

U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

Special Attention of:

Transmittal Guidebook No.: 7485.3 G

Public Housing Agencies; Indian
Housing Authorities; Directors
Offices of Public Housing;
Administrators, Offices of
Native American Programs

Issued: October 3, 1996

1. This Transmits

The Comprehensive Grant Program Guidebook 7485.3 G, dated 10/96.

2. Explanation of Materials Transmitted:

This Guidebook provides instructions, guidance and processing procedures for use by HUD Field Offices, including Offices of Native American Programs, Public Housing Agencies (PHAS) and Indian Housing Authorities (IHAs), residents, and other interested parties involved in the modernization of Public and Indian Housing under the Comprehensive Grant Program (CGP). The CGP allocates modernization funds to PHAs that own or operate 250 or more units.

3. Appendices: Appendices, including sample forms, are set forth in accordance with the related Chapter.

4. Cancellation: The CGP Handbook 7485.3, dated 3/92.

5. Forms Alert: All revised forms will be separately distributed to PHAs and HUD Field Offices.

6. Data Resources: The Integrated Business System (IBS).

7. Additional Copies: Additional copies of the Comprehensive Grant Program Guide 7485.3 G, dated 10/96, are available from the HUD Direct Distribution Center at 1-800-767-7468.

Acting Assistant Secretary for
Public and Indian Housing

PT: Distribution: W-3-1, R-3-1(PIH), R-6, R-7, R-9, 138-2, 138-7
U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

7485.3 G

COMPREHENSIVE GRANT
PROGRAM GUIDEBOOK
OCTOBER 1996

U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

Special Attention of:
Public Housing Agencies; Indian
Housing Authorities; Regional
Administrators; Regional Public
Housing Directors; Field Office
Managers; Public Housing
Division Directors; OIP Managers

Transmittal Handbook No.: 7485.3

Issued: March 18, 1992

1. This Transmits

The Comprehensive Grant Program Handbook 7485.3, dated 3/92.

2. Explanation of Materials Transmitted:

This Handbook provides instructions, guidance and processing procedures for use by HUD Regional and Field Offices, Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs), residents, and other interested parties involved in the modernization of Public and Indian Housing under the Comprehensive Grant Program (CGP). The CGP allocates modernization funds to PHAs/IHAs that own or operate 500 or more units beginning in Federal Fiscal Year (FFY) 1992 (250 or more units beginning in FFY 1993).

3. Appendices: Appendices, including sample forms, are set forth in accordance with the related Chapter.

4. Cancellation: None.

5. Forms Alert: All new forms will be separately distributed to PHAs and HUD Regional and Field Offices.

6. Data Resources: For PHAs, the System for Management Information Retrieval for Public Housing (SMIRPH). For IHAs, the Management Information Retrieval System (MIRS).

Assistant Secretary for Public and Indian Housing

Handbook 7485.3

Program Participants
and Departmental Staff

Comprehensive Grant Program

March 1992

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

COMPREHENSIVE GRANT PROGRAM

FOREWORD

The Comprehensive Grant Program is a powerful tool that is available to Public Housing Agencies and Indian Housing Authorities (PHAs/IHAs) in correcting the deficiencies present in their stock. This Handbook provides a complete review of the Program by serving as a one-stop source document that includes the statute, the regulation and guidance material. It begins with the statute and the regulation since these documents are the primary structures of the Program from which all requirements derive. The statute provides the legal authorization and description of the Program. The regulation is the document which implements the statute. The Handbook provides a restatement of the regulation in more conversational language with examples, additional administrative and procedural requirements, and guidance/advice to assist PHAs/IHAs, residents, other interested parties, and HUD staff.

The Handbook is organized by chapter headings to delineate clearly PHA/IHA responsibilities vs. HUD responsibilities. Use of the words "shall, should, and may" distinguish between what is required and what is suggested.

The reader is advised that no document can be all-inclusive. While the Department has attempted to cover as broad a spectrum as possible in considering the examples, clearly there will be situations which arise that have not been addressed. To that extent, the Department urges the reader to discuss those situations with HUD staff so that the Department may work towards a solution that, to the extent possible, addresses the specific situation. It is anticipated that the Handbook will be revised as operational experience is gained and, therefore, constructive feedback is welcomed.

Copies of the statute, Section 14 of the U.S. Housing Act of 1937, as amended, and the regulation, 24 CFR Part 968, Public Housing Modernization, Subpart A, General, and Subpart C, Comprehensive Grant Program, for PHAs and 24 CFR Part 905, Subpart I, for IHAs immediately follow the Table of Contents.

W-3-1, W-2(H), W-3(H), R-1, R-2, R-3, R-3-1(PIH),

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CHAPTER 1. INTRODUCTION

1-1. PROGRAM OBJECTIVES. The objectives of the Comprehensive Grant Program (CGP) are to: [Sec. 14(a)]

- A. Provide modernization assistance to Public Housing Agencies (PHAS) and Indian Housing Authorities (IHAs), herein referred to as HAs, that own or operate a total of 250 or more units of public housing on a reliable and more predictable basis, to enable them to improve the physical condition and to upgrade the management and operations of existing public housing developments to assure their continued availability for low-income families;
- B. Provide considerable discretion to HAs to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds; and
- C. Provide increased opportunities and incentives for more efficient management of public housing developments.

1-2. APPLICABILITY. [Sec. 14(b)]; ['968.101(b) or '950.600(b)]

- A. The CGP applies to HA-owned low-income public housing developments (including Turnkey III and Mutual Help developments and developments managed by a resident management corporation pursuant to a contract with the HA); conveyed Lanham Act and Public Works Administration (PWA) developments; and Section 23 Leased Housing Bond-Financed projects (BFPs). In addition, the CGP applies to rental developments which are planned for conversion to homeownership under Sections 5(h), 21, or 301 of the Act, but which have not yet been sold by the HA. The CGP does not apply to developments under the Section 23 Leased Housing Non-Bond Financed Program, the Section 10(c) Leased Housing Program, or the Section 23 or Section 8 Housing Assistance Payments Programs.
- B. For purposes of the 250 or more unit threshold for participation in the CGP and for the formula allocation, an existing rental, Section 23 Leased Housing Bond-Financed, and Mutual Help unit under the Annual Contributions Contract (ACC) shall count as one unit; and a Turnkey III unit shall count as one-fourth of a unit to take into account homebuyer responsibilities for the costs of certain maintenance and repair. Units that are temporarily used for nondwelling purposes remain under the ACC, and, therefore,

are counted in the formula. New development units that are added to the HA's inventory shall be added to the overall unit count so long as they are under the ACC amendment and

have reached Date of Full Availability (DOFA) by the first day in the Federal Fiscal Year (FFY) (October 1) in which the formula is being run. New units reaching DOFA after this date will be counted for formula purposes as of the following FFY. ['968.1030) or '950.604(j)]

- C. The HA that qualifies to participate in the CGP is not eligible to participate in the Comprehensive Improvement Assistance Program (CIAP). However, when a qualifying HA elects not to participate in the CGP in any given FFY, such HA is not penalized with regard to its CGP eligibility and may participate in the CGP in a future FFY.
- D. The HA that has already qualified to participate in the CGP because it owns or operates 250 or more units may elect to continue to participate in the CGP if it has lost units as a result of demolition, disposition, conversion, or conveyance of homeownership units, so long as it owns or operates at least 200 units. HUD will continue to provide such with an annual formula amount.
- E. The HA may use any unobligated CIAP funds for approved CIAP work items or, in accordance with a revised CIAP Budget, for different work items which are consistent with the HA's Physical and Management Needs Assessments and Five-Year Action Plan under the CGP (see paragraph 4-13). ['968.101(c) or '950.600(c)]
- F. Where the HA is still implementing CIAP programs, the HA may administer both the CIAP and the CGP on a similar basis in certain key functional areas so as to avoid operating dual programs with different sets of requirements (see paragraph 10-4).

1-3. LEGAL AUTHORITY. Section 119 of the Housing and Community Development Act of 1987 amended Section 14 of the United States Housing Act of 1937 (Act) to authorize a new CGP to govern the modernization needs of larger HAs, subject to Congressional approval of the allocation formula. Section 509 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 amended Section 14 of the Act to establish the grant allocation formula for the CGP, whereby the Department provides financial assistance, on a formula basis, to HAs for the modernization of public and Indian housing. The appropriate statutory sections are cited after the handbook paragraphs as, for example, Sec. 14(a).

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1-4. REGULATORY AUTHORITY. The regulations governing the CGP are at 24 CFR Part 968, Subparts A and C, for PHAs and 24 CFR Part 950, Subpart I, for IHAs. A copy of these regulations is provided in Appendix 1-1. The appropriate regulatory sections of Title 24 of the Code of Federal Regulations are cited after the handbook paragraphs as, for example, '968.105 or '950.102.

- 1-5. OTHER PROGRAM REQUIREMENTS. Other program requirements are set forth in Appendices 1-2 through 1-9 and relate to: civil rights compliance; lead-based paint (LBP) poisoning prevention; displacement, relocation and acquisition ['968.108 or '950.117]; environmental compliance; administrative compliance; insurance, including flood, LBP and other; wage rates; and audits.
- 1-6. DEFINITION OF TERMS. The following terms are used throughout this Handbook. ['968.105 and 968.305 or '950.102]
- A. Act. The United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.).
 - B. Action Plan. A plan of the actions to be funded by the HA over a period of five years (including the HA's proposed allocation of its modernization funds to a replacement reserve under paragraph 2-7) to make the necessary physical and management improvements identified in the HA's Comprehensive Plan. The Five-Year Action Plan shall be based upon HUD's and the HA's best estimates of the funding reasonably expected to become available under the next five-year period. The Five-Year Action Plan is updated annually to reflect a rolling five-year base.
 - C. Annual Contributions Contract (ACC). A contract under the Act between HUD and the HA containing the terms and conditions under which the Department assists the HA in providing decent, safe, and sanitary housing for low-income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low-income project under the Act, and the HA agrees to develop, modernize, and operate the project in compliance with all provisions of the ACC and the Act, and all HUD regulations and implementing requirements and procedures.
 - D. Annual Statement. A work statement submitted covering the first year of the Five-Year Action Plan and setting forth the major work categories and costs by development or HA-wide for the current FFY grant, as well as a summary of costs by development

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- account and implementation schedules for obligation and expenditure of the funds.
- E. Annual Submission. A collective term for all documents which the HA shall submit to HUD for review and approval before accessing the current FFY grant funds. Such documents include the Annual Statement, Work Statements for years two through five of the Five-Year Action Plan, Local Government Statement, HA Board Resolution, summary of general issues raised during the public comment process, and

any other documents prescribed by HUD.

- F. CGP. The Comprehensive Grant Program, which provides modernization funds on a formula basis to HAs with 250 or more public housing units.
- G. Chief Executive Officer (CEO). The CEO of the unit of general local/tribal government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local/tribal government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of a unit of general local government (e.g., city manager); or the tribal chairperson.
- H. CIAP. The Comprehensive Improvement Assistance Program, which provides modernization funds on a competitive basis to HAs with fewer than 250 public housing units.
- I. Comprehensive Plan. A plan prepared by the HA and approved by HUD setting forth all of the physical and management needs of the HA and its housing developments, indicating the relative urgency of needs and which includes the HA's Action Plan, cost estimates, and required local government and HA certifications. The Comprehensive Plan may be revised, as necessary, but must be revised at least every sixth year.
- J. Development. The term "development" has the same meaning as that provided for "low-income housing project," as that term is defined in Section 3(b)(1) of the Act.
- K. Emergency work. Physical work items of an emergency nature, posing an immediate threat to the health or safety of residents, which must be completed within one year of CGP funding. Management improvements are not eligible as emergency work and,

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therefore must be covered by the Management Needs Assessment and the Five-Year Action Plan or Annual Statement before the HA may carry them out.

- L. FFY. Federal Fiscal Year.
- M. Field Office (FO). The local HUD Office with which the HA normally transacts its low-income housing business.
- N. Force account labor. Labor employed directly by the HA on either a permanent or a temporary basis. Refer to paragraph 10-2.

- O. Fungibility. Fungibility is a concept which permits the HA to substitute any work item from the latest approved Five-Year Action Plan to any previously approved CIAP Budget or CGP Annual Statement and to move work items among approved modernization budgets without prior HUD approval.
- P. Hard costs. The physical improvement costs in development accounts 1450 through 1475 of the Low-Rent Technical Accounting Guide 7510.1, which include: Account 1450 Site Improvements; Account 1460 Dwelling Structures; Account 1465.1 Dwelling Equipment -- Nonexpendable; Account 1470 Nondwelling Structures; and Account 1475 Nondwelling Equipment.
- Q. Homebuyer Agreement. A Turnkey III Homebuyer Ownership Opportunity Agreement or a Mutual Help and Occupancy Agreement.
- R. HUD. The Department of Housing and Urban Development, including Field Offices that have been delegated authority to perform functions pertaining to the CGP for the area in which the HA is located.
- S. IHA. An Indian Housing Authority (see 24 CFR Part 950).
- T. Improvement Plan (IP) or Management Improvement Plan (MIP). A document developed by the HA, specifying the actions to be taken, including timetables, to correct deficiencies identified as a result of an assessment, under: the Public Housing Management Assessment Program (PHMAP) for PHAS; the Risk Assessment and Determination of Resources (RADAR) for or pursuant to HUD monitoring or audit findings.

