

PUBLIC AND INDIAN HOUSING

Attention:

Directors, Offices of Public
Housing; ONAP Administrators;
Directors, Offices of FHEO;
Public Housing Agencies;
Indian Housing Authorities

Notice:

PIH 97-21 (HA)

Issued:

May 6, 1997

Expires:

May 29, 1998

Subject: **Comprehensive Improvement Assistance Program (CIAP): Federal Fiscal Year (FFY) 1997 Application Submission, Processing and Fund Reservation**

PURPOSE. This Notice is to supplement the policies and procedures, set forth in the CIAP Notice of Funding Availability (NOFA) for FFY 1997, published May 1, 1997, in the Federal Register regarding application preparation and submission by Public Housing Agencies and Indian Housing Authorities (herein referred to as HAs) and application processing and fund reservation/obligation by HUD Field Offices. HAs with fewer than 250 units are eligible to compete for CIAP funds. See Appendix 1 for the CIAP NOFA and Appendix 2 for the complete CIAP regulatory text for Public Housing, at Subparts A and B of 24 CFR Part 968, or for Indian Housing, at Subpart I of 24 CFR Part 950.

SECTION 1. HA APPLICATION SUBMISSION AND HUD PROCESSING

- 1-1. HA PREPARATION OF CIAP APPLICATION.** Refer to Section III(a) of the NOFA on planning and Section III(b) on resident involvement and local/tribal official consultation requirements.
- 1-2. HA SUBMISSION OF CIAP APPLICATION.** Refer to Section III(c) of the NOFA. The HA may obtain blank copies of any form from the Field Office of Public Housing (OPH) or Office of Native American Programs (ONAP) (herein referred to as Field Office). The CIAP Application is comprised of the following documents:
 - A. Form HUD-52822, CIAP Application,** as set forth in Appendix 3, in an original and two copies (or any lesser number of copies as specified by the Field Office).

- B. **Narrative Statement**, addressing each of the technical review factors in Section IV(c)(5) and, where applicable, the bonus points in Section IV(c)(6) of the NOFA, in an original and two copies. **Note:** The technical review factor related to affirmatively furthering fair housing does not apply to IHAs.
- C. **Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements**, where applicable, as set forth in Appendix 4, in an original only.
- D. **Standard Form (SF)-LLL, Disclosure of Lobbying Activities**, where applicable, as set forth in Appendix 5, in an original only.
- E. **Form HUD-2880, Applicant/Recipient Update/Disclosure Report**, as set forth in Appendix 6, in an original only.
- F. **At the option of the HA, photographs or video** cassettes showing the physical condition of the developments.

1-3. HUD COMPLETENESS REVIEW/HA CORRECTIONS TO DEFICIENT APPLICATIONS. Refer to Section IV(a) of the NOFA.

1-4. HUD ELIGIBILITY REVIEW. Refer to Section IV(b) of the NOFA.

- A. **FHEO Review.** After the CIAP Application has been determined to be complete and accepted for review, the OPH/ONAP shall immediately request the Office of Fair Housing and Equal Opportunity (FHEO) to identify whether any HAs submitting CIAP Applications have equal opportunity-related problems. After appropriate consultation with staff and review of its files, FHEO shall identify each HA by the following categories and provide any other relevant information to the OPH/ONAP within the requested time frame:
 1. There are no known equal opportunity-related problems;
 2. There are known equal opportunity-related problems, as identified; or
 3. There are circumstances as set forth in Section IV(b)(2)(iii) of the NOFA, regarding noncompliance with FHEO requirements. In such case, the OPH/ONAP shall inform Headquarters and request a final eligibility determination.
- B. **Nonapplicability of Certain Civil Rights Statutes to IHAs.** Title VI of the Civil Rights Act of 1964 and 24 CFR Part 1, the Fair Housing Act and 24 CFR Part 100, and Title II of the Americans with Disabilities Act and 28 CFR Part 35

do not apply to IHAs established by exercise of a Tribe's powers of self-government. As a result, FHEO is not able to accept discrimination complaints filed against such IHAs pursuant to those statutes. Therefore, for such IHAs, the ONAP may limit its request to FHEO to information on applicable civil rights requirements.

- 1-5. HUD PROCESSING GROUPS/MODERNIZATION TYPES.** There are two processing groups and two modernization types: Group 1 for Emergency Modernization; and Group 2 for Other Modernization. Refer to Section IV(c)(1) of the NOFA.
- 1-6. HUD TECHNICAL REVIEW.** Refer to Section IV(c)(2) through (7) of the NOFA for HUD's assessment of the HA's management and modernization capability, technical processing, technical review factors, and rating and ranking of all Group 2 HAs. During technical review, the Field Office may alter or delete proposed work and revise funding estimates, but cannot discuss the application with the HA or request clarification of the application until Joint Review.
- A. Role of Secretary's Representative.** The Field Office shall forward a list of all HAs in Group 2 to the Secretary's Representative for scoring the technical review factor related to local/tribal government support of the proposed modernization, within the established time frame. The Field Office also shall provide the Secretary's Representative with the portion of the narrative statement, included in the CIAP Application, related to the this technical review factor. The Secretary's Representative may request assistance from the State/Area Coordinator for Public Housing or ONAP Administrator for Indian Housing in completing the scoring.
- B. Role of FHEO.** The Field Office shall forward a list of all HAs in Group 2 to FHEO for scoring the technical review factor related to affirmatively furthering fair housing, within the established time frame. The Field Office also shall provide FHEO with the portion of the narrative statement, included in the CIAP Application, related to the this technical review factor.
- C. Field Office Documentation.** The Field Office shall document the technical review, as follows:
- 1. For each HA/development in Group 1,** a brief justification of the emergency work item, the HA-requested amount, the Field Office-recommended amount, and the cumulative Field Office-recommended amount; and

