

CHAPTER 4. FUND RESERVATION AND ACC AMENDMENT

4-1. FINANCIAL CONTROLS FFYS 1977-1986. Before FFY 1977, HUD used two financial controls: annual contributions contract authority (contract authority) and loan authority (capital funds). The Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1976 (P.L. 94-116) established a third control which was budget authority. From FFY 1977 through FFY 1986, all assigned modernization funds were subject to these three controls.

a. Contract Authority. Contract authority was the statutory authority which pledged the full faith of the Congress to appropriate funds to pay annual contributions committed by HUD in contracts with PHAs. A portion of the total contract authority provided by the Congress and apportioned each year to HUD by the Office of Management and Budget was allotted to the Assistant Secretary for Public and Indian Housing for committment for modernization purposes that year. Contract authority committed was the amount of annual contributions pledged annually to meet the annual level debt service of the costs of modernization.

b. Loan Authority (Capital Funds).

(1) Loan authority represented the costs of modernization (Maximum Modernization Cost) that could be supported by available contract authority. In determining the total amount of loan authority available nationally in any given FFY, Headquarters considered the available contract authority, the estimate average Minimum Loan Interest Rate for the FFY, and the maximum number of debt service annual contributions that would be paid on Modernization Projects.

(2) By using the estimated average Minimum Loan Interest Rate and the maximum number of debt service annual contributions, Headquarters obtained the amortization factor required to amortize the new modernization capital funds from the "Financial Compound Interest and Annuity Tables," Column entitled "Partial Payment," where the numbers at the right represented the number of debt service annual contributions. For example, if the Minimum Loan Interest Rate at the time of Headquarters fund assignment was

estimated to average 8 percent for the entire FFY, and the number of debt service annual contributions was 20, the amortization factor was .1018522088. If the contract authority available nationally was \$77,500,000, Headquarters computed the amount of

loan authority available nationally by dividing the contract authority (\$77,500,000) by the amortization factor which was rounded to five digits to the right of the decimal (.10185) to arrive at \$760,922,926 of available loan authority. This formula is illustrated below:

$$\text{(Loan Authority)} = \frac{\text{(Contract Authority)}}{\text{(Amortization Factor)}}$$

- c. Budget Authority. Budget authority was the total amount of annual contributions that would be paid by HUD under the ACC. For modernization, the budget authority available nationally was determined by multiplying the contract authority amount by the number of debt service annual contributions. For example, if the contract authority amount was \$77,500,000 and the number of debt service annual of debt service annual contributions was 20, the amount of budget authority available nationally was \$1,550,000,000. Budget authority was sometimes referred to as "run-out cost." This formula is illustrated below:

$$\text{(Budget Authority)} = \text{(Contract Authority)} \times \text{(Term)}$$

- d. Determination of Contract Authority Amount. The Field Office computed the amount of contract authority required to amortize the amount of loan authority proposed for a given Modernization Project by multiplying the amount of loan authority by the amortization factor. The amortization factor was obtained by using the applicable Minimum Loan Interest Rate and the number of debt service annual contributions. If the amount of loan authority proposed for a given Modernization Project was \$500,100, the amount of contract authority required was computed by multiplying the loan authority (\$500,100) by the amortization factor (.10185) to arrive at \$50,936 of contract authority. Contract authority was always rounded up to the nearest dollar. This formula is illustrated below:

$$\text{(Contract Authority)} = \text{(Loan Authority)} \times \text{(Amortization Factor)}$$

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- e. Determination of Budget Authority Amount. The Field Office computed the amount of budget authority required to amortize the amount of loan authority proposed for a given Modernization Project by multiplying the amount of contract authority by the number of debt service annual contributions. For example, if the contract authority amount was \$50,936 and the number of debt service annual contributions was 20, the budget authority amount was \$1,018,720. See formula in subparagraph c.

- 4-2. FINANCIAL CONTROLS FFY 1987 AND SUBSEQUENT YEARS. Beginning with FFY 1987, CIAP funds are provided on a capital grant basis. Budget authority is now equal to capital funds, previously known as loan authority.
- 4-3. PREPARATION OF PROGRAM APPROVAL DOCUMENTS. Immediately after the funding decisions, the Housing Management Specialist (HMS) shall prepare the following program approval documents:
- a. Form HUD-52541, Project Accounting Data (PAD). A sample Form HUD-52541 is attached as Appendix 11. Note that Form HUD-52541A is used for Public Housing and Form HUD-52541B * is used for Indian Housing. Prepare one PAD for all projects being funded which are under the same Consolidated ACC since such projects should be included in the same Modernization Project. *
 - b. Form HUD-416.2, HUD Notification.
 - c. PHA Approval Letter. See paragraph 3-25.
- 4-4. PROGRAM APPROVAL AND FUND RESERVATION.
- a. Assembly of Documents. The HMS shall assemble and route the following documents to the Field Office Manager or the Regional Administrator in co-located offices for approval:
 - (1) Original and two copies of the PHA approval letter;
 - (2) Original of the CIAP Application, including the marked-up budget;
 - (3) Original and two copies of the PAD; and
 - (4) Original and three copies of Form HUD-416.2.