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- U. Memorandum of Agreement (MOA). A binding contractual agreement between HUD and a Troubled PHA, or a Modernization (Mod) Troubled PHA, which is designed to bring about significant, expeditious and long-lasting improvements in the PHA's management of its PHAowned units. An MOA is required for each PHA designated as Troubled or Mod Troubled. An MOA does not apply to IHAS.
- V. Modernization funds. Funds derived from an allocation of budget authority for the purpose of funding physical and management improvements. Under the CGP, the terms "modernization funds" and "CGP funds" are used interchangeably.
- W. Modernization program. The HA's program for carrying out modernization, as set forth in the approved CIAP Budget or CGP Annual Statement.
- X. Modernization project. The improvement of one or more

existing public housing developments under an unique number designated for that modernization program. For each Modernization Project, HUD and the HA shall enter into an ACC amendment requiring low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to the sale of homeownership units in accordance with the terms of the ACC). Under the CGP, the terms "modernization project number" and "comprehensive grant number" are used interchangeably.

- Y. Non-routine maintenance. Work items that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.
- Z. Partnership Process. A specific and ongoing process that is designed to ensure that residents, resident groups and the HA work in a cooperative and collaborative manner to develop, implement and monitor the CGP. At a minimum, the HA shall ensure that the Partnership Process incorporates full resident participation in each of the required program components. Refer to Chapter 9.

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- AA. PHA. A Public Housing Agency.
- BB. PHMAP. The Public Housing Management Assessment Program (PHMAP) is a process designed to allow HUD and the PHA to identify PHA management capabilities and deficiencies, and to lead to overall better management of the Public Housing Program in accordance with 24 CFR Part 901. The PHMAP does not apply to IHAs.
- CC. Reasonable cost. Total unfunded hard cost needs for a development that do not exceed 90 percent of the computed Total Development Cost (TDC) for a new development with the same structure type and number and size of units in the market area.
- DD. Resident groups. Democratically elected resident groups, such as HA-wide resident groups, area-wide resident groups, single development resident groups, or resident management corporations (RMCs).
- EE. Soft costs. The non-physical improvement costs which exclude any costs in development accounts 1450 through 1475.

FF. Substantial rehabilitation. A modernization program for a development which provides for all physical and management improvements needed to meet the modernization and energy conservation standards and to ensure its long-term physical and social viability. Under the CGP, the terms "substantial rehabilitation" and "comprehensive modernization" are used interchangeably.

GG. Work item. Any separately identifiable unit of work constituting a part of a modernization program.

HH. Work Statements. Work Statements cover the second through the fifth years of the Five-Year Action Plan and set forth the major work categories and costs by development or HA-wide which the HA intends to undertake in each year of years two through five. In preparing these Work Statements, the HA shall assume that the current FFY formula amount will be available in each year of years two through five. Refer to subparagraph D, Annual Statement, for the work statement covering year one.

1-7. CATALOG OF FEDERAL DOMESTIC ASSISTANCE. The program number for the CGP in the Catalog of Federal Domestic Assistance is 14.859.

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1-8. PURPOSE OF GUIDEBOOK. This Guidebook provides guidance and procedures for use by FOs, HAs, residents and other participants involved in the CGP. The Guidebook uses the following defined terms consistently throughout the text.

A. "Shall" or "must" means that the action is mandatory or required to obtain or retain benefits as set forth in the statute or the regulation.

B. "Should" means that the action is suggested and not required to obtain or retain benefits.

C. "May" means that the action is permissive or optional and not required to obtain or retain benefits.

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CHAPTER 2. ELIGIBLE COSTS

Section 1. General

2-1. OBJECTIVE. The objective of this Chapter is to explain the eligible and ineligible costs under the CGP which are the same as under the CIAP, with the exception of CGP eligible costs for a replacement reserve and a portion of the audit. The lists of eligible and ineligible costs are not all-inclusive. Eligible CGP costs include: ['968.112(a) or '950.608(a)]

- A. Undertaking activities described in the approved Five-Year Action Plan and Annual Statement.
- B. Carrying out emergency work, as defined in paragraph 1-6, whether or not the need is indicated in the approved Comprehensive Plan, including the Five-Year Action Plan, or Annual Statement.
- C. Funding a replacement reserve to carry out eligible activities in future years, subject to the restrictions set forth in paragraph 2-7.
- D. Preparing the Comprehensive Plan and Action Plan under Chapter 4 and the Annual Submission under Chapter 6, including reasonable costs necessary to assist residents to participate in a meaningful way in the planning, implementation and monitoring process under Chapter 9.
- E. Carrying out an audit in accordance with 24 CFR Part 44 and Appendix 1-9.

2-2. LONG-TERM VIABILITY AND REASONABLE COST. Except in the case of emergency work, the HA shall only expend funds on a development for which the HA has determined that the completion of the improvements and replacements identified in the Comprehensive Plan will reasonably ensure the long-term physical and social viability of the development at a reasonable cost (as defined in paragraph 1-6), or for essential non-routine maintenance needed to keep the property habitable until the demolition or disposition application is approved and residents are relocated. ['968.112(b) or '950.608(b)]

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Section 2. Physical Improvement Costs

2-3. PHYSICAL IMPROVEMENT COSTS. Eligible costs include alterations, betterments, additions, replacements and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in '968.115 or '950.610. The modernization standards include mandatory and development-specific work. ['968.112(c) or '950.608(c)]

A. Mandatory Standards. Whenever there is a component that is not functional or serviceable, the physical work for that item shall comply with the mandatory standards, set forth in the Modernization Standards Handbook 7485.2, as revised, including the following items:

1. Energy Conservation Measures (ECMs). The mandatory standards include ECMs which have been identified by the most recently updated energy audit, conducted pursuant to 24 CFR Part 965, Subpart C for PHAS, or 24 CFR Part 950, Subpart K for IHAs, as having a simple payback of 15 years or less (the cost of the ECM divided by the annual value of the energy saved) and a useful life equal to or greater than the payback term. In addition, where changing or installing a new utility system, the HA shall conduct a life-cycle cost analysis, reflecting installation and operating costs over the estimated life of the buildings.
2. Physical Accessibility Costs. The mandatory standards include compliance with the requirements of the Architectural Barriers Act of 1968, as amended, and HUD implementing regulations (24 CFR Part 40), Section 504 of the Rehabilitation Act of 1973, as amended, and HUD implementing regulations (24 CFR Part 8), and the Americans with Disabilities Act and implementing regulations (29 CFR Chapter 4, Part 1630).
3. Lead-Based Paint (LBP) Testing and Abatement Costs. The mandatory standards include compliance with the requirements of the LBP Poisoning Prevention Act and HUD implementing regulations (24 CFR Part 35).

B. Development Specific Work.

1. The mandatory standards may be exceeded when the HA determines that it is necessary or highly desirable for the long term physical and social viability of the individual development, including site and building security. Work

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exceeding the mandatory standards is development specific and not applicable to all developments. Such work responds to differences in climate, location, building type, resident use and concerns, and management/maintenance systems.

2. Development specific work includes work items that are modest in design and cost, but still blend in with the design and architecture of the surrounding neighborhood/community by including amenities, quality materials, and design and landscaping features that are

customary for the locality and culture.

3. HUD will not generally substitute its judgement for that of the HA's where the HA has determined that development specific work is appropriate and needed at a particular development for increased durability, efficient maintenance, security or marketability. For example, security screens may be essential to providing security at a low-rise, but not a high-rise, development.
 4. An additional example of eligible development specific work is the extension of exterior walls to enlarge interior dwelling space, provide for construction of additional bedrooms or, where appropriate, provide for physical accessibility.
- C. Premature Replacement. The HA should analyze carefully the appropriateness of any premature replacement of serviceable building components, systems, equipment or materials. Generally, the HA should not undertake premature replacements except where a payback analysis indicates that the replacement will be cost-effective, assuming a simple payback term of 10 years or less.
- D. Air Conditioning. Initial installation or replacement of air conditioning in family and elderly developments is an eligible cost.
- E. Management, Maintenance or Community Space. The FO may approve nondwelling space where such space is needed to administer, and is of direct benefit to, the Public and Indian Housing Program. The maximum space guidelines set forth in the Modernization Standards Handbook 7485.2, as revised, are no longer mandatory. Nondwelling space may be provided through new construction, acquisition or conversion of dwelling space. Where a community facility will be operated by an outside service provider, the HA shall maintain on file for post-review by HUD a copy of the agreement with the service provider indicating that the provider

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- agrees to furnish, equip, operate and maintain the facility, as well as provide insurance coverage.
- F. Provision of Additional Dwelling Units. The construction or acquisition of additional dwelling units and the conversion of nondwelling space, which originally was not dwelling space, to dwelling use is an eligible cost. Refer to Notice PIH 96-56 (HA), dated July 29, 1996, regarding the use of modernization funds for development activities. Such activities may include additional funding for an already funded development program, or the development of additional

units.

- G. Expansion of Existing Dwelling Space. The expansion of existing dwelling space to enlarge room sizes, provide storage, or add additional bedrooms is an eligible cost.
- H. Property Purchases. Property purchases for nondwelling use are eligible costs and shall be charged to Account 1440.1, Property Purchases. The cost of an appraisal is an eligible cost and shall be charged to Account 1440.5, Appraisals. Refer to subparagraph F regarding purchase of land for dwelling use. Land or property acquired with modernization funds shall be placed under the Declaration of Trust.
- I. Purchase or Leasing of Vehicles. The purchase or leasing of new or replacement vehicles is an eligible cost where the vehicle is needed on a full-time basis to administer/implement the physical and management improvements set forth in the Annual Statement. Leasing should be used where the vehicle need is temporary, such as implementation of a particular work item, and/or where cost-effective.
 - 1. Non-Passenger Vehicles.
 - a. Where needed to carry out physical improvements, as set forth on the Physical Needs Assessments, with force account labor, the cost of non-passenger vehicles, such as a truck or backhoe, is an eligible cost.
 - b. Where needed to carry out management improvements, as set forth on the Management Needs Assessment, the cost of non-passenger vehicles, such as a truck or snowplow, is an eligible cost. For example, maintenance vehicles are an eligible cost only where new or replacement vehicles are set forth on the Management Needs Assessment as needed to improve or sustain maintenance operations. No proration is needed where the

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maintenance vehicle will be used exclusively for the Low-Rent Program.

- 2. Passenger Vehicles. The cost of new or replacement passenger vehicles is an eligible cost only where the vehicle will be used on a full-time basis to carry out the modernization program. For example, a car or van is needed by the Modernization Coordinator or in-house Architect on a full-time basis to visit work sites or to travel to resident meetings related to modernization or by HA police or security guards. Where passenger vehicles are needed on less than a full-time basis

to carry out the modernization program, the cost of the passenger vehicles are ineligible modernization costs, but are eligible operating costs.

3. Charging Costs.

- a. Eligible vehicle purchase costs shall be charged to Account 1475.7, Nondwelling Equipment - Automotive Equipment.
- b. Eligible vehicle leasing costs shall be charged to the appropriate administrative or hard cost development account.

- C. Operating costs, such as gasoline, oil, grease, batteries, tires, insurance, and repairs, for eligible leased or purchased vehicles are eligible costs only during the implementation of the modernization. Operating costs shall be charged to Account 1410.19, Sundry, except operating costs of vehicles used exclusively for force account labor in carrying out physical improvements are charged to the appropriate development account for hard costs, such as Account 1450, Site Improvements, or Account 1460, Dwelling Structures.

2-4. HOMEOWNERSHIP DEVELOPMENT COSTS. ['968.102 and 968.112(d) or '950.608(d)]

A. Eligible Costs.

1. General. Eligible physical improvements for existing Turnkey III units are limited to work items which are not the responsibility of the homebuyer families and which are related to health and safety, correction of development deficiencies (as permitted under paragraph 2-5), physical

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accessibility, energy audits and cost-effective ECMS, or LBP testing, interim containment, professional risk assessment and abatement. In addition, management improvements are eligible costs. Eligible modernization work for Mutual Help units is the same as for rental units.

2. Effect on Homebuyer Family. Modernization work on homeownership units shall not increase the purchase price and amortization period of the home.
3. Paid-Off Units. With the exception of paid-off Mutual Help units where the homebuyer owes a delinquency, homeownership units that are paid-off, but not conveyed

at the time the Annual Statement is submitted and for which work is included in the Annual Statement, are eligible for any physical improvements provided under this paragraph, even where the units are subsequently conveyed before the work is completed. An may perform nonemergency work on a paid-off Mutual Help unit only after all delinquencies are repaid.

4. Conveyed Units. Where modernization work has been approved before conveyance, the HA may complete the work even ff title to the unit is subsequently conveyed before the work is completed. However, once conveyed, the unit is not eligible for additional or future assistance. The HA shall not use modernization funds to modernize homeownership units ff the modernization work was not approved before conveyance of title.
5. Compliance.
 - a. The homebuyer family shall be in compliance with its financial obligations under its Homebuyer Agreement in order to be eligible for non-emergency physical improvements, with the exception of work necessary to meeting statutory and regulatory requirements (e.g., accessibility for disabled persons, LBP testing, interim containment, professional risk assessment and abatement), and the correction of development deficiencies. "Compliance" means that the homebuyer family shall be current with its required monthly payments and have no delinquencies owed to the HA or if the homebuyer family has a delinquent balance owed to the HA, the homebuyer family shall have established a track record of timely payment of the current monthly

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payment, plus any monthly payment required by a repayment (payback) agreement. To establish a track record, the homebuyer family shall, at a minimum, have entered into the repayment agreement before the HA's submission of its Annual Submission in which work on its unit is proposed and shall have paid each monthly payment required by the repayment agreement.

