

CHAPTER 6. OTHER PROGRAM REQUIREMENTS

6-1. CIVIL RIGHTS COMPLIANCE.

a. The PHA shall comply with:

(1) In the case of Indian Housing Authorities (IHAs):

(a) Title II of the Civil Rights Act of 1968 (Indian Civil Rights Act) (25 U.S.C. 1301-1303) or Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) and Title VIII of the Civil Rights Act of 1968, as amended, (42 U.S.C. 3601-3619), as applicable. The Indian Civil Rights Act is applicable (Title VI and Title VIII are inapplicable) to IHAs established by exercise of a tribe's powers of self-government. In the case of an IHA established under State law, the applicability of the Indian Civil Rights Act (or of Title VI and Title VIII) will be determined by HUD on a case-by-case basis in accordance with 24 CFR 905.105;

* (b) Where Title VI and VIII are applicable, Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), 24 CFR Part 146, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), 24 CFR Part 8. *

(c) Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); and

(d) Executive Order 11246 (30 FR 12319) to the maximum extent consistent with, but not in derogation of compliance with, Section 7(b) of the Indian Self-Determination and Education Assistance Act.

(2) In the case of all other PHAs, Title VI of the Civil Rights Act of 1964 (42 U.S.C.

* 2000-2000d-4), 24 CFR Part 1; Fair Housing Act (42 U.S.C. 3601-36), 24 CFR Part 100; Executive Orders 11063 (Equal Opportunity in Housing), 11246 (Equal Employment Opportunity), and 12138 (Women's Business Enterprise); Section 3 of the HUD Act of 1968, as amended, (12 U.S.C. 1701u), 24 CFR Part 135; Age Discrimination Act of 1975 (42 U.S.C. *

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- b. Except for modernization work of an emergency nature, affecting the life, health and safety of tenants, HUD will not approve a modernization program if:
 - (1) There is a pending civil rights suit against the PHA instituted by the Department of Justice;
 - (2) There are outstanding HUD findings of PHA noncompliance with civil rights statutes, executive orders, or regulations as a result of formal administrative proceedings, unless the PHA is implementing a HUD-approved tenant selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance; or
 - (3) There has been a deferral of the processing of applications from the PHA imposed by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1).
- c. Section 3 of Act of HUD Act of 1968. Under Section 3 of the HUD Act of 1968, as amended, the PHA shall require that, to the greatest extent feasible, opportunities for training and employment be given to lower income persons residing within the unit of local government or the metropolitan area (or non-metropolitan county), as determined by the Secretary, in which the project is located; and that contracts for work be awarded to business concerns which are located in or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, provided that the contract award complies with State and local law and Federal requirements. Refer to 24 CFR Part 135.
- d. Affirmative Action Program Under Executive Order 11246.
 - (1) PHA Contract Administration. Under Executive Order 11246, as amended, the PHA shall advise all construction-related contractors with contracts over \$10,000 to document affirmative actions taken to ensure equal opportunity in employment. This documentation is subject to review by the

Regional Office of the Department of Labor. As a part of normal contract administration, the PHA is responsible for determining compliance with the equal opportunity clause or written affirmative

action requirements and for reviewing contractor performance to insure that these responsibilities are met. The PHA shall take the following action:

- (a) Carry out sanctions against a contractor or subcontractor and furnish information, as required by the Department of Labor.
 - (b) Maintain an affirmative action file to keep written reports detailing its efforts, with dates, to meet the commitments under Executive Order 11246, as amended.
 - (c) Assure that all PHA construction contracts over \$10,000 are subject to Executive Order 11246, as amended, and include appropriate provisions.
- (2) Responsibilities of Contractors and Subcontractors. All modernization contractors and subcontractors are required to take affirmative action to comply with the equal employment opportunity provisions of Executive Order 11246, as amended.

6-2. MINORITY AND WOMEN'S BUSINESS OR INDIAN ENTERPRISE OPPORTUNITY.

