

(2) *Bases for disapproval for Annual Submission.* HUD shall approve the Annual Submission, except where:

(i) *Plainly inconsistent with Comprehensive Plan.* HUD determines that the activities and expenditures proposed in the Annual Submission are plainly inconsistent with the PHA's approved Comprehensive Plan;

(ii) *Contradiction of PHA resolution.* HUD has evidence which tends to challenge, in a substantial manner, the certifications contained in the board resolution, as required by § 968.315(e)(7).

(h) *Amendments to Annual Statement.* The PHA shall advise HUD of all changes to the PHA's approved Annual Statement in its Performance and Evaluation Report submitted under § 968.330. The PHA shall submit to HUD for prior approval any additional work categories (except for emergency work) which are not within the PHA's approved Five-Year Action Plan.

(i) *Failure to obligate formula funds and extension of time for performance—(1) Failure to obligate formula funds.* If the PHA fails to obligate formula funds within the approved or extended time period, the PHA may be subject to an alternative management strategy which may involve third-party oversight or administration of the modernization function. HUD would only require such action after a corrective action order had been issued under § 968.335 and the PHA failed to comply with the order. HUD could then require an alternative management strategy in a corrective action order. A PHA may appeal in writing the corrective action order requiring an alternative management strategy within 30 calendar days of that order. HUD Headquarters shall render a written decision on a PHA's appeal within 30 calendar days of the date of its receipt of the PHA's appeal.

(2) *Extension of time for performance.* A PHA may extend the target dates for fund obligation and expenditure in the approved Annual Statement whenever any delay outside the PHA's control occurs, as specified by HUD, and the extension is made in a timely manner. Such revision is subject to HUD review under § 968.345(a)(2) as to the PHA's continuing capacity. HUD shall not review as to a PHA's continuing capacity any revisions to a PHA's Comprehen-

sive Plan and related statements where the basis for the revision is that HUD has not provided the amount of assistance set forth in the Annual Submission, or has not provided such assistance in a timely manner.

(j) *ACC Amendment.* After HUD approval of each year's Annual Submission, HUD and the PHA shall enter into an ACC amendment in order for the PHA to draw down modernization funds. The ACC amendment shall require low-income use of housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC).

(k) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

(Approved by the Office of Management and Budget under control number 2577-0157)

[57 FR 5575, Feb. 14, 1992, as amended at 59 FR 44841, Aug. 30, 1994. Redesignated and amended at 61 FR 8748, Mar. 5, 1996]

§ 968.330 PHA performance and evaluation report.

For any FFY in which a PHA has received assistance under this subpart, the PHA shall submit a Performance and Evaluation Report, in a form and at a time to be prescribed by HUD, describing its use of assistance in accordance with the approved Annual Statement. The PHA shall make reasonable efforts to notify residents and officials of the appropriate governing body of the availability of the draft report, make copies available to residents in the development office, and provide residents with at least 30 calendar days in which to comment on the report.

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