- b. Notwithstanding this requirement, the HA may, with prior FO approval, complete non-emergency physical improvements on any homeownership unit, where the HA demonstrates that, due to economies of scale or geographic constraints, substantial cost savings may be realized by completing all necessary work in a development at one time.

- B. Ineligible Costs. Routine maintenance or replacement costs that are ineligible under the CGP (Account 1475.7) may be allowable expenditures on the HA's approved Operating Budget.
- C. Exception for Vacant or Non-Homebuyer-Occupied Turnkey III Units.
 - 1. Notwithstanding the requirements of subparagraph A, the HA may substantially rehabilitate a vacant or non-homebuyer occupied Turnkey III unit in order to return the unit to the inventory or make the unit suitable for homeownership purposes. The HA that intends to use funds for this purpose shall identify in its Annual Submission the estimated number of units proposed for substantial rehabilitation and subsequent sale. In addition, the HA shall demonstrate that it has homebuyers who both are eligible for homeownership, in accordance with the requirements of 24 CFR Part 904 for PHAs or 24 CFR Part 950, Subpart G, for IHAS, and have demonstrated their intent to be placed into each of the Turnkey III units proposed to be substantially rehabilitated.
 - 2. Before the HA may be approved for the substantial rehabilitation of a Turnkey III unit, the HA shall first: (a) deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMH) pertaining to the unit; and (b) request the maximum amount of operating subsidy for which the unit is eligible. Any increase in the value of a unit caused by its substantial rehabilitation shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its selling price.

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- 3. Where the Turnkey III unit to be substantially rehabilitated is non-homebuyer occupied, the HA shall follow the requirements of Appendix 1-4 regarding assistance to displaced persons.

2-5. CORRECTION OF DEVELOPMENT DEFICIENCIES.

A. Definitions.

- 1. Development deficiencies are deficiencies that relate to errors or inadequacies in the design or construction of a development which become known before Field Office approval of the Actual Development Cost Certificate (ADCC). Design deficiencies result from the use of plans and specifications that fail to meet HUD and other applicable design standards in effect at the time of development approval, such as the Contract of Sale,

Notice to Proceed, etc. Construction deficiencies result from the use of improper construction methods or materials, poor workmanship, or failure to complete the development in accordance with HA-approved plans.

2. Development funds, as used in this paragraph, are funds remaining in the Development Cost Budget, funds remaining in the Annual Contributions Contract (ACC) in excess of the Development Cost Budget, or development amendment funds.
- B. HA Responsibility for Correction. The HA has primary responsibility for correcting development deficiencies by securing correction or indemnification from the architect or contractor, as appropriate. Where the HA has made every effort to secure correction or indemnification, but has failed, and there are no remaining or inadequate development funds, the HA may amend its Comprehensive Plan and Annual Statement to use modernization funds to correct development deficiencies.

2-6. DEMOLITION AND CONVERSION COSTS. ['968.112(e) or '950-608(e))

- A. Demolition Costs. Eligible costs include the demolition of dwelling units or nondwelling facilities, where the demolition is approved by @ under 24 CFR Part 970 or 24 CFR Part 950, Subpart M, and related costs, such as clearing and grading the site after demolition and subsequent site improvements to benefit the remaining portion of the existing development.

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- B. Unit Conversion Costs. Eligible costs include the conversion of existing dwelling units to different bedroom sizes or to nondwelling use.

2-7. REPLACEMENT RESERVE COSTS. ['968.112(f) or '950.608(f)]

- A. Funding a replacement reserve (Account 1490) to carry out eligible activities in future years is an eligible cost, subject to the following restrictions:
1. Annual CGP funds are not needed for existing needs, as identified by the HA in its Physical or Management Needs Assessment. In such case, there is no limit on the amount from an annual grant which may be placed into the replacement reserve; or
 2. A physical improvement requires more funds than the HA would receive under its annual formula allocation, less the cost of addressing emergencies and work required by a statutory or court-ordered deadline, and the HA needs to save all of the remaining portion of its annual grant, in order to combine it with subsequent year(s)

grants, to fund the work item because the work item cannot be funded in segments; or

3. Where a management improvement requires more funds than the HA may use under the 20% allowance of its annual grant for management improvements and cannot be funded in segments, the HA may request FO approval to exceed the 20% limitation.
- B. After ACC amendment the HA may draw down the full amount approved for the replacement reserve in the Annual Statement so that the funds may accrue interest. The HA shall invest replacement reserve funds so as to generate a return equal to or greater than the average 91-day Treasury bill rate (see paragraph 10-6). Interest earned on funds in the replacement reserve shall not be added to the HA's income in the determination of the HA's operating subsidy eligibility, but shall be used for eligible modernization costs. There is no time limit on the use of either the replacement reserve or accrued interest. However, the replacement reserve and accrued interest shall be used only for eligible modernization costs.
- C. To the extent that its annual formula allocation of CGP funds and any unobligated balances of modernization (CGP or CIAP) funds are

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not adequate to meet emergency needs, as defined in paragraph 1-6, the HA shall first use its replacement reserve, where funded, to meet emergency needs, before requesting funds from the \$75 million reserve (see paragraph 3-8). The HA is not required to use its replacement reserve for natural or other disasters.

- D. Replacement reserve funds used for operations (Account 1406), management improvements (Account 1408), and administration (Account 1410) shall not duplicate charges to the CGP and shall not exceed the cost limitations set forth in paragraph 2-19 as percentages of the replacement reserve withdrawal for the program year.

Section 3. Management Improvement Costs ['968.112(g) or '950.608(g)]
2-8. GENERAL COSTS.

- A. Eligible Costs. Management improvements costs (Account 1408) that are development specific or HA-wide in nature are eligible where needed to upgrade the operation of the HA's developments, sustain physical improvements at those developments, or correct management deficiencies identified by the HA in its Management Needs Assessment. Such improvements do not have to relate directly to the CGP-funded physical improvements at a particular development. Eligible costs include general management improvement costs, such as: management, financial, and accounting control

systems of the HA, adequacy and qualifications of HA personnel, including: training; provision of resident programs and services through coordination or the hiring of contract or force account labor or use of existing staff, resident and development security; resident selection and eviction; occupancy; rent collection; maintenance, including preventive maintenance; and equal opportunity.

- B. Occupancy Policies and Procedures. Management improvement costs (Account 1408) may include implementation of Notice PIH 96-27 (HA), Occupancy Provisions of the Housing Opportunity Program Extension Act of 1996, dated May 15, 1996. These provisions relate to stricter screening and eviction procedures by PHAS, but do not apply to IHAS.
- C. Social Services. The Omnibus Consolidated Rescissions and Appropriations (OCRA) Act of 1996 (P.L 104-134), enacted April 24, 1996, amended Section 14 of the United States Housing Act of

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1937 (Act), by expanding the eligible activities which may be funded with 1996 and prior year modernization funds. Among the newly eligible activities is the direct provision of social services, which is subject to the regulatory management improvement cost limitation of 20% in paragraph 2-19B.

- D. Computer Systems. Where management improvements involve computer systems, computer software costs shall be charged to Account 1408, Management Improvements, which is subject to the 20% limitation. Computer hardware costs shall be charged to Account 1475.4, Nondwelling Equipment - Nonexpendable, Computer Equipment, which is not subject to the 20% limitation.
 - E. Other Funding Sources. Operating funds, including operating subsidy, are an alternative source of funding for management improvements. Many management improvements may be undertaken within the HA's operating budget or at no additional cost.
 - F. Ongoing Costs. Where management improvements involve ongoing costs, such as security guards, HUD is not obligated to provide additional operating subsidy to continue the improvements. In such cases, the HA shall be responsible for continuing the CGP funding for as long as necessary to achieve the HA-identified management improvements, finding other funding sources, reducing its ongoing management costs, or terminating the management activities.
- 2-9. ECONOMIC DEVELOPMENT COSTS. Eligible costs include job training for residents, including local Step-Up programs, and resident business development activities, for the purpose of carrying out

activities related to the modernization-funded management and physical improvements. HUD encourages HAs, to the greatest extent feasible, to hire residents as trainees, apprentices, or employees to carry out the modernization program, and to contract with resident-owned businesses for modernization work. In providing training, contracting or employment opportunities for residents, the IHA is required, to the greatest extent feasible, to adhere to the Indian preference requirements in '950.165.

- A. Section 3. Section 3 of the HUD Act of 1968, as amended, and HUD's implementing regulations, 24 CFR Part 135, require the HA, its contractors, and subcontractors, to the greatest extent feasible, to use CGP funds to train and employ residents of Section 3 covered projects and to contract with Section 3 business concerns to carry out modernization activities.

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- B. Job Training. The HA or its contractor may choose its own job training program or to participate in an existing community program. The HA may develop its own Step-Up apprenticeship program for implementation by force account and/or contract labor. Training programs related to modernization activities subject to Federal labor standards shall be approved in advance by HUD Labor Relations staff. See Appendix 1-8 for further information about Step-Up and other permissible job training programs. Although the training shall focus on-the-job training at the project site, necessary classroom instructions are permitted. Eligible costs include: program design and development; outreach and screening of residents to be trained; instructors's salaries; purchase of curricula or preparation of new curricula; books and other training material; course-related tools, building supplies, and material; trainees' stipends, wages or both; transportation and day care for the trainees; consultants or contractors who perform eligible training-related tasks; rent, utilities, etc., for training facilities; and administration.
- C. Resident-Owned Business (ROB) Development Activities. ROB development activities for the purpose of carrying out on-site activities related to the CGP-funded physical and management improvements eligible costs. An eligible ROB must relate to the provision of low-income housing, such as child care, laundromats, security, and maintenance (e.g.; screen repairs, cleaning, painting, and equipment repairs). Other eligible costs include the purchase of equipment for temporary use and the provision of space for use by an eligible ROB. Business development or operating financial assistance may be funded through revolving loan funds (refer to Notice PIH 93-51 (HA), dated 10/4/93).

2-10. TENANT OPPORTUNITIES COSTS. Where needed to correct management deficiencies identified by the HA in its

Management Needs Assessment, eligible costs include technical assistance to a resident council (RC) or resident management corporation (RMC), as set forth in '964.205 for PHAs or '950.967 for IHAs, such as:

- A. Resident capacity-building, including determining the feasibility of resident management for a specific development or developments and assisting in the actual creation of an RMC;
- B. Resident management, including training residents in skills directly related to the operations and management of the development(s) for potential employment by the RMC; and

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- C. Social support needs, such as provision of training programs and social services.

2-11. HOMEOWNERSHIP OPPORTUNITIES COSTS. Eligible costs are limited to the study of the feasibility of converting rental to homeownership units, the preparation of an application to HUD for conversion to homeownership, or the rehabilitation of the rental units before conversion.

Section 4. Crime Prevention and Security Costs

2.12.CRIME PREVENTION AND SECURITY COSTS. The Department strongly encourages all HAS to take an active leadership role in eliminating illegal drugs and criminal activities from public housing developments. The Department recognizes that the elimination of drug-related crime and other criminal activities in public housing and the protection of public housing residents and property require the cooperation of the local/tribal government and the provision of resources beyond that which are available to support the Public and Indian Housing Program. ['968.112(h) or '950.608(h)]

- A. Local Government Cooperation and Other Public/Private Resources.
 - 1. Although Federal funds provide primary support, public housing cannot be operated successfully without the involvement of the local/tribal government and local community. Accordingly, the HA is required to develop the Comprehensive Plan in consultation with both local/tribal government officials and residents (see Chapter 9).
 - 2. In developing the Comprehensive Plan, the HA is required to identify any drug-related problems and management and physical improvements needed to address the problems. A required document under the Comprehensive Plan is Form HUD-52835, Local Government Statement (see paragraph 4-11). In that statement, the

chief executive officer or Indian tribal official of the unit of general local government or Indian tribe is required to certify, among other things, that the HA's proposed drug elimination activities are coordinated with and supportive of local drug elimination strategies and neighborhood improvement programs.

3. Where possible, the primary source of funding for non-physical drug elimination activities should be the Drug

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Elimination Program. However, under no circumstances shall there be duplicative funding of the same activity.