2. **A listing of each HA in Group 2** in descending order by total score. For each HA, a brief explanation of the work, the HA-requested amount, the Field Office-recommended amount, and the cumulative Field Office-recommended amount. HAs with lower ranking applications, but with high priority needs (refer to Section IV(c)(7) of the NOFA) and HAs in FHEO noncompliance affect the selection process and, therefore, should be identified.

1-7. HUD SELECTIONS FOR JOINT REVIEW. Refer to Section IV(d) of the NOFA for Joint Review selections.

- A. **Determination of On-Site/Off-Site.** For each HA, the Field Office shall determine whether the Joint Review will be conducted on-site or off-site (e.g., by telephone or in-office meeting), based on its knowledge of the HA and the proposed physical and management improvements.
- B. **Scheduling.** The OPH/ONAP shall designate a staff person to be responsible for coordinating the scheduling of the Joint Reviews (either on-site or off-site) and for notifying in writing FHEO and, where relocation is involved, Community Planning and Development (CPD) of the specific dates of the Joint Reviews. If FHEO and CPD are unable to participate in the Joint Reviews, they may inform the Field Office in writing of their specific concerns.

1-8. HUD NOTIFICATION TO HA. After the selections for Joint Review, the Field Office shall send a letter to the HA, advising whether the HA will be considered for further processing in the current FFY, as follows:

- A. **Where the HA will be considered for further processing** in the current FFY, the letter shall:
 1. specify whether the Joint Review will be on-site or off-site and confirm the date of the Joint Review, if already scheduled, or indicate an intent to schedule the Joint Review as soon as possible;
 2. indicate which developments will be included in the Joint Review;
 3. specify required HA activities to prepare for the Joint Review, as set forth in paragraph 1-10; and
 4. list open audit/monitoring findings or management concerns which must be resolved or addressed as management improvements either before or after funding approval.

- B. Where the HA will not be considered for further processing** in the current FFY, the letter shall state the reasons, such as the low priority of its physical improvement needs relative to available funding. Where the reason is lack of management or modernization capability, the letter shall state the specific deficiencies, offer technical assistance to correct the deficiencies, and indicate that any future CIAP Application must address the deficiencies.

1-9. HUD NOTIFICATION TO STATE.

- A. Under Executive Order 12372 on Intergovernmental Review of Federal Programs**, where the State has established a review process and has selected the CIAP to review, the OPH shall provide the State with an opportunity to comment on all CIAP Applications proposing substantial rehabilitation, but only if the development being substantially rehabilitated involves: (1) a change in the use of the land; (2) an increase in development density; or (3) a change from rental to homeownership. CIAP Applications proposing Emergency Modernization or from IHAs are excluded from the State notification requirements.
- B. The OPH shall prepare one Standard Form (SF) 424**, Federal Assistance, Section I only, for each covered CIAP Application. The OPH shall batch and forward copies of the covered CIAP Applications and SF 424's to the State single point of contact (SPOC) for review. The comment period begins on the day after the CIAP Applications are mailed. The comment period is 60 calendar days, plus an additional 5 calendar days for mailing, for a total of 65 calendar days.
- C. In response to an official State process recommendation** (comments submitted by a State, but not as an official State process recommendation, need not be addressed), the OPH shall either:
1. accept the recommendation;
 2. reach a mutually agreeable solution with the parties preparing the recommendation; or
 3. provide the State SPOC with a written explanation for not accepting the recommendation or reaching a mutually agreeable solution; i.e., nonaccommodation. If there is a nonaccommodation, including not funding PHAs/developments prioritized by the State, the OPH shall wait 15 calendar days after sending an explanation of the nonaccommodation to the State SPOC before making any funding decisions.

1-10. HA PREPARATION FOR JOINT REVIEW. The HA shall prepare for Joint Review by taking the actions described below. The HA that lacks the in-house capability to take these actions should contact the Field Office. In such case, the Field Office may advise the HA to hire an outside architect/engineer (A/E), **subject to reimbursement only if the modernization is approved**, or encourage small HAs to group together for hiring outside assistance. In hiring an A/E, the HA shall adhere to the required procurement procedures, as set forth in the Procurement Handbook 7460.8 REV-1.

- A. **Consult with residents/homebuyers** and prepare a written evaluation of resident/homebuyer recommendations;
- B. **Prepare draft CIAP Budget.** A sample Form HUD-52825, CIAP Budget, with instructions is set forth in Appendix 8.
 - 1. **Physical Needs.** The HA shall review the proposed physical work items against the mandatory standards for those items set forth in the Modernization Standards Handbook 7485.2 REV-1, including updating the energy audit for proposed energy conservation measures (ECMs) where necessary. For each development being reviewed, the HA shall develop a draft implementation schedule (Part III of the CIAP Budget).
 - 2. **Management Needs.** Where proposed by the HA or recommended by the Field Office, the HA shall review any proposed management work items, identify needed actions, and develop a draft implementation schedule (Part III of the CIAP Budget). It is noted that some management deficiencies require little or no additional funds to correct. For a designated Troubled or Modernization Troubled PHA, management improvements shall be consistent with those identified in its Memorandum of Agreement or equivalent. For an IHA designated as High Risk, management improvements shall be consistent with those identified in its management improvement plan.
- C. **Review the other points to be covered** during the Joint Review, as set forth in paragraph 1-13.

