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§ 1006.365 Program administration responsibilities.

(a) *Responsibilities.* The DHHL is responsible for managing the day-to-day operations of the NHHBG Program, ensuring that NHHBG funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of contractors does not relieve the DHHL of this responsibility.

(b) *Agreements with contractors.* The DHHL may enter into agreements with private contractors selected under the provisions of 24 CFR 85.36 for purposes of administering all or part of the NHHBG program for the DHHL.

§ 1006.370 Federal administrative requirements.

(a) *Governmental entities.* The DHHL and any governmental contractor receiving NHHBG funds shall comply with the requirements and standards of OMB Circular No. A–87, ''Cost Principles for State, Local and Indian Tribal Governments,'' and with 24 CFR part 85 ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.''

(b) *Non-profit organizations.* The requirements of OMB Circular No. A–122, ''Cost Principles for Non-profit Organizations,'' and the requirements of 24 CFR part 84, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations,'' apply to contractors receiving NHHBG funds that are non-profit organizations that are not governmental contractors.

(c)(1) With respect to the applicability of cost principles, all items of cost listed in Attachment B of OMB Circular A–87 which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply with the general policies and principles stated in Attachment A of this circular and are otherwise eligible under this part, except for the following:

(i) Depreciation methods for fixed assets shall not be changed without specific approval of HUD or, if charged through a cost allocation plan, the Federal cognizant agency.

(ii) Fines and penalties are unallowable costs to the NHHBG program.

(2) In addition, no person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with NHHBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule.

(d) OMB Circulars referenced in this part may be obtained from *www.whitehouse.gov/omb/circulars/index.html;* telephone; (202) 395–3080.

§ 1006.375 Other Federal requirements.

(a) *Lead-based paint.* The following subparts of HUD's lead-based paint regulations at part 35, which implement the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822–4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), apply to the use of assistance under this part:

(1) Subpart A, ''Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property'';

(2) Subpart B, ''General Lead-Based Paint Requirements and Definitions for All Programs'';

(3) Subpart H, ''Project-Based Rental Assistance'';

(4) Subpart J, ''Rehabilitation'';

(5) Subpart K, ''Acquisition, Leasing, Support Services, or Operation'';

(6) Subpart M, ''Tenant-Based Rental Assistance''; and

(7) Subpart R, ''Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities''.

(b) *Drug-free workplace.* The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, *et seq.*) and HUD's implementing regulations in 24 CFR part 21 apply to the use of assistance under this part.

(c) *Displacement and relocation.* The following relocation and real property acquisition policies are applicable to programs developed or operated under the Act and this part:

(1) *Real property acquisition requirements.* The acquisition of real property

for an assisted activity is subject to 49 CFR part 24, subpart B.

(2) *Minimize displacement.* Consistent with the other goals and objectives of the Act and this part, the DHHL shall assure that it has taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under the Act and this part.

(3) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (d)(7) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(4) *Appeals to the DHHL.* A person who disagrees with the DHHL's determination concerning whether the person qualifies as a ''displaced person,'' or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the DHHL.

(5) *Responsibility of DHHL.* (i) The DHHL shall certify that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The DHHL shall ensure such compliance notwithstanding any third party's contractual obligation to the DHHL to comply with the provisions in this section.

(ii) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However, such assistance may also be paid for with funds available to the DHHL from any other source.

(iii) The DHHL shall maintain records in sufficient detail to demonstrate compliance with this section.

(6) *Definition of displaced person.* (i) For purposes of this section, the term ''displaced person'' means any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted under the Act. The term ''displaced person'' includes, but is not limited to:

(A) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the submission to HUD of a housing plan that is later approved;

(B) Any person, including a person who moves before the date described in paragraph (d)(7)(i)(A) of this section, that the DHHL determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project;

(C) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after execution of the agreement between the DHHL and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(*1*) The tenant-occupant's monthly rent and estimated average monthly utility costs before the agreement; or

(*2*) 30 percent of gross household income.

(D) A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(*1*) The tenant-occupant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or

(*2*) Other conditions of the temporary relocation are not reasonable.

(E) A tenant-occupant of a dwelling who moves from the building/complex after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either:

(*1*) The tenant-occupant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(*2*) Other conditions of the move are not reasonable.

(ii) Notwithstanding the provisions of paragraph (c)(6)(i) of this section, a person does not qualify as a ''displaced person'' (and is not eligible for relocation assistance under the URA or this section), if:

(A) The person moved into the property after the submission of the housing plan to HUD, but before signing a lease or commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a ''displaced person'' or for any assistance provided under this section as a result of the project;

(B) The person is ineligible under 49 CFR 24.2(g)(2); or

(C) The DHHL determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination.

(iii) The DHHL may at any time ask HUD to determine whether a specific displacement is or would be covered under this section.

(7) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a person displaced as a direct result of rehabilitation or demolition of the real property, the term ''initiation of negotiations'' means the execution of the agreement covering the rehabilitation or demolition (*See* 49 CFR part 24).

(d) *Audits.* The DHHL must comply with the requirements of the Single Audit Act and OMB Circular A–133, with the audit report providing a schedule of expenditures for each grant. A copy of each audit must be submitted to HUD concurrent with submittal to the Audit Clearinghouse.

[67 FR 40776, June 13, 2002, as amended at 72 FR 73497, Dec. 27, 2007]

Subpart E—Monitoring and Accountability

§ 1006.401 Monitoring of compliance.

(a) *Periodic reviews and monitoring.* At least annually, the DHHL must review the activities conducted and housing assisted with NHHBG funds to assess compliance with the requirements of the Act and this part. This review must encompass and incorporate the results of the monitoring by the DHHL of all contractors involved in the administration of NHHBG activities.

(b) *Review.* Each review under paragraph (a) of this section must include on-site inspection of housing to determine compliance with applicable requirements.

(c) *Results.* The results of each review under paragraph (a) of this section must be:

(1) Included in a performance report of the DHHL submitted to HUD under § 1006.410; and

(2) Made available to the public.

§ 1006.410 Performance reports.

(a) *Requirement.* For each fiscal year, the DHHL must:

(1) Review the progress the DHHL has made during that fiscal year in achieving goals stated in its housing plan; and

(2) Submit a report in a form acceptable to HUD, within 60 days of the end of the DHHL's fiscal year, to HUD describing the conclusions of the review.

(b) *Content.* Each report submitted under this section for a fiscal year shall:

(1) Describe the use of grant amounts provided to the DHHL for that fiscal year;

(2) Assess the relationship of the use referred to in paragraph (b)(1), of this section, to the goals identified in its housing plan;

(3) Indicate the programmatic accomplishments of the DHHL; and

(4) Describe the manner in which the DHHL would change its housing plan as a result of its experiences administering the grant under the Act.

(c) *Public availability*—(1) *Comments by Native Hawaiians.* In preparing a report under this section, the DHHL shall make the report publicly available to Native Hawaiians who are eligible to