does not have the staff capability and the cost for such contract services would be off-set by a savings in PHA staff expenses. Where the PHA determines that these circumstances exist, it may request Area Office authorization to employ a development manager.

- a. Selection. The PHA must consider whether it is more efficient and less costly to employ a separate development manager or to add such functions to the contract with another professional (e.g., PHA architect, attorney) who will be employed by the PHA for other project development activities. In order to be considered by the PHA, the individual or firm who is to provide the development manager services must meet the following requirements:

- (1) have at least one year of satisfactory experience in housing development activities under HUD assisted housing or mortgage insurance programs;
- (2) have at least one year of satisfactory experience in working with PHAs;

- (3) have sufficient capability to provide the services required by the PHA in a timely manner; and

(4) be approved by the Area Office.

b. Scope of Services. The PHA may contract with the development manager to provide public housing development services including but not limited to the following:

- (1) providing assistance to select an appraiser, or obtaining legal and architectural services for the PHA;
- (2) coordinating participation in project development activities by the Area Office, PHA architect, PHA attorney and project related activities of local agencies;
- (3) preparing the Turnkey Developer's Packet and evaluating turnkey proposals;
- (4) identifying properties to be purchased by the PHA under the acquisition method;
- (5) preparing PHA proposals;
- (6) preparing Development Cost Budgets (Form HUD 52484); and
- (7) providing services normally performed by others (e.g., identifying sites for projects being developed under the conventional method, which is normally done under the PHA architect's contract) if the development manager is qualified to provide such services.

c. Contracts. The PHA, upon selecting a development manager, shall prepare and submit the proposed contract to the Area Office for approval prior to execution by the PHA. The contract shall identify the specific services to be provided by the development manager as well as the fee for each of the specific services. The PHA shall also ensure that the services to be provided by the development manager do not duplicate the services provided under other development related PHA contracts (e.g., Agreement Between Owner and Architect, Form HUD 51915, and Contract for Inspection Services, Form HUD 5084), by modifying such contracts to delete the services to be provided by the

* development manager. Paragraph 7-26 discusses the review of development manager contracts. *

* d. Compensation. At the time the contract is prepared, the PHA and the development manager, subject to Area Office approval, shall agree upon the compensation to be specified

in the contract. The total amount of fee specified in the contract shall not exceed the maximum amount allowable in accordance with the following schedule, which has been determined to be appropriate compensation for the full range of Development Manager services:

Total Development Cost (TDC) as stated in the ACC at the PHA Proposal Stage	Fee
Up to \$1,500,000	\$20,000*
From \$1,500,000 to \$3,500,000	\$20,000 plus 1% of excess over \$1,500,000
Over \$3,500,000	\$40,000
Maximum Allowable Fee	\$40,000

*Projects with fewer than 25 units may be eligible for a fee of up to 5% of the TDC, at the discretion of the Area Manager. However, the total fee should not exceed \$20,000.

The fee for each service should be based on the number and types of services agreed to under the contract. *

In determining fees, consideration shall be given to the following:

- (1) scope of services;
- (2) type of project, size and complexity of development (e.g., scattered site, extent of rehabilitation);
- (3) anticipated complexity of the Turnkey Developer's Packet and developer responses;.
- (4) the anticipated development period; And
- (5) the extent of coordination and approval required from other local agencies.

3-20 thru 3-30. RESERVED.

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3-16 thru 3-22

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Section 3. Insurance and Fidelity Bond

3-31. GENERAL. The PHA must obtain the required types and amounts of insurance coverage at the time the PHA becomes subject to the risk. This coverage shall be maintained for the duration of the risk. Existing PHA policies should be reviewed and endorsed if necessary to cover development activities. Insurance premiums for the initial policy term (not to exceed three years from the time the first insurance coverage is required for development) may be included in the project development cost. Additional information is provided in Low-Rent Housing Insurance Guide (HMG 7401.5).

- a. PHA Responsibility. The PHA shall obtain the required coverage (paragraph 3-32) in a timely manner and shall ensure that contractors and sub-contractors, under the conventional method, obtain and maintain the insurance coverage required of contractors (paragraph 3-33) to protect the PHA interest during construction. The PHA shall obtain insurance coverage that is effective on the date it acquires ownership of a turnkey project or existing housing purchased under the acquisition method. All required insurance, shall be written by financially sound and responsible insurance companies. Such companies are identified in Bests' Insurance Reports and Area Office guidance is available upon request.
- b. HUD Responsibility. The ACC provides that, in the event the PHA does not obtain the required protection, HUD may obtain the necessary insurance coverage. The cost, including interest, is to be promptly reimbursed by the PHA or HUD may recover such expenses from the amounts otherwise payable to the PHA. The Area Office shall ensure that the PHA secures and maintains the necessary insurance or that the Area Office does so in a timely manner, if required to protect the various interests of all involved parties, and takes recovery action under the ACC.

3-32. PHA INSURANCE. The PHA shall submit a copy of each insurance policy or fidelity bond to the Area Office at least forty-five (45) days before the proposed effective date. Such coverage shall automatically be placed in force on the proposed effective date unless it is specifically disapproved by the Area Office within thirty (30) days of submission. The effective date of the policy shall be the date that the PHA is subject to the risk and shall continue in force during the period for which the PHA is subject to the risk.

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- a. Required Coverage. The following types of coverage are the minimum amounts to be carried by the PHA unless the

PHA, with the concurrence of the Area Office, determines that additional protection is required to meet special local circumstances:

- (1) Blanket fidelity bond coverage for all PHA officers, agents or employees that are authorized to handle cash, sign checks, or certify payment vouchers: coverage shall be equal to the PHA's cash requirements for three months;
- (2) Comprehensive fire and extended coverage insurance: coverage shall be equal to eighty (80) percent of the insurable value of the real property including equipment and PHA owned furnishings as of the date insurance is obtained or renewed. The Area Office may authorize the PHA to obtain insurance at total replacement cost instead of at eighty (80) percent of insurable value.
- (3) Comprehensive general liability insurance (excluding property damage): coverage shall be at least \$500,000 per occurrence;
- (4) Worker's compensation insurance;
- (5) Automobile liability insurance against property damage and bodily injury: the policy shall cover PHA-owned and operated vehicles;
- (6) Automobile collision, fire, and theft insurance: the policy shall cover PHA-owned vehicles only;
- (7) outside robbery insurance: not required if a bonded armored car service is used for the transportation of cash;
- (8) Boiler insurance: required only for steam boiler installations; and
- (9) Flood insurance: required for projects approved by the Area Office in special flood hazard areas identified by HUD and for which insurance is available under the National Flood Insurance Act of 1968.

- b. Competitive Bidding. The PHA shall obtain comprehensive fire and extended coverage insurance and comprehensive general liability insurance through an open and competitive bidding process in accordance with the requirements of the ACC.

In addition, the PHA is encouraged to make use of the competitive bidding process for other forms of insurance coverage where a savings in premiums could be realized.

- c. Filing Claims. The PHA shall prepare and submit claims and reports for losses or accidents to the insurance carrier and a copy shall be sent to the Area Office. Such claims and reports must be submitted promptly to protect the PHA's interest and ensure the insurance carrier's liability under the policy.

3-33. CONTRACTOR INSURANCE. The PHA shall monitor the insurance policies obtained by all contractors and sub-contractors to ensure that the coverage required by the construction contract is kept in force until the contractor's work is accepted by the PHA. A copy of the PHA insurance record for each project shall be sent to the Area Office. The record shall identify the project number, the name and address of all contractors and, for each contractor or sub-contractor, the type of insurance, the name and address of the insurance company, the policy number, amount of coverage, and the effective date and expiration date of the policy.

- a. Applicability. The insurance requirements identified in this paragraph apply to contractors and sub-contractors involved in project development using the conventional method. These provisions do not apply to projects being developed under the turnkey method, since any risks and insurance protection during construction are solely the turnkey developer's responsibility as owner and seller.
- b. Evidence of Insurance. Each contractor or sub-contractor shall provide a certificate of insurance to the PHA which evidences that worker's compensation and general liability insurance are in force before any work is started. The contractor must also provide similar evidence that the required builder's risk insurance on excavations, piers, footings, or foundations is in force before any work is started on the superstructure. The certificates of insurance shall also indicate that the insurance company will give the PHA thirty (30) days prior written notice of any cancellation or material change in the contractor's policy. Insurance which expires before the contractor's work is accepted by the PHA must be renewed and evidence of renewal submitted to the PHA.

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- c. Noncompliance with Insurance Requirements. The PHA shall notify the contractor to stop work if the required insurance

coverage is not in force at the time that work begins or if the coverage expires before the work is accepted. The contractor shall also be notified that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

- d. Worker's Compensation Insurance. Each contractor or sub-contractor shall carry worker's compensation insurance for all employees engaged under the construction contract.
- e. Comprehensive General Liability Insurance. Each contractor shall carry comprehensive general liability insurance with bodily injury and property damage. The minimum amount of required coverage is \$500,000 per occurrence. The insurance policy shall also cover the use of all equipment, hoists, and vehicles on the project site.
- f. Builder's Risk Insurance. Each contractor shall carry builder's risk insurance to provide for comprehensive fire and extended coverage against loss by fire, smoke, lightning, wind, hail, explosion, riot (including strikes), vandalism, and aircraft and vehicle damage. Coverage against windstorm damage is required at all stages of construction and should not be limited, as is the case in some standard policies, after the building is closed. In areas particularly susceptible to earthquake disturbances, additional builder's risk insurance against loss by earthquake may be included. The builder's risk insurance policy shall provide coverage for the full cash value of all completed construction and all material and equipment in place or stored at the site, whether or not partial construction payment has been made by the PHA. The policy shall also provide coverage for any equipment supplied by the PHA for installation by the contractor. The insurance shall be kept in force until the contractor completes all work and receives a certificate of completion from the PHA.

3-34. INSURANCE INFORMATION. Prior to accepting a completed project, the PHA shall obtain the proper project structural information on Insurance Information (Form HUD 5460) for securing its required insurance. A copy of the Form HUD 5460 shall be submitted to the Area Office.

3-35 thru 3-40. RESERVED.

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3-26 thru 3-30

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Section 4. Fair Housing and Equal Opportunity

3-41. GENERAL. The fair housing and equal opportunity requirements stated in this section apply to PHA, contractor and turnkey

developer activities during project development. This includes site selection, award of contracts and sub-contracts, employment of minority and women owned business enterprises, employment practices, and initial selection of tenants.

3-42. TITLES VI AND VIII AND EXECUTIVE ORDER 11063. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Executive Order 11063, prohibit discrimination on the basis of race, color, creed or national origin in Federally assisted programs. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601), prohibits discrimination based on race, color, religion, sex or national origin in the sale or rental of housing.

3-43. SECTION 504 OF THE REHABILITATION ACT OF 1973. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), prohibits discrimination in Federally assisted programs against any otherwise qualified individual solely by reason of a handicap as defined by the Secretary of Health and Human Services. The * implementing rule 24 CFR 8 was published June 2, 1988 for effect July 11, 1988. The Uniform Federal Accessibility Standards (UFAS) at 24 CFR 40 shall be followed in making units accessible/adaptable as well as complying with the Architectural Barriers Act of 1968. * Also see paragraph 3-49 below.

3-44. AGE DISCRIMINATION ACT OF 1975. The Age Discrimination Act of 1975 prohibits, with certain stated exceptions, discrimination in Federally assisted programs against any otherwise qualified individual solely on the basis of age.

3-45. EXECUTIVE ORDER 11246. Contracts for construction work are subject to Executive Order 11246 (30 FR 12319) as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR 130; 41 CFR 60), rules and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor. Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex or national origin.

3-46. SECTION 3 OF THE HUD ACT OF 1968. Projects under development are subject to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with a project be awarded

part by persons residing in the project area.

