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24 CFR Ch. IX (4-1-91 Edition)

approval of these documents, the FHA advertises for competitive bids to build or rehabilitate the project on the FHA-owned site and, after field office approval, awards a construction contract to the lowest responsible bidder. The contractor is required to furnish a 100 percent performance and payment bond or, notwithstanding 24 CFR 85.36(n), other assurances approved by the field office. The contractor receives progress payments from the FHA during construction or rehabilitation and a final payment upon completion of the project in accordance with the construction contract.

(b) Turnkey. The turnkey method may be used for either new construction or rehabilitation. The PEA advertises for and selects the turnkey developer who submits the best housing package for a site or property owned or to be purchased by the developer. The FHA then submits a proposal, incorporating the turnkey developer's submission, to the field office for approval. After field office approval of the FHA proposal, the ACC is executed and the developer prepares the design and construction documents. Following PEA and field office approval of these documents, the developer and FHA enter into a contract of sale which is approved by the field office. The developer is responsible for providing a completed housing project, which includes obtaining construction financing. Upon completion of payment and certification of construction or rehabilitation in accordance with the contract of sale, the FHA purchases the proceeds from the developer.

(c) Acquisition. The acquisition method may be used only to purchase existing properties that require little or no repair work (not to exceed the aggregate 10 percent of the project total development cost). The PEA identifies the specific property and requests that the contractor, after an appraisal and field office approval, the ACC is executed, and the PEA acquires the property. Repair work is completed after acquisition, either by the PEA contracting to have the work done or by having the staff of the PEA perform the work.
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...ing need and development priority. The application is used by the field office to determine the extent that public housing funds will be allocated to specific allocation areas and which of several PHAs competing for contract authority within an allocation area, should be given the first opportunity to submit a proposal for developing a project.

Central city allocation area. The central city of a standard metropolitan statistical area, or a formula entitlement community development block grant recipient, either of which is established as a separate allocation area by a field office pursuant to 24 CFR part 701.

Community. A municipality or other general purpose political subdivision below the county level.

Construction Contract. A contract (the form prescribed by HUD) between the PHA and a contractor to build or rehabilitate a project using the conventional development method.

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

Contract of sale. A contract (in the form prescribed by HUD) between the PHA and a developer whereby the PHA agrees to purchase a completed project for construction or rehabilitation by a developer using the turnkey development method.

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

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

Field Office. See HUD.

Housing Assistance Plan. A local housing assistance plan approved by the PHA and defining the requirements of the community development block grant regulation (24 CFR part 910) whether or not the unit of general local government submitting the plan is a participant in the block grant program.

Household type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing types. The three housing types are (1) new construction, (2) rehabilitation, and (3) existing housing (24 CFR part 781).

HUD. The Department of Housing and Urban Development, including the Regional Office and the Service Centers.

Proposed sites for public housing projects must be located within the same public service and facilities area, which must provide the PHA and the applicable local governing body with the opportunity to develop a project. PHAs shall include in their proposals a description of the site, including the location of the site, characteristics of the site, any existing facilities, access to public transportation, and the potential for development.

Local cooperation. The PHA and the local governing body must be involved in the site selection process and must submit a proposal to HUD for consideration. The PHA shall provide the local governing body with the opportunity to participate in the development of the project. The local governing body must be given the opportunity to review and comment on the PHA's proposal and to provide input into the development process. The PHA and the local governing body must have a cooperative agreement, which must be approved by HUD, to ensure that the project is consistent with the local government's planning and development goals.

Reformulation. The procedure by which HUD formulates the site and neighborhood standards includes (a) site selection, (b) public hearing, and (c) review by the public.

Site and neighborhood standards. Proposed sites for public housing projects must meet the following site and neighborhood standards:

(a) The site must be adequate in size, location, and character to accommodate the number, size, and character of the proposed site.

(b) The site must be free from any condition that may interfere with the development, operation, or maintenance of the project.