1-11. HUD PREPARATION FOR JOINT REVIEW.

- A. **Field Office Participation.** Based upon prior knowledge of the HA, the OPH Director/ONAP Administrator shall determine which staff person(s) shall represent HUD at the Joint Review, regardless of whether it is conducted on-site or off-site.

- B. Review of Files.** In preparing for the Joint Review, Field Office representatives shall review the HA's files for the latest Public Housing Management Assessment Program (PHMAP)/Indian Housing Risk Assessment and Determination of Resources (RADAR), open HUD monitoring or audit findings, resident/community complaint letters, and general correspondence. Field Office representatives should be thoroughly familiar with the status of all previously approved modernization programs and the overall operation of the HA.
- C. Confirmation with HA.** Before the Joint Review, the Field Office shall check with the HA to confirm that the HA has taken all of the actions required in paragraph 1-10 and is ready for the Joint Review. If the HA is not ready, the Field Office may cancel the Joint Review and reschedule only if time permits.

1-12. CONDUCT AND DURATION OF ON-SITE JOINT REVIEW.

- A. Initial Meeting.** Field Office and HA representatives should meet briefly to discuss the prearranged agreements concerning the scope of the Joint Review, HA staff availability and other logistical matters. They also should review the CIAP Application and discuss the need for and appropriateness and cost-effectiveness of the proposed work.
- B. Duration.** The duration of the Joint Review will vary, depending upon such factors as HA size and management/modernization capability, type and complexity of the proposed modernization, Field Office knowledge of and familiarity with the HA's operations and management practices, status of any previously approved modernization programs, and extent to which the Joint Review would duplicate any open HUD monitoring or audit findings.
- C. Close-Out Meeting.** Field Office and HA representatives should meet to discuss HUD's findings and recommendations on the proposed modernization program. The close-out meeting should include specific treatment of previously approved modernization programs where revisions to the implementation schedule(s) may be warranted. Where appropriate and time and resources permit, Field Office representatives also may meet with the HA Board of Commissioners.

- 1-13. JOINT REVIEW COVERAGE.** The purpose of the Joint Review is for the Field Office to discuss with the HA the proposed modernization program, as set forth in the CIAP Application, and determine the size of the grant, if any, to be awarded. Where on-site, the Joint Review will include an inspection of the proposed physical work. **Where the HA has not included some of its developments in the CIAP Application, HUD may not, as a result of the Joint Review, consider any non-emergency work at excluded developments or subsequently approve use of leftover funds at excluded developments.** Whether on-site or off-site, the Joint

Review shall cover the following points and the Field Office shall document the Joint Review.

A. Based on the HA's physical needs assessment(s), the Field Office shall review the following:

1. Eligibility, need and appropriateness of the physical work items, as measured against the Modernization Standards, including any necessary updating of the energy audit(s) for proposed ECMs.
2. Accuracy of cost estimates and any required contingencies; reasonableness of HA's proposed implementation schedule for each development; and adequacy of method of HA inspection of the physical work.
3. Where demolition or disposition is proposed, refer to the regulations: for Public Housing, at 24 CFR Part 970; and for Indian Housing, at 24 CFR Part 950, Subpart M.

B. Appropriateness of method of accomplishment (contract or force account labor).

1. For Public Housing, the OPH shall approve the use of force account labor on an individual development basis only where: it is cost-effective and appropriate to the scope and type of physical improvements; and the PHA has the capacity to serve as its own main contractor and to maintain an adequate level of routine maintenance during force account activity. Since the method of accomplishment is set forth on Form HUD-52825, CIAP Budget, OPH approval is given at the time of budget approval. If the PHA wishes to use force account labor after original budget approval of contract labor, the PHA shall request a budget revision or the force account labor costs will be disallowed. Refer to paragraph 3-2 for the exception to this requirement where the PHA is both an overall high performer and a Modernization high performer under the PHMAP.
2. For Indian Housing, refer to paragraph 3-2.

C. Based on the HA's management needs assessment, the Field Office shall review the following:

1. Eligibility, need and appropriateness of the management work items and the status of HA actions taken to correct any previously identified management deficiencies; any open monitoring/audit findings or management concerns previously identified by the Field Office.
2. Accuracy of cost estimates and reasonableness of HA's proposed implementation schedule for each management work item.

Note: The Field Office may discuss management improvement needs with the HA during the Joint Review and subsequently require the HA to address those needs without CIAP funding, as a condition of funding the physical improvements.