- a. MBE Goal. Under Executive Orders 11625 and 12432, the PHA, as part of its affirmative action program, shall provide every feasible opportunity for minority business enterprises (MBEs) to participate in bidding for modernization work. The PHA shall establish through Board resolution, the goal of at least 20 percent of its approved CIAP funds to be awarded to contracts with MBE construction contractors, A/E's, or consultants (for both physical and management improvements), or to be purchased from MBEs under the
- * HUD Consolidated Supply Program. The 20 percent goal is not a mandatory set-aside. Where the main * construction contract is awarded to an MBE, the PHA shall count the entire dollar amount of the contract toward the MBE goal. Where the main construction contract is not awarded to an MBE, but one or more of the subcontracts is awarded to an MBE, the PHA shall

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count the dollar value of such subcontract(s) toward the MBE goal. The PHA shall not double count the dollar value of the main construction contract and any of its subcontracts. The PHA shall report its MBE progress on Form HUD-2516, Contract and Subcontract Activity Report for Public and Indian Housing

* Programs.

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b. Definitions.

- (1) MBE means a business that is owned or controlled by one or more socially or economically disadvantaged persons. Such persons include Blacks, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, Aleuts, Hasidic Jews, Asian Pacific Americans, and Asian Indians.
- (2) Owned or controlled by one or more socially and economically disadvantaged persons means that a socially and economically disadvantaged person(s), or a for-profit business or nonprofit organization controlled by such persons(s), possess at least 51 percent of the ownership of the business, and its management and daily business operation are controlled by such persons.

c. Bid or Solicitation Process. To ensure that MBEs are aware of modernization bid opportunities, the PHA may wish to adopt the following suggested techniques, in addition to its existing procedures, for publicizing upcoming Invitations for Bid or Requests for Proposals (see Chapter 9):

- (1) Timely advertisement in media with a largely minority audience;
- (2) Solicitation of bids or requests for proposals directly from MBEs;
- (3) Posting of signs around the project and in the PHA management office and local stores;
- (4) Notification of community organizations, public or private institutions, and local minority business organizations and trade associations; and
- (5) Notification of the tenant organization, if any.

d. Women's Business Enterprises. Under Executive Order

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12138, both PHAs and IHAs shall take appropriate affirmative action to assist women's business enterprises and shall maintain information and reports. *

e. Indian Enterprises. In accordance with the Indian Determination and Education Assistance Act and the Indian Housing regulation (24 CFR Part 905), IHAs shall, to the greatest extent feasible, give preference in the award of modernization contracts during any FFY to Indian organizations and Indian-owned economic

enterprises, as defined in 24 CFR 905.106(a).

6-3. ENVIRONMENT. Before approving CIAP funds, HUD will comply with all applicable requirements of 24 CFR Part 50, implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), and related requirements of 24 CFR 50.4, pertaining to overlaying environmental laws, Executive Orders and HUD standards. The Field Office shall document compliance with these requirements on Forms HUD-4128 and 4128.1, as appropriate (see paragraph 3-22).

6-4. FLOOD INSURANCE. The PHA shall comply with regulations and requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.). The PHA shall certify that the project to be modernized is not located in an identified special flood hazard area, or if the project is located in such an area, the PHA shall furnish either a copy of the flood insurance policy obtained by the PHA to cover the project or a certification that the special flood hazard area has been identified for less than one year and that the community in which the project is located is not participating in the National Flood Insurance Program. A project located in a special flood hazard area of a community that has been formally notified of the area for more than one year, but is not participating in the National Flood Insurance Program, is not eligible for CIAP funding until the community participates in the program.

- a. If a project is located in an identified special flood hazard area and the community is participating in the National Flood Insurance Program, the PHA shall obtain flood insurance coverage for each affected building in an amount equal to its replacement cost after the proposed modernization (less estimated land cost) or to the maximum limit of coverage made available with respect to that particular type of property under the

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National Flood Insurance Act of 1968, whichever is less. For each affected building in Lanham or PWA projects, the PHA shall obtain flood insurance coverage in an amount equal to its full insurable value after the proposed modernization (less estimated land cost) or to the maximum limit of coverage made available with respect to that particular type of property under the National Flood Insurance Act of 1968, whichever is less. The PHA shall continue to carry the required flood insurance after completion of the modernization. Flood insurance premiums are not eligible CIAP costs.

