

(where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at §968.205.

(c) *ACC amendment.* 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 the 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). The PHA Executive Director, where authorized by the Board of Commissioners and permitted by State law, may sign the ACC amendment on behalf of the PHA. HUD has the authority to condition an ACC amendment (e.g., to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(d) *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.

[64 FR 33637, June 23, 1999]

**§ 968.215 Resident and homebuyer participation.**

A PHA shall establish a Partnership Process, as defined in §968.105, to develop, implement and monitor the CIAP. Before submission of the CIAP application, a PHA shall consult with the residents, the resident organization, or the resident management corporation (see part 964, subpart C of this chapter) (herein referred to as the resident) of the development(s) being proposed for modernization, regarding its intent to submit an application and to solicit resident comments. A PHA shall give residents a reasonable opportunity to present their views on the proposed modernization and alternatives to it and shall give full and serious consideration to resident recommendations. A PHA shall respond in writing to the residents, indicating its acceptance or

rejection of resident recommendations, consistent with HUD requirements and the PHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, a PHA shall inform the residents of the approved work items and its progress during implementation. Where HUD does not approve the modernization program, a PHA shall so inform the residents.

**§ 968.225 Budget revisions.**

(a) A PHA shall not incur any modernization cost in excess of the total HUD-approved CIAP budget. A PHA shall submit a budget revision, in a form prescribed by HUD, if the PHA 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 to change the method of accomplishment from contract to force account labor, except as provided in paragraph (b)(4) of this section.

(b) In addition to the requirements of paragraph (a) of this section, a PHA shall comply with the following requirements:

(1) A PHA is not required to obtain prior HUD approval if, in order to complete the originally approved modernization program, the PHA needs to delete or revise approved work items or add new related work items consistent with the original modernization program. In such case, a PHA 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) A PHA shall not incur any modernization cost 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, a PHA may, without prior HUD approval, use the remaining funds to carry out eligible modernization activities at developments covered by the original CIAP application.

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(4) If a PHA is both an overall high performer and a modernization high performer under the Public Housing Management Assessment Program (PHMAP), the PHA is not required to obtain prior HUD approval to change the method of accomplishment from contract to force account labor.

**§ 968.230 Progress reports.**

For each six-month period ending March 31 and September 30, until completion of the modernization program or expenditure of all funds, a PHA shall submit to HUD a progress report, in a form prescribed by HUD. Where HUD determines that a PHA is having implementation problems, HUD may require more frequent reporting.

**§ 968.235 Time extensions.**

A PHA shall not obligate or expend funds after the obligation or expenditure deadline date approved by HUD in the original implementation schedule without a time extension, as follows:

(a) *Certification.* A PHA 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 PHA certifies that the delay is due to reasons outside of the PHA'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 PHA's staff or Board of Commissioners or a change in the Executive Director is not considered to be outside of the PHA's control.

(b) *Prior HUD approval.* Where a PHA is unable to meet an obligation or expenditure deadline date and the delay is due to reasons within the PHA's control, the PHA may request HUD approval of a time extension no later than 30 calendar days after the 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.

**24 CFR Ch. IX (4-1-10 Edition)**

**§ 968.240 HUD review of PHA performance.**

HUD shall periodically review PHA performance in carrying out its approved modernization program to determine compliance with HUD requirements, the adequacy of a PHA's inspections as evidenced by the quality of work, and the timeliness of the work. HUD's review may be conducted either in-office or on-site. Where conducted in-office, a PHA shall forward any requested documents to HUD for post-review. Where deficiencies are noted, a PHA shall take such corrective actions as HUD may direct.

**Subpart C—Comprehensive Grant Program (for PHAs That Own or Operate 250 or More Public Housing Units)**

SOURCE: 57 FR 5575, Feb. 14, 1992, unless otherwise noted.

**§ 968.305 Definitions.**

In addition to the definitions in § 968.105, the following definitions apply to this subpart:

*Action plan.* A plan of the actions to be funded by a PHA over a period of five years (including a PHA's proposed allocation of its modernization funds to a reserve established under § 968.112(f)) to make the necessary physical and management improvements identified in the PHA's comprehensive plan. The plan shall be based upon HUD's and the PHA's best estimates of the funding reasonably expected to become available under the next five-year period. The action plan is updated annually to reflect a rolling five-year base. (See § 968.315(e)(5).)

*Annual Statement.* A work statement covering the first year of the Five-Year Action Plan and setting forth the major work categories and costs by development or PHA-wide for the current FFY grant, as well as a summary of costs by development account and implementation schedules for obligation and expenditure of the funds.

*Annual Submission.* A collective term for all documents which the PHA must submit to HUD for review and approval before accessing the current FFY grant