- D. **Long-term physical and social viability and reasonableness of estimated costs.** Refer to Section V(a) of the NOFA.
- E. **Duplication of funding.** Refer to Section V(c) of the NOFA.
- F. **HA need for the professional services of an A/E** and/or a management consultant in further planning, designing and implementing all or part of the proposed physical and management improvements.
- G. **HA plan for organizing and staffing** the modernization program, including HA need for a full-time or part-time modernization coordinator or contract administrator/construction manager, assignment of regular HA staff, and hiring of additional personnel.
- H. **HA performance in administering previously approved** modernization programs, if applicable, including the current status of any open program(s).
- I. **HA need for additional modernization funds** to complete previously funded work items.
- J. **HA compliance with requirements for consultation** with local/tribal officials and residents/homebuyers. The HA shall provide a copy of the HA's written response to residents, reflecting acceptance or rejection of resident recommendations. Refer to Section III(b) of the NOFA.
- K. **HA compliance with civil rights statutes,** executive orders and regulations, as applicable. Where there is an outstanding finding of noncompliance, FHEO shall keep the OPH/ONAP informed of any change in status, as previously reported during technical review of the CIAP Application. Refer to Section IV(b)(2)(iii) of the NOFA.

- L. **HA plans to hire residents** and provide minority and women's business or Indian enterprise opportunity.
- M. **HA compliance with requirements to provide physical accessibility** and to not discriminate based on disability. Refer to Section IV(b)(2)(i) of the NOFA.
- N. **HA compliance with requirements concerning notice, evaluation and reduction of** lead-based paint and lead-based paint hazards. Refer to Section IV(b)(2)(ii) of the NOFA.
- O. **HA compliance with relocation and acquisition** requirements.
- P. **Information related to environmental and historic preservation** requirements, including flood insurance, where the Field Office is conducting the environmental review under Part 50 in lieu of the responsible entity under Part 58. Refer to Section IV(h) of the NOFA.
- Q. **HA compliance with administrative requirements** and procurement regulations.
- R. **HA compliance with lead-based paint insurance** and other insurance requirements.

1-14. HUD FUNDING DECISIONS.

- A. **Batching Adjustments.** The OPH Director/ONAP Administrator shall make funding decisions in accordance with the Joint Review results, and shall select all bona fide emergencies in Group 1 before funding Group 2 applications. The total of all approved amounts shall equal the fund assignment amount. Refer to Section IV(e) of the NOFA.
- B. **Termination of Processing.** Where the HA is not approved for funding in the current FFY, the Field Office shall notify the HA in writing. The letter shall state the reasons for disapproval, such as the low priority of its physical improvement needs relative to available funding. Where the reason is lack of management or modernization capability, the letter shall state the specific deficiencies and what actions the HA will have to take or what level of management or modernization capability the HA will have to achieve by a specified time to be considered for funding in a subsequent FFY.

1-15. ENVIRONMENTAL REVIEW. Refer to Section IV(h) of the NOFA and Notice PIH 97-8 (HA), dated 1/31/97. Also refer to Appendix 7 for additional guidance on expediting the review where HUD is conducting the review.

- A. **No Environmental Review.** No environmental assessment or review is required for the following activities when they constitute the only work items in the modernization program: planning costs, such as developing plans and specifications or carrying out a feasibility study; and management improvements.
- B. **File Maintenance.** Since developments may be proposed for modernization work on an annual basis, the Field Office should maintain a separate environmental review file for each HA.

1-16. HUD TRANSMITTAL OF HUD NOTIFICATION.

- A. **Preparation.** The Field Office shall prepare the HUD Notification in the required format, stating that the grant award is subject to HA submission of an approvable program budget and other required documents.
- B. **Transmittal.** The Field Office shall transmit the HUD Notification to the Office of Congressional and Intergovernmental Relations (OCIR) by facsimile machine. The Field Office shall arrange for copies of the HUD Notification to be sent to the Field Office Public Affairs Officer, where requested.
- C. **Announcement.** The Field Office shall announce the grant award only after OCIR has provided a release date. Where the Field Office has not been provided a release date within three working days, the Field Office shall contact OCIR to determine the status.

1-17. HA SUBMISSION OF ADDITIONAL DOCUMENTS. After OCIR has provided a release date, the Field Office shall provide written notification to the HA of CIAP funding approval, subject to HA submission of the following documents within the time frame prescribed by the Field Office. **Note:** To expedite subsequent fund obligation by HUD, the Field Office may forward the CIAP Amendment, with the written notification, to the HA and request that the HA sign and return the CIAP Amendment with the CIAP Budget and other forms.

- A. **Form HUD-52825, CIAP Budget,** as set forth in Appendix 8, in an original and two copies (or any lesser number of copies as specified by the Field Office). Where the modernization will result in relocation and real property acquisition activities, the HA shall identify on the CIAP Budget: the number of households, businesses and nonprofit organizations occupying the property; the number to be displaced (forced to move permanently from the development/site); the number to remain on-site during the modernization; the number to relocate temporarily and return to the development/site; and the estimated cost of the planned relocation and real property acquisition activities.

- B. **Form HUD-50070, Certification for a Drug-Free Workplace**, as set forth in Appendix 9, in an original only.
- C. **Form HUD-52820, HA Board Resolution Approving CIAP Budget**, as set forth in Appendix 10, in an original only.

1-18. HUD FINAL PROCESSING.