- b. If the proposed modernization program involves new construction or substantial improvements of an existing structure, as defined in 44 CFR Part 60, the PHA shall comply with the requirements on elevation and flood

proofing.

*6-5. LEAD-BASED PAINT POISONING PREVENTION. The PHA shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4826) and HUD implementing regulations.

6-6. PHYSICAL ACCESSIBILITY AND NONDISCRIMINATION BASED ON HANDICAP. The PHA shall comply with the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4152-4157) and HUD implementing regulations (24 CFR Part 40). The PHA also shall comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and HUD implementing regulations (24 CFR Part 8).

6-7. RELOCATION AND ACQUISITION. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the government-wide regulations at 49 CFR Part 24 set forth relocation requirements for persons displaced by CIAP-funded rehabilitation, demolition and acquisition activities. This paragraph provides an overview of the relocation and acquisition requirements under CIAP where the URA applies and does not apply. If CDBG funds are used to pay any of the rehabilitation or demolition costs of a project, the project also is subject to the requirements of section 104(d) of the HCD Act of 1974, as amended (see paragraph 1-5).

a. Definitions.

- (1) A "displaced person," who is eligible for relocation assistance under the URA, means any person (family, individual, business, nonprofit *

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* organization or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition or acquisition for a CIAP-funded project. Permanent, involuntary moves for a CIAP-funded project include:

- (a) A permanent move from the real property (project/site) following notice by the PHA to move permanently from the property, if the move occurs on or after the date that HUD approves the PHA's CIAP Application;
- (b) A permanent move from the real property that occurs before HUD approves the PHA's CIAP Application, if the PHA or HUD determines that the displacement resulted directly from rehabilitation, demolition or acquisition for the CIAP-funded project;

(c) A permanent move from the real property by a person that occurs after execution of the ACC by HUD if:

- (i) The person has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same project/site following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the person's rent and estimated average utility costs before the initiation of negotiations (as defined in 49 CFR 24.2(k)), or 30 percent of gross household income; or
- (ii) The person has been required to relocate temporarily, but a the person is not offered payment for all actual reasonable moving and related expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and b the person is not offered the opportunity to return to the same project/site; or *

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* (iii) The person is required to move to another unit in the same project/site, but is not offered reimbursement for all actual reasonable moving and related expenses incurred in connection with the move.

(2) A person does not qualify as a displaced person and is not eligible for relocation assistance under the URA (see subparagraph b) or assistance under subparagraph c), if:

- (a) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and the PHA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance (see 49 CFR 24.206);
- (b) The person moved into the property after HUD approval of the PHA's CIAP Application and, before commencing occupancy, received written

notice of the expected displacement;

- (c) The person is ineligible under 49 CFR 24.2(g)(2); or
 - (d) The PHA determines that the person was not displaced as a direct result of CIAP-funded rehabilitation, demolition or acquisition for the project and the Field Office concurs in that determination. This category includes general transfers between projects. The PHA shall not use CIAP funds to pay for actual reasonable moving and related expenses for general transfers. To minimize disputes regarding eligibility, PHA records shall state the cause of general transfers.
- (3) A person does not qualify as a displaced person, but must be provided assistance under subparagraph c if due to CIAP-funded rehabilitation or demolition, the person is moved temporarily from the project/site and is offered the opportunity to return to the same project/site (although not necessarily the same building/unit) or the person is moved permanently within the same project/site. *

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- (4) At any time, the PHA may request a HUD determination as to whether a person qualifies as a displaced person and, if not, whether a person is eligible for assistance.
- b. Relocation Assistance for Displaced Persons. The following requirements apply to displaced persons, as defined in subparagraph a(1):
- (1) Relocation Notices to Families or Individuals. The PHA shall provide written notices (general information notice and notice of relocation eligibility), as required by 49 CFR 24.203. Each notice shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the PHA's files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice (e.g., illiterate, foreign language, or impaired vision) must be provided with appropriate translation/communication and counseling. Each notice shall indicate the name and telephone number (including the TDD number, if applicable) of a person who may be contacted for answers to questions or other needed help.