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- b. Reservation Procedures. Reservation procedures differ during the first eleven months of the FFY and the last month of the FFY, primarily with regard to the establishment of the Notification Date of the approval letter.
 - (1) First Eleven Months of the Fiscal Year Procedures. During this period, the Notification Date is the date the transaction is recorded in the Program Accounting System (PAS).
 - (a) Field Office. The PAD is signed by the Field Office Manager or the Regional Administrator in co-located offices. The HMS shall forward the signed PAD, together with a signed copy of the undated approval letter, to the Regional Accounting Division (RAD).

- (b) RAD. The RAD shall ensure that funds for a Modernization Project are reserved within 72 hours from the date the reservation documents are received from the Field Office, as follows:
 - (i) After reviewing the reservation documents received from the Field Office for correctness, the RAD (assuming the documents are correct) enters the data into PAS. The RAD enters the transaction entry date (the date data are being keyed--(month/day/year) as the transaction effective date; i.e., Notification Date. After the date has been entered into PAS, the RAD will review the computer-generated transaction listing. If the Modernization Project reservation has been accepted by PAS, the RAD will then insert the effective date displayed on the transaction listing into Block 9 of the PAD.
 - (ii) For reservations accepted by PAS, the RAD shall notify the Field Office by rapid communication (telephone, teletype, facsimile, etc., as appropriate) of the Modernization Project number, amount of authority reserved, and the Notification Date (from Block 9 of the PAD).

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- (2) Last Month of the Fiscal Year Procedures. During this period, the Notification Date is the date the Field Office Manager or Regional Administrator in co-located offices signs the approval letter.
 - (a) Field Office. The procedures are the same as subparagraph b(1)(a), except that the approval letter is dated when the Field Office Manager or Regional Administrator in co-located offices signs it, and the HMS inserts that date in Block 9 of the PAD.
 - (b) RAD. The procedures are the same as subparagraph b(1)(b), except that the RAD enters the Notification Date into PAS from Block 9 of the PAD and the RAD ensures that the date in Block 9 of the PAD and the effective date on the transaction listing are the same.

4-5. TRANSMITTAL OF HUD NOTIFICATION.

- a. Upon notification from the RAD, the HMS shall arrange for the immediate transmittal of one copy of Form HUD-416.2 to the Office of Legislation and Congressional Relations by facsimile machine. The HMS shall verify with the appropriate machine operator that the facsimile was sent and that receipt was confirmed, and shall note the actual date and time of transmission. The HMS shall arrange for copies of Form HUD-416.2 to be sent to the Regional and Field Office Public Affairs Officers.
- b. The Field Office may announce a modernization program approval after five working days provided that the Office of Legislation and Congressional Relations has not telephoned the Field Office to request that announcement
* be delayed. At no time shall premature information be released to anyone. *

4-6. DISTRIBUTION OF APPROVED DOCUMENTS. When modernization program approval can be announced, the HMS shall arrange for the following distribution of approved documents:

- a. To the PHA, the original of the approval letter and one copy of the approved Form HUD-52825.
- b. To the AHMB files, the original of the CIAP Application, including the approved Form HUD-52825, and one copy each of the approval letter, Form HUD-52541, and Form HUD-416.2 for records purposes.

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- c. To the Regional or Chief Counsel, one copy of Form HUD-52541, with a listing of the projects included in the Modernization Project, for purposes of preparing the ACC Grant amendment.

4-7. ANNUAL CONTRIBUTIONS CONTRACT GRANT AMENDMENT.

- a. Preparation. After fund reservation, the HMS shall request Regional or Chief Counsel to prepare the appropriate Form HUD-53009, Modernization Project Grant Amendment to Consolidated ACC, as follows: Form
* HUD-53009A for non-Indian projects; Form HUD-53009B for Section 23 Leased Housing Bond-Financed projects (see paragraph 4-9 for special instructions; Form HUD-53009C for Indian rental or Turnkey III projects; or Form HUD-53009D for Indian Mutual Help projects. Samples of all four types of Form HUD-53009 are attached as Appendix 12. All projects included in the Modernization Project * must be under the same consolidated ACC. Lanham Act or PWA projects not under an ACC but included in the Modernization Project shall be placed under the ACC. Within 10 working days of fund reservation, Counsel shall transmit the ACC Grant amendment and Form HUD-9009,

General Certificate, to the PHA for completion and return, together with a copy of the resolution by the PHA Board of Commissioners authorizing execution of the ACC Grant amendment. Counsel shall notify the HMS of the transmittal date of these documents to the PHA.