- A. **Upon receipt of the HA's additional documents**, the Field Office shall review the documents and make any corrections to the CIAP Budget as necessary.
- B. **Where funds for demolition or disposition are approved**, such funding approval **does not constitute** approval of the demolition or disposition itself. The HA is required to submit a separate application for HUD approval of a demolition or disposition in accordance with the requirements set forth in the demolition or disposition regulations: for Public Housing, at 24 CFR Part 970; and for Indian Housing, at 24 CFR Part 950, Subpart M.
- C. **After the CIAP Budget is approved, the Field Office shall prepare** a budget approval letter (see paragraph 2-2A) to the HA for the signature of the OPH Director/ONAP Administrator.
- D. **Where the HA fails to submit the required additional documents** or the documents are otherwise not approvable, the Field Office shall notify the HA in writing of disapproval. The Field Office shall then select, from the Joint Review pool, another HA for funding and, after HUD Notification under paragraph 1-16, invite that HA to submit the additional documents under paragraph 1-17.
- E. **Headquarters is required to publish a Notice** in the Federal Register listing the recipients of CIAP funds. Since funding of CIAP Applications is an annual process, where decisions are made at the same time except for fast-tracked emergencies, Headquarters will publish this Notice on an annual basis.

- 1-19. HUD RECORDKEEPING.** Since HUD makes assistance under the CIAP available on a competitive basis, the Field Office shall ensure that documentation and other information, including letters of support, on each CIAP Application submitted in response to the CIAP NOFA are sufficient to indicate the basis upon which funding was approved or denied. The Field Office shall make this material available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. The Field Office shall make this material available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15.

SECTION 2. HUD FUND RESERVATION AND OBLIGATION

- 2-1. NUMBERING OF GRANT.** Each CIAP grant (or budget) is assigned an unique Modernization Project number, which is an 13-digit alpha numeric code in the following format: Positions 1-2, State code (alpha); Positions 3-4, Field Office code (numeric); Position 5, P for Public Housing or B for Indian Housing; Positions 6-8, HA number; Positions 9-11, sequential Grant Number, beginning with 901; Positions 12-13, FFY (numeric); e.g., VA36P03090597.
- 2-2. HUD PREPARATION OF DOCUMENTS.** Where the CIAP Budget is approved, the Field Office shall prepare and transmit the following documents within 14 calendar days:
- A. Letter to HA,** approving the CIAP Budget, transmitting the CIAP Amendment to the Annual Contributions Contract (ACC), and providing information on implementation requirements and the amounts of the HUD-established thresholds in the following areas: (1) A/E and other professional services contracts; (2) construction solicitations; and (3) contract modifications. The letter also shall indicate the status of the environmental review (refer to Section IV(h) of the NOFA).
 - B. Form HUD-53009 or HUD-53009A, CIAP Amendment.** Prepare one CIAP Amendment for each CIAP Budget being funded. See paragraph 2-3. Form HUD-53009 is used where the revised Consolidated ACC (Forms HUD-53012A and B, dated 7/95) has not been executed. Form HUD-53009A is used where the revised Consolidated ACC has been executed. A sample Form HUD-53009 is set forth in Appendix 11; a sample Form HUD-53009A is set forth in Appendix 12.
 - C. Form HUD-52540, Project Accounting Data (PAD).** Prepare one PAD for each CIAP Budget being funded.
- 2-3. CIAP AMENDMENT TO ACC.**
- A. Form HUD-53009 or HUD-53009A, CIAP Amendment,** requires low-income use of the housing for not less than 20 years from the date of the Amendment (subject to sale of homeownership units in accordance with the terms of the ACC). It also includes by general reference all developments eligible for CIAP funding within the HA's inventory and amends all consolidated ACCs of the HA. This coverage allows the HA, with prior HUD approval, to shift funds during implementation among developments, including those under different ACCs, where the developments were included in the CIAP Application, and negates the

need for a subsequent Amendment when adding or deleting developments to or from the CIAP Budget. The Amendment sets forth the amount of the CIAP funds approved for a particular CIAP Budget or Modernization Project.

- B. The Field Office has the authority to condition** the CIAP Amendment; for example, to require the HA to hire a modernization coordinator or contract administrator to administer its modernization program. The Field Office may set forth the condition in an attachment to the CIAP Amendment or in the approval letter.
- C. The OPH/ONAP, not HUD Counsel, shall prepare the CIAP Amendment** and obtain the CIAP Amendment Number from HUD Counsel. The OPH/ONAP shall obtain HUD Counsel's concurrence on the CIAP Amendment before forwarding to the OPH Director/ONAP Administrator for approval.

2-4. HUD FUND RESERVATION.