3-47. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise, encourages participation in Federal programs by business concerns owned by minority group members. Executive Order 12138, Creating a National Women's Business Enterprise Policy, encourages participation in Federal programs by business concerns owned by women. In accordance with these Executive Orders, program participants (e.g., PHAs, contractors, turnkey developers) shall take affirmative action to encourage participation by businesses owned and operated by minority groups and women. These affirmative actions may include: conducting out-reach programs to expand opportunities for participation by such businesses in the public housing program; providing assistance and guidance to such firms that have demonstrated a desire to participate in public housing development activities; and establishing goals for such businesses, in terms of the dollar value of contracts.

3-48. PHA EMPLOYMENT PRACTICES. In connection with the development of any project, the PHA shall not discriminate against any employee or applicant for employment because of handicap, race, color, religion, sex or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to handicap, race, color, religion, sex or national origin. The PHA shall comply with all HUD requirements against discrimination in employment by the PHA or by its contractors. The PHA shall adopt and promulgate regulations with respect to the PHA's employment practices in compliance with this paragraph. A copy of these regulations shall be posted in the PHA office and a copy shall be submitted to the Field Office after adoption by the PHA.

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3-49. FAIR HOUSING AMENDMENTS ACT OF 1988. PHAs and public housing projects shall comply with the Fair Housing Amendments Act of 1988, enacted September 13, 1988 and effective on March 12, 1989. A final HUD implementing rule 24 CFR 24 was published January 23, 1989. The Fair Housing Amendments Act of 1988 expands the coverage of Title VIII of the Civil Rights Act of 1968, which prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin, to prohibit discriminatory housing practices based on handicap and familial status. *

3-50 thru 3-60. RESERVED.

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3-61. PREVIOUS PARTICIPATION. Participants in a public housing new construction or rehabilitation project must be responsible individuals or firms and are subject to review and approval under HUD's previous participation procedure. Pursuant to 24 CFR 200, Subpart H, the following have been defined as "principals:" consultants for management services and development managers, turnkey developers and their prime contractors, and general and/or prime contractors bidding under the conventional development method. PHAs, attorneys, architects and subcontractors are not principals requiring approval.

a. Previous Participation Clearance. Participants subject to approval must submit a Form HUD-2530, Previous Participation Certificate. Each certificate shall be processed in accordance with HUD Handbook 4065.1, Previous Participation Handbook. The PCR Supervisor shall initiate previous participation clearance.

b. Previous Participation Approval. PHAs may not select or enter into contracts with persons or entities requiring approval until the previous participation process has been completed. The PHA shall be notified by HUD, in writing, that the individual or entity has been approved. *

3-62. thru 3-70. RESERVED.

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Section 6. Site and Neighborhood Standards

3-71. GENERAL. Each site proposed for a public housing project must comply with the site and neighborhood standards identified in this section. The PHA and turnkey developer shall make every effort to select sites that will minimize the number of households to be displaced for purposes of developing a public housing project. In addition, proposed sites must comply with the environmental requirements (Section 7) and the displacement, relocation and acquisition requirements (Section 9). These standards should be reviewed by the PHA and the PHA architect or turnkey developer before a site is selected and a purchase option is obtained.

*3-72. INTERGOVERNMENTAL REVIEW. Executive Order 12372, as amended, requires Federal agencies to provide opportunities for consultation by States and local elected officials on proposed Federal financial assistance and direct Federal development. The implementing regulation at 24 CFR Part 52 requires HUD to use each State's own review process.

a. Applicability. The requirements of Part 52 are applicable to

all new construction and to each rehabilitation project that involves (a) a change in use of land, (b) an increase in project density, or (c) a change from rental to homeownership. Part 52 does not apply to acquisition projects.

- b. Process. The State has 60 days to comment, plus mailing time, (e.g., 65 days) from the stage at which the site for the public housing development project is identified, usually the PHA proposal stage. The PHA initiates the comment process by notifying the State Single Point of Contact (SPOC) and submitting a certified copy of the signed and dated SF-424 with its proposal. If a State process has not been established, i.e., there is no SPOC, or if public housing development was not an activity selected for the State process, the PHA must evidence that the SF-424 was sent directly to affected State, areawide, regional, and local entities.
- c. Approval. A proposal for a public housing development project that is subject to the requirements of Part 52 may not be approved until any comments which have been received by HUD have been reviewed or until the comment period has expired. *

3-73. SECTION 213 OF THE HCD ACT OF 1974. Each site must be consistent with any applicable Housing Assistance Plan (HAP). Sites proposed for new construction or rehabilitation projects must be within the general locations specified in any applicable HAPs.

- a. Section 213 Review. Section 213 requires that the Field Office give the unit of general local government an opportunity to comment on the PHA proposal prior to Field Office approval. The local government comments serve as the basis for the Field Office determination

that the proposed project is consistent with the HAP or, in communities not covered by a HAP, that adequate facilities and services will be available to serve the proposed housing.

- b. Housing Assistance Plan. The community's HAP is submitted as part of the CDBG entitlement or small cities application. A community that is not participating in the CDBG programs may also submit a HAP. The HAP, which is subject to citizen participation and public hearings, identifies a community's assisted housing needs and goals and the general locations for such housing with the objective of furthering community revitalization, promoting a greater choice of housing opportunities, avoiding undue concentrations of assisted households, and assuring the availability of public facilities and services to serve the housing. CDBG funds are used to support locally initiated activities such as the conservation and expansion of the community's housing stock, the provision

of adequate community facilities and services, and provision of planned land for residential, recreational and other needed activity centers.

c. Local Coordination. The PHA should take an active part in developing the community's HAP. This is recommended to ensure that:

- (1) sites having access to adequate facilities and services will be available in the general locations identified for assisted housing;
- (2) the three-year HAP goals will be sufficient to permit development of feasible public housing projects that are consistent with PHA housing needs data; and
- (3) CDBG and housing activities are coordinated. This may include participation by local agencies in the site selection process if CDBG funds are being used to purchase sites or to provide recreation or other facilities (e.g., water and sewerage extensions to sites) for public housing projects.

3-74. FACILITIES AND SERVICES. The PHA should select project sites to make use of existing and proposed public facilities and services identified in State, local and regional plans. Generally, the locations identified in HAPs should have adequate public facilities and services available or planned for the immediate future.

a. Access and Utilities. Sites must be accessible to public utilities, such as water and sewer, electric, natural gas, and trash collection and must be accessible to vehicular traffic. Access streets and utilities should be available at the

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boundary of each site in time for project construction or occupancy and should be capable of serving the proposed project. In selecting sites, consideration should be given to the availability of CDBG or local funds to provide extensions to existing utility systems and streets.

- (1) If existing utility systems require substantial extensions, or if extensive street work is required, the responsible local agency must provide written assurance that the required work will be performed in time to serve the proposed project. Any charges to the project for extending utility systems or streets shall not exceed the amount charged for similar services to others in the community.

(2) If water and sewerage systems are not available, they may be constructed on-site as part of the proposed project or off-site with separate loans if no other sites are available or if local funds cannot be provided (Section 10).

b. Transportation. Sites must be convenient to public transportation or to places of employment which provide a range of jobs for low-income workers.

c. Other. Sites must be accessible to social, religious, recreational, educational, commercial, and health facilities that are adequate to serve the intended occupants of the project.

3-75. DENSITY. There is no rigid standard to determine an acceptable level of density. One means of measuring density levels is the land use intensity method provided in the HUD Manual of Acceptable Practices (HB 4930.1). The determination of an acceptable density level varies with each community and with each site and consideration should be given to such factors as land costs, topography, planned site use, the number and types of buildings, the anticipated age and number of residents based on the number of bedrooms, local building requirements, and the density prevailing in the neighborhood. In selecting sites, the PHA shall also consider the following:

a. Scattered Sites. Projects proposed for families with children shall, to the maximum extent practicable, be developed on scattered sites. Generally, projects consisting of more than twelve units on a single site regardless of the density level are not considered as scattered site housing. Caution should be exercised in developing scattered site housing for the elderly because of the special services (e.g., health care and community space) that may be required.

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b. Highrise Structures. The Act provides that, except in the case of housing predominantly for the elderly, highrise elevator structures shall not be provided for families with children unless HUD determines that there is no practical alternative. In selecting sites or properties for highrise projects, the PHA must consider the following:

(1) Family Occupancy: Highrise elevator projects shall not be approved for families with children unless the PHA demonstrates and the Area Manager determines that there is no practical alternative.

- (2) Elderly Occupancy. Highrise elevator projects shall not be approved for the elderly unless the PHA demonstrates and the Area Manager determines that this is a common structure type in the community and that highrise construction is appropriate taking into consideration zoning and land use restrictions, land and construction costs, and the safety and security of the prospective occupants.
- (3) Mixed Occupancy. Highrise elevator projects shall not be approved for mixed (elderly and family) occupancy, unless the PHA demonstrates and the Assistant Secretary determines, that the project is predominantly for the elderly and the requirements of subparagraphs (1) and (2) have been met.

3-76. PHYSICAL CHARACTERISTICS. Each site shall be adequate in size, exposure, and contour to accommodate the number and type of units proposed. The topography and subsurface conditions shall promote economical and efficient development and operation of the project.

- a. Grades. Sites with grades exceeding ten (10) percent will significantly increase development and management costs and should be avoided. Sites for housing for the elderly or handicapped with grades exceeding five (5) percent should be avoided unless site development (e.g., sidewalks) will provide for not more than a five (5) percent grade without undue development costs. Low-lying and flat sites should also be avoided unless practical and economical means of surface drainage can be provided.
- b. Bearing Qualities. Sites with unsuitable soil bearing qualities for foundations and underground utilities or with excessive rock or shale will increase site improvement costs and should be avoided.

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- c. Earth Slides. Sites that are exposed to the potential hazard of earth slides should not be selected.
- d. Environmental Concerns. Environmental requirements and considerations related to site selection are stated in Section 7.

3-77. HOUSING OPPORTUNITIES. Sites for public housing projects must comply with the following requirements:

- a. General. The site and neighborhood for new construction and rehabilitation projects must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.
- b. New Construction. The site for new construction projects shall:
 - (1) not be located in an area of minority concentration unless,
 - (a) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration; or
 - (b) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An overriding need may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.);
 - (2) not be located in a racially mixed area, if the project will cause a significant increase in the proportion of minority to non-minority residents in the area; and
 - (3) promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

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- c. Rehabilitation. Sites for rehabilitation projects shall promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

3-78. SITE ACQUISITION COSTS. In selecting a site, special care should be taken to ensure that the owner's asking price is realistic and will be supported by the appraisal establishing fair market value. Information on land costs is generally available from public land records or local real estate brokers

who have knowledge of recent sales or listings for comparable properties or sites. There are several instances where feasibility and cost analyses may be required to determine whether one site should be selected over another when all other requirements can be met equally.

