Asst. Secy., for Public and Indian Housing, HUD

beginning with PHA fiscal years that
commence on or after January 1, 2001.

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

Subpart A—General

§ 963.1 Purpose.
The purpose of this part is to en-
hance the economic opportunities of
public housing residents by providing
public housing agencies with a method
of soliciting and contracting with eligi-
bile and qualified resident-owned busi-
nesses (as defined in this part) for pub-
lic housing services, supplies, or con-
struction. 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 con-
tract award method provided by this
part is not a requirement. It is an al-
ternative procurement method avail-
able to public housing agencies and eligible resident-
owned businesses under the conditions
set forth in this part, and subject to permissibility under
State and local laws.

§ 963.3 Applicability.
The policies and procedures con-
tained in this part apply to public
housing developments that are owned
by public housing agencies (PHAs) and
that are covered by Annual Contribu-
tions Contracts (ACC) with the Depart-
ment. 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 partici-
pate 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 ob-
jectives of section 3 of the Housing and
Urban Development Act of 1968 (12
U.S.C. 1701u), and similar Federal re-
quirements 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

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 Gen-
eral, and the public, which assertion
shall be deemed to be accurate for pur-
poses 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 nec-
necessary for the development, operation,
modernization, or maintenance of pub-
lic 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 busi-
ness.

Principal. An owner, partner, direc-
tor, or management official of the resi-
dent-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.

421
§ 963.10

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 Contribution 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.

[b]Subpart B—Contracting With Resident-Owned Businesses[/b]

§ 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 business to engage in the type of business activity for which it was formed. Where applicable (as for example, in the case of corporations), the business also shall submit a certified copy of its corporate charter or other organizational document that verifies that the business was properly formed in accordance with State law.

(b) Resident-owned business. The business shall submit a certification that it is a resident-owned business as defined by this part. The business shall disclose to the PHA all owners of the business, and each owner’s percentage of ownership interest in the business. The business also shall disclose all individuals who possess the power to make the day-to-day, as well as major, decisions on matters of management, policy, and operations (management officials). The business shall identify all owners and management officials who are not public housing residents, and shall disclose any relationship that these owners and officials may have to a business (resident- or non-resident-owned) engaged in the type of business activity with which the resident-owned business is engaged. For purposes of this part, “relationship” means employment by, or having an ownership interest in, a business. The business also shall submit such evidence as the PHA may require to verify that the owner or owners identified as public housing residents reside within public housing of the PHA.

(c) Responsibility to complete contract. The business shall submit evidence sufficient to demonstrate to the satisfaction of the PHA that the business has the ability to perform successfully under the terms and conditions of the proposed contract. Consideration will be given to various factors, including but not limited to those identified in 24 CFR 85.36(b)(8) and also to such matters as proof of completion of courses in business administration or financial management, and proof of job training or apprenticeship in the particular trade, business, profession, or occupation.

(d) Limitation on alternative procurement contract awards. The business shall submit a certification as to the number of contracts awarded, and the dollar amount of each contract award received, under the alternative procurement process provided by this part.