- A. Assembly of Documents.** The OPH/ONAP shall assemble and route the documents prepared in paragraph 2-2 to the OPH Director/ONAP Administrator for approval.
 - 1. Original and two copies of the budget approval letter to the HA;
 - 2. Original and three copies of the CIAP Amendment;
 - 3. Original and one copy of the PAD; and
 - 4. Original and one copy of the CIAP Budget, as marked up by the Field Office.
- B. Reservation Procedures.** Reservation procedures differ during the first eleven months of the FFY and the last month of the FFY, with regard to the establishment of the Notification Date.
 - 1. **First Eleven Months of the FFY 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 OPH Director/ONAP Administrator. The OPH/ONAP shall forward the signed PAD, together with a signed copy of the undated approval letter, to the Field Accounting Division (FAD).
 - b. **FAD.** The FAD shall ensure that funds for the grant are reserved within 72 hours from the date the reservation documents are received from the Field Office. After reviewing the reservation documents for correctness, the FAD enters the data into PAS and then reviews the computer-generated transaction listing. If the grant reservation has been accepted by PAS, the FAD will then insert the effective date displayed on the transaction listing on the PAD as the transaction effective date.
- 2. **Last Month of the FFY Procedures.** During this period, the effective date is the date the OPH Director/ONAP Administrator signs the approval letter.
 - a. **Field Office.** The procedures are the same as subparagraph B1a, except that the approval letter is dated when the OPH Director/ONAP Administrator signs it, and the Field Office inserts that date on the PAD.
 - b. **FAD.** The procedures are the same as subparagraph B1b, except that the FAD enters the effective date into PAS from the PAD and the FAD ensures that the date on the PAD and the effective date on the transaction listing are the same.
- 3. **FAD Confirmation.** The FAD shall provide the Field Office with confirmation of fund reservation through telephone, electronic mail or a copy of the Acceptance Report generated by PAS.

2-5. **HUD DISTRIBUTION OF DOCUMENTS.**

- A. **Grant Approval Documents.** Immediately following fund reservation by the FAD, the Field Office shall arrange for the following distribution:
 - 1. **To the HA,** the original of the budget approval letter, one copy of the approved CIAP Budget, and the original and three copies of the CIAP Amendment. Where the HA does not have access to the Line of Credit Control System/Voice Response System (LOCCS/VRS), the Departmental system for fund requisitions, the Field Office also shall forward to the HA the following forms necessary for access:

- a. **Form HUD-27054, LOCCS/VRS Access Authorization**, for each new user. The HA shall send this form to the Field Office for review and forwarding to HUD Headquarters, Attention: LOCCS Security Officer, P.O. Box 23774, Washington, DC 20026-3774.
 - b. **SF-1199A, Direct Deposit Sign-Up Form**, where the HA wishes to change its bank account or where the HA is currently receiving no grant funds from HUD. Where applicable, the HA shall send this form to the Field Office for verification and forwarding to HUD Headquarters, Attention: ACH Team, P.O. Box 44816, Washington, DC 20026-4816.
 2. **To the Field Office program files**, the original of all CIAP documents submitted by the HA, including the approved CIAP Budget, and one copy each of the approval letter and the PAD for records purposes.
- B. HA Action on CIAP Amendment.** The HA shall enter its tax identification number directly on the CIAP Amendment in order that the FAD may link the CIAP grant with established banking information already in LOCCS. Where permitted by State/tribal law and the HA's own by-laws, the HA Executive Director may **sign** and return the original and three copies of the CIAP Amendment without Board Resolution; where not permitted, the Board of Commissioners shall authorize, through Board Resolution, the Executive Director to sign the CIAP Amendment.
- C. CIAP Amendment.** Immediately upon receipt of the signed CIAP Amendment from the HA, the OPH Director/ONAP Administrator shall **execute** the CIAP Amendment and arrange for the following distribution:
1. **To the FAD**, the executed original of the CIAP Amendment for purposes of entering the fund obligation into PAS.
 2. **To HUD Counsel's files**, one copy of the executed CIAP Amendment for official Departmental records purposes.
 3. **To the Field Office program files**, one copy of the executed CIAP Amendment for records purposes.
 4. **To the HA**, one copy of the executed CIAP Amendment for records purposes.
- 2-6. BUDGET LINE ITEMS (BLIs).** After the fund obligation (executed CIAP Amendment) has been entered into PAS by the FAD, the Field Office shall enter the

original BLI amounts for development accounts 1406 through 1498 into LOCCS. Once the BLIs have been spread by the Field Office, the HA may draw down funds, as needed.

2-7. DECLARATION OF TRUST.

- A. **Promptly after grant approval, HUD Counsel shall** ensure that Form HUD-52190B, Declaration of Trust (non-Indian grants), or Form HUD-52190C, Declaration of Trust (Indian grants), covering all of the developments in the HA's inventory, is in place or is current. As provided under the ACC, the Declaration of Trust protects the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.
- B. **If a Declaration of Trust is not in place or is not current,** HUD Counsel shall advise the HA to execute and file for record the Declaration of Trust and to provide HUD Counsel with a copy as soon as it has been recorded. The Declaration of Trust is updated only where there has been a change, such as adding land through purchase, subtracting land through disposition, restricting the property through an easement, or, in rare cases, receiving a lien on the property through HUD approval of additional debt.
- C. **HUD has determined that its interest in Mutual Help units** is sufficiently protected without the further requirement of a Declaration of Trust. Therefore, a Declaration of Trust is not required for Mutual Help units.

2-8. SPECIAL REQUIREMENTS FOR TURNKEY III DEVELOPMENTS. Refer to 24 CFR 968.102 for Public Housing or 24 CFR 950.602 for Indian Housing.

2-9. SPECIAL REQUIREMENTS FOR SECTION 23 LEASED HOUSING BOND-FINANCED PROJECTS. A Section 23 Leased Housing Bond-Financed Project (BFP) is eligible for modernization only if HUD Counsel determines that the BFP has met all of the conditions set forth in 24 CFR 968.101(b)(3).