- a. Physical Characteristics. If there is a major question concerning the topography or subsurface conditions, the PHA shall determine the extent and cost of additional site preparation required by the Minimum Property Standards (Section 11) for comparison with the cost of alternate sites.
- b. Streets and Utilities. If a site requires substantial extension, repair, or construction of utility systems or access streets, the cost and time required for such work should be compared with the cost of alternate sites for which some or all of these facilities are currently available.
- c. Environmental Conditions. Selection of sites may be precluded by the environmental requirements (Section 7) or may only be permitted subject to special design and construction modifications to overcome adverse environmental conditions. The cost of site and design modifications required as protection from flood hazards, noise, and air pollution must be compared with the cost and availability of alternate sites.
- d. Displacement. If there are households currently residing on the proposed site, the extent and cost of displacement must be evaluated (Section 9).
- e. Excess Property. Land in excess of that required for the construction of the project shall not be purchased unless one or more of the following conditions exist:

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- (1) the excess would constitute an uneconomic remnant under condemnation proceedings;
 - (2) the savings realized by not acquiring the excess land would be insignificant;
 - (3) the excess land can be sold to another public agency for a recreation area, park, or other public use; or

(4) the excess land can be exchanged for other publicly owned land that is suitable for public housing use.

f. Demolition. Sites that have a substantial number of standard dwelling units, or substandard dwelling units which may be rehabilitated within the program cost limitations, may also be considered if the existing structures will be part of the proposed project or will be moved to another site for continued housing use. Selection of improved sites requiring demolition of substandard dwellings which cannot be rehabilitated is permitted, provided that one of the following conditions are met:

(1) the acquisition cost of the sites plus the cost of demolition does not exceed the cost of acquiring alternate, vacant sites;

(2) no other sites are available; or

(3) the purchase price for publicly owned sites, including those with a Federal, State or local interest, does not exceed the appraised value minus the cost of demolition and removal of existing improvements.

3-79. SOURCES OF SITES OR PROPERTIES. In addition to sites or properties available on the private market or offered by private owners in response to a public invitation, PHAs should consider the following sources:

a. Community Development Block Grant Sites. The acquisition of sites for public housing is an eligible activity under the CDBG program. CDBG recipients are authorized to purchase a site and transfer title to the PHA at a price determined in accordance with State laws and local objectives.

b. Other Locally Owned Sites. Sites already in public ownership such as urban renewal sites and sites acquired with local funds or through condemnation by the community (e.g., as a result of tax delinquencies) should be considered by the PHA.

c. Surplus Federal Property. Surplus real property under the Federal Property and Administrative Services Act of 1949 may also be considered. Section 414 of the HUD Act of 1969 permits the transfer of such property to HUD, at the discretion of the General Services Administration, for use as housing for low and moderate income families.

- d. Air Rights. The use of air rights is a possible source of sites provided that: (1) no other sites are available; (2) the use of such sites is approved by the Area Office before the PHA obtains a site option; and (3) the site meets the environmental requirements, particularly for air quality and noise abatement.
- e. Condemnation. Condemnation may be used only under the conventional method and only when all other alternatives have been unsuccessful. The requirements of the Uniform Act shall be followed where condemnation is to be used. (Section 9).
- f. HUD-Owned or HUD-Held Projects. HUD-owned or HUD-held properties may also be considered. PHAs that are interested in these properties should contact the Area Office. In such instances, the Area Office will provide assistance by contracting, at no cost to the PHA, with an architect that is acceptable to the PHA to prepare rehabilitation work write-ups and project cost estimates.
- g. Section 8 and Section 23 Projects. Properties assisted under the Act may not be selected by a PHA without the prior written approval of the Assistant Secretary for Housing. PHA requests to acquire Section 8 or Section 23 projects shall be submitted to the Area Office for review and submission to the Assistant Secretary for approval.

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Section 7. Environmental Requirements

3-91. GENERAL. This section identifies the laws, Executive Orders and regulations relating to environmental protection. The development of public housing projects must comply with these requirements except when excluded.

3-92. NEPA. The National Environmental Policy Act of 1969 (42 U.S.C. 4321) establishes the national policy, goals and procedures for protecting and enhancing environmental quality. The HUD implementing regulation at 24 CFR 50 establishes the policies and procedures for HUD environmental clearances (including procedures for automatic requirements for a Special Clearance or Environmental Impact Statement and criteria for determining when several projects built near each other must be considered as a single action) and establishes categorical exclusions that

are not subject to an environmental assessment under NEPA. This does not exempt them from the other requirements identified in this section.

3-93. HISTORIC PROPERTIES. The National Historic Preservation Act of 1966 (P.L. 89-665), the Archeological and Historic Preservation Act of 1974 (P.L. 93-291), Executive Order 11593, Protection and Enhancement of the Cultural Environment, and the Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation (36 CFR 800), establish national policy and procedures for protecting properties, sites and artifacts of historic, architectural, or archeological significance listed (or eligible to be listed) in the National Register of Historic Places. These laws and procedures require that proposed projects be reviewed to determine whether they would affect any district, site, building or other structure listed (or eligible to be listed) in the National Register of Historic Places. These procedures require consultation with the State Historic Preservation Officer and may require a determination of eligibility by the Department of Interior and a determination of effect by the Advisory Council on Historic Preservation.

3-94. NOISE ABATEMENT. The Environmental Criteria and Standards (24 CFR 51, Subpart B) establish minimum HUD standards to protect citizens against excessive noise in their community and place of residence. This regulation also establishes criteria for determining acceptable noise levels and special requirements and mitigation measures to be followed in normally unacceptable and unacceptable noise zones.

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3-95. EXPLOSIVE OR FLAMMABLE FUELS OR CHEMICALS. The Environmental Criteria and Standards (24 CFR 51, Subpart(C) establish standards indicating how close a project can be located to hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature.

3-96. FLOODPLAINS AND WETLANDS. The Flood Disaster Protection Act of 1973 (P.L. 93-234) and implementing regulation at 24 CFR 55, the National Flood Insurance Act of 1968 (42 U.S.C. 4001), Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, require, if a project is to be located in such an area, that specific review and notification procedures be followed and that appropriate measures be taken to protect the property, to protect the life and safety of the occupants, and to minimize any harm to the floodplain or wetland.

3-97. COASTAL ZONES. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451) and the implementing regulation at 44 CFR 123 require that projects to be located in the coastal zone (which includes the Great Lakes) be consistent with the State coastal zone management program.

3-98. AIR QUALITY. The Clean Air Act (P.L. 90-148), the Clean Air Acts Amendments of 1970 (P.L. 91-604), the Clean Air Act Amendments of 1977 (P.L. 95-95), and the implementing regulations of the Environmental Protection Agency (40 CFR 50, 51 and 52) establish national ambient air quality standards.

3-99. WATER QUALITY. The Safe Drinking Water Act (P.L. 93-523), the Safe Drinking Water Act Amendments of 1986 (P.L. 99-339) and the *
* implementing regulations of the Environmental Protection Agency (40 CFR 141) establish measures to protect the quality of water if a project is to be located in the recharge area of a community's sole water supply and prohibit HUD from furnishing assistance for newly constructed residential property unless it has only lead-free pipe, solder and flux.

3-100. FISH AND WILDLIFE. The Fish and Wildlife Coordination Act (P.L. 85-624) requires that HUD consult with the Fish and Wildlife Service (Department of Interior) and the appropriate State agency if the project will affect control or require modifications to any stream or other body of water.

3-101. ENDANGERED SPECIES. The Endangered Species Act of 1973 (P.L. 93-205), the Endangered Species Act Amendments of 1978 (P.L. 95-632) and 43 CFR 870, require that HUD consult with the Department of Interior and the Department of Commerce if the project may affect any species (including its habitat) identified by the Department of Interior as an endangered species.

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3-102. TOXIC CHEMICALS AND RADIOACTIVE MATERIAL. HUD Notice 79-33 identifies the contact person for guidance on protection of persons and property from man-made environmental hazards such as toxic chemicals and radioactive materials.

3-103 thru 3-110. RESERVED.

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Section 8. Special Acquisition Requirements

3-111 thru 3-112. RESERVED.

3-113. SCATTERED SITE ACQUISITION OF UNITS GOVERNED BY A HOMES OR HOMEOWNER'S ASSOCIATION, CONDOMINIUM OR COOPERATIVE CORPORATION. Since PHAs are subject to certain statutory requirements, it must be clear that joining associations or corporations with rules of their own when PHAs wish to acquire one or more units under an acquisition or conventional rehabilitation project will not cause PHAs to violate the basic tenets of the public housing program. Authorization to approve such an acquisition, therefore, will be provided by Regional Administrators on a case-by-case basis upon request and recommendation of Regional Counsel and staff based upon analysis of the Field Office review. Requests for regulatory and/or ACC waivers, accompanied by the justification(s) therefor, must be referred to Headquarters for action.

a. Issues. The major issues center on the PHA's development process, its management/operation of public housing units, and the rehabilitation, disposition, demolition and/or sale of units and how these Federally regulated activities relate to the rules and regulations of the association or corporation. To assure the PHA's participation in an association/corporation does not violate statutory requirements and to determine whether any regulatory or handbook provision should be considered for a waiver, it is necessary to review the association/corporation organizational documents, keeping in mind the following general precepts, which should not be considered all-inclusive:

- (1) PHAs make payments in lieu of taxes (PILOT) and are exempt under the U.S. Housing Act of 1937 from paying real property taxes on public housing units. Associations and corporations own taxable real property and such taxes are commonly paid by assessing the owners. What means will the PHA employ to ensure it does not pay real property taxes in violation of the statute?
- (2) PHAs are required to acquire modest, non-luxury units and to exclude amenities not required by local codes or ordinances. Most associations and corporations own a variety of amenities and portions of assessments are intended to support their maintenance, replacement and/or creation. How will these costs be prorated among all costs that are the association's? Since operating subsidies may not be used, what will be the PHA's source of funds to pay amenity-related costs?

- (3) PHAs are prohibited from encumbering public housing units and no lien may precede the Declaration of Trust. If the association/corporation is able to enforce the collection of common expense assessments by filing liens, what mechanisms are contemplated to assure the PHA does not fail its responsibility to pay, especially for assessments that are not funded with operating subsidies?
- (4) The presence of lead-based paint (LBP) may occur within individual units as well as in common elements such as hallways, entry foyers, stairwells, community facilities, etc. The PHA should document the association/corporation's position regarding testing and/or abatement (for example, furnishing a copy of a duly passed resolution of the association/corporation stating its willingness to test and/or abate in common areas). Lead-based paint issues and other environmental concerns, such as whether on-site incinerators or the like comply with clean air standards, must be addressed and reviewed for acceptability.
- (5) The PHA shall provide data on the age, condition and expected remaining useful life of major building elements and amenities. These data shall be reviewed by the Architectural, Engineering and Cost Branch and provided to the Valuation Branch for an assessment of the adequacy of the association/corporation's reserves for replacement account. Inadequate reserves shall be basis for rejecting units for acquisition.
- (6) Any occupancy restrictions must be reviewed for acceptability relative to public housing program requirements. If the association/corporation restricts the tenant population to either a whole number or a percentage, the PHA must describe its proposed method for guaranteeing that unit(s) it purchases will remain within the ceiling so that tenant turnover does not cause an unnecessary vacancy.
- (7) The public housing program assumes a direct relationship between the PHA and its tenants; providing tenants with the right to privacy concerning their applications and use of the premises they occupy; the right to appeal evictions; and the right to notice before their units are entered, unless an emergency exists. If the association/corporation performs any of these functions, how will the PHA's responsibilities be executed? If the association/corporation has a "first right of refusal" in the sale or leasing of units, how will the PHA maintain control over tenant selection or perhaps, the sale of units to tenant families?