- B. General Requirements. Refer to Appendix 2-1 for general requirements and eligible costs related to:
 1. Security guard personnel services, through contracting or direct HA employment of individuals.
 2. HA police departments, where authorized by HUD.
 3. Local law enforcement agencies for additional security and protective services. Under the terms of the Cooperation Agreement between the local/tribal government and the HA, the local/tribal government is responsible for providing the same level of services (police, fire, trash collection) to public housing as are provided to other neighborhoods. Therefore, CGP funds may be used to pay for the cost of additional on-duty police only where such police will provide additional security and protective services over and above those for which the local/tribal government is contractually obligated to provide under the Cooperation Agreement. The additional services shall be verifiable through time sheets and written work assignments maintained by the local police department and available to the HA upon request. In such case, CGP funds may be used to contract on a sole source basis, under an intergovernmental agreement (see 24 CFR 85.36(b)) with the local/tribal government for the salaries and employee benefit contributions of the additional on-duty police, but not for the related liability insurance or equipment which is the responsibility of the local/tribal government.
 4. Voluntary tenant patrols.
- C. Eligible Management Improvements. Examples of eligible management improvements related to crime prevention and security activities include:

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1. Hiring of additional staff to coordinate the provision of or to directly provide social services, such as drug education and treatment referral programs, by local/tribal government or other public and private entities;
 2. Hiring of security guards through individual employment contracts with residents or other individuals or guard services using competitive proposal or small purchase procurement procedures;
 3. Development and implementation of improved screening procedures for prospective residents;
 4. Development of more timely and effective management techniques for dealing with disruptive residents and drug-related crime;
 5. Organization and training of unarmed voluntary tenant patrols to work cooperatively with the local/tribal law enforcement agencies;
 6. Development and implementation of improved communication and coordination with local/tribal law enforcement agencies; and
 7. Hiring of investigators to investigate drug-related crime and other criminal activities in and around the development(s) or to provide evidence relating to any such crime in any administrative or judicial proceedings.
- D. Eligible Physical Improvements. Examples of eligible physical improvements related to crime prevention and security activities include:
1. Installation of security hardware and additional lighting;
 2. Creation of defensible space through redesign of entrances, common areas or other structural elements;
 3. Provision of fencing around the perimeter of the development;
 4. Conversion of a dwelling unit into nondwelling space or construction of nondwelling space for use by project management, voluntary tenant patrols, security guards, or local/tribal law enforcement agencies;
 5. Stabilization of buildings through consolidating occupied units into a specific area and securing vacant unit/floors; and

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6. On behalf of security guards or voluntary tenant patrols, purchase of non-expendable equipment, such as walkie-talkies and purchase of uniforms, caps, shoes, bulletproof vests, flak jackets, etc., which are specific to their assignments and necessary to carry out their responsibilities.

Section 5. Lead-Based Paint (LBP) Costs

2-13.LBP COSTS. The following costs related to LBP are eligible costs:

['968.112(i) or '950.608(i)]

- A. Professional Risk Assessment. Eligible costs include professional assessments of the risks of LBP poisoning through dust and soil sampling and laboratory analysis in all family developments/buildings constructed before 1980, whether or not they are incurred in connection with LBP insurance.
- B. Interim Containment. Eligible costs include taking interim measures, before abatement, to reduce and contain the risks of LBP poisoning recommended by the professional risk assessments in subparagraph A. Interim measures include cleaning dwelling structures with high-efficiency particle air (HEPA) vacuums and high-phosphate washes (at least 5% trisodium phosphate (TSP)), and repairing and repainting non-intact painted surfaces.
- C. Testing and Abatement. Eligible costs include LBP testing and abatement, including worker protection, containment, clean-up, wipe-testing, and disposal of LBP debris, of family developments/buildings.
- D. Insurance. Eligible costs are limited to insurance coverage for pollution hazards associated with the testing, abatement, clean-up and disposal of LBP on applicable surfaces in family developments/buildings.

Section 6. Administrative and Other Related Costs

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2-14.ADMINISTRATIVE COSTS. Administrative costs (Account 1410) that are necessary for the planning, design, implementation and monitoring of the physical and management improvements are eligible costs and include the following: ['968.112(i) or '950.6060)]

- A. Salaries. The salaries of non-technical and technical HA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the

work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their non-modernization duties. The HA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time to modernization. The HA may allocate salary expense through use of the time sheet method, as set forth in OMB Circular A-87, or through use of a per unit or other reasonable basis, as set forth in the Financial Management Handbook 7475.1, as revised. The allocation method shall reflect a fair distribution between all programs administered by the HA for which there is a cost implication. The cost allocation methodology is subject to HUD review and approval. Any direct charges to the CGP for salaries shall result in an appropriate revision to the HA's operating budget.

- B. Employee Benefit Contributions. HA contributions to employee benefit plans on behalf of non-technical and technical HA personnel are eligible costs in proportion to the amount of salary charged to the CGP. The cost of terminating an employee hired on a temporary basis to work on modernization is an eligible cost, such as the expense of unemployment compensation where required by State law. The HA shall include an estimate of these costs in the Annual Statement.
- C. Preparation of Documents. Eligible costs include the preparation of CGP required documents.
- D. Resident Participation. Eligible costs include those associated with ensuring the meaningful participation of residents in the development of the Annual Submission and Comprehensive Plan and the implementation and monitoring of the approved modernization program. Such costs may include transportation and babysitting costs necessary for resident attendance at activities related to the CGP.
- E. Litigation Expenses. Eligible costs include fees paid to attorneys for the handling of litigation related to the modernization program, where approved by HUD Counsel. Prior HUD approval is required before the HA may initiate a lawsuit or incur litigation expenses. Such costs are charged to Account 1410.4, Legal Expense.

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- F. Other Administrative Costs. Refer to Appendix 2-1.

2.15.AUDIT COSTS. Eligible costs (Account 1411) are limited to the portion of the costs for the expanded Independent Audit which are directly attributable to the modernization program. 1968.112(k) or '950.608(k)]

2.16.ARCHITECTURAL/ENGINEERING (A/E) AND CONSULTANT FEES. Eligible

costs (Account 1430) include fees for planning, identification of needs, detailed design work, preparation of construction and bid documents and other required documents, LBP professional risk assessments and testing, and inspection of work in progress. ['968.112(1) or '950.608(1)]

2-17.RELOCATION COSTS. Eligible costs (Account 1495) include relocation and other assistance for permanent and temporary relocation, as a direct result of rehabilitation, demolition or acquisition for a CGP-funded activity, including relocation resulting from natural and other disasters. Refer to Appendix 1-4 for specific requirements. ['968.112(m) or '950.608(m)]

2-18.OPERATIONS. The FY 1996 OCRA also permits an HA to use up to 10% of each annual grant approved in FY 1996 and prior years for any operating subsidy purpose authorized in Section 9 of the Act. Modernization funds allocated for operations shall be charged to Account 1406, Operations, are not required to be reflected on the Physical and Management Needs Assessments, and are not subject to the eligibility requirements of the Modernization Program. After HUD approval of the Annual Statement, the HA may draw down 100% of the approved funds in Account 1406 and place those funds in its Operating Fund. The funds charged to Account 1406 are credited to "Operating Income, Other" and are not included in the operating subsidy calculation since they fall under the exclusion of grants or gifts. For Modernization purposes, the funds budgeted for Account 1406 shall be considered obligated and expended at the point of drawdown. The HA is not required to specify in either the Annual Statement or the Performance and Evaluation Report the actual activities funded from Account 1406. Refer to Notice PIH 96-56 (HA), dated July 29, 1996.

Section 7. Other Requirements

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2-19.COST LIMITATIONS. ['968.112(n) or '950.608(n)]

- A. Operations. Refer to paragraph 2-18 for the 10% limit on operations in Account 1406.
- B. Management Improvements. The PHA that has been designated as both an Overall High Performer and Mod High Performer under the PHMAP has no limits on the use of its annual grant for management improvements. Notwithstanding the full fungibility of work items, all other HAs shall not use more than a total of 20% of its annual grant for management improvement costs in Account 1408, unless specifically approved by the FO.
- C. Administrative Costs. Notwithstanding the full fungibility of work items, the HA shall not use more than a total of 10% of its annual grant for administrative costs in Account 1410, excluding any costs related to LBP or asbestos testing (whether conducted by force account employees or a

contractor), in-house A/E work (including inspections) in lieu of contracting for such services, and other special administrative costs required by State or local/tribal law, such as contributions to an unemployment compensation fund, unless specifically approved by the FO.

- D. Contingencies. The HA may budget initially up to 8% of its annual grant for contingencies in Account 1502. The HA does not draw down, obligate or expend funds against Account 1502. Funds budgeted in Account 1502 are considered unobligated until they are rebudgeted within the Annual Statement to other eligible accounts and obligated for a cost overrun or other work items. The HA may draw down funds originally budgeted for contingencies after they have been rebudgeted to other eligible accounts. During implementation, the HA may not replenish Account 1502. At program completion, the revised budget amount for Account 1502 must be zero.
- E. Planning Costs. The Department expects that the HA may carry out extensive planning in the early years of the CGP or as an ongoing, continuous function. Therefore, there is no percent limitation on the amount of the annual grant which may be used for planning. However, planning undertaken as a management improvement in Account 1408 is subject to the 20% limitation on that account; planning undertaken as an administrative cost in Account 1410 is subject to the 10% limitation on that account, which excludes any in-house A/E work. Costs for outside A/E or consultant fees are charged to Account 1430 and are not

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subject to any percent limitation.

- F. Program Benefit. Where the physical or management improvement, including administrative cost, will benefit programs other than Public and Indian Housing, such as Section 8 or local revitalization, eligible costs are limited to the amount directly attributable to the Public and Indian Housing Program. For example, the HA is operating 800 public housing units and 200 Section 8 units and wishes to construct a single building for administrative employees of both programs; in such case, CGP funds may be used to pay up to 80% of the total cost since the public housing units represent 80% of the total units operated by the H,k Another reasonable basis for allocating costs would be the number of staff employed by the Public and Indian Housing Program versus other programs.
- G. No Duplication. On Form HUD-52836, HA Board Resolution, the HA certifies that it has established controls to ensure that any activity (work item) funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity (work item).

2-20. INELIGIBLE COSTS. The PHA shall not make luxury improvements or carry out any other ineligible activities. ['968.112(o) or '950.608(o)]

A. Ineligible Physical Improvement Costs. Examples of ineligible modernization costs include:

1. Luxury improvements, such as saunas, whirlpool baths and hot tubs;
2. Conversion of retail electric, gas or water utility services to master meter systems;
3. Routine maintenance;
4. Work on any land, structures or utility systems, including dedicated streets, that are not HA-owned and covered by the Declaration of Trust or are not under a long-term (at least 20 years) lease by the HA. Note: Exceptions to this prohibition may be approved for IHAs on a case-by-case basis because of the unique circumstances of land ownership and tribal organization;
5. Duplication of costs for repair of a unit damaged by fire or

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natural disaster where costs are being reimbursed from insurance;

6. Purchase of firearms/weapons, ammunition, night sticks, etc, for use by local/tribal law enforcement agencies, non-HUDauthorized HA police departments, or HA security guard personnel;
7. Purchase or leasing of any automotive or non-expendable equipment, including any clothing, such as uniforms or protective vests, for use by local/tribal law enforcement agencies. Note: Purchase of non-expendable equipment, including any clothing, for use by HUD-authorized HA police departments or HA security guard personnel is an eligible cost;
8. Purchase or leasing of automotive vehicles for use by local/tribal law enforcement agencies;
9. Purchase or leasing of passenger vehicles which will not be used on a full-time basis to administer/implement the Modernization Program, such as passenger cars for general use by the HA executive staff or passenger vans for general use by resident organizations since such vehicles are generally needed to carry out the general operations of the Low-Rent

Program and not the Modernization Program;

10. Operating costs of eligible vehicles after completion of the Modernization Program;
 11. Work on any homeownership units which have been conveyed by the time the Annual Statement is submitted; and
 12. Purchase of equipment for donation to or non-temporary use by a resident-owned business.
- B. Ineligible Related New Development Costs. Ineligible costs include correction of development deficiencies before the HA has made every effort to secure correction or indemnification and where there are available development funds (see paragraph 2-5B).
- C. Ineligible Management Improvement Costs. Examples of ineligible modernization costs include:
1. Funding of ongoing operating expenses of resident organizations, resident councils or RMCs;

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2. Assistance to resident-owned businesses which do not relate to the provision of low-income housing, such as bakeries, catering, beauty parlors and convenience stores;
3. Scholarships or incentives for residents;
4. Provision of expendable materials and goods, such as T-shirts, caps and buttons;
5. Payment of liability insurance for on-duty local law enforcement or HA police, HA security guards, or voluntary tenant patrols;
6. Purchase of controlled substances (illegal drugs) for any purpose, including sting operations;
7. Compensation to informants or confidential informants;
8. Employment of personnel such as security guards who do not meet all relevant State or local/tribal insurance, training, licensing or other similar requirements;
9. Costs of organized fund raising, advertising, financial campaigns, endowment drives, solicitation of gifts and bequests, rallies, marches, community celebrations or similar expenses incurred to raise capital or obtain contributions;

10. Costs of utilities and other operating expenses for local/tribal law enforcement agencies and day care, health care and other service providers operating out of HA-owned nondwelling facilities;
 11. Costs to convert rental units to homeownership units, other than to prepare a feasibility study and an application for conversion and to rehabilitate the units before conversion; and
 12. HA staff conferences, training, retreats or meetings which do not directly relate to modernization. See paragraph 2-19F regarding program benefit.
- D. Ineligible Administrative and Other Related Costs.
Ineligible costs include:

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1. Costs of entertainment, including food and beverages, amusements, social activities, food or stipends to residents;
 2. Compensation of any type to voluntary participants, such as tenant patrols or advisory councils;
 3. Litigation expenses (Account 1410.4), except where approved by HUD;
 4. Travel (Account 1410.10) which is not in connection with CGP training or the development and implementation of the CGP;
 5. Publications (Account 1410.12) and membership dues and fees (Account 1410.16);
 6. Insurance expenses (Account 1410.19), including payment of deductibles, but excluding LBP insurance;
 7. Costs related to temporary moves or displacement (Account 1495) which do not conform to the requirements of Appendix 1-4; and
 8. Indirect costs (overhead).
- 2-21. DEVELOPMENT ACCOUNTS/ACCOUNTING PROCEDURES. For work to be funded with CGP funds, the HA shall enter the estimated costs by the appropriate development account number on Form HUD-52837, Annual Statement, and/or on Form HUD-52842, Annual Statement on Replacement Reserve, (where the replacement reserve has been funded and is being used for eligible costs).