(2) Relocation Planning, Advisory Services, and Coordination. The PHA shall undertake relocation planning, provide relocation assistance advisory services, and properly coordinate relocation activities as required by 49 CFR 24.205. The PHA shall not require any family or individual to move unless it has provided at least one referral (where possible, three or more) to a comparable replacement dwelling (CRD), as defined in 49 CFR 24.2(d).

(3) Payments for Moving and Related Expenses. Refer to 49 CFR Part 24, Subpart E.

(a) Family or Individual.

(i) The PHA may, at its discretion, elect to perform the move itself, using force account labor or a moving company, at no cost to the family or individual being displaced. In such case, the PHA also shall provide the family or individual with a moving *

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* expense and dislocation allowance of \$50.

(ii) If the PHA does not elect to Perform the move itself, the family or individual shall have the option to elect either a payment for actual reasonable moving and related expenses (49 CFR 24.301) or the applicable fixed moving expense and dislocation allowance (49 CFR 24.302) indicated in the schedule, which is published periodically in the Federal Register by the Department of Transportation and available from the Field Office.

(b) Business or Nonprofit Organization. Such entity is eligible for a payment for actual reasonable moving and related expenses (49 CFR 24.303) and a payment for reestablishment expenses (49 CFR 24.304). Section 24.305 describes those businesses/nonprofit organizations which may qualify to choose a fixed payment in lieu of the payments under 49 CFR 24.303 and 24.304.

(4) Replacement Housing Assistance. It is expected that most families or individuals displaced from a

dwelling will be provided the opportunity to relocate to another public housing unit that qualifies as a CRD. This will satisfy the basic replacement housing requirements of the URA and, ordinarily, no additional cash replacement housing assistance would be necessary. If the PHA does not provide referrals to comparable subsidized housing, the family or individual will be entitled to cash assistance sufficient to rent a CRD on the private market for a 42-month period. The family or individual may use the cash payment to rent or buy a replacement dwelling. If the family or individual rents a replacement dwelling, the payment shall not exceed the amount needed to rent the decent, safe and sanitary dwelling to which the family or individual relocates. At its discretion, the PHA may provide a rental assistance payment in monthly installments. If the family or individual elects to buy a decent, safe and sanitary replacement dwelling, the PHA shall provide the payment in a lump sum amount. *

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* (5) Appeals. A person who disagrees with the PHA's determination concerning a payment or other assistance required under subparagraph b may file a written appeal of that determination with the PHA. The PHA shall follow the appeal procedures set forth in 49 CFR 24.10.

c. Assistance for Persons Who Must Move, But are Not Displaced. Families or individuals who are not displaced, but must move temporarily, or move permanently within the same project/site, are entitled to reimbursement of costs incurred. The PHA shall provide temporary housing which is decent, safe and sanitary at the same cost on a nondiscriminatory basis for a family or individual who is moved temporarily from the project/site and is offered the opportunity to return to the same project/site (although not necessarily the same building/unit).

(1) Notice to Families or Individuals. As soon as possible, the PHA shall provide written notice to each affected family or individual that they will be moved, but are not being displaced.

(2) Direct Payment or Reimbursement. The PHA shall either (a) undertake the move itself, using force account labor or a moving company, and therefore be directly responsible for all actual reasonable moving and related expenses; or (b) reimburse families or individuals for all actual reasonable moving and related expenses. In the

latter case, the PHA shall not make fixed payments since such payments are not representative of actual reasonable costs.

- (3) Incidental Costs. Incidental costs may include utility deposits if required at the temporary housing, and telephone installation and cable TV hook-up at the temporary housing and the newly rehabilitated project if the family or individual previously had a telephone and cable TV. If the newly rehabilitated project now has tenant-purchased rather than PHA-furnished utilities, which require utility deposits, the PHA shall not pay for the new utility deposits since they are required to be paid by any family or individual currently living in a project which is being converted to tenant-purchased utilities or by any new family or individual moving into such project. *

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- * (4) Cost of Temporary Housing. When it is necessary to temporarily house families or individuals in units other than public housing, rents paid by the PHA shall not exceed Section 8 Fair Market Rents, except as may be approved by the Field Office. When a public housing unit of suitable size and location becomes available, the family or individual must agree to move into the unit or assistance shall terminate.