(c) The site must be compatible with the surrounding community and have access to necessary public services and facilities.

(d) The site must be located in an area that has adequate public transportation, utilities, and other necessary services.

(e) The site must be located in an area that is consistent with the local government's planning and development goals.

(f) The site must be located in an area that is consistent with the local government's land use plans and zoning regulations.

(g) The site must be located in an area that is consistent with the local government's environmental regulations.

(h) The site must be located in an area that is consistent with the local government's social and economic development goals.

(i) The site must be located in an area that is consistent with the local government's cultural and historical preservation goals.

(j) The site must be located in an area that is consistent with the local government's floodplain and flood hazard reduction goals.

(k) The site must be located in an area that is consistent with the local government's air quality and pollution control goals.

(l) The site must be located in an area that is consistent with the local government's solid waste management and recycling goals.

(2) A racially mixed area if the site will cause a significant increase in the proportion of minority residents in the area.

(3) A site that is located in an area that is consistent with the local government's land use and zoning regulations.

(4) A site that is located in an area that is consistent with the local government's environmental regulations.

(5) A site that is located in an area that is consistent with the local government's cultural and historical preservation goals.

(6) A site that is located in an area that is consistent with the local government's floodplain and flood hazard reduction goals.

(7) A site that is located in an area that is consistent with the local government's air quality and pollution control goals.

(8) A site that is located in an area that is consistent with the local government's solid waste management and recycling goals.

(9) A site that is located in an area that is consistent with the local government's land use and zoning regulations.

(10) A site that is located in an area that is consistent with the local government's environmental regulations.

(11) A site that is located in an area that is consistent with the local government's cultural and historical preservation goals.

(12) A site that is located in an area that is consistent with the local government's floodplain and flood hazard reduction goals.

(13) A site that is located in an area that is consistent with the local government's air quality and pollution control goals.

(14) A site that is located in an area that is consistent with the local government's solid waste management and recycling goals.

(15) A site that is located in an area that is consistent with the local government's land use and zoning regulations.

(16) A site that is located in an area that is consistent with the local government's environmental regulations.

(17) A site that is located in an area that is consistent with the local government's cultural and historical preservation goals.

(18) A site that is located in an area that is consistent with the local government's floodplain and flood hazard reduction goals.

(19) A site that is located in an area that is consistent with the local government's air quality and pollution control goals.

(20) A site that is located in an area that is consistent with the local government's solid waste management and recycling goals.

(21) A site that is located in an area that is consistent with the local government's land use and zoning regulations.

(22) A site that is located in an area that is consistent with the local government's environmental regulations.

(23) A site that is located in an area that is consistent with the local government's cultural and historical preservation goals.

(24) A site that is located in an area that is consistent with the local government's floodplain and flood hazard reduction goals.

(25) A site that is located in an area that is consistent with the local government's air quality and pollution control goals.

(26) A site that is located in an area that is consistent with the local government's solid waste management and recycling goals.
(1) The site must comply with any applicable conditions in the local housing assistance plan approved by the field office.

(g) The housing must be accessible to nonresidential, educational, commercial, and health facilities and services, and other municipal facilities and services, that are at least equivalent to those typically found in neighborhoods consisting largely of similar unassisted standard housing.

(b) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(i) The project may not be built on a site that has occupants unless the relocation requirements referred to in § 941.207 are met.

(j) The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been mandatory since the National Flood Insurance Act of 1966, unless the project is covered by flood insurance under the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

$941.203 Design and construction standards.

Projects shall not be of elaborate or extravagant design or materials, and shall be developed to promote serviceability, efficiency, economy, and utility, and to promote the economic and social well-being and advancement of the prospective occupants. Projects must comply with:

(1) HUD Minimum Property Standards, or, if applicable, the HUD Minimum Design Standards for Rehabilitation for Residential Properties.

(2) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for families or persons with handicaps.