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- (8) If the current or potential unit assessments for common utilities and/or maintenance and repairs (more commonly in condominiums and cooperatives) exceed the operating subsidy available for the unit, how will the PHA pay the difference?
- (9) The ACC requires PHAs to obtain insurance on all projects. If the association/corporation includes insurance on dwelling units as well as common area improvements, the policies need to be examined and a determination made as to what coverage, if any, needs to be purchased separately and if additional coverage will impact the association/corporation's coverage.
- (10) Under what conditions and terms may the association/corporation be terminated? If unanimous consent (100 percent of all owners/members) is required, the PHA should not consider the particular unit. This is because total unanimity is nearly impossible to achieve and termination might well be a reasonable response to almost total destruction of a project (as might be caused by a natural disaster).
- (11) If the association/corporation is terminated, how are its assets to be disposed of? A common provision in homes or homeowners association by-laws is that the common property (walks, parking lots, green space, amenities, etc.) will be dedicated to the local jurisdiction upon dissolution. In this case it would be important to know that the property meets the jurisdiction's requirements and will be acceptable. In condominiums and cooperatives, a suit for partition is often required. The termination provision should be a part of the association/corporation by-laws and should be reviewed against ACC and disposition (Handbook 7486.1) requirements.
- b. Procedure. The association/corporation organizational and operating documents shall be submitted as part of the PHA proposal. These documents include, as applicable, the Declaration of Covenants, Articles of Incorporation, Master Deed, By-Laws, Rules and Regulations and master insurance policy. If the project is professionally managed, the Management Plan and Agreement shall also be included. The PHA Proposal shall provide the PHA's responses to the issues raised in paragraph 3-113a (1) through (11) above and any other issues which surface as a result of its review of the association/corporation documents.
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- (1) Field Office review of the association/corporation documents and the PHA response shall, at minimum, be performed by the Housing Programs Branch, the Assisted Housing Management Branch and the Legal Division. Recommendations for approval shall be forwarded to the Regional Administrator and include copies of the organizational documents, the PHA response and the Field Office review comments.
- (2) Regional public housing staff responsible for the development and management of public housing projects and Regional Counsel shall examine the documentation provided and prepare a recommendation for the Regional Administrator based upon an analysis of Field Office/PHA comments as well as any other issues which surface as a result of the Regional review.
- (3) If approval is recommended and requires a waiver of a regulatory and/or ACC provision, the request for waiver, and justification therefor, shall be referred to Headquarters.

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Section 9. Uniform Relocation Assistance and
Real Property Acquisition

NOTE: The current provisions of 24 CFR 941.207 were superseded, effective April 2, 1989, by a governmentwide regulation at 49 CFR Part 24. All displacement occurring on or after April 2, 1989, and all acquisition where the "initiation of negotiations" occurred on or after April 2, 1989, are subject to 49 CFR Part 24. The requirements of 49 CFR Part 24 are described in Chapters 1 through 6 of Handbook 1378 (HBK 1378). The URA now covers both public and privately undertaken acquisition (i.e., turnkey program) and displacement that results from public or privately undertaken demolition, rehabilitation or acquisition (i.e., turnkey) that directly results from a program assisted under 24 CFR Part 941. Until the current 24 CFR 941-207 is revised to conform to 49 CFR Part 24, PHAs shall follow the guidance in Chapter 8, Section 8 of HBK 1378 which supplements Chapters 1 through 6 of HBK 1378

(This Section 9 of Handbook 7417.1 REV-1 essentially duplicates Chapter 8, Section 8 of HBK 1378). Given the technical nature of such matters as the determination of eligibility as a "displaced person" and the computation of required relocation payments, PHAs are encouraged to consult at an early point in time with CPD relocation staff in the applicable Field Office responsible for administering URA requirements.

3-121. APPLICABILITY.

a. Programs Covered. This section covers projects under 24 CFR Part 941 which governs the following programs:

(1) The Public Housing Development Program, including:

- (a) The Conventional Method -- New Construction/Rehabilitation.
- (b) Turnkey Method -- New Construction/Rehabilitation.
- (c) Acquisition of Existing Housing (Without Rehabilitation).

(2) Major Reconstruction of Obsolete Projects Program (MROP).

b. Rules That Apply. The programs described in subparagraph a above are subject to the following requirements:

(1) The URA and implementing regulations at 49 CFR Part 24. These requirements are described in Chapters 1 through 6 of HBK 1378.

(2) The additional policies described in Chapter 8, Section 8 of HBK 1378.

3-122. MINIMIZING DISPLACEMENT. Consistent with the other goals and objectives of the Public Housing Development and MROP Programs, the PHA shall assure that it has taken all reasonable steps to minimize displacement as a result of a project assisted under the program.

3-123. NOTICES TO OCCUPANTS OF PROPERTY. The significance of issuing timely notices cannot be overemphasized.

a. Basic Notice(s). Each occupant is entitled to timely notice(s) explaining the impact of the project on him or her. A person who will be displaced by a project must be informed of his/her eligibility for relocation assistance and the nature of that assistance; a tenant that will not be displaced must be informed of the reasonable terms and conditions under which he or she may occupy the property upon completion of the project.

While it is sometimes possible to convey all this information in one timely notice, most project circumstances dictate the issuance of two notices to each tenant.

- (1) A general information notice (see Paragraph 2-3a of HBK 1378) to be issued as soon as feasible. Generally, this is the date described in Paragraph 3-125a(1) below; however, for MROP, the notice is sent at the time of Field Office approval to advertise for bids. Failure to provide this notice in a timely manner may trigger avoidable claims for relocation payments by persons who move from the site before the PHA commits itself to the project.
 - (2) Either a notice of eligibility for relocation assistance or a notice of nondisplacement (see Paragraph 2-3b of HBK 1378) to be issued not later than the "initiation of negotiations" (defined in Paragraph 3-126 below). If the occupant moves permanently from the property after the "initiation of negotiations" (and he/she has not been provided a notice of nondisplacement), the person will automatically qualify as a "displaced person." In other words, even if there was no intention to displace the person, it is assumed that the person's move was an involuntary move caused by the project because he/she was not given timely information essential to making an informed judgment.
- b. Notice of Comparable Replacement Dwelling, As described in Paragraph 2-5d of HBK 1378, a person to be displaced must be given timely notice of the

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location and cost of a "comparable replacement dwelling" that sets the upper limit of the replacement housing payment for which the person can qualify. If an otherwise eligible person moves before this notice, the only limit on the payment is the cost of the housing to which he or she moves. That can mean wasted project dollars. Usually, this notification is included in the notice of eligibility for relocation assistance.

- c. Ninety-Day Notice. As described in Paragraph 2-3c of HBK 1378, no lawful occupant to be displaced may be required to move without at least 90 days advance written notice. Such notice may not be issued before the notice of eligibility for relocation assistance and, if applicable, the notice of a comparable replacement dwelling. Of course, if both parties can agree upon a vacate date, this notice need not be issued.
- d. Issuance of Notices Under the Turnkey Program. When carrying

out a Turnkey Program, the PHA should work very closely with the developer to ensure that the relocation requirements of this handbook are met. Because of the financial exposure of the PHA (i.e., the PHA executes the compliance certification), the PHA itself should issue the required notices and provide or contract for the delivery of relocation services. An option agreement that provides for delivery of a vacant project site to the developer does not relieve the PHA of responsibility for any displacement from the site that may have taken place in anticipation of its possible approval for a project.

3-124. TEMPORARY RELOCATION. See the policies in Paragraph 2-4 of HBK 1378.

3-125. DEFINITION OF DISPLACED PERSON. Each "displaced person" is eligible for assistance at URA levels. The term "displaced person" is generally described in Paragraph 1-8 of HBK 1378. PHAs shall also comply with the following additional guidance:

- a. The term "displaced person" includes (but may not be limited to):
 - (1) A person that 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 that HUD approves the PHA proposal incorporating the site;

- (b) For scattered sites, the date HUD approves the applicable site;
 - (c) For turnkey projects, the date the PHA proposal is submitted to HUD; or
 - (d) For major reconstruction of obsolete public housing projects, the date the PHA issues the invitation for bids for the project.
- (2) Any person, including a person who moves before the date described in Paragraph 3-125a(1) above that HUD or the PHA determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project.
 - (3) A tenant-occupant of a dwelling who moves permanently from the building/ complex after the "initiation of

negotiations" (defined in Paragraph 3-126 below), 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 shall 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. (The total tenant payment is also described in Paragraph 7-20 of HBK 1378.)

- (4) A tenant-occupant of a dwelling who is required to relocate temporarily and 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 and any increased housing costs), or
 - (b) Other conditions of the temporary relocation are not reasonable.
- (5) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the building/complex, if either:
 - (a) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or

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- (b) Other conditions of the move are not reasonable.
- b. Persons Not Eligible. Notwithstanding the provisions of Paragraph 3-125a above, a person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:
- (1) The person is excluded under Paragraph 1-8c of HBK 1378; or
 - (2) 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;
or

- (3) The person moves into the property after the dates described in Paragraph 3-125a(1) above and before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" as a result of the project.

3-126. DEFINITION OF INITIATION OF NEGOTIATIONS. For purposes of providing the appropriate notice under Paragraph 2-3b of HBK 1378 and determining whether a person displaced from a dwelling qualifies for a replacement housing payment under HBK 1378, Paragraph 3-3 or Paragraph 3-4 (rather than Paragraph 3-5), the term "initiation of negotiations" means:

a. For conventional or acquisition projects:

- (1) Where the PHA purchases the real property through an arm's-length transaction as described in Paragraph 5-1a(1) of HBK 1378, the seller's acceptance of the PHA's written offer to purchase the property (i.e., the seller's execution of form HUD-51971-H), 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
- (2) Where the PHA's purchase of the real property does not qualify as an arm's-length transaction, the delivery of the initial written purchase offer from the PHA to the owner of the property (i.e., the PHA's execution of

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.

- b. For turnkey projects, the date of HUD approval of the PHA's proposal incorporating the developer's proposal, provided the contract of sale is later executed.
- c. For major reconstruction of obsolete projects, the date the PHA issues the invitation for bids for the project.

3-127. ACQUISITION OF REAL PROPERTY.

- a. General. The acquisition of real property for a project assisted under 24 CFR Part 941 is subject to the requirements of Chapter 5 of HBK 1378.
- b. Scattered-Site Public Housing Acquisition Program. The requirements of Paragraphs 5-2 through 5-8 of HBK 1378 do not apply to a PHA acquisition that is clearly a voluntary, arm's length transaction (see Paragraph 5-1a(1)) of HBK 1378, if the following conditions are met:

(1) Disclosure. The PHA must:

- (a) Determine and inform the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
- (b) Inform the owner of HUD's estimate of the fair market value of the property. The notice must be in writing (i.e., included in form HUD-51971-II). If the estimated fair market value is more than the offer price in form HUD-51971-I, the seller must be provided the opportunity to withdraw his/her offer after the appropriate disclosures have been made. (NOTE: The PHA is permitted to negotiate a sale price below fair market value.)

- (2) No specific site or project shall be designated for acquisition, although the PHA may limit its search for alternative sites to a general geographic area. Where the PHA wishes to purchase more than one site within a geographic area, all owners are to be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated

project area where all or substantially all of the property within the area is to be acquired within specific time limits.

- c. Turnkey Acquisition By Private Developer. A private developer (buyer) negotiating an arm's-length purchase (i.e., he/she does not have the power of eminent domain) can avoid the URA acquisition requirements in Paragraphs 5-2 through 5-8 of HBK 1378, IF, before the buyer enters into the final contract of sale, the following two disclosures are made to the seller:

- (1) The buyer does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
- (2) The buyer's estimate of the fair market value of the property. An appraisal is not required; however, the PHA's files must include an explanation, with reasonable evidence of the basis of the sale. If the seller executes an option or contract of sale before he/she is informed of the property's fair market value and the fair market value is more than the option/contract price, the seller must be provided the opportunity to withdraw from the option or contract after the appropriate disclosures have been made.

d. Related Relocation Issues.

- (1) A tenant-occupant displaced from the property as a result of the Scattered-Site Acquisition Program or Turnkey Acquisition Program is eligible for URA relocation assistance and must be provided timely notices as described in Paragraph 2-3 of HBK 1378.
- (2) An owner-occupant (seller) of the property displaced by the Scattered- Site Acquisition Program or Turnkey Program is not eligible for URA relocation assistance, if the applicable disclosures (Paragraph 3-127b or c above) are made. To avoid any dispute, the seller should be provided early written notice that he/she will not qualify for URA relocation assistance.