- d. Assistance in Place. Where families or individuals are not required to move, but are unable to use their kitchens for a short period of time or be in their units during the day due to modernization activities, the Field Office may approve CIAP funds for meal vouchers where the PHA can demonstrate that the cost of the meal vouchers is less than the cost of temporary moves.
- e. Costs of Assistance. Costs of assistance under this paragraph may be paid from local public funds, CIAP funds, or funds available from other sources.
- f. Recordkeeping Requirements. The PHA shall maintain records in sufficient detail to demonstrate compliance with applicable relocation requirements. The PHA shall retain these records for at least three years after the later of: (1) the date the person has received all of the assistance to which the person is entitled; or (2) the date the project is completed. Relocation records shall include the following:

- (1) Displaced Persons. For persons displaced, the PHA

shall maintain separate case files that include:

- (a) Identification of the person's name and racial/ethnic group classification and the address of the displacement property. For residential persons, include age, sex and income of all members of the household, monthly rent, average monthly utility costs, and date of initial occupancy of the displacement property. For nonresidential persons, include type of enterprise.
- (b) Evidence that the person received timely written notice of possible displacement and a general description of the relocation payments and advisory services for which the

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person may be eligible, basic eligibility conditions, and procedures for obtaining payments.

- (c) Evidence that the person received timely written notice of eligibility for relocation assistance and, for a displaced residential person, the specific CRD and related cost to be used to establish the upper limit of the replacement housing payment.
- (d) Identification of relocation needs and preferences, dates of personal contacts, and services provided.
- (e) Identification of referrals to replacement properties, dates of referrals, rent/utility costs or sales price (if residential), date of availability, and reason(s) person declined referral.
- (f) Copy of 90-day notice and vacate notice, if issued.
- (g) Identification of address of replacement property and date of relocation. If residential, identify rent/utility costs or sales price.
- (h) Copy of replacement dwelling inspection report showing condition of unit and date of inspection.
- (i) Copy of each approved claim form and related documentation, evidence that person received payment, and, if applicable, Section 8

Certificate or Housing Voucher.

- (j) Copy of any appeal or complaint filed and PHA response.
- (2) Persons Not Displaced. For persons not displaced, the PHA shall maintain the following documentation:
 - (a) Evidence that the person received timely written notice that he/she would not be displaced by the project.
 - (b) Evidence that, where applicable, the person *

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* received a timely offer of (1) a reasonable opportunity to lease and occupy a suitable unit in the same project/site and (2) reimbursement of any out-of-pocket expenses incurred in connection with any temporary relocation or a permanent move to another unit in the same project/site.

- (c) For each person that is not displaced, but elects to move permanently from the project/site, an indication of the reason for the move and any personal contact to explain that the person will not qualify for relocation payments as a "displaced person."

g. Real Property Acquisition Requirements. The acquisition of real property with CIAP funds is subject to the URA and the requirements set forth in 49 CFR Part 24, Subpart B. These provisions include requirements to appraise the real property and offer fair market value, in writing, to the owner before negotiating to acquire the property and to pay the cost of all incidental expenses.

h. Technical Assistance. The PHA shall direct all questions on relocation to the HMS. The HMS will refer questions regarding relocation under the URA to the Relocation/Realty Specialist in the Community Planning and Development Division and regarding equal opportunity and fair housing to the Equal Opportunity Specialist.

6-8. ENERGY CONSERVATION. The PHA shall update the energy audit to identify cost-effective energy conservation measures (ECMs) under 24 CFR Part 965, Subpart C, before HUD approval of comprehensive, special purpose or homeownership modernization for a project. The energy audit shall be updated for those ECMs where the energy costs are now *

substantially different from when the audit was last conducted. The energy audit may be performed by using HUD Workbook (HUD-PDR-700(3)), State standards, or other HUD-approved methods. Refer to Handbook 7418.1 on Preparation of a Life-Cycle Cost Analysis for Utility Combinations for guidance on useful life. The cost of performing or updating an energy audit is an eligible CIAP cost.