(c) HUD requirements pertaining to noise abatement and control.

(d) Applicable State and local laws, codes, ordinances, and regulations.

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

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

$941.204 Cost guidelines.

(a) General. (1) HUD will establish cost guidelines to ensure that the cost of developing modest-moderate Public Housing is reasonable. The guidelines will be used for the purpose of reserving funds for Public Housing projects and, except as provided in § 941.406(a), will represent the maximum initial development cost (TD) that may be approved for a project.

(2) Cost guidelines represent HUD's determination of the current total development costs within a market area for comparable Public Housing that is developed in conformity with the minimum property standards, local building codes, and the housing design and construction standards contained in this part. The cost guidelines are issued for specific unit sizes (i.e., number of bedrooms) and structure types (i.e., detached, semidetached, row, walkup, or elevator) in each market area. For purposes of this part, market areas are those areas within which trade conditions and economic influences tend to make development costs substantially the same. Each guideline is developed with consideration being given to, among other things, the current cost of developing comparable Public Housing construction and equipment, land, demolition, site improvements, and PHA administrative costs.

(b) Issuance of cost guidelines. HUD will issue cost guidelines periodically (usually on an annual basis) by notice sent to PHAs and others.

(c) Interim revisions. (1) A PHA or HUD field office may request revisions to cost guidelines to be published for a market area (or the establishment of a separate market area within an existing market area) before the issuance of the next regularly scheduled cost guidelines as described in paragraph (b) of this section. A request must be in the manner and form prescribed by HUD and must be based upon the actual cost of developing modest-moderate nonluxury Public Housing. The Assistant Secretary may issue revised guidelines for a market area (or a separate market area within an existing market area) if HUD determines that the evidence submitted clearly demonstrates that the actual cost of development within the market area (or within a separate market area within the existing market area) is higher than the most recently issued guidelines for the market area.

(2) HUD will issue with its cost guidelines, a description of the methodology used to compute the cost guidelines and a description of the documentation that must be submitted in support of a request for interim revisions.

(15 FR 4138, Oct. 3, 1982)

$941.205 PHA contracts.

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

(b) Contract forms. All development related contracts shall be in the form prescribed by the field office.
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(d) Prevailing wage. Participation in this program requires that 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) shall be paid to all laborers and mechanics employed in the development of a project. All architects, engineers, draftsmen, and technicians shall be paid not less than the prevailing rates prevailing in the locality as determined or adopted by HUD (42 U.S.C. 1408). Prevailing wages determined under State law shall be applicable under the circumstances set out in § 941.502(d).

(e) Minority Business Enterprises. Participation in this program requires compliance with the 11425, Prescribing Administrative Action for Developing and Coordinating a National Program for Minority Business Enterprises.

(f) Age discrimination. Participation in this program requires compliance with the Age Discrimination Act of 1975, and all related rules, regulations, and requirements.

(g) Appropriability of 26 CFR part 85. The Administrative Requirements for Grants and Cooperative Agreements to State, local, and Federally Recognized Indian Tribal Governments set forth in 24 CFR part 85 are applicable to grants and cooperative agreements as provided in § 941.502.

(h) Lead-based paint. All existing property constructed prior to 1978 (or substantially rehabilitated prior to 1978) and proposed to be acquired for family projects (whether or not they will need rehabilitation) under this part shall be tested for lead-based paint on applicable surfaces (including both interior and exterior and described in 24 CFR 984.45(e)). If lead-based paint is found, the lead test of testing and abatement shall be considered when determining costs under § 941.263.

(i) Making the cost comparison to justify new construction as well as (2) meeting maximum total development cost limitations. If units containing lead-based paint are acquired in compliance with 24 CFR part 35 and 24 CFR part 95 subpart H is required, and abatement is required as described in 24 CFR 95.703 shall be completed prior to occupancy.

