

AUTHORITY: 42 U.S.C. 1437c, 1437d and 3535(d).

SOURCE: 59 FR 56365, Nov. 10, 1994, unless otherwise noted.

§ 906.1 Purpose.

This part codifies the provisions of the Section 5(h) Homeownership Program for public housing, as authorized by sections 5(h) and 6(c)(4)(D) of the United States Housing Act of 1937 (Act) and administered by the Department of Housing and Urban Development (HUD).

§ 906.2 Applicability.

(a) *General applicability.* This part applies to public housing owned by public housing agencies (PHAs) (excluding Indian Housing Authorities (IHAs)) subject to Annual Contributions Contracts (ACCs) under the Act. In reference to housing properties, "development" means the same as "project" (as defined in the Act). Except where otherwise indicated by the context, "resident" means the same as "tenant", as the latter term is used in the Act, including Turnkey III homebuyers, if applicable, as well as rental tenants of public housing and Section 8 residents, and references to sale, purchase, conveyance and ownership include the types of interests and transactions that are incident to cooperative ownership.

(b) *Nonretroactivity.* In the case of a Section 5(h) homeownership plan that was approved by HUD prior to the effective date of the interim rule under this part (October 21, 1991), no modifications or additional requirements will be imposed under the provisions of the interim or final rule, except for reasonable administrative procedures prescribed by HUD. Similarly, in the case of a plan that was approved under the interim rule, before the effective date of the final rule (December 12, 1994), no modifications or additional requirements will be imposed under the provisions of the final rule, except for such reasonable administrative procedures.

§ 906.3 General authority for sale.

A PHA may sell all or a portion of a public housing development to eligible residents, as defined under § 906.8, for

purposes of homeownership, according to a homeownership plan approved by HUD under this part. If the development is subject to indebtedness under the ACC, HUD will continue to make any debt service contributions for which it is obligated under the ACC, and the property sold will not be subject to the encumbrance of that indebtedness. (In the case of a development with financing restrictions (such as a bond-financed development), however, sale is subject to the terms and conditions of the applicable restrictions.) Upon sale in accordance with the HUD-approved homeownership plan, HUD will execute a release of the title restrictions prescribed by the ACC. Because the property will no longer be subject to the ACC after sale, it will cease to be eligible for further HUD funding for public housing operating subsidies or modernization under the Act upon conveyance of title by the PHA. (That does not preclude any other types of post-sale subsidies that may be available, under other Federal, State, or local programs, such as the possibility of available assistance under Section 8 of the Act, in connection with a plan for cooperative homeownership, if authorized by the Section 8 regulations.)

§ 906.4 Fundamental criteria for HUD approval.

HUD will approve a PHA's homeownership plan if it meets all three of the following criteria:

(a) *Workability.* The plan must be practically workable, with sound potential for long-term success. Financial viability, including the capability of purchasers to meet the financial obligations of homeownership, is a critical requirement.

(b) *Legality.* The plan must be consistent with law, including the requirements of this part and any applicable Federal, State, and local statutes and regulations, and existing contracts. Subject to the other two criteria stated in this section, any provision that is not contrary to those legal requirements may be included in the plan, at the discretion of the PHA, whether or not expressly authorized in this part.