- 6-9. WAGE RATES. Before bid advertisement, the PHA shall consult with the Field Office General Engineer on the applicable wage rates to apply. The General Engineer, in

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turn, shall consult with the Field or Regional Labor Relations staff concerning the advice given to the PHA. The General Engineer shall document the consultations with the PHA and Labor Relations Staff. The PHA shall request the wage rates from the Field Office Labor Relations staff or the Regional Office where the labor relations function has been regionalized. In providing the wage rates, the Field or Regional Labor Relations staff, as appropriate, shall make the final decision on the applicable wage rates. Appendix 14 provides guidance on the classification of work items by wage rate.

a. HUD-Determined Wage Rates.

- (1) Legislative Provisions. Under Section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as determined or adopted by HUD, to all laborers and mechanics employed by the PHA or its contractors in carrying out nonroutine maintenance as defined in paragraph 1-3.
- (2) PHA Request. At least 45 days before bid advertisement for contract labor or before start of work for force account labor, the PHA shall request a current schedule of HUD-determined wage rates. See paragraphs 9-4h(5) and 9-17 for contract wage and payroll requirements and the Labor Standards Handbook 1344.1 REV-1 for labor standards compliance procedures.
- (3) HUD-Determined Rates. Where it has been determined that the work is nonroutine maintenance and, therefore, is not subject to Davis-Bacon wage rates, the following procedure shall be used to establish the HUD-determined rates.
 - (a) Construction Trade Classifications. Where the PHA has requested construction trade classifications and the PHA itself employs such trade classifications, such as

carpenter, painter and plumber, the current basic hourly rates shall be issued by HUD to the PHA on Form HUD-52158, Maintenance Wage Rate Determination, for those trades in question.

- (b) Maintenance Wage Classifications. Where Form HUD-52158 does not contain a suitable maintenance classification required for the CIAP work, the basic hourly rates for these

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maintenance classifications whose principal duties are consistent with the CIAP work to be performed shall be used. PHA supervisory maintenance personnel shall not be considered.

- (c) Survey-Based Classifications. If Form HUD-52158 does not contain suitable classifications which are applicable to the proposed work to be performed, the Field or
* Regional Labor Relations staff shall request a survey from the PHA. The survey shall be of a representative number of local public and private employers who do the work in *
question. A weighted average of the wage data derived shall be used in determining the applicable rate or rates. If the work to be performed typically involves the use of helpers or laborers, data for those classifications also shall be gathered and HUD may issue such classifications. The Field or Regional Labor Relations staff at its option may conduct the surveys required. The contractor or PHA may not reduce the
* HUD-determined basic hourly rate by taking an hourly credit for fringe benefits. The Field or Regional Labor Relations staff shall determine the wage rates after reviewing the survey data submitted by the PHA or received in any survey conducted by the staff. *

- (d) Basic Hourly Rate. HUD-determined wage rates shall be the basic hourly rates excluding the monetary value of fringe benefits.

b. Davis Bacon Wage Rates.

- (1) Legislative Provisions. Under Section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, under the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all

laborers and mechanics employed by the PHA or its contractors in carrying out modernization work or contracts over \$2,000, except work classified as nonroutine maintenance.

- (2) PHA Request. At least 45 days before bid advertisement for contract labor or before start of work for force account labor, the PHA shall

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prepare and submit Standard Form 308, Request for Wage Determination. See paragraphs 9-4h(5) and 9-17 for contract wage and payroll requirements and Handbook 1344.1 REV-1 for labor standards compliance procedures.

- c. Single Construction Contracts. Each construction contract shall contain only a single wage rate determination. If there is a substantial amount of work in each category (development and nonroutine maintenance), separate contracts should be awarded for each category. If only an incidental amount of work is subject to either type of wage decision, then that work should be included in the contract containing the substantial amount of work.
- d. Contract Work Hours and Safety Standards. The PHA and its contractors shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), including overtime provisions, for all laborers and mechanics employed by the PHA or its contractors in carrying out modernization work or contracts, under either HUD-determined or Davis-Bacon wage rates.
- e. Technical Wage Rates. The PHA and its contractor shall pay not less than HUD-determined prevailing wage rates to all architects, technical engineers, draftsmen and technicians employed in the modernization of a project.
- * f. State Prevailing Wage Rates. Prevailing wage rates determined under State or tribal law are inapplicable under the circumstances set forth in 24 CFR 968.120. When the conditions of 24 CFR 968.120(a) are met, the PHA shall follow the procedures set forth in 24 CFR 968.120(b). *