(i) Intergovernmental Review. Participation in this program requires compliance with Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department’s implementing regulations at 24 CFR part 52. This order applies to each State to establish its own process for review and comment on proposed Federal financial assistance programs.

invited to submit proposals pursuant to subpart D. In this way, a PHA will not be faced with front-end expenditures to prepare proposals and option sites until the PHA has a reasonable assurance of obtaining funding for a project.

(c) Revisions. Each PHA with an application being held in the field office pipeline pursuant to §414.203, during the month of July shall notify the field office in writing that the PHA has reviewed the contents of its application and determined that no changes are required or, if applicable, the PHA shall submit a revised application.

§414.202 Content.
(a) General. Each application shall be for a specific project, and separate applications shall be submitted by housing type, development method, and community for which the project is proposed. If a PHA submits more than one application for a community, the PHA shall assign a priority rating to each application for that community based on the PHA assessment of local housing need and priorities.
(b) PHA Eligibility. The application shall include a showing that the PHA has met the eligibility and local cooperative requirements of §414.201.
(c) PHA administrative capability. The application shall include evidence from a new PHA or updated information, if any, that the PHA has the capability to develop the project and operate all of its projects in compliance with the program requirements.
(d) Tenant selection experience. The application shall include:
(1) A statement of the PHA experience in selecting tenants whose habits or practices may reasonably be expected to have a positive effect on the project or other tenants; and
(2) A statement of the PHA experience in selecting a cross section of tenants with a broad range of incomes and rent paying abilities that is representative of the range of incomes for lower income families in the community.
(e) Housing need and local priorities. The application shall include:
(1) A statement of the extent the application would address local housing need in the community for which the project is proposed to meet any applicable three-year HAP goals or, in the absence of a HAP, other housing needs identified in State, regional, or local housing surveys or plans;
(2) Information concerning local housing priorities and relationship of the proposed project to local community development activities.
(f) Project description. The application shall include:
(1) Community for which the housing is proposed;
(2) Development method used;
(3) Housing type; and
(4) Number of units by household type and unit size (number of bedrooms) and structure type.

§414.303 Pipeline.
(a) Application review. Each application shall be reviewed by the field office to determine the consistency with the program requirements.

(b) Application rating. Each approval application is assigned a general priority rating based on housing need and relationship of the proposed project to other local activities. In establishing the priority rating, consideration also shall be given to local priorities identified in the application and the PHA's need to develop additional public housing.
(c) Retention in application pipeline. Approvable applications shall be retained in the application pipeline by the field office until sufficient funds become available to fund applications with a higher priority rating are received. The number of units in the pipeline shall not exceed the number of units that can reasonably be expected to be funded in a three-year period. If the number of units in pipeline applications exceeds this level, only the applications with the highest priority rating shall be retained by the field office.
(d) Disposition of applications. Unapprovable applications and those receiving a rating which places them below the anticipated three-year funding level shall be returned to the PHA with an explanation of the reasons for the action.

§414.401 Fund allocations.
(a) Funds for public housing projects are allocated to each field office and specific allocation areas pursuant to 44 CFR part 791, subpart B. Each field office develops an allocation plan which establishes the amount of public funding to be made available for specific allocation areas and announces the estimated number of units, by housing type and household type, that these funds are expected to produce in each allocation area.

§414.402 PIA allocations.
(a) Issuance of invitation. When funds become available for other than central city allocation areas, the field office shall invite PIA's with high rated applications in the pipeline to submit proposals pursuant to this subpart. If there are insufficient pipeline applications for a particular housing type or household type, the field office may send letters requesting PIA's to submit additional applications prior to inviting proposals.
(b) Project planning conference. The field office shall advise the PHA that a project planning conference has been scheduled for a specific date to discuss the program requirements and the PHA and field office actions related to project planning and development.
(c) Front-end expenditures. A PHA inside a central city allocation area is expected to provide necessary funding related to the preparation and submission of proposals. Such a PHA may request front-end funding assistance by HUD only if:
(1) Scattered-site housing involving rehabilitation under the conventional method; or
(2) Scattered-site existing housing to be purchased under the acquisition method.