A. Management Improvements.

1. All administrative and professional services costs

relating, to management improvements shall be charged to development account, Management Improvements (Account 1408), regardless of whether the costs involve non-technical or technical salaries, employee benefit contributions or consultant fees.

2. Cost relating to economic development activities, resident management, resident homeownership, drug elimination and operations shall be charged to development account, Management Improvements (Account 1408).

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B. Administrative and Other Costs.

1. All administrative and professional services costs relating to physical improvements shall be charged to the following appropriate development accounts: Non-Technical Salaries (Account 1410.1); Technical Salaries (Account 1410.2); Employee Benefit Contributions (Account 1410.9); Architectural and Engineering Fees (Account 1430.1); Consultant Fees (Account 1430.2); and other accounts set forth in Appendix 2-1.
2. Where HA personnel assigned to the modernization program work on both physical and management improvements, their salaries shall be prorated, for budgeting purposes, between the physical and the management improvements. During implementation, the combined Annual Statement/Performance and Evaluation Report shall reflect, by account, revised estimated costs and actual costs directly charged. Documentation such as time records shall be available for HUD post-review to substantiate these direct charges.

C. Force Account Labor. Force account labor costs for carrying out physical improvements, including technical salaries, employee benefit contributions and, where required by State or local/tribal law, contributions to an unemployment compensation fund, shall be charged to the appropriate development account for hard costs; i.e., Site Improvements (Account 1450); Dwelling Structures (Account 1460); or Nondwelling Structures (Account 1470).

D. Development Accounts/Accounting Procedures. Refer to Appendix 2-2 for the chart of accounts and definition of new accounts, a listing of ineligible development accounts, and specific accounting instructions for the CGP.

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CHAPTER 3. ALLOCATION OF FUNDS

- 3.1. OBJECTIVE. The objective of this Chapter is to set forth the process used to allocate modernization funds to the aggregate of HAS with fewer than 250 units which remain under the competitive CIAP (known as CIAP agencies) and to individual HAS with 250 or more units which are entitled to receive an individual formula grant of funds under the CGP (known as CGP agencies). It also describes the special procedures established for determining funds to be made available by formula for CGP agencies which are designated as Modernization (Mod) Troubled under the Public Housing Management Assessment Program (PHMAP). [Sec. 14(k); '968.103(a) or '950.604(a)]
- 3-2. GENERAL OVERVIEW.
- A. Each FFY, once the amount of funds available for the Modernization Program is known, HUD shall set aside funds for two reserves: (1) the reserve for natural and other disasters and for emergencies (see paragraph 3-8); and (2) if applicable, a reserve to repay credits earned by CGP agencies during the time they were designated as Mod Troubled under the PHMAP (see paragraph 3-9). ['968.103(b) and (c) or '950.604(b) and (c)]
 - B. After the funds for the two reserves have been set aside, the remaining funds shall be allocated between CIAP and CGP agencies on the basis of the formula described in paragraph 3-3.
- 3-3. DIVISION OF FUNDS BETWEEN BACKLOG AND ACCRUAL NEEDS. Once HUD has determined the amount of funds to be allocated to the two reserves described in paragraph 3-2, HUD shall allocate the remaining funds based on the relative need among HAS for funds to do modernization work. HUD shall divide these funds into two equal "pots" of funds. One "pot" shall be allocated on the basis of the backlog need for modernization work; the other "pot" on the basis of the accrual need for modernization work. ['968-103(d) or '950-604(d)]
- A. Backlog Need. For purposes of fund allocation under the Modernization Program, the backlog of modernization need is defined as:
 - 1. Backlog of needed repairs and replacements of existing physical systems in public housing developments;
 - 2. Items that must be added to developments to meet the modernization and energy conservation standards under '968.115 or '950.610, and

State and local/tribal codes; and

3. Items that are necessary or highly desirable for the long-term viability of a development, in accordance with HUD's modernization standards.

Note: Data for determining backlog need are derived from 1985 inspections of a sample of public housing developments. These data were analyzed and reported in the "Study of the Modernization Needs of the Public and Indian Housing Stock: National, Regional and Field Office Estimates: Backlog of Modernization Needs," prepared by Abt Associates, Inc. of Cambridge, Massachusetts, published in 1988 (the Abt study). These data were edited by ICF, Inc.

- B. Accrual Need. For purposes of fund allocation under the Modernization Program, modernization needs accrue (arise over time) and relate to the following categories of need:

1. Backlog of needed repairs and replacements of existing physical systems in public housing developments; and
2. Items that must be added to developments to meet HUD's modernization and energy conservation standards under '968.115 or '950.610, and State and local/tribal codes.

Note: The amount of accrual need that arises over time is estimated through a model of accrual of physical needs developed by ICF, Inc., under contract to HUD, and described in "Future Accrual of Capital Repair and Replacement Needs of Public Housing," published in 1989.

3-4. ALLOCATION FOR BACKLOG NEEDS. ['968.103(e) or '950.604(e)]

- A. Determine Estimated Backlog Needs. HUD shall determine the estimated backlog needs of all CIAP agencies taken as a whole and the New York City Housing Authority (NYCHA) based on direct estimates of backlog needs taken from the Abt study. HUD then shall determine the estimated backlog needs of the remaining CGP agencies on the basis of the formula described in '968.103(e) or '950.604(e).
- B. Calibrating Estimates of Backlog Needs. HUD shall adjust upward the estimated backlog needs determined under subparagraph A by multiplying the estimates by 50% to update the costs of addressing this backlog need for developments constructed before 1985. This adjustment, which updates for inflation, accrued

needs, and pipeline funding, brings the dollar amount of modernization need in 1986 to the equivalent dollar amount of unfunded modernization need as of 1991. It provides a current base from which to deduct past modernization funding

for purposes of determining relative shares of unfunded modernization needs, as set forth in subparagraph C.

- C. Determining Fund Allocations. Once the estimated backlog needs has been determined and calibrated, HUD shall undertake the following adjustments to arrive at the unfunded backlog of modernization needs at each HA.
1. There is a deduction for prior CIAP and MROP funding. Since such funding met some modernization needs other than those estimated in the formula, HUD shall determine the relative shares of modernization needs by deducting 60% of CIAP funds made available for FFYs 1984-1991 on an HA-wide basis from each HA's estimate of need. HUD also shall deduct 40% of MROP funding provided to a PHA on a development-specific basis. This deduction shall not exceed the estimated calibrated backlog attributable to that development. These deductions of prior CIAP and MROP funding shall not reduce the HA's estimated calibrated backlog needs by more than 50%.

Note: These percentages were determined on the basis of estimated CIAP and MROP funds respectively that are assumed to have actually been used for the types of modernization needs identified in the Abt study.

2. Additionally, newly constructed or acquired units with a DOFA date of October 1, 1991 or thereafter will be considered to have a zero backlog.
3. This methodology will result in the determination of each HA's share of unfunded backlog needs. HUD then shall use this information to allocate modernization funds on the basis of relative shares of unfunded backlog needs to each CGP agency.

Example 1: Development B is an older development for which \$8 million in MROP funds have been provided. Since it is an MROP project, 40% of the MROP funds or \$3.2 million will be deducted from the estimated backlog need for this property. This deduction may not exceed the estimated need for the development which received the MROP funding. The calibrated formula estimate of backlog need for Development B is \$1.5 million. Since \$3.2 million is greater than the \$1.5 million estimate of

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backlog need for the development, the MROP deduction is capped at \$1.5 million.

Example 2: The HA of Anytown, USA, has an estimated calibrated backlog need of \$4.5 million. In FFYs 1984-1991, it received \$3 million in CIAP funds, of which 60% or \$1.8

million will be deducted from its estimated backlog need. Since \$1.8 million is less than 50% of the backlog estimate of \$4.5 million, the full \$1.8 million is deducted from the PHA's estimated backlog need, leaving a final unfunded backlog need for formula allocation purposes of \$2.7 million.

Example 3: The HA of Largetown, USA, has an estimated calibrated backlog need of \$20 million. In FFYs 1984-1991, it received \$15 million in CIAP funds, of which 60% or \$9 million would be deducted from its estimated backlog need, and \$10 million in MROP funds, of which 40% or \$4 million would be deducted from its estimated backlog need. This would provide a total deduction of \$13 million from the estimated backlog need. However, since the estimated backlog need will be reduced by no more than 50%, and \$13 million is more than \$10 million (50% of the estimated backlog need for the PHA), the HA's final unfunded backlog need for formula allocation purposes is \$10 million, 50% of the original calibrated estimate.

- D. Formula Characteristics and Weights. Refer to Appendix 3-1 for a summary explanation of the formula characteristics and weights for backlog need. This appendix is derived from Appendix B, HUD Report to Congress on Alternative Methods for Funding Public Housing Modernization, dated April 1990.

3-5. ALLOCATION FOR ACCRUAL NEEDS. ['968.103(f) or '950.604(f)]

- A. Determining Estimated Accrual Needs. HUD shall determine the relative shares of accrual needs of all CIAP agencies taken as a whole and the NYCHA based on direct estimates of accrual need derived from the ICF study, since statistically reliable data are available for the CIAP agencies and the NYCHA. The ICF accrual model shall be applied to these direct estimates of accrual to develop the estimate of relative shares of accrual need. HUD then shall determine the accrual needs of the remaining CGP agencies on the basis of the formula described in '968.103(f) or '950.604(f).
- B. Formula Characteristics and Weights. Refer to Appendix 3-1 for a summary explanation of the formula characteristics and weights for accrual need. This appendix is derived from Appendix B, HUD Report to Congress on Alternative Methods for Funding Public Housing Modernization, dated April 1990.

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- #### 3-6. ALLOCATION FOR CIAP. After HUD determines the share of the total funds available for the Modernization Program to be used for CIAP agencies, as described in paragraphs 3-4 and 3-5, HUD shall allocate CIAP funds to the FOs based on their relative shares of backlog and accrual needs for CIAP agencies. ['968.103(g) or '950.604(g)]

3-7. ALLOCATION FOR CGP. ['968.103(h) or '950.604(h)]

A. General.

1. Allocations of modernization funds under the CGP are determined on the basis of HA, project and community characteristics. These characteristics are used as formula elements in the backlog and accrual formulas described in the CGP regulation. These formulas result in allocations on a per unit basis. Therefore, the total allocation to a CGP agency is the per unit amount determined on the basis of HA, development, and community characteristics, times the number of units eligible for funding under the CGP. However, any amounts allocated to a CGP agency may be used for any eligible activity under Chapter 2, notwithstanding that the allocation amount is determined by allocating half based on the relative backlog needs and half based on the relative accrual needs of HAs. ['968.103(i) or '950.604(i)]
2. HUD strongly encourages the HA to explore with State or local/tribal governments the possibility of obtaining additional funding to supplement CGP funds to meet modernization needs. HUD shall not reduce the HA's formula amount as a result of State, local/tribal or other contributions to the HA.
3. HUD's current database system which contains relevant information on HA characteristics is the Integrated Business System (IBS).

B. Formula Characteristics Report (FCR). ['968310(a) or '950.650(a)]

1. Before the start of each FFY, HUD shall transmit to each HA the FCR, produced from the data contained in the IBS. The data shall include the amounts previously funded under the CIAP and MROP, on which the deductions from the HA's share of need for funding for the backlog of modernization will be based.

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2. The HA shall verify, correct and provide additional data, as necessary, on the FCR and return it to HUD. The HA shall ensure that all existing units are counted, including the actual number of Turnkey III units. Units decreases due to demolition, disposition, conversion or conveyance shall be reflected on the FCR. The HA is encouraged to contact the FO as discrepancies are noted to facilitate subsequent HUD review and minimize the need for appeal actions. For example, if there is a discrepancy regarding the unit count, the HA should contact the FO to discuss the source of the data

and reasons for the discrepancy. If the FCR is correct, the HA shall so notify HUD. If the HA fails to submit the FCR by the prescribed deadline or to notify HUD that the FCR is correct as is, HUD shall use the data which it has available concerning HA and development characteristics for the purpose of calculating the HA's annual formula share and the HA has no appeal rights based on error in the data (see subparagraph E2). However, if HUD has information that the data are incorrect because the HA has failed to update the FCR, HUD shall contact the HA regarding the error(s) and correct the database before running the formula.

3. The FO shall review the FCR and any corrections made by the HA. If there are data elements that are questionable, the FO shall discuss these areas with the HA and attempt to resolve any discrepancies. Where discrepancies can be resolved or where the FO agrees with the corrections, the FO shall enter the corrections into the database. Where discrepancies cannot be resolved, the FO shall not enter the corrections into the database; the HA may subsequently appeal based on error (see subparagraph E2).