SECTION 3. IMPLEMENTATION

3-1. INITIATION OF ACTIVITIES. After the Field Office has approved the CIAP Budget, executed the CIAP Amendment, and entered the BLIs into LOCCS, the HA shall undertake the modernization activities, including expenditures, set forth in the CIAP Budget in a timely, efficient and economical manner. To ensure work quality and progress, it is the responsibility of the HA, not HUD, to provide, by contract or

otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an A/E.

- 3-2. FORCE ACCOUNT LABOR.** A PHA may undertake the modernization activities using force account labor, only where specifically approved by the Field Office in the CIAP Budget, except no prior HUD approval is required where the PHA is designated as both an overall high performer and a Modernization high performer under the PHMAP. An IHA may undertake the modernization activities using force account labor without prior HUD approval.
- 3-3. FUND REQUISITIONS.** After the Field Office has entered the BLIs into LOCCS, the HA may draw down funds in accordance with the requirements set forth in Notice PIH 96-90 (HA), Line of Credit Control System/Voice Response System (LOCCS/VRS) for Modernization Program Areas, dated December 5, 1996.
- 3-4. CONTRACTING ACTIVITIES.** The HA shall comply with the prevailing wage rate requirements in 24 CFR 968.110(e) and (f) and 965.101 for Public Housing and in 24 CFR 950.120 and 950.172 for Indian Housing. At least 45 calendar days before issuing a solicitation or 30 calendar days before starting force account work, the HA shall request a wage determination from the appropriate Field Office. In addition, the HA shall comply with State and local/tribal laws and Federal requirements, as set forth in 24 CFR Part 85, except as follows:
- A. A/E and Other Professional Services Contracts.** The HA shall either:
1. where the proposed contract amount exceeds the HUD-established threshold, submit the contract for prior HUD approval before execution or issuance; or
 2. where the proposed contract amount does not exceed the HUD-established threshold, certify that the scope of work is consistent with the originally approved modernization program, and that the amount is appropriate and does not result in the total HUD-approved CIAP Budget being exceeded.
- B. Small Purchase Procedures.** Under 24 CFR 85.36(d)(1), the HA may use small purchase procedures to secure services, supplies, or other property that do not cost more than \$100,000, unless a lesser amount is required by State or local/tribal law or the HA's own procurement policy.
- C. Assurance of Completion.** For each construction contract over \$100,000 or any lesser amount required by State or local/tribal law or the HA's own procurement policy, each bidder shall furnish a bid guarantee equivalent to 5%

of the bid price and the selected contractor shall furnish one of the following:

1. A performance and payment bond for 100% of the contract price; or
2. Separate performance and payment bonds, each for 50% or more of the contract price; or
3. A 20% cash escrow; or
4. A 25% irrevocable letter of credit.

D. Construction Solicitations. The HA shall either:

1. where the estimated contract amount exceeds the HUD-established threshold, submit a complete construction solicitation for prior HUD approval before issuance; or
2. where the estimated contract amount does not exceed the HUD-established threshold, certify receipt of the required A/E's certification that the construction documents accurately reflect HUD-approved work and meet the modernization and energy conservation standards and that the construction solicitation is complete and includes all mandatory items.

E. Contract Awards.

1. **Field Office Approval.** The HA shall obtain Field Office approval of the proposed contract award if the contract work is inconsistent with the originally approved modernization program **or** if the procurement meets any of the following criteria:
 - a. The procurement is expected to exceed \$100,000 and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
 - b. The procurement is expected to exceed \$100,000 and specifies a "brand name" product; or
 - c. The proposed award over \$100,000 is to be awarded to other than the apparent low bidder under a sealed bid procurement.
2. **No Field Office Approval.** In all other instances, the HA shall make the award without Field Office approval after the HA has certified that:

- a. The solicitation and award procedures were conducted in compliance with State or local/tribal laws and Federal requirements;
 - b. The award does not exceed the approved CIAP Budget amount and does not meet the criteria in subparagraph E1 for prior HUD approval; and
 - c. The contractor is not on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

- F. **Contract Modifications.** Except in an emergency endangering life or property, the HA shall either:
 - 1. where the proposed contract modification exceeds the HUD-established threshold, changes the scope of a contract, or increases the contract amount by more than \$100,000, submit the proposed modification for prior HUD approval before issuance; or
 - 2. where the proposed contract modification does not exceed the HUD-established threshold, change the scope of a contract, or increase the contract amount by more than \$100,000, certify to such and that any additional costs are within the total HUD-approved CIAP Budget amount.

- G. **Construction Requirements.** Where poor performance is indicated, the HA may be required to submit to the Field Office periodic construction progress reports and, for prior HUD approval, construction completion documents above a HUD-specified amount.

- H. **Lists of Parties Excluded.** The HA shall retain documentation on file that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs. The HA may obtain the Lists from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

- I. **Contracting with Resident-Owned Businesses or Indian Organizations/Indian-Owned Businesses.**
 - 1. **Public Housing Only.** The PHA may use an alternative procurement process when contracting with businesses owned in substantial part by public housing residents, as set forth in 24 CFR Part 963.
 - 2. **Both Public and Indian Housing.** The PHA/IHA, its contractors, and subcontractors are required by Section 3 of the HUD Act of 1968, as amended, and HUD's implementing regulations at 24 CFR Part 135 to the

greatest extent feasible, to use CIAP funds to train and employ residents of Section 3 covered projects and to contract with Section 3 business concerns to carry out modernization activities.