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§414.603 PIAs outside central city allocation areas.
(a) Issuance of invitation. When funds become available for other than central city allocation areas, the field office shall invite PIAs with high rated applications in the pipeline to submit proposals pursuant to this subpart. If there are insufficient pipeline applications for a particular housing type or household type, the field office may send letters requesting PIAs to submit additional applications prior to inviting proposals.
(b) Project planning conference. The field office shall advise the PHA that a project planning conference has been scheduled for a specific date to discuss the program requirements and the PHA and field office actions related to project planning and development.
(c) Front-end expenditures. Except as provided in this paragraph, PIAs outside a central city allocation area are expected to provide necessary funding related to the preparation and submission of proposals. Such a PHA may request front-end funding assistance by HUD only if the PHA is:
(1) A newly established or small PHA proposing to build, rehabilitate, or acquire housing in communities that are not entitlement cities under the Community development block grants program;
(2) Proposing to build or rehabilitate scattered-site housing under the conventional method or proposing to purchase scattered-site existing housing under the acquisition method; or
(3) Other specific cases approved by the Assistant Secretary to permit a PHA, that would otherwise be precluded, to participate in a PIAs program without front-end funding assistance by HUD.
(d) ACC preparation and execution. The ACC shall be prepared on the basis of the PHA application and will be sent to the PHA in advance. The PHA shall be requested to execute the ACC and return it to the field office.
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office with its proposal, so that the field office can execute the ACC when the proposal is approved. However, if execution of an ACC has been approved to provide from-end funding pursuant to §41.428(d), the PEA shall be authorized to execute the ACC and return it to the field office for execution prior to submission of the proposal.

§ 441.404 Proposal content.

Each proposal shall be prepared in the form prescribed by HUD and shall include, at a minimum, the following:

(a) Project. A description of the housing, including the number of units, schematic drawings of the properties, or rehabilitation, site specifications or rehabilitation work write-ups, and the types and amount of non-dwelling space to be provided.

(b) Site information. An identification and description of the proposed site, site plan, neighborhood, and evidence of PEA or turnkey developer control of the site for at least 30 days after submission. 

(c) Project construction cost estimate. For conventional projects, a preliminary project construction cost estimate based on the schematic drawings and outline specifications and current construction costs prevailing in the area. For turnkey projects, the developer's price for the project based on the deadline date specified in the PEA's advertisement for turnkey developers.

(d) Zoning. Evidence that construction or rehabilitation will be permitted by current zoning ordinances or regulations or evidence to indicate that needed rezonings will not delay the project.

(e) Facilities. A statement addressing the adequacy of existing or proposed facilities and services for the prospective occupants of the project and an estimate of the minority enrollment and capacity of the school system to absorb the number of school-aged children expected to reside in the project.

(f) Relocation. Information concerning arrangements of site occupants, including identification of each, the PEA distribution plan for notification of the anticipated cost and source of funding for relocation benefits.

(g) Financial feasibility. A PEA subject to the performance funding system shall demonstrate the financial feasibility of the project by showing that the estimated operating expenses will not exceed the estimated operating income for the first fiscal year of operation. If expenses are greater than income, the PEA may consider a supplement to the performance funding system that would be made available to the project under a separate or consolidated ACC. A PEA that is subject to the performance funding system shall provide a demonstration of financial feasibility in accordance with the procedures determined by the Assistant Secretary.

(h) Utility analysis. An analysis of utility costs demonstrating that the best utility combination is being proposed, based on initial installation costs, annual utility costs, and other factors such as comfort and maintenance costs, energy conservation, and evidence that the selected utilities will be available for the proposed project.

(i) Contracts. A copy of the proposed contract between the PEA and its design or inspecting architect and, if applicable, the PEA's executed ACC. 