3-128. APPEAL BY LOWER-INCOME PERSON. Under the Public Housing Development Program and MROP, a lower-income person (defined in Paragraph 1- 16 of HBK 1378), who is dissatisfied with the determination of the PHA on his or her

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appeal under Paragraph 1-33 of HBK 1378, may request HUD to review that determination as described in Paragraph 1-33i of HBK 1378.

3-129. COMPLIANCE RESPONSIBILITY OF PHA

- a. Certification. Before receiving HUD financial assistance, the PHA must certify to HUD that it will comply with the URA, 49 CFR Part 24, and 24 CFR 941.207. (The assurance provided in the PHA Resolution in Support of Public Housing Project, Form HUD-52471, constitutes the PHAs certification of compliance with the URA.) The PHA is responsible for ensuring compliance with such requirements, as described in HBK 1378, notwithstanding any third party's contractual obligation to the

PHA to comply with such provisions. For this reason, when administering a Turnkey Project, the PHA should coordinate the acquisition and relocation very closely and should, at a minimum, issue the required notices itself. While it may delegate this task to the developer under the contract, it remains responsible for compliance.

- b. The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. The cost of required relocation assistance may, however, also be paid from local funds or funds available from other sources.
- c. The PHA must maintain records in sufficient detail to demonstrate compliance with the provisions of this handbook, as described in Chapter 6 of HBK 1378.

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Section 10. Facilities and Services

3-131. GENERAL. The PHA shall make every effort to select sites that are accessible to existing or proposed public facilities and services (Section 6). This may not be possible because sites may not be available near required facilities or the facilities may not have the capacity to serve the proposed project. In such instances, necessary facilities and services may be provided to the extent authorized in this section. Consideration shall also be given to the availability of other sources of funding, such as the CDBG program, Department of Interior grants for outdoor recreation areas, and the Department of Health and Human Services public assistance and social services programs.

3-132. PROJECT NON-DWELLING FACILITIES. Necessary non-dwelling space and equipment may be provided for management, maintenance and community activities and may be included in the development cost of a public housing project provided that the amount of space does not exceed the limitations identified below. These facilities may be provided on a project-by-project basis or as central space for several closely situated public housing projects operated by the PHA. Consideration also may be given to providing non-dwelling space in a central location for all nearby assisted housing (i.e., public housing, Sections 8, Section 23, and State-assisted) projects managed by the PHA provided that a pro-rata share of the cost of such space is borne by each housing program.

- a. Management Facilities. General purpose office space and equipment may be required by the PHA to perform administrative functions. Space for necessary facilities may be provided not to exceed the following limitations:

Number of Public Housing Units Served	Maximum Management Space Allowed (sq.ft.)
0-15	150
16-50	325
51-100	500
101-150	600
151-200	775
201-300	1000
301-400	1200
401-500	1400

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- b. Maintenance Facilities. Space and equipment may be required by the PHA to perform operation and maintenance activities. Included are facilities for a central repair shop and storage of tools, parts and outdoor equipment (e.g., lawn mowers, snow blowers, and maintenance vehicles). Space for necessary maintenance facilities may be provided not to exceed the following limitations:

Number of Public Housing Units Served	Maximum Maintenance Space Allowed (sq.ft.)
0-15	125
16-50	400
51-100	800
101-150	1100
151-200	1400
201-300	1900
301-400	2300
401-500	2700

- c. Community Facilities. Community space and related equipment may be required to provide social and recreational opportunities for project occupants. Included are such facilities as game rooms, meeting rooms or craft rooms. In determining the amount of community space to be provided, consideration shall be given to whether space will be provided for a child care facility (paragraph 3-133) and whether such space could be used for both purposes. Space for necessary community facilities may be provided not to exceed the following limitations:

(1) Projects Designed for the Elderly:

Number of Public Housing Units Served	Maximum Community Space Allowed
Under 51	25 sq. ft. per unit.
51-100	1,250 sq. ft. for the first 50 units, plus 20 sq. ft. for each additional unit.
101 or more	2,250 sq. ft. for the first 100 units, plus 15 sq. ft. for each additional unit.

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(2) Projects for Family Occupancy:

Number of Bedrooms in Public Housing Units Served	Maximum Community Space Allowed
Under 101	8 sq. ft. per bedroom
101 or more	800 sq. ft. for the first 100 bedrooms, plus 4 sq. ft. for each additional bedroom.

(3) Projects for Elderly and Family Occupancy. The maximum amount of community space for a project to be occupied both by elderly and family households is the sum of the amounts determined in accordance with (1) and (2) above.

3-133. CHILD CARE FACILITIES. Space may be provided for a child care center for the project occupants if such a facility is not otherwise available, or existing facilities are inadequate, to serve the proposed project. Such space may be provided in addition to the amount allowed for community facilities (paragraph 3-132). This shall not include space for formal education programs normally provided by the local school system. If child care facilities are necessary, the PHA must provide written evidence from a qualified local agency indicating that the agency agrees to furnish, equip and operate the proposed facility.

3-134. HEALTH CARE FACILITIES. In projects for elderly occupancy, space may be provided, if required, for preventive health programs for the project occupants. This may include space for

such facilities as examination rooms and health clinics only if they are not accessible in the neighborhood but shall not include general medical care or hospital care facilities such as laboratories and treatment rooms. If health care facilities are necessary, a maximum of five square feet for each unit may be provided. Such space may be provided in addition to the amounts allowed in paragraph 3-132. In such instances, the PHA must provide written evidence from a qualified local agency indicating that the agency agrees to furnish, equip and operate the proposed health care facility and which identifies the services to be provided.

3-135. COMMERCIAL FACILITIES. Commercial facilities, such as space for a small general store, grocery store, or drug store, may be provided in a public housing project. However, because of the potential financial risks to the PHA and the Federal Government, such facilities may be provided only where there is no practical alternative to meet the needs of the project occupants.

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- a. Demonstration of Need and Feasibility. PHAs are encouraged to make every effort to select sites for public housing which are accessible to shopping facilities and public transportation. It may be necessary, such as in remote or rural areas, to provide commercial facilities because there are no convenient shopping facilities to meet daily requirements. In such cases, the Area manager may authorize PHAs to include commercial facilities in public housing projects provided that no portion of their cost is included in the development cost on which annual contributions are based. The PHA justification must:
- (1) identify the amount of space and type of commercial facilities required;
 - (2) identify the type of construction and permanent financing proposed and, if applicable, the term of the loan, interest rate, security requirements, and the annual loan payment;
 - (3) identify the source of funds (e.g., local contributions, income from the commercial lease) and the amount to be used for debt service payments on the loan and for payment to the PHA for maintenance and management expenses related to the proposed commercial facilities;
 - (4) provide a copy of the proposed lease form between the PHA and the commercial lessee which identifies

the lessee's responsibility for providing fire and liability insurance, any furnishings or equipment, utilities, or required maintenance and repairs, and the term of the lease, including renewal options and rental adjustments;

- (5) provide evidence from local commercial establishments or public organizations indicating their interest in operating the proposed facility;
- (6) demonstrate that essential facilities are not within walking distance or reasonably accessible by public transportation;

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- (7) demonstrate that alternate sites that are accessible to essential facilities are not available; and
- (8) provide an opinion from counsel that the PHA has the legal authority to enter into a commercial facilities transaction.

- b. Separate HUD Loans. Commercial facility loans may be provided by HUD only on acceptable security (other than annual contributions) if no other sources of financing are feasible or available. In such instances, the PHA demonstration of need and feasibility shall be submitted to the Assistant Secretary for Housing for review and approval. Such requests shall be accompanied by a discussion of the various types of financing considered by the PHA and the reasons that other sources of financing are not feasible or available.

3-136. OFF-SITE FACILITIES. Off-site improvements and facilities, such as extensions of water and sewerage systems and access streets to the site boundary, may be required.

- a. Allowable Project Development Cost. The cost for off-site facilities may be included in the development cost budget only if it is local practice that a developer or builder normally pays for such facilities when developing comparable privately owned housing. The amount authorized for off-site facilities shall be limited to the Area Office estimate of either the cost of such facilities or the increase in the site value that is attributable to such facilities, whichever is lower. If the cost exceeds the amount that may be approved by the Area Office, the additional amount would have to be

off-set by a donation. The PHA justification must:

- (1) identify the type of off-site facilities required and the estimated cost of such facilities;
- (2) demonstrate that the proposed off-site facilities are necessary to the project;
- (3) demonstrate that alternate sites reasonably accessible to essential facilities are not available; and
- (4) demonstrate that the cost of the proposed off-site facilities for privately owned housing are normally paid by the developer or builder.

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b. Financing by Separate Local Loans. The cost of off-site facilities may be financed by a separate non-HUD loan if the local government normally provides such facilities and if the local government agreed to provide them in the Cooperation Agreement, but is unable to finance the capital cost. However, the separate loan must be repaid from sources other than residential rental receipts or annual contributions from HUD. In such instances, the PHA in addition to a(1), (2), and (3) above must:

- (1) identify the type of construction and permanent financing proposed and, if applicable, the term of the loan, interest rate, security requirements, and the annual loan payment;
- (2) identify the amount and source of funds to be used for debt service payments on the loan; and
- (3) state the reasons why the local government is unable to finance the capital cost of the required off-site facilities. This should include a discussion of the local government's priorities under the CDBG program and the reason that CDBG funds could not be made available to provide the necessary facilities. If the community is not a CDBG recipient, the discussion should identify the steps that have been taken to submit a single purpose CDBG application in support of the proposed off-site facility.

c. Separate HUD Loans. Off-site facilities loans may be financed by a separate HUD loan only if no other sources of financing are available. In such instances, the PHA's

request and supporting documentation shall be submitted to the Assistant Secretary for Housing for review and approval. Such requests shall be accompanied by a discussion of the various types of financing considered by the PHA and the local government and the reasons that alternate sources of funding are not available. The separate HUD loan must be repaid from sources other than residential rental receipts or annual contributions from HUD. The withholding of PILOT, otherwise payable to the local governing body, may be used as a source of repayment.

3-137. CONGREGATE HOUSING. PHAs are encouraged to consider the use of congregate housing if the proposed project will be predominantly for housing displaced single persons or the elderly and handicapped.

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- a. Definition. As defined in the Act, congregate housing provides a living environment in which some or all of the dwelling units do not have kitchen facilities. Such housing must have or be connected with a central dining facility to provide wholesome and economical meals for the occupants in a generally self-supporting operation. Congregate housing should not be construed as an intermediate care facility or nursing home neither of which may be developed under the public housing program.
- b. Kitchen Facilities. Since congregate housing includes a central kitchen and dining facility for serving daily meals, each housing unit need not have complete kitchen and dining facilities. As a minimum, each unit shall be provided with a small refrigerator, a single basin sink, shelf space for food storage, and adequate electrical service for small appliances.
- c. Allowable Development Costs. The space required for a central kitchen and dining facility is in addition to the allowable non-dwelling facilities identified in this section. The amount of space for the dining room shall not exceed fifteen (15) square feet per diner, accommodating one-half of the project occupants at one sitting, and the kitchen shall be adequate to serve the dining facility. The project development budget may only include the cost of the following:
 - (1) space for the common kitchen and dining facility, including food storage areas;
 - (2) equipment for the central, kitchen facility, including

cooking utensils, ranges, refrigerators, storage cabinets, dishwashers, and waste disposal equipment; and

- (3) furniture and equipment for the central dining facility, including tables, chairs, linen, glassware and eating utensils.