- b. Execution. Within 30 calendar days of receipt of the ACC Grant amendment and other required documents, the PHA shall sign the documents and return them to Counsel. Upon receipt of the PHA-signed ACC Grant amendment and other required documents, Counsel shall forward the ACC Grant amendment to the Field Office Manager or Regional Administrator in co-located offices for execution within five working days. Execution of the ACC Grant amendment represents fund obligation and authorizes PHA drawdown of funds, if needed.
- c. Distribution of Legal Documents. After the Field Office Manager or Regional Administrator in co-located offices executes the ACC Grant amendment, Counsel shall notify the HMS and arrange for the following distribution of documents:
 - (1) To the PHA, one copy of the executed ACC Grant amendment.

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- (2) To Counsel's files, one copy of the executed ACC Grant amendment, the Board resolution, and the General Certificate for records purposes.
- (3) To the AHMB files, one copy of the executed ACC Grant amendment for records purposes.
- (4) To the RAD, the original of the executed ACC Grant amendment for purposes of entering the fund obligation into PAS.

4-8. SPECIAL REQUIREMENTS FOR HOMEOWNERSHIP PROJECTS.

- a. Promptly after HUD approval of the CIAP Application, each homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with subparagraphs b and * c, except where the modernization work is limited to the correction of development deficiencies, update of energy audits and undertaking of cost-effective energy conservation measures, and lead-based paint testing and abatement (see paragraph 2-11). *
- b. For Turnkey III projects and for Mutual Help projects placed under ACC from March 9, 1976, or converted in accordance with 24 CFR 905.428:

- (1) The amount of estimated modernization cost attributable to the home, as shown in the HUD-approved CIAP Application, shall be added to the homebuyer's purchase price as initially determined (under 24 CFR 904.113(a) or 904.115(b) for Turnkey III projects, or under 24 CFR 905.422(b) or (c) for Mutual Help projects).
- (2) The period of the homebuyer's current purchase price schedule shall be extended by the same percentage as the percentage of increase in the homebuyer's purchase price. The new purchase price schedule shall:
 - (a) show monthly amortization of the new purchase price over a period commencing on the same day as the original purchase price schedule and terminating at the end of the extended period; and
 - (b) be computed on the basis of the same interest rate as used for the current purchase price

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* schedule. (For Mutual Help Projects where the original development cost was funded through grants, no interest rate is used when computing the new purchase price schedule.) *

- (3) If a modernization program is approved for a project after one or more earlier modernization programs for the same project, the total amount of modernization cost attributable to the home under the prior modernization program(s) shall be included as part of the homebuyer's initial purchase price in applying the foregoing provisions of subparagraphs (b)(1) and (2).
- c. For Mutual Help projects placed under ACC before March 9, 1976, and not converted in accordance with 24 CFR 905.428 and for Turnkey III projects that do not have purchase price schedules:
- (1) These projects do not involve purchase price schedules for amortization of the homebuyer's purchase price over a fixed period of time because the homebuyer's purchase price in these projects is based on the unamortized balance of the portion of the project's development debt attributable to the home. Consequently, it is necessary to establish a separate schedule for the amortization of the estimated modernization cost attributable to the home, as shown by the HUD-approved CIAP Application.

(2) The PHA shall furnish to the homebuyer a schedule showing monthly amortization of the estimated modernization cost attributable to the home, at the Minimum Loan Interest Rate specified in the ACC for the Modernization Project, over a period commencing on the first day of the month after the date of original occupancy of the home by the homebuyer and terminating at the end of the period determined as follows:

(a) Divide the amount of the estimated modernization cost attributable to the home (including the total amount of modernization cost attributable to the home under prior modernization programs, if any) by the amount of the current HUD-approved estimated replacement cost of the home.

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(b) Multiply this amount by 25, round the result to the next higher number and add that number to 25. This is the number of years to be used as the period for the modernization amortization schedule.

(c) The purchase price for the unit shall be the sum of (A) the balance of the debt attributable to the home and (B) the amount remaining on the modernization schedule at the time of settlement.

d. See the Indian Housing Handbook 7440.1 for further instructions.

4-9. SPECIAL REQUIREMENTS FOR SECTION 23 LEASED HOUSING BOND-FINANCED PROJECTS.

a. Conditions. A Section 23 Leased Housing Bond-Financed project (BFP) is eligible for modernization only if the Field Office determines that the project has met all of the following conditions:

(1) The BFP was financed by the issuance of bonds.