(j) For projects being developed using the turnkey method, a copy of the PEA's advertisement and information furnished to developers, the housing package submitted by the PEA to developers, and documentation that the PEA selected based on an objective rating system using such factors as performance, cost, design, price, and developer experience.

(k) Acquisition projects. For existing housing, a certification by owner or owner/lessee and owner or lessee that the property was not constructed with the intent that it would be sold to the PEA.

(l) Project development schedule. A copy of the PEA development schedule, including the PEA's architect or turnkey developer estimates of the time required to complete each major development activity.

(m) Intergovernmental Review. New construction projects and substantial rehabilitation which involves a change in land use, an increase in project density, or a change from rental to ownership, must meet the Intergovernmental Review requirements of 24 CFR part 52. The PEA must certify that the State Single Point of Contact (SPOC) was notified, if by project a copy of the signed and dated Standard Form SF-424 was sent directly to the State, the PEA submitted an Intergovernmental Review (SG-402). If no SPOC, or if development is not a program or activity selected for the State process, the PEA must submit a copy of SF-424 to the PEA, PEA must submit an Intergovernmental Review.

§ 441.405 Technical processing and approval.

(a) Initial screening. The field office shall perform an initial screening to determine that all required documentation has been submitted. The field office shall advise the PEA of any deficiencies in the proposal and that additional information will be accepted if it is received by a specified date.

(b) Technical processing. Upon determination that a proposal is acceptable for technical processing, the field office will:

(1) Send a notification to the chief executive officer (or designee) of the unit of general local government pursuant to §441.406(c) or §441.407(b), and the PEA shall submit a copy of the notice to the PIA, within 10 days from the date of the field office transmittal letter.

(2) Evaluate the proposal to determine compliance with all program requirements including, if applicable, the requirements set forth in the portion of Appendix II of the Intergovernmental Review, or from the unit of general local government.

(3) Complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4330) for each proposal.

(4) Determine the appraised value of the site or property.

(c) Proposal approval. The field office shall send a notification letter to the PIA following what has been approved or disapproved. For approved proposals, the field office letter shall indicate the approved development cost and the appraised
value of the site or property. The ACC will be sent to the PHA for execution or, where the PHA has already executed the ACC, the field office will execute the ACC and send a copy to the PHA.

(d) Cancellation of fund reservation. The field office may cancel the fund reservation if the PHA fails to develop the project within the 30-month period, on or before the time of fund reservation, allowed for a start (the beginning of construction or rehabilitation), or for completion (acquisition of existing housing) pursuant to section 5(k) of the Act. During this 30-month period, the PHA may, in accordance with HUD requirements, change the site of the public housing project, or reformat the project, provided that the change in site or reformatting results in not less than the original number of dwelling units to be constructed, rehabilitated, or acquired. The site or property shall be excluded from the computation of the 30-month period any delay in the beginning of construction or rehabilitation of the project caused by: failure of HUD to act on the project within a reasonable period of time; any environmental review requirement; any legal process relating to the project; or any other factor beyond the control of the PHA. Extensions beyond 30 months may be granted by the Regional Administrator. In the event the PHA defaults on its obligations with regard to the project, advances made to the PHA shall be repaid by the PHA from any funds or assets available for that purpose.


Effective Date Notice: At 54 FR 34383, Apr. 1, 1989, § 941.408 was amended by revising paragraph (b) introductory text and (b)(1), and adding paragraph (d), effective May 3, 1991. For the convenience of the user, the superseded text follows:

§ 941.408 Technical processing and approval.

(a) Technical processing. Upon determining that a proposal is acceptable for technical processing, the field office shall:

(1) **

(b) Technical processing. Upon determining that a proposal is acceptable for technical processing, the field office shall:

(1) **

(2) Evaluate the proposal to determine compliance with all program requirements and, if applicable, the comments received from the unit of general local government.

§ 941.406 Maximum development cost and advances.