- d. Allowable Operating Costs. PHA costs for maintenance and operation of a central kitchen and dining facility may be included in the PHA's operating budget. Included are such PHA costs as expenses for repair, maintenance, and replacement of furniture and equipment for the central facility and the cost of providing utilities. However, the cost of providing food and meal service may not be included in the PHA's operating budget. Since the Act does not authorize the use of residential rental income or annual contributions for providing food services, the cost of providing meals must be supported by payments

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from the project occupants or contributions from local agencies. The Housing and Community Development Act of 1978 (Sections 401 through 412) provides further information on funding congregate housing services. The PHA will be required to provide the following for Area Office approval:

- (1) evidence from a State or local agency as to whether or not the central kitchen and dining facility will require a special operator's license and, if licensing is required, a description of any applicable local design and construction requirements;
- (2) the name of the intended operator, whether a local agency, non-profit organization or private firm, and a resume of the operator's experience in providing food service;
- (3) the number of daily meals to be provided, the estimated cost for daily meals, a typical weekly menu, and the monthly dining charges to the occupants;
- (4) the estimated monthly cost of providing food services, the amount of income expected from dining charges, and the amount and description of any other sources of income;
- (5) a demonstration that the dining charges and the amount to be paid for rent are reasonable, considering the income levels of the prospective occupants; and

(6) a copy of the proposed contract between the PHA and food service operator. The initial term of the contract shall be for two years.

e. Local Support Services. The PHA also may want to provide for special services to the occupants of a proposed congregate housing project. Rental income and annual contributions cannot be used to provide non-housing services such as preventive health care and housekeeping services. If services are planned, the PHA must:

- (1) identify the services proposed and any cost to the project occupants;
- (2) identify the community agencies that will be providing the services; and
- (3) provide a copy of the proposed agreements with these community agencies.

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Section 11. Design and Construction Standards

3-141. BASIC STANDARDS. Projects developed under the public housing program must comply with:

- a. either the HUD Minimum Property Standards (MPS) or the HUD Minimum Design Standards for Rehabilitation for Residential Properties;
- b. HUD environmental requirements (Section 7) and requirements for accessibility and usability by the physically handicapped (24 CFR 40 and 24 CFR 8); and
- c. any applicable local requirements, such as State or local building codes and ordinances.

3-142. LOCAL MPS VARIATIONS. The Area Manager may approve variations from the MPS to meet special local conditions for a specific project. Variations may include modifications to design and construction standards, use of alternate building materials and fixtures, and the use of innovative construction methods and materials. In such cases, the Area Manager must determine that the alternate standards or materials will provide for a level of structural soundness, useful life, and economy in maintenance or operation that is at least equivalent to the MPS. Where a variation is expected to be used for future

projects on a repetitive basis, the Area Manager should recommend that an appropriate Local Acceptable Standard be established.

3-143. ADDITIONAL PROGRAM STANDARDS. The basic standards identified in paragraph 3-141 provide minimum design and construction requirements. The construction of public housing projects may exceed the basic standards provided that projects do not involve elaborate or extravagant design or materials. For example, increasing the MPS insulation or glazing standard may be required to conserve energy and provide for more economical operations over the projected life of the housing.

a. Additional Quality Standards. The Area Manager shall develop specific additional quality standards to comply with the requirements of Section 6(b) of the Act. Specifically, the law requires that the design and cost of a public housing project take into account:

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- (1) the extra durability required for safety and security and economical maintenance of such housing;
 - (2) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment;
 - (3) the application of good design as an essential component of such housing for safety and security as well as other purposes;
 - (4) the maintenance of quality in architecture to reflect the standards of the neighborhood and community;
 - (5) the need for maximizing the conservation of energy for heating, lighting, and other purposes;
 - (6) the effectiveness of existing cost limits in the area; and
 - (7) the advice and recommendation of local housing producers.
- b. Density. The density requirements are stated in paragraph 3-75.
- c. Non-Dwelling Facilities. The requirements and limitations

for required facilities and services are stated in Section 10.

- 3-144. CARPETING. Carpeting, instead of other types of finished flooring, may be provided only in projects proposed for occupancy by the elderly or handicapped. Carpeting may not be used in bathrooms or kitchens.
- 3-145. BASEMENTS. Unfinished basements may only be provided in public housing projects if the cost of constructing basements was reflected in the published prototype dwelling construction and equipment (DC&E) costs for the area developed by the Area Office. In establishing prototype costs, the Area Office may consider the cost of constructing basements but only in those areas where it is common local practice for moderate income housing.

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- 3-146. PARKING SPACES. The number of parking spaces to be provided for a public housing project is generally determined by local building codes and ordinances. In the absence of local parking requirements, the Manual of Acceptable Practices (HB 4930.1) should be used as a guide for determining the number of parking spaces to be provided. Parking spaces, generally, will be provided in the form of parking pads for detached and semi-detached structures, or a parking lot for other structure types, and would be an allowable expense for site improvements (Account 1450.1).
- a. Highrise Elevator Structures. Parking spaces for the occupants of highrise elevator projects may be included as an integral part of the structure. This may be necessary to comply with local requirements or to provide for economical construction of the proposed project because of the limited availability or high cost of acquiring adjacent land solely for a parking lot. In such instances, parking spaces may be provided in a basement or sub-basement garage and would be an allowable expense for site improvements (Account 1450.1).
 - b. Detached and Semi-Detached Structures. Garages or carports (as distinguished from parking pads) are occupant storage spaces and must be included in dwelling construction (Account 1460). The Area Manager may authorize the PHA to provide one-car garages or carports for a specific project being developed as scattered site housing only if this can be accomplished within the 110 percent prototype dwelling construction and equipment cost limitation. In such

instances, the PHA will be required to demonstrate for the Area Manager's approval that:

- (1) the use of garages or carports is necessary to comply with local building codes or ordinances, or to construct housing on sites that otherwise would not be available because of restrictive neighborhood or subdivision covenants; or
- (2) garages or carports are commonly provided for moderate income housing of the same structure type in the community or neighborhood.

3-147. AIR CONDITIONING. Air conditioning systems may be provided in public housing projects. This may be necessary to provide flexibility in the design and layout of the housing units, provide for a healthy living environment, assure continued occupancy, and prevent premature obsolescence.

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a. Criteria for Installation. In order to justify providing air conditioning the PHA must demonstrate that:

- (1) the most economical and efficient system is proposed based on an analysis of installation costs and projected operation and maintenance costs; and
- (2) the air conditioning system is necessary to overcome adverse environmental conditions; or
- (3) it is common practice to provide air conditioning in most new moderate income housing in the community for which the project is proposed and the system is necessary to maintain continued occupancy and to prevent premature obsolescence.

b. Installation. If the PHA demonstrates that these criteria are satisfied, air conditioning shall be provided for all elevator and walk-up structure types. For all other structure types, air conditioning may be provided as part of the initial project construction or it may be postponed for future installation. Where future installation is contemplated, the design and construction documents shall provide for such later installation.

3-148. UTILITIES. It is important that the best types and utility combinations be selected. If the best system is not installed initially, the cost of converting to another system at some later

date is usually prohibitive. All selected utilities must be available in time for project construction or occupancy.

a. HUD Utility Analysis. The Area Office will provide the PHA with a completed Comparative Analysis of Utility Costs (Form HUD 51994) for the proposed project or for a comparable project in the area. In preparing an analysis of utility combinations, consideration shall be given to the following:

- (1) all types of energy sources and methods of utilization, distribution, and purchasing which are used or available in the area and are expected to continue to be available;
- (2) initial installation costs of all feasible distribution systems as well as long-term operation and maintenance, including repair and replacement costs;

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- (3) the national policy on energy conservation;
- (4) the use of solar energy if economical;
- (5) the initial installation cost and long term operation and maintenance cost of individual housing unit systems as compared to a central system or plant and the relative costs of direct occupant purchase (retail basis) or project supplied (wholesale basis) utilities; and
- (6) the use, in areas of high demand and high cost, of demand control equipment for electric energy.

b. PHA Utility Selection. The utility combination identified by the Area Office shall be selected unless the PHA can demonstrate that a more efficient and economical combination is available. If the Area Office recommendation is not acceptable, the PHA must prepare and submit with its proposal a revised Comparative Analysis of Utility Costs (Form HUD 51994), based on the factors identified above, for consideration by the Area Office.

c. Individual Non-Dwelling Meters. Utilities for non-dwelling facilities (e.g., maintenance, management and community space) shall have meters separate from residential meters.

3-149. SOLAR ENERGY. The PHA shall make use of solar energy, if it is economical to do so. Any addition, alteration, or improvement to an existing or new structure designed to use solar energy to reduce the demand for other energy sources may be considered.

- a. HUD Standards. The Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems (HB 4930.2) identifies various types of active and passive systems that may be considered. A solar heating or domestic hot water system may be approved only if an operational conventional system will be provided as a "back-up".
- b. Allowable Project costs. Subject to the Area Manager's approval, the cost of solar energy equipment is an allowable expense for project development.

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- (1) Site Improvements (Account 1450.1). The purchase and installation cost of energy generating or collecting equipment shall be included in Account 1450.1. Included are the costs of related structure alterations; distribution systems (e.g., wiring, ducts, piping, pumps, insulation and heat exchangers); storage tanks, rock bin or heat sink elements; and control systems, sensors and logic devices.
 - (2) Dwelling Construction (Account 1460). The cost of all energy distribution systems within the dwelling unit shall be included in Account 1460. Included are all costs for the conventional "back-up" system, as well as the related dwelling unit costs for the solar heating or domestic hot water system such as wiring, ducts, piping, radiators, grills, dampers and thermostats. In addition, the cost of building construction common to both the solar system and the housing (e.g., sturdier roof framing to support solar collecting equipment) shall be included in Account 1460.
- c. Area Office Approval. The Area Manager, prior to approving the use of a solar system, shall determine that the proposed System is cost effective in accordance with the following:
 - (1) Active Systems. The Area Office shall determine that the estimated cost of nonrenewable energy to be saved will be sufficient to pay for the installation and maintenance of the solar system. In making this determination, consideration shall be given to the

following:

- (a) interest rates for construction and permanent financing of the additional capital cost attributable to the solar system;
- (b) the projected increases (not to exceed an annual rate of 7%) for fuel, maintenance, repair and replacement costs;
- (c) the projected useful life of the proposed solar system;
- (d) a "pay back" period based on the projected useful life or fifteen (15) years, whichever is lower; and

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(e) the estimated cost of the solar energy system will not exceed twenty (20) percent of the TDC.

(2) Passive Systems. The Area Office determination shall be based on the factors identified for active systems. However, the fifteen (15) year limitation on the "pay-back" period does not apply to passive systems.

d. Headquarters Approval. The approval of the Assistant Secretary for Housing shall be obtained, if:

- (1) a projected operating cost increase exceeding seven (7) percent is determined to be justified by the Area Office;
- (2) there is some question as to the distribution of the capital cost between Account 1450.1 and Account 1460; or
- (3) the Area Office does not have access to local engineering analysis of solar energy systems.

3-150. WORKS OF ART. Works of art, such as sculptures, mosaics or murals, may be incorporated in a public housing project. Selection of the artist is the responsibility of the architect or developer with the approval of the PHA. Works of art may be provided only in common building areas or grounds of the proposed project. In selecting art objects, consideration must be given to their appeal and acceptance by project and neighborhood residents. The materials selected should be permanent and capable of withstanding exposure to the elements

and preclude the possibility of theft. The cost of all works of art for a specific project shall not exceed one percent of the amount budgeted for dwelling construction and equipment. The cost of art objects that are part of the structure is an allowable expense for non-dwelling construction (Account 1470), otherwise, the cost shall be included in site improvements (Account 1450.1).

3-151 thru 3-160. RESERVED.

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* Section 12. Development Deadlines and Reformulations

3-161. GENERAL: Section 114 of the Housing and Community Development Act of 1987 amended Section 5 of the USHA by adding the following subsection:

(k) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.