6-10. INSURANCE

- a. Review of Existing Coverages.
- (1) The PHA is required to have in effect: (a) workers' compensation insurance; (b) fire and extended coverage insurance; (c) comprehensive general liability insurance; (d) automobile

liability insurance for both PHA-owned and non-owned automobiles; and (e) a fidelity bond. In many instances, the additional exposures created by the modernization activities can be insured by either an endorsement to the existing policy or a

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letter from the insurance broker/company, acknowledging that existing policy as written is broad enough to include the additional exposures.

- (2) Following modernization program approval, the PHA shall notify the insurance broker/company in writing of the modernization activities and request written advice concerning what steps, if any, need to be taken to ensure proper coverage. The PHA's letter shall describe the modernization activities in sufficient detail to allow the insurance broker/company to decide what coverage would be adequate. This description shall include the type and cost of work to be performed, the nature of any structural alterations, and the involvement of PHA employees in the work. The PHA shall send a copy of any policy endorsement or written permission from the insurance broker/company to the Field Office for attachment to its existing policy.

- b. Fire and Extended Coverage. In addition to the general requirements set forth in subparagraph a, the following special requirements apply to fire and extended coverage:

- (1) Where the modernization work is to be performed by contract and is insured under the PHA's existing policy, the PHA shall notify the contractor of this coverage.
- (2) If the existing policy cannot be endorsed to include the modernization activities because of substantial structural alterations, the PHA shall obtain a builder's risk policy on a "100% Completed Value" either directly or through the contractor. This policy shall remain in effect through substantial completion of the modernization work, at which time the coverage

* shall be transferred to the PHA's existing policy. *

- c. Comprehensive General Liability. In addition to the general requirements set forth in subparagraph a, the PHA shall obtain an endorsement to the comprehensive general liability policy to include owners' and contractors' protective liability coverage to protect

the PHA from any claims arising from the contractor's operations. Under no circumstances shall the PHA assume the liability of the contractor under "Hold Harmless" or contractual liability clause.

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d. Contractor Insurance.

- (1) Required Insurance. Before beginning work, the contractor and each subcontractor shall furnish the PHA with certificates of insurance showing that the following insurance is in force and will
- * insure all operations under the contract. All insurance shall be carried with companies which are financially responsible and authorized to do business in the State in which the project is located. *
- (a) Workers' Compensation, in accordance with State or Territorial Workers' Compensation laws, for all employees engaged under the modernization contract.
- (b) Commercial General Liability which is comprehensive general liability insurance with bodily injury and property damage. The minimum amount of required coverage is \$500,000 per occurrence. The policy shall cover all operations of the contractor in connection with the project, including use of all equipment, hoists, and vehicles on the project site.
- (c) Automobile Liability on owned, non-owned and hired motor vehicles used on or in connection with the site(s) for a combined single limit for bodily injury and property damage of not less the \$500,000 per occurrence.
- (2) Builder's Risk. Before beginning work, the contractor shall furnish the PHA with a certificate of insurance evidencing that builder's risk (fire and extended coverage) insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The builder's risk insurance shall be for the benefit of the contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The contract in installing equipment such as ranges and refrigerators supplied by the PHA shall carry insurance on such equipment from the time the contractor takes possession thereof until the

contract work is accepted by the PHA. The builder's risk insurance need not be carried on excavations, piers, footings or

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foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The contractor may terminate this insurance on buildings taken over for occupancy by the PHA as of the date the buildings are taken over. The contractor is not required to carry builder's risk insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

- (3) Expiration or Cancellation. If any insurance is due to expire during the construction period, the contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the PHA and its Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to both the PHA and its Contracting Officer.
- (4) Noncompliance. The PHA shall monitor the insurance policies obtained by all contractors and subcontractors to ensure that the coverage required by the modernization contract is kept in force until the contractor's work is accepted by the PHA. The PHA shall notify the contractor to stop work if the required insurance coverage is not in force at the time the work begins or if the coverage expires before the work is accepted. The PHA also shall notify the contractor that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

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