C. Calculating the Number of Units.

1. General. For purposes of determining the number of units owned or operated by the HA, and the relative modernization needs of HAs, the formula shall value as one unit each existing rental, Section 23 Leased Housing Bond-Financed, and Mutual Help unit under the ACC. The formula also shall value as one-fourth of a unit each existing unit under the Turnkey III program to take into account the homebuyer responsibility for the costs of certain maintenance and repair. ['968.103(j) or '950.604(j)]
2. Adding Units. New units which are added to the HA's inventory (or increases resulting from the conversion of existing units) shall be added to the overall unit count so long as they are under ACC amendment and have reached DOFA

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as of the first day in the FFY (October 1) in which the formula is being run. Any increase in units (reaching DOFA and under ACC amendment) as of the beginning of the FFY shall result in an adjustment upwards in the number of units under the formula. New units added after this date will be counted for formula purposes as of the following FFY. ['968.103(j) or '950.604(j)]

3. Reducing Units. ['968.103(k) or '950.604(k)]

- a. Where an existing unit under the ACC is demolished, disposed of, or converted into a larger unit, HUD shall not adjust the amount the HA receives under the formula, unless more than one percent of the overall unit count is reduced on a cumulative basis. Where the reduction in units is greater than one percent, HUD shall phase out the number of units counted for formula purposes over a three-year period.
- b. In implementing this provision, HUD shall compare the units identified in the FCR in the initial year under formula funding with the number of units identified in the FCR in the current year. If the change is less than one percent, HUD shall fund the HA as though no change had occurred. If the change is greater than one percent, the formula will calculate the HA's formula share on the basis of the number of units identified in the FCR in the current year, plus two thirds of the difference between the initial year and the current year in the first year, plus one third of the difference in the second year, and at the level of the current year in the third year.
- c. After the third year, the formula funding will reflect the full reduction in the HA's unit count. This reduced number of units shall serve as the new base for purposes of calculating in the future whether there has been another one percent reduction in the overall unit count on a cumulative basis. If so, HUD shall phase out the number of units counted for formula purposes over a three-year period.
- d. Units which are lost as a result of demolition, disposition, conversion, or conveyance shall not be offset against units subsequently added to the HA's inventory. Additions to and reductions from the unit inventory are separate actions that shall be reflected on the FCR and computed in accordance with the

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provisions of this paragraph.

- e. Mutual Help and Turnkey III units which are paid off, but not conveyed shall not result in a reduction in the unit count until they are conveyed. When conveyed, Mutual Help units, Turnkey III units, and rental units under HOPE I, HOPE III and Section 5(a) shall result in an immediate, rather than a phased-in, reduction in

the unit count.

4. Database Corrections. To ensure that the IBS accurately reflects the HA's unit count, the FO shall correct the number of units in the IBS within 30 calendar days after any of the following events occur or by September 30 of the FFY in which the event occurs.
 - a. Completion of approved work to convert units to different sizes, resulting in an increase or decrease in the number of units;
 - b. Execution of a sales contract for a disposition;
 - c. Start of approved work for a demolition; or
 - d. Conveyance of a Mutual Help, Turnkey III or rental unit.
- D. HUD Notification of Formula Amount. HUD shall notify the HA of its formula amount, as well as provide a copy of the FCR used. in the formula database. ['968.310(b) or '950.650(b)] In addition, HUD shall notify the PHAs designated as Mod Troubled, under the Public Housing Management Assessment Program (PHMAP) at 24 CFR Part 901, of their reduced formula amounts. HUD shall calculate the reduced funding level as follows: ['968.103(c) and 968310(c)]
 1. The average of the amount that the Mod Troubled PHA received for modernization activities under the CGP, CIAP and MROP, for each of the preceding three FFYs, which average shall be adjusted to take into account changes in the cost of rehabilitating property based upon the Means Construction Cost Index; plus
 2. 25% of the difference between the amount determined under subparagraph D1, and the amount that would have been allocated to the PHA for the FFY if it were not designated as Mod Troubled.
- E. Appeal Rights. The HA may appeal in writing to the FO HUD's determination of its formula amount on the basis that: (1) there

are unique circumstances applicable to the HA; (2) there has been an error with respect to the HA, development and community characteristics used by HUD to determine the HA's formula amount, including an error in HUD's determination of the amount of past CIAP and MROP funding; and/or (3) the PHA's reduced formula amount because of its Mod Troubled designation should be increased. Any successful appeal on the basis of data error will result in a permanent change to the HAs formula share. However, the HA that fails to submit

either the FCR or its appeal to the FO by the prescribed deadline forfeits the right to appeal its formula amount for the current FFY. ['968.310(b) or '950.650(b)]

1. Appeal Based on Unique Circumstances.

- a. HA Appeal. The HA may appeal in writing HUD's determination of its formula amount within 60 calendar days of the date of HUD's determination on the basis of unique circumstances. The HA shall indicate how it is unique, specify the manner in which it is different from all other CGP agencies, and provide any necessary supporting documentation. HUD wishes to emphasize that it considers approvable grounds for appeals based upon unique circumstances to be difficult to obtain and that approval of an appeal for a given HA means that other CGP agencies will receive less funding. An example of what may be an approvable unique circumstance is a development which is located in close proximity to an Environmental Protection Agency Superfund site and requires extraordinary modernization to ensure the health and safety of residents. Examples of non-approvable appeals based on unique circumstances are family high-rises, developments in high crime areas, and developments spread over a large geographic area.
- b. FO Review/Recommendation. The FO shall review the HA's written appeal and forward it with comments and recommendations for approval or disapproval, within 30 calendar days after receipt of the HA's appeal, to Headquarters.
- c. Headquarters Decision. After reviewing the HA's written appeal and the FO's comments and recommendations, Headquarters shall render a written decision on the HA's appeal within 30 calendar days (60 calendar days after FO receipt of the HA's appeal). Headquarters shall publish in the Federal Register a description of the facts supporting any successful appeal based upon unique circumstances.

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- d. Provision of Funds. Any additional funds resulting from a successful appeal based on unique circumstances shall be provided from subsequent FFYs allocation of CGP funds.
2. Appeal Based Upon Error.
- a. HA Appeal. The HA may appeal in writing HUD's

determination of its formula amount within 60 calendar days after the date of HUD's determination on the basis of an error in the FCR data. The HA shall describe the nature of the error and provide any necessary supporting documentation.

- b. FO Review/Decision. The FO shall review the HA's written appeal and render a written decision on the this appeal within 60 calendar days after receipt.
 - c. Notification to Headquarters. The FO shall immediately inform Headquarters in writing of the results of any successful appeals based on error.
 - d. Adjustment to Formula. Any adjustment to the formula allocation resulting from a successful appeal on the basis of error shall be made from subsequent FFYs allocation of CGP funds.
3. Appeal of Reduced Formula Allocation for PHAs Designated as Mod Troubled under PHMAP (Not Applicable to IHAs).
- a. HA Appeal. After the PHA is designated Mod Troubled under PHMAP (24 CFR Part 901), HUD shall inform the PHA that its CGP funding may be limited because of its designation. The PHA may petition HUD within 30 calendar days after the receipt of HUD's notification for an increase in the amount of its fund allocation. (Note: The procedures for appeal of the Mod Troubled designation are set forth under the PHMAP.) The PHA shall describe the circumstances that warrant an increase in its reduced formula amount. For example, the PHA may have a new Executive Director who is improving the PHA's performance, and it can be demonstrated that the PHA's plan for improvement requires more funds than those provided by the reduced allocation. The PHA shall specify how it is achieving or making progress toward achieving the goals and targets set forth in its Memorandum of Agreement (MOA).

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- b. FO Review/Decision. The FO shall review the PHA's written appeal and render a written decision on the HA's appeal within 60 calendar days after receipt. The FO shall determine whether to increase the amount of assistance to provide the Mod Troubled PHA based upon the PHA's demonstrated progress in meeting goals and targets set forth in the PHA's MOA under the PHMAP, and toward

achieving satisfactory performance under the PHMAP modernization indicator.

- c. Notification to Headquarters. The FO shall immediately inform Headquarters in writing of the results of any successful appeals of the reduced formula amount so that Headquarters can immediately provide up to the full formula amount in the same FFY.
- d. Maximum Allowable Allocation. The maximum amount that HUD may provide to a PHA under this subparagraph is the amount that it would have been allocated if it had not been designated as Mod Troubled. Where the full formula allocation is less than the average of funding received by the PHA under the CGP, CIAP and MROP for each of the preceding three FFYs, the PHA shall receive its full formula amount, plus 25% of the difference between that figure and its full formula amount.

Note: The PHA that has successfully appealed its reduction in formula allocation continues to be a Mod Troubled PHA until such time as the designation is formally removed in accordance with procedures prescribed under the PHMAP.

Note: Where the PHA is no longer designated as Mod Troubled, the PHA is entitled to receive a portion of its credits under paragraph 3-9E, in addition to its full formula allocation.

- e. Reallocation of Funds Withheld from Mod Troubled PHAs. Any amounts which are not provided to the PHA under subparagraph D3 because of its Mod Troubled designation, shall be reallocated by HUD to other CGP agencies that are not designated as either Troubled or Mod Troubled under the PHMAP, and to CGP IHAs that have not been determined to be high risk for modernization in accordance with '950.135, at the time the formula was originally run for that FFY. Such funds shall be reallocated in the next FFY based upon the

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relative needs of these PHAs and IHAs, as determined under the formula.

3-8. RESERVE FOR DISASTERS AND EMERGENCIES. ['968.104 or '950.606]

- A. Funding of Reserve. For each FFY, HUD shall reserve from amounts approved in the Appropriations Act for the Modernization Program, an amount not to exceed \$75 million which shall include unused reserve amounts carried over from

previous FFYs and which shall be made available to both CGP and CIAP agencies for modernization needs resulting from natural and other disasters, and from emergencies. HUD shall replenish this reserve at the beginning of each FFY.

B. Emergencies.

1. Definition. As defined in paragraph 1-6, an emergency is a physical need of an emergency nature, posing an immediate threat to the health or safety of residents, which must be corrected within one year of funding.
2. Eligibility for Funds.
 - a. The HA (including a designated Mod Troubled PHA) is eligible to apply for and receive funds from the reserve to the extent that there are not adequate funds to address the emergency condition from: its annual formula allocation of CGP funds; other unobligated CGP or CIAP funds; or its replacement reserve under paragraph 2-7.
 - b. The HA is not required to have an approved Comprehensive Plan before it can request emergency assistance from the reserve.
3. Repayment. The HA that receives assistance from the reserve to correct emergency conditions shall repay such assistance from its future formula allocations, where available, since they are the type of work which is included in the formula. HUD shall deduct 50% of the HA's succeeding year's formula allocation until the amount provided for emergencies from the reserve is repaid, unless a different repayment schedule is approved by the FO. The annual notification of the formula amount shall contain the amount of this deduction, and the balance remaining to be paid, if any.

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C. Natural and Other Disasters.

1. Definition. A natural or other disaster is an extraordinary event, such as a hurricane or earthquake, affecting only one or a few HAs and includes any disaster declared by the President or any event which HUD determines would qualify for a Presidential declaration if it were on a larger scale.
2. Eligibility for Funds.
 - a. The HA (including a designated Mod Troubled PHA) is eligible to apply for and receive funds from the reserve regardless of the availability of

other modernization funds or reserves, but only to the extent that its needs are in excess of its expected reimbursement from insurance and other sources, such as the Federal Emergency Management Administration (FEMA).

- b. The HA is not required to have an approved Comprehensive Plan to obtain funds from the reserve to address modernization needs caused by natural and other disasters.

- 3. Repayment. Funds received from the reserve to repair damages resulting from a disaster are not to be repaid by the HA since they are the result of events which could not be forecasted and, therefore, could not be included in the formula.

- D. Application. Refer to paragraph 6-9 for instructions on applying for funds from the reserve.

3-9 RESERVE FOR CREDITS. This paragraph does not apply to IHAs.
['968.103(c) and '968.310(c)]

- A. General. After deducting amounts for the reserve for natural and other disasters and for emergencies under paragraph 3-8, HUD shall set aside no more than 5% of the remaining amount for the purpose of providing credits to PHAS, excluding IHAs, that were formerly designated as Mod Troubled. The purpose of this set-aside is to compensate these PHAs for amounts not allocated by HUD because of their prior designation as Mod Troubled.
- B. Non-Applicability to IHAs. Since the PHMAP performance indicators under 24 CFR Part 901 do not apply to IHAs, they cannot be deemed "Mod Troubled" for purposes of the CGP. Hence, IHAs are not subject to any reduction in funding under section

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14(k)(5)(a) of the Act and do not participate in the reserve for credits established under subparagraph A.

- C. Accrual of Credits. The PHA that has received a reduced formula allocation because it was designated as Mod Troubled may accrue credits for up to three consecutive FFYS, representing the difference between:
 - 1. The amount the PHA would have been allocated for the FFY if it were not designated as Mod Troubled; and
 - 2. The reduced funding amount actually provided to the PHA because it was designated as Mod Troubled.
- D. Failure to Remove Mod Troubled Designation. After a three-year

period during which the Mod Troubled PHA has accrued credits under subparagraph C, the credits accrued by the PHA shall be:

1. Decreased by 10% of the total accumulated credits if the PHA's designation as Mod Troubled is not removed before the end of the first FFY following the three-year accrual period;
2. Decreased by an additional 20% of the original total accumulated credits if the PHA's designation as Mod Troubled is not removed before the end of the second FFY following the three-year accrual period;
3. Decreased by an additional 30% of the original total accumulated credits if the PHA's designation as Mod Troubled is not removed before the end of the third FFY following the three-year accrual period; and
4. Eliminated if the PHA's designation as Mod Troubled is not removed before the end of the fourth FFY following the three-year accrual period.