3-162. DETERMINATION OF DEADLINE. Section 5(k) establishes only a start deadline (new and rehabilitation projects) or a completion; i.e., Date of Full Availability (DOFA) deadline (acquisition projects) of 30 months from the date of the fund reservation.

a. Deadline Definition. For purposes of ascertaining and determining compliance with the 30-month deadline, the following definitions shall apply:

- (1) The "beginning or 'start' of construction or rehabilitation" of a conventional project shall be the date of the PHA's Notice to Proceed.
- (2) The "beginning or 'start' of construction or rehabilitation" of a turnkey project shall be the date the PHA executes the

Contract of Sale.

- (3) The "completion of acquisition," for projects comprising acquisition of existing housing shall be the date the Field Office approves the Notice of DOFA (Form HUD-52423).

- b. Target Dates. In order to ensure PHAs meet the 30-month deadline, Field Offices must establish target dates for the milestones which occur before start or DOFA such as PHA proposal submission, Annual Contributions Contract (ACC) execution, final site approval (FSA), design document and construction/contract document submissions, etc. The target dates should permit *

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sufficient time for PH preparation, HUD review, and for problem solving so that the start or DOFA deadline is achieved. The target dates must be established initially at the project planning conference and reported in the Field Office Reporting/Management System (FORMS) and the System for Management Information Retrieval-Public Housing (SMIRPH) (see paragraph 3-165). While the Standard Processing Times (SPTs) throughout the Handbook may be used as the basis for timing of individual submissions and reviews, for consistency among Regions, the following should be used to establish target dates for the major milestones:

STAGE	TOTAL TARGET	TARGET TIME PHA SUBMISSIONS	TARGET TIME HUD REVIEWS
ACC Execution	10 months	8 months	2 months
Site Approval	12 months	9 months	3 months
Construction Start or DOFA	12 months	9 months	3 months

- (1) The target for ACC execution is ten (10) months from the date of HUD's fund reservation notification to the PHA. "ACC execution" shall be the date HUD executes the ACC.
- (2) The target for site approval is twelve (12) months from the date of HUD's fund reservation notification to the PHA. "Final Site Approval" means:
- (a) for conventional and acquisition projects (other than below), the date of HUD's approval letter to the PHA authorizing site acquisition (paragraph 8-73a);
- (b) for turnkey projects where use of a turnkey preselected

site has been authorized by the Field Office subject to required stated conditions, the date of HUD's final site approval letter and authorization for the PHA to advertise for turnkey proposals; or

- (c) for other turnkey projects (not involving turnkey pre-selected sites) and for conventional rehabilitation or acquisition projects involving 1-4 family properties, the date of HUD's letter to the PHA approving the PHA Proposal (paragraph 7-122). Field Office approval of all PHA property acquisitions must be scheduled in sufficient time to meet the 30-month start or DOFA deadline. Normally, the last Field Office authorization for PHA acquisition of a 1-4 family property

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* involving conventional rehabilitation should occur within three months of the PHA Proposal approval letter (so as to ensure at least nine months for completion of acquisition and preparation of work write-ups, advertisement for bids and award of the contract).

- (2) The start target for new construction and rehabilitation projects or DOFA for acquisition of existing housing projects, is twelve (12) months from the date of final site approval. These targets also apply to projects involving 1-4 family properties.

3-163. EXTENSION CRITERIA. The following define the criteria for extensions which form the basis for the exclusions from the computation of the 30-month deadline as provided in Section 5(k).

- a. The failure of the Secretary to process such projects within a reasonable period of time. A "reasonable period of time" is the target time for Field Office review as established in paragraph 3-162b above. Field Offices must be sensitive to deficient PHA submissions and immediately advise PHAs and invoke a "stop processing action" by written notice when data are missing or insufficient for reviews. The time "clock" shall be reinstated upon receipt of the appropriate data.
- b. Any environmental review requirement. In those instances where, for example, historic preservation issues, floodplain issues, or the preparation of environmental impact assessments, etc., are determined necessary, the extra amount of time required to resolve the problem must be documented and reported as a basis for an extension request.
- c. Any legal action affecting such project. Legal actions include those initiated by the PHA or by others which prevent the PHA

from proceeding with its pre-construction (new construction or rehabilitation) or pre-acquisition activities. It may also include the time required for PHAs to file zoning applications or exceptions, to appeal adverse zoning decisions, to complete condemnation proceedings, etc.

- d. Any other factor beyond the control of the PHA. Examples of such factors include, but are not limited to, such events as the need for the municipality to design and/or install utilities to serve the project, or for the PHA to obtain clear titles, to challenge adverse decisions by the local zoning board, readvertise for bids, or the loss of optioned sites because of external events. *

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3-164. EXTENSION REQUESTS.

- * a. PHA Submission. In order to invoke one or more of the exclusions from the 30-month deadline stated in Section 5(k) (see paragraph 3-162b above), a PHA must submit a request for extension to the Field Office stating the basis (or bases) for the requested extension, the documented amount of time attributable to the delay, and an assessment of the impact of the delay on the total cost of the proposed project. The request shall also include the PHA's amended development timetable evidencing the capacity of the project to start (new and rehabilitation) or to reach DOFA (acquisition) if the extension is granted.
- b. HUD Review. PHA requests for extensions shall be referred by the Field Office with comments and recommendations to the Regional Administrator for action.
 - (1) The Regional Administrator may approve extension requests on the basis of data submitted pursuant to the criteria stated in paragraph 3-163 above.
 - (2) If the request is based on other than the statutory criteria or if a determination is made that the data fail to support an extension, the request shall be referred to the Assistant Secretary for Public and Indian Housing in Headquarters for a determination. Such a referral shall include the PHA's request and the Field Office's as well as the Regional Administrator's comments and recommendations on the request.
- c. Headquarter's Denial and Project Termination. Headquarters' denial of a requested extension past a 30-month deadline shall

result in project termination by the Field Office, repayment by the PHA of all advances and recapture of funds pursuant to 24 CFR 941.406. If such a project is under ACC, the Field Office is to make the determination of substantial breach under Section 507(5) of the ACC on the basis that the PHA has failed to prosecute diligently or proceed with timely development of the project (see 24 CFR 200.118(c)).

- d. PHA Requests for Voluntary Project Termination. The Section 5(k) requirements do not apply where a PHA voluntarily requests the termination of a project. In such case, the PHA must write a letter to the Field Office requesting that the project be terminated and giving its reasons for making the request. The Field Office should exercise sound discretion and ascertain that the PHA fully understands the ramifications of its decision before acting upon the matter.

3-165. DEADLINE AND TARGET REPORTING. The 30-month deadline must be reported by the Field Office in the Field Office Reporting/Management *

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* System (FORMS), element C296 (Remarks) where C295=7, as "30-months = MM/DD/YY." It will be reflected on the Production Control Chart (Form HUD 52034). The target ACC execution, FSA, start and DOFA dates, established in accordance with paragraph 3-162 shall be entered in FORMS as C364: Target ACC execution Date; C398: Target FSA Date; C370: Target Start Date; and C383: Target DOFA. Extensions of 30-month deadlines by Regional Administrators must be reported to the Assistant Secretary, PIH (Attention: Project Development Division) by means of a copy of the approving memorandum, and all 30-month deadline extensions must be reported by the Field Office in FORMS in element C296 (where C295=7 as follows: "30-months= MM/DD/YY, Ext to MM/DD/YY." Renegotiation of target dates shall be reported in FORMS but need not be reported separately to the Assistant Secretary for PIH. NOTE: The 30-month deadline is automatically generated in the System for Management Information Retrieval-Public Housing (SMIRPH); target dates are to be entered in accordance with the SMIRPH Manual.

3-166. SITE CHANGES AND REFORMULATION. Section 5(k) states: "During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired."

- a. Site change. PHAs may request and Field Offices may approve the change of a site/property for a proposed public housing project in development. A PHA request must meet the Intergovernmental Review requirements of 24 CFR 52 (see paragraph 3-72) as well as all other criteria applicable to site selection. If a site

change approval will result in exceeding the 30-month or extended deadline, an extension request must be considered simultaneously pursuant to paragraph 3-164 above.

- b. "Reformulation" is defined as dividing a project (units and related funds) into two or more projects, combining two or more projects into one or redistributing units and related funds in a project among one or more projects. Reformulation is intended to provide PHAs the flexibility to adapt to site availability and/or problems, acquire buildings ready for development before others, to save on interest/initial operating costs, etc.
- (1) The sum of the number of units in any reformulated projects must equal the number of units in the original project. No amendment funds may be added during a reformulation, although amendment funds may be added prior to or subsequent to the reformulation.
 - (2) Each reformulated project shall bear the reservation date of the original project. If projects of different fiscal years are combined, the units and funds of the newer project shall be transferred to the older project. *

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3-167. REFORMULATION REQUESTS. Requests for reformulations must be referred by the Regional Administrator to Headquarters for the prior approval of the Assistant Secretary for Public and Indian Housing and include:

- a. A description of the proposed reformulation, the reason(s) for the reformulation and the recommendation of the Regional Administrator.
- b. The PHA's development schedules and proposed development cost budgets (HUD-52484) evidencing its capacity to start (new and rehabilitation projects) or complete (acquisition projects) the proposed reformulated project(s) within Total Development Cost (TDC) cost limitations and within the 30-month or extended deadline (computed from the original reservation date);
- c. The applicable signed and dated Project Accounting Data (PAD) sheets Form HUD-52540 and/or Form HUD-52541A (see Chapter 3 Section 15);
- d. If changes in housing type or household type are proposed, the justification for and determinations associated with the corrective actions, as required by the applicable statutory requirement (e.g., new construction cost comparison or determination of little or no need for large family (three or more bedrooms) housing are to be submitted; and

- e. A statement indicating which, if any, of the projects involved in the proposed reformulation are under an Annual Contributions Contract (ACC). Submission of copies of the ACC amendment effecting the change for each proposed reformulation project will later be required. *

3-168 thru 3-170 RESERVED.

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Section 13. Prototype Costs

- 3-171. GENERAL. Section 6(b) of the Act requires that HUD establish prototype costs at least annually for various structure types and unit sizes in different areas of the country. The prototype costs established by HUD represent the ceiling amounts that may be approved for construction and equipment in the project development budget and construction contract. The Act also provides that the prototype costs established by HUD for any area may be exceeded by up to ten (10) percent if necessary for individual projects.
- 3-172. FEDERAL REGISTER PUBLICATION. The unit prototype cost schedule is published at least annually as a Notice in the Federal Register and is effective upon publication. The published unit prototype cost schedule identifies the current per unit dwelling construction and equipment cost based on the number of bedrooms and structure types for various geographic areas. The unit prototype cost schedule for a specific geographic area may be revised based on public comments or other evidence that construction costs exceed the limits determined by HUD. Any revisions approved by HUD also will be published as a Notice in the Federal Register.
- 3-173. PROTOTYPE COST AREA. A "prototype cost area" is a geographic area, established by the Area Office, within which there is no appreciable difference in the cost of material, labor, and equipment for the housing construction industry. A separate prototype cost area may be established if construction costs in a community consistently differ from other communities within the same prototype cost area. Prototype cost areas are identified by county, city, or other political boundaries. A map, identifying the current prototype cost areas, shall be maintained in the Area Office and made available for public inspection.
- 3-174. STRUCTURE TYPES. The unit prototype cost schedule is

established on the basis of the number of bedrooms per unit for the following structure types:

- a. Detached (D): A structure which consists of a single living unit and is surrounded by permanent open Spaces.
- b. Semi-Detached (SD): A structure containing two living units separated by a common vertical wall.

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- c. Row Dwelling (R). A structure containing three or more living units, each separated by vertical walls, and generally having individual entrances and interior stairs.
- d. Walk-up Apartments (AW). A multi-level low-rise structure containing two or more living units, each separate horizontally (ceiling/floor), and by vertical walls.
- e. Elevator Structure (AE). Any high-rise structure for which an elevator is required under the Minimum Property Standards or local building codes.