(2) Clear title to the BFP will be conveyed to or vested in the PHA at the end of the Section 23 lease term. The Lease Agreement and Trust Indenture must provide that title to the property will pass to the PHA at that time. Based on title evidence provided by the PHA, Regional or Chief Counsel shall determine whether the PHA is assured of obtaining good title under the legal arrangements for the project and whether there are any liens or encumbrances against the property junior to the bond indenture.

- (3) Based upon a full review of the legal documentation for the BFP by Counsel, there are no legal obstacles affecting the PHA's use of the property as public housing during the 20-year period of the modernization. This review would include any known pending or threatened litigation affecting the BFP.
- (4) Based upon an on-site inspection of the BFP, the AHMB can certify that, after completion of the proposed modernization, the BFP will have a remaining useful life of at least 20 years, assuming timely maintenance and replacements, and

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that it is in the financial interest of the Federal Government to improve the BFP.

- (5) The BFP is covered by a Cooperation Agreement between the PHA and the local governing body during the 20-year period of the modernization, assuring tax exemption and provision of municipal services as in the case of PHA-owned projects.
- b. Processing. If the BFP meets the special conditions in subparagraph a and is, therefore, eligible for CIAP funding, the application requirements are the same as for PHA-owned projects. However, the following special processing requirements shall apply:
- (1) Separate Modernization Project. The BFP shall not be included in the Modernization Project for the PHA-owned projects. A separate Modernization Project shall be established for all of the PHA's BFPs to be modernized during any given FFY. A sample Form HUD-53009B, Modernization Project Grant Amendment to Consolidated ACC for Modernization of Section 23 Leased Housing Bond-Financed Projects, is attached as Appendix 12. The first Modernization Project for BFPs for a PHA shall be 985; e.g., VA36P030985. The second Modernization Project for BFPs for the same PHA shall be 986; e.g., VA36P030986.
 - (2) Cooperation Agreement.
 - (a) During the 20-year term of the Modernization Project, the BFP must be covered by a Cooperation Agreement between the local government and the PHA providing for tax exemption and other local assistance as in the case of PHA-owned projects. Form HUD-53009B states that the individual projects are exempt from real and personal property taxes. Space

is provided on Form HUD-53009B after section 16 for listing the applicable Cooperation Agreements. Form HUD-53009B shall not be executed until Counsel has determined that the BFP is covered by a Cooperation Agreement.

- (b) A new Cooperation Agreement may not be needed if Counsel determines that the BFP is already covered by an existing Cooperation Agreement providing for the required tax exemption and

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local assistance. If Counsel proposes to rely on a previously executed Cooperation Agreement covering a stated number of units to be developed by the PHA, but not referring specifically to the BFP, Counsel shall determine whether there is adequate evidence that the BFP will be treated by the local government as within the coverage of the Cooperation Agreement. If there is any uncertainty as to whether the BFP is covered by the Cooperation Agreement, Counsel shall require that the existing Cooperation Agreement be amended to refer specifically to the BFP.

- (c) If the BFP is not already covered by a sufficient Cooperation Agreement, the PHA shall enter into a Cooperation Agreement with the local government. In such case, the Cooperation Agreement shall specifically designate the BFP to which the exemption applies in a manner that clearly indicates the real property covered by the exemption (generally in the same manner used to designate properties for local tax billing). If any tax lien has been or may be attached to the property before execution of the ACC amendment, but covering taxes for any period subsequent to execution of the ACC amendment, Counsel shall ensure (by specific provision in the Cooperation Agreement or otherwise) that the lien of and liability for the tax is released before execution of the ACC amendment.
- (d) If the BFP is already exempt from real and personal property taxes under State law, or under a Cooperation Agreement that does not provide for Payments in Lieu of Taxes (PILOT), the Cooperation Agreement shall not include any provision for PILOT. If the BFP is already exempt from taxation under a Cooperation Agreement that provides for PILOT, the Cooperation Agreement may include provision for PILOT, but not to exceed the amounts required

under Section 6(d) of the Act.

4-10. DECLARATION OF TRUST.

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- a. Promptly after execution of the ACC Grant amendment, Regional or Chief Counsel shall prepare a letter to
* the PHA transmitting Form HUD-52190B, Declaration of Trust (Non-Indian grants), or Form HUD-52190C, Declaration of Trust (Indian grants), which shall * cover all of the individual projects included in the newly approved Modernization Project. The letter shall instruct the PHA to execute and record the Declaration of Trust and to provide Counsel with a copy as soon as it has been recorded.
- b. Counsel shall review all pre-1987 Modernization Projects, to the extent deemed necessary, to determine that there is a record of Declaration of Trust covering all of the individual projects included in each Modernization Project for the entire 20-year period during which annual contributions would have been paid had the loan not been forgiven. If any such Declaration of Trust is missing or of insufficient time duration, Counsel shall prepare a letter to the PHA transmitting the Declaration of Trust for execution and recordation.

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