E. Obtaining Credits.

1. Determining CGP Agency No Longer Mod Troubled. HUD shall make the determination that a PHA is no longer Mod Troubled based upon its achieving satisfactory performance under the PHMAP modernization indicator.

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2. Determining Amount of Accrued Credits. The additional assistance under this subparagraph shall be provided to the formerly Mod Troubled PHA beginning in the FFY in which the PHA is no longer Mod Troubled at the time the formula is run. HUD will notify the PHA of the prorated amount of the accrued credits which it will receive in the current FFY, with the notification of its formula amount, so that the PHA may include the additional assistance when developing its Annual Statement. Such assistance shall be provided to the PHA in addition to the PHA's regular formula allocation and shall consist of:
 - a. The prorated amount of credits accumulated by the PHA under subparagraph C; minus
 - b. Any reductions under subparagraph D to the total accumulated credits, based upon the length of time that the PHA has taken to remove its Mod Troubled designation; and
 - c. Adjusted by HUD to take into account the PHA's ability to expend expeditiously the accrued credit

amounts. HUD shall consult with the PHA to determine the rate at which the PHA shall be provided access to its credits. In general, HUD intends to provide the PHA with 10% of its accrued credits in the first year; an additional 20% of its accrued credits in the second year; an additional 30% of its accrued credits in the third year; and the remaining 40% of its accrued credits in the fourth year.

3. Pro Rata Reduction in Assistance. In any FFY where formerly Mod Troubled PHAs are entitled to credits exceeding the 5% reserve, HUD shall apply a pro rata reduction for each formerly Mod Troubled PHA for such FFY. The PHA shall remain entitled to receive its outstanding balance of credits, including any credits not actually received because of such pro rata reduction, in future FFYs, depending upon the availability of funds in the set-aside under subparagraph A.

CHAPTER 4. HA RESPONSIBILITY: COMPREHENSIVE PLAN

- 4-1. OBJECTIVE: The objective of this Chapter is to set forth the requirements of the Comprehensive Plan, including the Five-Year Action Plan, and any amendments, and the use of unobligated CIAP funds for CGP purposes. Since the requirements for the Annual Statement, including the HUD review criteria, are statutorily different from the Comprehensive Plan, the requirements for the Annual Statement are set forth in Chapter 6.
- 4-2. POLICY STATEMENT.
- A. In administering the CGP, the Department is required by Section 14(e)(4)(D) of the Act to respect, to the greatest extent possible, the professional judgment of the HA's administrators. The Department strongly supports this statutory mandate and has made every effort in the regulations to provide HAs with maximum discretion and flexibility in planning and carrying out their modernization strategies under the CGP, and to ensure accountability for program funds and activities. However, the Department is responsible for ensuring that the HA has identified all of its physical and management improvement needs, is making satisfactory progress toward meeting those needs, and is complying with all statutory and regulatory requirements.
 - B. Although the Department believes that the HA is the key actor in the modernization process, it also believes that the residents of the public housing and the community's political leadership share in that responsibility and must be involved in planning and establishing priorities for the HA's modernization program. For this reason, the Department is requiring, through the public hearing process, that residents and the local/tribal government be provided with ample opportunity to participate, not only during the upfront development of the HAs modernization strategy, but throughout the ongoing implementation of that strategy. In this manner, the Department hopes to foster a local Partnership among the HA, its residents, and the local/tribal government, which can jointly develop and implement the objectives and priorities established in the HA's modernization strategy. Refer to Chapter 9 for specific requirements and guidance on developing this Partnership.
- 4-3. PURPOSE OF COMPREHENSIVE PLAN. The Comprehensive Plan is the focal point of the HA's modernization strategy. It identifies all of the physical and management improvements needed for the HA and all of its

developments that represent eligible costs under Chapter 2,

irrespective of funding availability. The Comprehensive Plan sets forth strategies and a plan of action, which will bring the HA and its developments up to the following standards:

- A. The modernization and energy conservation standards under Section 14(e)(1)(A)(ii) of the Act, which are prescribed in '968.115 or '950-610 and set forth in the Modernization Standards Handbook 7485.2, as revised; a life-cycle cost analysis, where appropriate; and the lead-based paint (LBP) testing and abatement requirements in '968-110(k) and '950.120(i); and
 - B. For PHAs, an acceptable level of performance with respect to the management areas under Section 14(e)(1)(B) of the Act, the Public Housing Management Assessment Program (PHMAP) at 24 CFR Part 901, and other areas deemed necessary by HUD and identified through audits or HUD monitoring reviews; or
 - C. For IHAs, an acceptable level of performance with respect to the management areas under Section 14(e)(1)(B) of the Act and other areas deemed necessary by HUD and identified through audits or HUD monitoring reviews. HUD is not using the PHMAP to assess the IHA's management needs since IHAs are specifically excluded from PHMAP coverage by Section 527 of the National Affordable Housing Act (NAHA) of 1990; and
 - D. For both PHAs and IHAs any additional management needs which the HAs want to address to ensure the long-term viability of their developments and to improve the effectiveness and efficiency of their management operations.
- 4-4. SUBMISSION AND COMPONENTS OF COMPREHENSIVE PLAN. In its first year of participation in the CGP and every sixth year thereafter, the HA shall develop and submit a Comprehensive Plan. The HA may amend any portion of its Comprehensive Plan at any time. The Comprehensive Plan is comprised of the following documents: [Sec. 14(e)(1)(A) through (H)]; ['968315 or '950.652]
- A. Executive Summary (see paragraph 4-6);
 - B. Physical Needs Assessment (see paragraph 4-7), including the long-term viability and reasonable cost analysis (see paragraph 4-8);

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- C. Management Needs Assessment (see paragraph 4-9);
- D. Five-Year Action Plan (see paragraph 4-10);
- E. Local Government Statement (see paragraph 4-11);
- F. HA Board Resolution, including civil rights statement (see paragraph 4-12); and

G. Annual Statement (see Chapter 6).

4-5. RESIDENT AND LOCAL/TRIBAL GOVERNMENT PARTICIPATION. The HA shall develop, implement, and monitor the Comprehensive Plan, and thereafter annually amend portions of the Plan (both for purposes of adding a new fifth year to the rolling base of the Five-Year Action Plan, and reflecting any necessary changes to the approved Physical and Management Needs Assessments), in consultation with residents of all developments covered by the Comprehensive Plan and with appropriate local/tribal officials. Refer to Chapter 9 for specific requirements and guidance. ['968.315(b) and (c) or '950.652(b) and (c)]

4-6. EXECUTIVE SUMMARY. As part of the Comprehensive Plan, the HA shall prepare the Executive Summary to facilitate review and comprehension of the other documents in the Comprehensive Plan by residents, local/tribal government, and the public. For that reason, it is important that the Executive Summary be clear and succinct and allow for easy comparison among developments so that persons not intimately familiar with the details may assess the relative needs, overall modernization strategy and funding priorities of the HA. The Executive Summary shall include the following items: ['968315(e)(1) or '950.652(d)(1)]

A. Summary of Preliminary Estimated Costs. The HA shall complete Form HUD-52831, Executive Summary of Preliminary Estimated Costs, which summarizes for each development in the HA's inventory which is eligible for CGP funding, the total preliminary estimated hard cost (physical improvement cost) to meet the modernization and energy conservation standards and to comply with other program requirements, the per unit hard cost, whether the development has long-term physical and social viability under paragraph 4-8, and the percentage of vacant units. The form also provides for, on a HA-wide basis, the total preliminary estimated cost for management/operations needs, nondwelling structures and equipment, administration, and other current needs or future needs within the next five years. A sample Form HUD-

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52831 with instructions is contained in Appendix 4-1.

B. Description of Resident Partnership and Summary of General Issues. The HA shall prepare a specific description of its process for maximizing the level of participation by residents during the development, implementation and monitoring of the Comprehensive Plan. The HA also shall prepare a summary of the general issues raised by residents, local/tribal officials, and others during the public comment process and the HA's response to those general issues. The HA is not required to respond to each comment. The HA shall maintain records, such as minutes of planning meetings or resident surveys, in its files and make available such records to residents, duly elected resident councils, and

other interested parties upon request. Refer to Chapter 9 for specific requirements and guidance.

4-7. PHYSICAL NEEDS ASSESSMENT. As part of the Comprehensive Plan, the HA shall prepare Form HUD-52832, Physical Needs Assessment, for each development in its inventory which is eligible for CGP funding, providing a general description of all unfunded physical improvements that the HA would need to undertake to bring that development including dwelling and nondwelling structures, dwelling and nondwelling equipment, and site, to a level at least equal to the modernization and energy conservation standards and to comply with other program requirements. The HA also shall prepare a separate Physical Needs Assessment for all HA-wide nondwelling needs and a separate Physical Needs Assessment for all planned use of modernization funds for development. The HA shall develop the Physical Needs Assessment without regard to the availability of funds. ['968.315(e)(2) or '950.652(d)(2)]

A. Preparation. The HA is required to carry out a general, not a detailed, physical needs survey of each development, listing major work categories, not every single work item. The HA is encouraged to analyze its physical needs in light of its past modernization experience, particularly where approaches other than straight rehabilitation are required to ensure long-term viability, and to consult the locality and residents, including persons with disabilities or advocacy groups representing persons with disabilities, in developing alternative strategies. However, in preparing the Physical Needs Assessment for each development, the HA shall consider the following:

1. Reasons for any vacancies and strategy and work necessary to return the units to occupied status.

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2. Work necessary to ensure long-term viability, such as conversion from family to elderly, change in bedroom sizes, partial demolition/disposition to assure the useful life of the remaining portion of the development (e.g., reduce density or create open space), or other physical design changes.
3. Work necessary to comply with Federal requirements or State and local/tribal codes, such as elimination of asbestos.
4. Replacement needs of equipment, systems and structural elements that are likely to be needed within the next five years, assuming routine and timely maintenance is performed.
5. Work necessary to meet Housing Quality Standards (HQS) (see subparagraph C).

6. LBP testing and abatement requirements in accordance with the LBP Poisoning Prevention Act and HUD implementing regulations at 24 CFR Part 35, as well as the requirements for professional risk assessments and interim containment. HUD strongly recommends that the HA use the Guidelines for the Evaluation and Control of LBP Hazards in Housing published in July 1995, to assist with the identification of its LBP needs.
7. Work necessary to meet physical accessibility requirements relating to substantial and other alterations under 24 CFR 8.23.
8. Physical disparities between buildings occupied predominantly by minorities and those by non-minorities and the physical improvements required to correct the disparities. Note: This does not apply to IHAs established under tribal law or to IHAs established under State law which have been determined not to be subject to Title VI of the Civil Rights Act of 1964 or the Fair Housing Act.
9. Number of vacant or non-homebuyer-occupied Turnkey III units that the HA is proposing for substantial rehabilitation and subsequent sale in accordance with paragraph 2-4C.
10. Development deficiencies which require correction and are eligible for CGP funding in accordance with paragraph 2-5B.

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11. Need for nondwelling space and equipment, such as playgrounds, laundry facilities, and day care centers.

Note: Since the CGP is intended to fund physical improvements of a capital nature, the HA shall address routine and preventive maintenance with operating, not CGP, funds, except as provided in paragraph 2-18.

- B. Sources of Information. The HA shall identify on the Physical Needs Assessment the source(s) of information from which it derived data to develop the general description of needed physical improvements. The HA shall retain such information in its files (1) as supporting documentation for the information submitted on the Physical Needs Assessment, (2) for post-review by the FO, residents or community members, or (3) for submission to the FO upon request. Sources of information available to the HA in preparing the Physical Needs Assessment for each development may include, but are not limited to:
 1. Previous physical needs assessments undertaken; e.g., to prepare for Joint Review under the CIAP;

2. HA annual inspection reports of dwelling units;
 3. HA maintenance records, including work orders;
 4. Resident complaint records;
 5. HA schedule for LBP testing and the results of LBP testing and professional risk assessments;
 6. HA needs assessment and/or transition plan for physical accessibility. The HA shall not submit this assessment and/or plan to the FO, but shall retain them in its files;
 7. Energy audit updates; and
 8. Recent HUD review reports, containing recommendations for improvements.
- C. Housing Quality Standards (HQS). The HQS does not apply to IHAS.
1. Section 14(e)(1)(B) of the Act requires a PHA to provide an assessment of improvements needed to upgrade the management and operation of the PHA so that decent, safe and sanitary living conditions will be provided. Accordingly, the

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Department is using the habitability standard established under the HQS or any equivalent standard such as local habitability (see '882.109) as a useful, interim measure of PHA progress toward meeting the modernization and energy conservation standards.