3. **Indian Housing Only.** The IHA shall give preference for training and employment opportunities for Indian organizations and Indian-owned businesses in accordance with 24 CFR 950.175.
- J. **Reward for High Performers.** For Public Housing only, if the PHA is both an overall high performer and a Modernization high performer under the PHMAP, the Field Office will not establish thresholds, and the PHA is not required to obtain prior HUD approval, under subparagraphs A, D, and F of this paragraph.

3-5. **BUDGET REVISIONS.**

- A. **The HA shall not incur any modernization cost in excess** of the total HUD-approved CIAP Budget. The HA shall submit a budget revision if the HA plans to deviate from the originally approved modernization program, as it was competitively funded, by deleting or substantially revising approved work items or adding new work items that are unrelated to the originally approved modernization program, or by changing the method of accomplishment from contract to force account labor, except as provided in paragraph 3-2. Where the environmental review was performed by the responsible entity under Part 58, the HA also shall inform the responsible entity of any proposed change in the scope of the modernization, as required by 24 CFR 58.71(b).
- B. **In addition to the requirements of paragraph A, the HA shall** comply with the following requirements:
 1. The HA is not required to obtain prior HUD approval, if in order to complete the originally approved modernization program, the HA needs to delete or revise approved work items or add new work items consistent with the original modernization program. In such case, the HA shall certify that the revisions are necessary to carry out the approved work and do not result in substantial changes to the competitively funded modernization program.
 2. The HA shall not incur any modernization cost, except for emergency work, on behalf of any development that is not covered by the original CIAP Application.
 3. Where there are funds leftover after completion of the originally approved modernization program, the HA may, without prior HUD approval, use the

remaining funds to carry out eligible modernization activities at developments covered by the original CIAP Application.

4. If the PHA is both an overall high performer and a Modernization high performer under the PHMAP, the PHA is not required to obtain prior HUD approval to change the method of accomplishment from contract to force account labor.

3-6. PROGRESS REPORTS. For each six-month period ending March 31 and September 30, until completion of the modernization program or expenditure of all funds, the HA shall submit to the Field Office a progress report (Form HUD-52825, CIAP Budget/Progress Report, and narrative report on management improvements), within 30 calendar days after the end of the six-month period. Where the Field Office determines that the HA is having implementation problems, the Field Office may require more frequent reporting. After all funds have been expended, the HA shall submit a "final" progress report, indicating that no further funds will be expended for that particular program. If the final progress report is acceptable, the Field Office shall enter the pre-audit end date in LOCCS, in accordance with Notice PIH 96-90 (HA).

3-7. TIME EXTENSIONS. The HA shall not obligate or expend funds after the obligation or expenditure deadline date approved by HUD in the original implementation schedule (Part III of Form HUD-52825) without a time extension, as follows:

A. Certification. The HA may extend an obligation or expenditure deadline date no later than 30 calendar days after the existing deadline date, without prior HUD approval, for a period commensurate with the delay, where the HA certifies that the delay is due to reasons outside of the HA's control, such as:

1. Need to use leftover funds from a completed modernization program for additional work;
2. Unforeseen delays in contracting or contract administration;
3. Litigation; and
4. Delay by HUD or other institutions. Delay by the HA's staff or Board of Commissioners or a change in the Executive Director is not considered to outside of the HA's control.

B. Prior HUD Approval. Where the HA is unable to meet an obligation or expenditure deadline date and the delay is due to reasons within the HA's

control, the HA may request HUD approval of a time extension no later than 30 calendar days after the existing deadline date, to avoid recapture of funds. The request shall include an explanation of the delay, steps taken to prevent future delay, and the requested extension.

- 3-8. HUD REVIEW OF HA PERFORMANCE.** The Field Office shall periodically review HA performance in carrying out its approved modernization program to determine compliance with HUD requirements, the adequacy of the HA's inspections as evidenced by the quality of the work, and the timeliness of the work. The Field Office's review may be conducted either in-office or on-site. Where conducted in-office, the HA shall forward any requested documents to the Field Office for post-review. Where deficiencies are noted, the HA shall take such corrective actions as the Field Office may direct.
- 3-9. FISCAL CLOSEOUT.** As soon as possible after a "final" progress report has been submitted, the HA shall submit Form HUD-53001, Actual Modernization Cost Certificate (AMCC), to the Field Office for review and approval for audit. A sample Form HUD-53001 is set forth in Appendix 13. The audit shall follow the guidelines prescribed in 24 CFR Part 44, Non-Federal Government Audit Requirements. If the pre-audit or post-audit AMCC indicates that excess funds were disbursed to the HA, the HA shall immediately remit the excess funds, in accordance with Notice PIH 96-90 (HA). If the audited AMCC discloses unauthorized or ineligible expenditures, the HA shall take such corrective actions as the Field Office may direct. After audit verification, the Field Office shall approve the AMCC and send the original to the FAD for entry of the post-audit end date in LOCCS, in accordance with Notice PIH 96-90 (HA). For records purposes, the Field Office shall send to the HA a copy of the audited and approved AMCC and retain a copy for its files.

[Signed] Kevin E. Marchman
Acting Assistant Secretary for
Public and Indian Housing