

HUD certification required under section 102 of the HUD Reform Act (42 U.S.C. 3545) can be made in accordance with 24 CFR part 12 (subpart D). Although donations are not subject to the TDC limitations set forth in paragraph (a) of this section, donations must be included in the project development cost budget, and legally acceptable written commitments for such donations must be provided by the PHA for HUD approval.

Subpart D—Project Development

SOURCE: 61 FR 38020, July 22, 1996, unless otherwise noted.

§ 941.401 Site and property acquisition.

(a) *Applicability.* The provisions of this section apply to projects being developed under the conventional, acquisition, and force account methods, and may apply to other development methods, as deemed appropriate by HUD.

(b) *Purchase agreement.* The purchase agreement shall reflect any conditions established by HUD, such as the site engineering studies that must be completed to determine whether the site is suitable for development of the project.

(c) *Title.*—(1) *General.* After HUD approves the site or property acquisition contract and notifies the PHA that it is authorized to take title, the PHA shall obtain title in accordance with the following certification. The PHA shall certify to HUD that it obtained a title insurance policy that guaranteed that the title was good and marketable before taking title and that it promptly recorded the deed and declaration of trust in the form prescribed by HUD.

(2) *Limitation.* After HUD notifies a PHA that has been determined to be troubled or modernization troubled in accordance with part 901 of this chapter, or a PHA that has for other reasons been notified in writing that it may not use the procedure specified in paragraph (c)(1) of this section, that the site or property acquisition contract has been approved, the PHA shall submit to HUD evidence that title to the site or property is good and marketable. If HUD approves the title evidence, it will inform the PHA that it is authorized to acquire title to the site

or property. The PHA shall record promptly the deed and declaration of trust in the form prescribed by HUD, and HUD may require the PHA to submit evidence of such recordation.

§ 941.402 Project design and construction.

(a) *Compliance with HUD construction standards and Federal procurement requirements.*

(1) *General.* A PHA may certify that its proposed design and construction plans for the development are in accordance with HUD's design and construction standards at § 941.203, and that its bidding procedures are in accordance with Federal procurement requirements.

(2) *Limitation.* In the case of a PHA determined to be troubled or modernization troubled in accordance with part 901 of this chapter or a PHA that has for other reasons been notified in writing that it may not use the procedure specified in paragraph (a)(1) of this section, the PHA must submit the proposed design and construction plans and its bidding procedures (unless HUD notifies the PHA that it may use the certification procedure specified in paragraph (a)(1) of this section).

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

(c) *Prevailing wage rates.* See § 965.101 of this chapter.

§ 941.403 Acceptance of work and contract settlement.

(a) *Notification of completion.* The contractor or developer shall notify the PHA in writing when the contract work, including any approved off-site work, will be completed and ready for inspection.

(b) *Acceptance.* (1) *General.* A PHA may carry out the final inspection of the work and may accept the completed work. If, upon inspection, the

PHA determines that the work is complete and satisfactory, except for work that is appropriate for delayed completion, the work shall be accepted by the PHA. The PHA shall certify to HUD before it pays the contractor or developer that it has inspected the work and determined that it is acceptable and in compliance with the construction contract or contract of sale and HUD requirements. The PHA shall determine any hold-back for items of delayed completion, and the amount due and payable for the work that has been accepted including any conditions precedent to payment that are stated in the construction contract or contract of sale. The contractor or developer shall be paid for items of delayed construction only after inspection and acceptance of this work by the PHA.

(2) *Limitation.* In the case of a PHA determined to be troubled or modernization troubled in accordance with part 901 of this chapter or a PHA that has for other reasons been notified in writing that it may not use the procedure specified in paragraph (b)(1) of this section, the procedure described in paragraph (b)(1) of this section will be followed, except that HUD must concur in the necessary PHA determinations and approvals.

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

(d) *Title to turnkey projects.* (1) *General.* When the work has been inspected and accepted on a turnkey project, in accordance with paragraph (b) of this section, the PHA is authorized to take title to the completed project in ac-

cordance with the following certification. The PHA shall certify to HUD that it obtained a title insurance policy that guaranteed that the title was good and marketable before taking title and that it promptly recorded the deed and declaration of trust in the form prescribed by HUD.

(2) *Limitation.* After inspection and acceptance of the work in accordance with paragraph (b) of this section, a PHA that has been determined to be troubled or modernization troubled in accordance with part 901 of this chapter, or a PHA that has for other reasons been notified in writing that it may not use the procedure specified in paragraph (d)(1) of this section shall submit to HUD evidence that title to the completed project is good and marketable. If HUD approves the title evidence, it will inform the PHA that it is authorized to acquire title to the completed project. The PHA shall record promptly the deed and declaration of trust in the form prescribed by HUD, and HUD may require submission of evidence of such recordation.

§ 941.404 Completion of development.

(a) When all development has been completed and paid for, but not later than 12 months after the end of the initial operating period unless a longer period is approved by HUD, the PHA shall submit a statement of the actual development cost. For this purpose, the initial operating period with respect to each project is the period commencing with the date of initiation of the project and ending with the earliest of the following three dates: the end of the calendar quarter in which ninety-five percent of the dwelling units in the project are occupied; the end of the calendar quarter that is six, seven, or eight months after the date of full availability of the project; or the end of the calendar quarter next preceding the date of physical completion of the project.

(b) HUD shall review the statement and establish the actual development cost of the project, which becomes the maximum total development cost for purposes of the ACC.