(a) Maximum total development cost (TDCC). The maximum total development cost (TDCC) is calculated by multiplying the number of units for each bedroom size and structure type in the project times the applicable fund guidelines for the bedroom size and structure type and adding the resulting amounts for all units in the project.

(b) The total project cost that may be approved and reserved for a proposed project at the time of the initial reservation of funds may not exceed 100 percent of the maximum TDCC based on the most recently issued cost guidelines.

§ 941.404 Maximum development cost and advances.

(a) After initial fund reservation and project, the availability of funds:

(1) A Field Office may approve costs (which include local donations and reserve funds) for a project up to 100 percent of the maximum TDCC based on the most recently issued cost guidelines.

(b) The Regional Administrator may approve costs (which include local donations and reserve funds for a project up to 100 percent of the maximum TDCC based on the most recently issued cost guidelines and advance the funds to the PHA.) The assistance may authorize the Field Office to approve costs and reserve funds for a project above 105 percent of the maximum TDCC based on the most recently issued cost guidelines.

(c) The Assistant Secretary may authorize the Field Office to approve costs and reserve funds for a project above 105 percent of the maximum TDCC based on the most recently issued cost guidelines.

(d) The Assistant Secretary, as appropriate, may approve increases under paragraph (a)(2)(ii) of this section, if the costs are reasonable and necessary to develop a modest non-luxury project that provides for efficient design, durability, energy conservation, safety, security, economical maintenance, and healthy family life in a neighborhood environment.

§ 941.581 Site and property acquisition.

(a) Applicability. The provisions of this section apply to projects being developed under the conventional or acquisition methods.

(b) Purchase agreement. The PHA, upon approval of the proposal, shall execute a purchase agreement with the owner. The purchase agreement shall reflect any conditions established by the field office such as the appraised value for the site or property or site engineering studies that must be determined whether the site is suitable for development of the project.

(c) Title. The field office shall notify the PHA that it is authorized to take title to the site or property. The PHA shall be required to obtain a title insurance policy or other title evidence acceptable to the field office which guarantees that the title is good and marketable. The PHA shall ensure that the deed and declaration of trust in the form prescribed by HUD are promptly recorded.

§ 941.582 Project design and execution of contracts.

(a) General. The PHA, unless otherwise authorized by the field office, shall submit interim or preliminary design documents for field office approval prior to execution and submit the detailed construction documents. The field office shall review both the design and the construction documents for consistency with the proposal, to determine that all HUD design and construction standards have been met, and to ensure that the project development...
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Costs are reasonable and are within the applicable cost limitations.

(1) General method. (1) The design documents and the construction documentation shall be prepared in accordance with HUD criteria for approval by the field office.

(2) The project total development cost estimate (not excluding site or property purchase) shall be adjusted on the basis of a commercial construction cost index to reflect actual changes in construction costs between the date the proposal was submitted and the date the construction documents are approved. An additional adjustment shall be made to reflect anticipated changes in construction costs from the date the construction documents are approved to the scheduled date for completion of the construction contract.

(3) After the Field Office has approved the construction documents and construction cost estimates, the PHA shall advertise for bids. In order to approve the execution of the construction contract, the Field Office shall determine that the low bid is responsible according to the Invitation and will result in a total development cost that does not exceed the Field Office estimate of the total development cost or the maximum total development cost approved by the Field Office under §141.44(a).

(4) After field office approval, the construction contract shall be executed by the PHA and the contractor. The PHA shall issue a notice to proceed with construction or rehabilitation in accordance with the construction contract and the approved construction documents.

(c) Turnkey method. (1) The design documents and the construction documents shall be prepared in accordance with HUD criteria for approval by the field office.

(2) The developer's price (excluding site or property purchase and interest during construction) shall be adjusted on the basis of a commercial construction cost index to reflect actual changes in construction costs between the date the cost estimate in the PHA Invitation for project submissions under the turnkey method and the date the contract for sale is executed. However, such adjustments shall not be made for any time period attributable to developer caused delays.