3-175. DWELLING CONSTRUCTION AND EQUIPMENT COSTS. The construction cost of new housing, for the purposes of establishing prototype costs, includes the cost allowed for dwelling structures (Account 1460) and dwelling equipment (Account 1465). All other project costs, such as for PHA administration, site acquisition, site improvements, and non-dwelling construction and equipment are not included. A detailed description of the cost accounts relating to the planning and development expenses for a public housing project is provided in Chapter 3 of the Low-Rent Housing Accounting Handbook (HB 7510.1). The following is a description of the construction items included in prototype costs:

- a. General Construction. This includes the costs for:
 - (1) normal excavation and backfill for dwelling structures, but not the cost for excessive excavation and backfill or site improvements such as grading, installation of utility service, streets, walks and landscaping;
 - (2) normal foundations but, not the cost of special improvements such as pilings, caissons, or underpinnings required for unusual site topography or sub-soil conditions;
 - (3) structural framing and interior and exterior finish;

- (4) dwelling structures, including closets and other occupant storage spaces, and common spaces such as entrances, corridors and lobbies, janitorial closets, and laundry, heating and equipment spaces; and
- (5) fixed equipment such as cabinets, cupboards and shelving, including installation.

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- b. Plumbing. This includes all costs relating to domestic gas, water and sewerage distribution systems within dwelling structure walls, such as piping, kitchen and bathroom fixtures and accessories, domestic hot-water heaters, circulating pumps, and utility meters or checkmeters.
- c. Heating and Air Conditioning. This includes all costs relating to air handling and distribution systems, such as furnaces, piping, ducts, radiators, filters, vents, and fans. This applies to costs related to dwelling structures whether such items are within the dwelling structure walls or part of a central heating plant or system. If a central plant will serve both dwelling and non-dwelling areas, a proportionate cost of the structure, equipment, heating mains, and pipe tunnels is also included. The cost of air conditioning systems and equipment is also included where the requirements of paragraph 3-147 have been met.
- d. Electrical. This includes all costs relating to interior electrical systems from the service drops, such as wiring, receptacles, switches, fixtures and electric meters or check meters.
- e. Elevators. This includes the cost of elevators and related equipment for high-rise structures.
- f. Other. This includes a proportionate share of the builder's cost of labor, insurance, Social Security and sales taxes, and the builder's general overhead, profit, and bond premiums. Not included are a turnkey developer's fee, overhead, or interest on construction financing.
- g. Dwelling Equipment. This includes the cost of ranges, refrigerators, shades, screens, and similar equipment provided in dwelling structures and the installation cost.

3-176. UNIT PROTOTYPE COST. The published unit prototype cost represents the current dwelling construction and equipment costs for modest housing that is built in compliance with

the MPS and local building codes and requirements (paragraph 3-141), and the additional public housing program standards (paragraph 3-143). These costs are developed for a prototype dwelling unit of each structure type based on actual cost data maintained by the Area Office for public housing, Section 202, Section 221(d)(4), and Section 231

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projects recently placed under construction. The cost data for the projects used by the Area Office are adjusted to reflect any cost increases between the time that construction was started on those projects to the date that the revised unit prototype cost schedule is published in the Federal Register.

3-177. BASE PROJECT PROTOTYPE COST. The base project prototype cost is computed by multiplying the then current applicable unit prototype cost by the number of units for that unit size and structure type and then adding the amount for all units in the proposed project. The base project prototype cost is determined using the unit prototype cost in effect when the ACC is prepared. An example of the calculations is as follows:

Structure Type	No. of Bedrooms	No. of Units		Published Unit Prototype Costs	Total
Row	2-BR	20	X	\$20,500	= \$ 410,000
Row	3-BR	50	X	24,500	= 1,225,000
Detached	4-BR	20	X	30,500	= 610,000
					\$2,245,000

3-178. PROTOTYPE COST ADJUSTMENT FACTOR. A cost adjustment factor is developed to recognize actual changes (increases or decreases) in construction costs from the effective date of the unit prototype cost (used to determine the base project prototype cost) to the execution date of the construction contract (conventional) or contract of sale (turnkey). The cost adjustment factor is based on actual changes in construction cost using the Boeckh's index. However, if another commercial index (e.g., Marshall Swift's) is customarily used by the Area Office for routine processing, it may be used instead of the Boeckh's Index.

Example: The construction contract or contract of sale is to be executed eighteen (18) months after publication of the unit prototype cost schedule. The actual

increase in construction cost during that eighteen (18) months, as measured by the Boeckh's Index, was nine (9) percent.

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3-179. PROJECT PROTOTYPE COST LIMIT. The project prototype cost limit is the ceiling amount that the Area Manager may approve for dwelling construction and equipment (Account 1460 and Account 1465) in the construction contract or contract of sale. The project prototype cost limit is determined at the time that the construction contract or contract of sale is to be executed. This is determined by multiplying the base project prototype cost by the prototype cost adjustment factor.

Example:	Base Project Prototype Cost	\$2,245,000
	Prototype Cost Adjustment Factor	x 1.09
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	Project Prototype Cost Limit	\$2,447,050

In limited circumstances, it may be necessary to exceed the project prototype cost limit to carry out the objectives of the Act. Section 6(b) of the Act provides that the prototype cost may be exceeded by up to ten (10) percent. All requests to exceed the project prototype cost limit except as authorized below must be submitted for approval by the Assistant Secretary for Housing. If the additional cost does not exceed ten (10) percent, the Area Manager may approve a higher project prototype cost for the following reasons:

- a. Local Building Requirements. Increases attributable to changes in local building requirements (e.g., codes, ordinances) which were imposed after the unit prototype cost schedule was published.
- b. Minimum Property Standards. Increases attributable to changes in the HUD Minimum Property Standards or the additional public housing program standards which were imposed after the unit prototype cost schedule was published.
- c. Scattered Site Housing. Higher development costs are anticipated because the project is being developed as scattered site housing.
- d. Increases During Construction. Change orders, that are beyond the scope of the construction contract or contract of sale, which are required to provide a necessity, appropriate betterment, or equivalent, for the proposed

project.

3-180 thru 3-190. RESERVED.

3-129 thru 3-134

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Section 14. Total Costs, Budgets and Amendments

3-191 thru 3-200. RESERVED.

3-135 thru 3-144

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* Section 15. Fund Reservations, Corrections, Reformulations and
Deobligations.

3-201 thru 3-203. RESERVED.

3-204. FUND REQUIREMENTS FOR REFORMULATIONS. Project Accounting Data (PAD) sheets, Form HUD-52540 and/or Form HUD-52541A, are part of the required submission when a reformulation is requested pursuant to Chapter 3, Section 12. PADs for reformulations of projects having funds reserved in AHAS and/or PAS, will be forwarded from PIH to the Office of Finance and Accounting for processing and entry into the appropriate accounting system. It is the responsibility of the Regional Office/Field Office to check AHAS/PAS to insure the proper PADs are included with the request and to verify after the entry has been made to make sure all entries have been made correctly. Examples of PADs for proposed reformulations follow:

- a. For projects with pre-1987 reservations reserved in AHAS and with amendment capital funds reserved in PAS, both Forms HUD 52540 and 52-541A may be needed for both the source ("FROM") and receiving ("TO") projects as applicable and described below.
- b. For pre-1987 reservations, reserved in AHAS, a Form HUD 52540 shall be prepared for both the source ("FROM") and the receiving ("TO") projects pursuant to the latest instructional Notice and as follows:
 - (1) To split one project into two (or more), both Forms HUD-52540 shall identify an "S" in Block 1 to designate the "transfer action." Also in Block 1, the "FROM" side of the transaction will have circled a "G" for "amendment decrease" and the "TO" side will have circled an "N" for

"new" project. The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. For both PADs, the initial reservation date of the "FROM" project shall be entered in Block 9. Block 10 will be left blank.

- (2) To combine two (or more) projects into one, both Forms 52540 shall identify an "S" in block 1 to designate the "transfer action." Also in Block 1, the "FROM" side will have a "T" circled for "termination" and the "TO" side will have a "B" circled for "unit (and funds) increase." The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. For both PADs, the initial reservation date of the "TO" project (which shall be the earlier reserved project) shall be entered in Block 9. Block 10 will be left blank.
- (3) To redistribute units and related funds among two (or more) projects, both Forms 52540 shall identify an "S" in Block 1 to designate the "transfer action." Also in Block 1, the *

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* "FROM" side will have a "G" circled for "amendment decrease" and the "TO" side will have a "B" circled for "unit (and funds) increase." The applicable "FROM" and "TO" identifiers shall be stated at the top of the PADs. The initial reservation dates of each project shall remain as they were and must be entered in Block 9 of the applicable PADs. Block 10 will be left blank.

c. For projects with capital funds reserved in PAS in 1987 and thereafter, a Form HUD-52541A shall be prepared for both the source ("FROM") and the receiving ("TO") projects pursuant to the latest instructional Notice. In each case, the applicable "TO" and "FROM" identifiers shall be stated at the top of the PADs. Also see paragraph d, below.

- (1) To split one project into two (or more), two Forms HUD-52541A should be prepared indicating transfer of funds/corrective action with an "RF" in Block 1 for the "FROM" side of the transaction and an "N" in Block 1 for the "TO" side of the transaction. Separate PADs must be completed for "FROM" and "TO" projects for each program code (Block 2) involved in the transaction. Block 9 should indicate the original reservation date of the "FROM" project as the effective date of both PADs.
- (2) To combine two (or more) projects or to redistribute units and related funds among two (or more) projects, two Forms HUD-52541A should be prepared indicating transfer of funds/corrective action with an "F" in Block 1 for the "TO" side of the transaction and an "RF" in Block 1 for the "FROM" side of the transaction. Separate PADs must be completed for "FROM" and "TO" projects for each

program code (Block 2) involved in the transaction. When combining two projects, Block 9 should indicate the initial reservation date of the "TO" project (which shall be the earlier reserved project) as the effective date for both PADs. When redistributing units and related funds, the initial reservation dates of each project shall remain as they were and be entered in Block 9 of the applicable PADs.

d. The first use of a PAS Program Code (Block 2) establishes a "new" project number under the program code. For example, a project funded in 1988 with PHR funds and PHD funds will have two project numbers: one in the PHR file and another in the PHD file. If amendment funds are added in another year, the use of Program Code "PHA" will generate a new project number in the PHA file. Any other modification to a project number, such as changing the development method suffix to "A" to "C" to accommodate a PHA request to change from Conventional to Turnkey new construction, will also generate a new project number. *

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* (1) FIELD OFFICE ACTION Staff responsible for preparing PADs for public housing development and MROP actions must be careful to put the correct date in Block 9 so that the original reservation date is not accidentally overlain with a "subsequent action" date. When adding amendment funds for the first time to a previously reserved project, for example, the "effective date" is the original reservation date. To change a project from one development method to another, every program code used under the "old" number must be reduced to zero units/funds and the amounts reestablished under the "new" project number. The effective date of the "new" project shall be the original reservation date.

(2) REGIONAL OFFICE ACTION Regional Office staff must be particularly sensitive to PAS transactions involving public housing, especially when dealing with the "N" modifier code. Field Office staff have been instructed to input the original reservation date in Block 9 of the PAD when effecting such actions as changes in development method or adding amendment funds for the first time. If PAS requires an "N" modifier subsequent to the initial reservation, the "effective date" must be the initial reservation date. Before a reformulation or development method change request is forwarded to Headquarters for consideration, the RAD should perform an on-line inquiry of the A96DGC report to determine what Program Codes will be affected. If the appropriate PADs are not transmitted with the request, Headquarters cannot consider it. *

3-205 thru 3-211. RESERVED.

3-147 thru 154

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Section 16. Reporting Requirements

3-212 thru 3-220. RESERVED.

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