

(b) *Continued employment.* The lease shall provide that the Officer's right of occupancy is dependent on the continuation of the employment that qualified the Officer for residency in the development under the plan. The lease also shall provide that the Officer will move out of the leased unit within a reasonably prompt time, to be established by the lease, after termination of employment.

**§ 960.511 Applicability of the annual contributions contract; effect on the Performance Funding System.**

(a) *Annual contributions contract.* Except to the extent that eligibility requirements are exempted under § 960.505 of this part, public housing units occupied by Officers in accordance with a plan submitted and approved under this subpart will be subject to the terms and conditions of the annual contributions contract (ACC) between the HA and the United States of America. This subpart does not override any of the terms and conditions of the ACC except insofar as they are inconsistent with the provisions of this subpart.

(b) *Performance funding system.* For purposes of the operating subsidy under the Performance Funding System (PFS) described in part 990, subpart A of this chapter, dwelling units allocated to Officers in accordance with this subpart are excluded from the total unit months available, as defined in § 990.102 of this chapter. Also for purposes of the operating subsidy under the PFS, the full amount of any rent paid by Officers in accordance with this subpart is included in other income, as defined in § 990.102 of this chapter. HAS may receive operating subsidy for one unit per housing development to promote economic self-sufficiency services or anti-drug programs, including housing police officers and security personnel. An HA may request consideration of such units in its calculation of operating subsidy eligibility through the appropriate local HUD Office.

**PART 963—PUBLIC HOUSING—  
CONTRACTING WITH RESIDENT-  
OWNED BUSINESSES**

**Subpart A—General**

- Sec.
- 963.1 Purpose.
- 963.3 Applicability.
- 963.5 Definitions.

**Subpart B—Contracting with Resident-Owned Businesses**

- 963.10 Eligible resident-owned businesses.
- 963.12 Alternative procurement process.

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

SOURCE: 57 FR 20189, May 11, 1992, unless otherwise noted.

**Subpart A—General**

**§ 963.1 Purpose.**

The purpose of this part is to enhance the economic opportunities of public housing residents by providing public housing agencies with a method of soliciting and contracting with eligible and qualified resident-owned businesses (as defined in this part) for public housing services, supplies, or construction. The contract award method provided by this part is based on the established procurement procedures set forth in 24 CFR 85.36, with solicitation as provided by these procedures limited to resident-owned businesses. The contract award method provided by this part is not a requirement. It is an alternative procurement method available to public housing agencies, subject to the conditions set forth in this part, and subject to permissibility under State and local laws.

**§ 963.3 Applicability.**

The policies and procedures contained in this part apply to public housing developments that are owned by public housing agencies (PHAs) and that are covered by Annual Contributions Contracts (ACC) with the Department. Public housing contracts eligible to be awarded under the alternative procurement process provided by this

part are limited to individual contracts that do not exceed \$1,000,000. Resident-owned businesses eligible to participate in the alternative procurement process are limited to those that meet the eligibility requirements of § 963.10. The policies and procedures contained in this part are consistent with the objectives of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and similar Federal requirements imposed on public housing programs. (See 24 CFR 941.208(a) and 24 CFR 968.110(a)).

[57 FR 20189, May 11, 1992, as amended at 59 FR 33895, June 30, 1994]

#### § 963.5 Definitions.

The terms *HUD* and *Public housing agency (PHA)* are defined in 24 CFR part 5.

*Act.* The U.S. Housing Act of 1937 (42 U.S.C. 1437).

*Alternative procurement process.* The alternative method of public housing contract award available to public housing agencies and eligible resident-owned businesses under the conditions set forth in this part.

*Annual Contributions Contract (ACC).* See definition in 24 CFR 968.105.

*Certification.* A written assertion based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General, and the public, which assertion shall be deemed to be accurate for purposes of this part, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

*Contract or public housing contract.* Any contract awarded by a PHA for services, supplies, or construction necessary for the development, operation, modernization, or maintenance of public housing.

*Management officials.* The individuals who possess the power to make the day-to-day, as well as major, decisions on matters of management, policy, and operations of the resident-owned business.

*Principal.* An owner, partner, director, or management official of the resident-owned business with the power and authority to represent the business and to execute contract, leases, agree-

ments, and other documents on behalf of the business.

*Public housing or public housing development.* Any public housing development which is owned by a Public Housing Agency (PHA) and is receiving funds under an Annual Contributions Contract (ACC).

*Public housing resident.* Any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease.

*Resident-owned business.* Any business concern which is owned and controlled by public housing residents. (The term "resident-owned business" includes sole proprietorships.) For purposes of this part, "owned and controlled" means a business:

(1) Which is at least 51 percent owned by one or more public housing residents; and

(2) Whose management and daily business operations are controlled by one or more such individuals.

All securities which constitute ownership or control of a corporation for purposes of establishing the business as a resident-owned business shall be held directly by the public housing residents. No securities held in trust, or by any guardian for a minor, shall be considered as held by the public housing resident in determining the ownership or control of a corporation.

[57 FR 20189, May 11, 1992, as amended at 61 FR 5215, Feb. 9, 1996]

### Subpart B—Contracting With Resident-Owned Businesses

#### § 963.10 Eligible resident-owned businesses.

To be eligible for the alternative procurement process provided by this part, a business must meet the following requirements, and must submit evidence to the PHA, in the form described below, or as the PHA may require, that shows how each requirement has been met.

(a) *Legally formed business.* The business shall submit certified copies of any State, county, or municipal licenses that may be required of the