(3) The developer's amount of interest during construction shall be adjusted to reflect the actual construction loan interest rate prevailing in the area at the time the contract for sale is executed.

(4) In order to approve execution of the contract for sale, the field office shall determine that the developer's price does not exceed the Field Office estimate of total development cost, or result in a maximum total development cost in excess of that approved by the Field Office under §141.44(a).

(5) After field office approval, the contract for sale shall be executed by the PHA and the contractor. The PHA shall then proceed with construction or rehabilitation of the project in accordance with the contract for sale and the approved construction documents.

(d) Acquisition method. The field office shall determine that the PHA's estimate of the project total development cost and acquisition price and the cost for minor repairs, if required, is reasonable and does not exceed the field office's replacement cost. After field office approval, the PHA shall purchase the property and complete any repairs in accordance with HUD requirements.


§141.403 Construction requirements.

(a) Economy. The PHA shall complete development of the project in accordance with the project development schedule, at the lowest possible cost, within the total development cost identified in the ACC, and consistent with HUD construction requirements.

(b) Contract changes. The PHA shall not approve any changes or additions to the work required under the construction contract or contract of sale as a part of the acquisition method, except as authorized by the provisions of these contracts or by the field office.

(c) Contract administration. The PHA shall be responsible for contract administration and shall contract for the services of an architect, or other person licensed under State law, to assist and advise the PHA in contract administration and inspections to ensure that the work is done in accordance with HUD requirements. A field office representative will periodically visit the project site to monitor PHA contract administration.


§141.404 Acceptance of work and contract settlement.

(a) Notification of completion. The contractor or developer shall notify the PHA in writing when the contract work, including any approved off-site work, will be completed and ready for inspection. No work shall be accepted by the PHA without prior field office approval. The final inspection will be made jointly by representatives of the PHA, the field office and the contractor or developer.

(b) Acceptance. If upon inspection, the PHA and the field office determine that the work is complete and satisfactory, except for work that is appropriate for delayed completion, the work shall be accepted. The PHA shall determine any amount due and payable for the work that has been accepted and the amounts due and payable for completed work that is subject to time of delay, and any conditions precedent to payment are stated in the construction contract or contract of sale. The field office
shall review and, if acceptable, approve the PHA determination concerning work to be accepted and the amount to be paid to the contractor or developer. The contractor or developer shall be paid for items of delayed construction only after inspection and acceptance of this work by the PHA and the field office.

(c) Title. If the PHA and field office determine that the turnkey developer completed the work in accordance with the contract of sale, the field office shall notify the PHA that it is authorized to take title to the completed project. The PHA shall be required to obtain a title insurance policy or other title evidence acceptable to the field office which guarantees that the title is good and marketable. The PHA shall ensure that the deed and declaration of trust in the form prescribed by HUD are promptly recorded.

(d) Guarantees and warranties. The construction contract or contract of sale shall specify the project guaranty period and amounts to be withheld and shall provide for assignment to the PHA of all manufacturer and supplier warranties required by the construction documents. The PHA shall inspect each dwelling unit and the overall project approximately three months after the beginning of the project guaranty period and three months before its expiration and also as may be necessary to exercise its rights before expiration of any warranties. The PHA shall require repair or replacement, prior to the expiration of the guaranty or warranty periods, of any defective items.

§ 44.506 Completion of development.

(a) Initial operating period. Total development cost shall include an amount for any net PHA operating deficit incurred during an initial operating period commencing with the date of execution of the ACC and ending on the date established by the field office pursuant to the ACC.

(b) Actual development cost. When all development has been completed and paid for, but not later than 12 months after the end of the initial operating period unless a longer period is approved by the field office, the PHA shall submit a statement of the actual development cost. The field office shall review the statement and establish the actual development cost of the project which becomes the maximum total development cost for purposes of the ACC.