2. PHA progress towards bringing its units up to the HQS will be monitored under the PHMAP.
 3. Each physical work item, such as replacement of hot water heaters, which is carried out by the PHA under the CGP shall comply with the modernization and energy conservation standards.
- D. Completion of Assessment. After the HA has considered the items in subparagraphs A through C, the HA shall complete one Form HUD52832, Physical Needs Assessment, for each development and, where appropriate, one form for HA-wide nondwelling needs and one form for any planned use of modernization funds for development. Multifamily developments which are contiguous and treated as one development for management purposes may be grouped together; scattered site units which are treated as one entity for management purposes also may be grouped together. If the HA has no physical improvement needs at a particular

development at the time it completes the Comprehensive Plan and no replacements are likely to be required within the next five years, the HA shall provide a statement to that effect on the Physical Needs Assessment for that development. Such a statement does not preclude the HA from amending the Physical Needs Assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the Assessment is revised every sixth year. Similarly, if the HA intends to demolish, partially demolish, convert, or dispose of a development (or units within a development), it must so indicate. A sample Form HUD-52832 with instructions is contained in Appendix 4-2.

- 4-8. LONG-TERM VIABILITY AND REASONABLE COST ANALYSIS. Section 14(e)(1)(C) of the Act requires an analysis on a development-by-development basis in accordance with standards and criteria prescribed by HUD, demonstrating that completion of the identified physical and management improvements will reasonably ensure the long-term physical and social viability, including achieving structural/system soundness and full occupancy, of each development at a reasonable cost. For cost reasonableness, the HA shall determine whether the unfunded hard costs satisfy the definition of reasonable cost which is: total unfunded

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hard costs needs for a development do not exceed 90% of the computed Total Development Cost (TDC) for a new development with the same structure type and number and size of units in the market area. Unfunded hard cost needs exclude any prior year funding for the development. For each development, the HA shall indicate on Form HUD-52832, Physical Needs Assessment, whether the development has long-term physical and social viability. ['968.315(e)(4) or '950.652(d)(4)]

- A. Determination of CGP Hard Cost Limit. Where the estimated per unit unfunded hard cost at a development is equal to or less than the per unit TDC limit for the smallest bedroom size at that development for the appropriate structure type, the HA is not required to compute the TDC limit for the entire development. In all other cases, the HA shall compute the TDC limit, as follows:

1. Computation of TDC Limit. To compute the TDC limit, the HA shall obtain the most recently published TDC figures for the type and size of units that will be in the development after modernization; i.e., following any conversion, demolition or other unit changes. The HA shall not adjust the published TDC figures for inflation or other reasons. After the HA has computed the TDC limit for the development, the HA shall multiply that amount by 90% to determine the CGP hard cost limit. The HA shall then compare the estimated unfunded hard cost needs of the development to the CGP

hard cost limit (90% of the TDC limit). The following example illustrates this computation for a walkup development in the Northeast:

Size of Bedrooms	Number of Units After Modernization		Unit Cost		Total TDC Cost
0-BR	20	x	\$26,250	=	\$ 525,000
1-BR	20	x	\$31,350	=	\$ 627,000
2-BR	30	x	\$34,700	=	\$1,041,000
3-BR	10	x	\$41,400	=	\$ 414,000
TDC Limit					\$2,607,000
CGP Hard Cost limit (90% of TDC)					\$2,346,300

2. Averaging Not Allowed. If the development contains dissimilar types of structures,, such as a mid-rise with several low-rises, the HA shall separately compute the TDC limit for

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each type of structure. The HA shall not average the modernization cost for dissimilar structures so that the less costly modernization on one type of structure disproportionately carries the more costly modernization on the other type of structure.

3. Family High-Rises. To compute the TDC limit for family highrises where there are no published figures for units with three or more bedrooms, the HA shall multiply the two-bedroom TDC figure for elevator structures for each additional bedroom by the factor provided below. The following example illustrates how to calculate the TDC limit for a 250-unit family high-rise development:

Size of Bedrooms	Number of Units After Modernization		Unit Cost		Total TDC
1-BR	50	x	\$21,000	=	\$1,050,000
2-BR	50	x	\$25,000	=	\$1,250,000
3-BR	50	x(1.20x\$25,000)	\$30,000	=	\$1,500,000
4-BR	50	x(1.39x\$25,000)	\$34,750	=	\$1,737,500
5-BR	50	x(1.48x\$25,000)	\$37,000	=	\$1,850,000
TDC Limit					\$7,387,500
CGP Hard Cost Limit (90% of TDC)					\$6,648,750

4. Over Six-Bedroom Units. For detached or semi-detached units and row dwellings, the TDC limit for a 7-bedroom

unit is derived by multiplying the 6-bedroom TDC figure by a factor of 1.03. The TDC for a 8-bedroom unit is calculated by multiplying the 6-bedroom TDC figure by a factor of 1.05. For example:

\$60,250 (6-bedroom) x 1.03 = \$62,058 (7-bedroom)

\$60,250 (6-bedroom) x 1.05 = \$63,263 (8-bedroom)

5. Scattered Site Units. The HA shall calculate the TDC limit for the entire scattered site development. However, before actually expending funds on other than emergency work for an individual scattered site unit, the HA shall determine whether the unfunded hard cost needs for the individual unit exceed 90% of the TDC limit; if so, refer to subparagraph C.

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- B. At or Below the 90% Limit. Where the preliminary estimate of unfunded hard cost needs for a development is 90% or less of the TDC limit, no further action is required unless the HA determines that the development does not have long-term social and physical viability, despite its reasonable cost. The HA shall not submit evidence of computation of the TDC limit as part of its Comprehensive Plan, but shall retain such evidence for each development in its files (1) as supporting documentation for the information submitted on Form HUD-52832, Physical Needs Assessment, (2) for post-review by the FO, or (3) for submission to the FO upon request.
- C. Exceeding the 90% Limit
 1. HA Request. Except for emergencies and essential nonroutine maintenance necessary to maintain habitability, the HA shall not expend any CGP funds on a development, unless the HA has requested, and HUD has approved the request to exceed 90% of the TDC limit. Where the HA wishes to fund such a development, the HA shall submit, as part of the Comprehensive Plan, a written justification, including the following information:
 - a. Estimated hard cost by development account and work item;
 - b. Explanation of any special or unusual physical conditions at the development, including site and nondwelling structures, such as LBP abatement or physical accessibility needs;
 - c. Justification for all work as necessary to meet the modernization and energy conservation standards, and to develop a modest, non-luxury development that provides for efficient design, durability,

energy conservation, safety, security, economical maintenance, and healthy family life in a neighborhood environment;

- d. Description of efforts made to reduce costs;
- e. Explanation of why rehabilitation of the existing development is more cost-effective in the long-term than construction or acquisition of replacement housing;

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- f. If applicable, explanation of why the HA has no practical low-income housing alternative; and
 - g. Alternative HA strategies which the HA considered, such as:
 - (1) Changes in its occupancy policy;
 - (2) Partial demolition of selected buildings to reduce density or create open space;
 - (3) Revision to rehabilitation approach to reduce costs and make the development feasible to modernize at a reasonable cost;
 - (4) Reconfiguration of unit sizes to accommodate the applicants on the waiting list or for other reasons; and
 - 5) Design changes to enhance development security.
2. Timing of HA Request. If the HA plans to include the development in the Five-Year Action Plan or Annual Statement for expenditure of funds for other than emergencies, the HA shall submit its request to exceed 90% of the TDC limit as part of the Annual Submission in Chapter 6.
3. Criteria for HUD Review and Approval of HA Request. HUD review and approval criteria are:
- a. HA has provided complete and accurate information as required by subparagraph C1; and
 - b. HA has adequately explained any special or unusual conditions, justified all work as necessary to meet the modernization and energy conservation standards and provide a modest, non-luxury development, provided reasonable cost estimates, and made every effort to reduce costs; and

- c. Rehabilitation of the existing development is more costeffective in the long-term than construction or acquisition of replacement housing; or
- d. There are no practical alternatives for replacement housing.

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- 4. FO Action on HA Request. The FO has disapproval authority, but not approval authority. After review of the HA request against the criteria set forth in subparagraph C3 and conduct of any on-site review, as necessary, the FO shall take one of the following steps within 30 calendar days of receipt of the HA's request:
 - a. Where the FO determines that the HA request does not meet the approval criteria in subparagraph C3, the FO shall disapprove the request to exceed 90% of the TDC limit. The FO shall notify the HA in writing and explain the reasons for disapproval; or
 - b. Where the FO determines that the HA request does meet the approval criteria in subparagraph C3, the FO shall submit its recommendation for approval to Headquarters for review and final action.

4-9. MANAGEMENT NEEDS ASSESSMENT. As part of the Comprehensive Plan, the HA shall prepare Form HUD-52833, Management Needs Assessment, identifying all improvements (including those with no cost) needed to upgrade the management and operation of the HA and of each viable development so that decent, safe and sanitary living conditions will be provided. The Management Needs Assessment shall include the mandatory improvements in subparagraph B and may include the optional improvements in subparagraph C. The HA shall develop the Management Needs Assessment without regard to the availability of funds. However, many management improvements may be made at no cost. A sample Form HUD-52833 with instructions is contained in Appendix 4-3. ['968.315(e)(3) or '950.652(d)(3)]

- A. Determination of Needs. HAs are cautioned that the identification of management improvements may be difficult in that the obvious improvement may not be the improvement needed to correct the deficiency. For example, the HA may attribute the large number of vacancies, identified under the PHMAP, to a lack of modernization funding. However, closer examination may reveal that the vacancies also are caused by a lack of coordination between maintenance and occupancy staff. The HA shall attempt to identify the root cause(s) of the problem so that appropriate improvements may be identified.
- B. Mandatory Improvements. The Management Needs Assessment shall identify the most current needs related to the mandatory areas listed below, indicate the relative urgency of need, and

estimate the cost, if any. To the extent that any of these needs are addressed in an existing HUD-approved Memorandum of Agreement (MOA) or Improvement Plan (IP) for PHAs or Management Improvement Plan (MIP) for the HA may simply include a cross-reference to that document.

1. The management, financial, and accounting control systems of the HA,
2. The adequacy and qualifications of personnel employed by the HA in the management and operation of its developments, for each significant category of employment;
3. The adequacy and efficacy of resident programs and services, resident and development security, resident selection and eviction, occupancy, maintenance, resident management and resident capacity-building programs, resident opportunities for employment and business development and other self-sufficiency opportunities for residents, and homeownership opportunities for residents;
4. Open audit findings; and
5. For PHAS:
 - a. management deficiencies identified in an existing HUD- approved MOA or IP based on the PHMAP. Note: Under PHMAP, a management deficiency exists where the PHA received a grade of "F" on any indicator or received a grade of "D" or "E" on any indicator and was required by the FO to have an MOA or IP;
 - b. management deficiencies identified under the PHMAP (after HUD determination of any PHA appeal of scores), but for which the PHA has not yet submitted to HUD the required MOA or IP; in such case, the PHA may identify submission to HUD of the MOA or IP which meets the PHMAP requirements, as an improvement activity; and
 - c. management deficiencies not identified under the PHMAP but through HUD monitoring.
6. For IHAs, management deficiencies under '950.135, regardless of whether there is an MIP, or identified through HUD

for Allocation of Resources (RADAR).

- C. Optional Improvements. The Management Needs Assessment may identify, at the HA's option, any other management and operations needs which the HA wants to address at either the HA-wide or development level, with the relative urgency of need indicated. These may include improvements identified through:
1. HA self-assessment, such as its administration of equal opportunity requirements; or
 2. PHMAP for PHAS, RADAR for IHAS, or in other ways not addressed in subparagraph B, where the HA wishes to attain a higher level of performance. For example, under the PHMAP the grade of "C" is considered to be a satisfactory level of performance for a graded indicator. Where the PHA received a grade of "D" or "E" on an indicator, but was not required by the FO to have an MOA or an IP, the PHA may elect to address the improvement of its performance under the indicator. This also applies where the PHA received a grade of "B" or "C" on an indicator, but wishes to improve its performance, maximize its efficiency or reduce costs.
- D. Cost Estimates. The Management Needs Assessment shall include a preliminary cost estimate for each identified need and a grand total.
- E. Sources of Information. The HA shall identify on the Management Needs Assessment the source(s) of information from which it derived data to develop the general description of management/operations needs. The HA shall retain such information in its files (1) as supporting documentation for the information submitted on the Management Needs Assessment, (2) for post-review by the FO, residents or community members, or (3) for submission to the FO upon request.

Note: If there are no current management needs and the HA does not anticipate any needs within the next five years, the HA shall provide a statement to that effect on the Management Needs Assessment. Such a statement does not preclude the HA from amending the Management Needs Assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the Assessment is revised every sixth year.

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4-10.FIVE-YEAR ACTION PLAN. ['968.315(e)(5) or '950.652(d)(5)]

- A. General. As part of the Comprehensive Plan, the HA shall prepare Form HUD-52834, Five-Year Action Plan, to carry out the improvements and replacements identified in paragraphs

4-7 and 4-9. The first year of the five-year period is covered by the Annual Statement. Years two through five are covered by the Five-Year Action Plan. A sample Form HUD-52834 with instructions is contained in Appendix 4-4.

- B. Rolling Base. While it is expected that some HAs will be able to address all of their current backlog needs in the initial five-year period, many HAs will need a longer time period in which to do so. For this reason and because all HAs will continue to accrue additional modernization needs each year, the Five-Year Action Plan has a rolling base. A rolling base means that the Five-Year Action Plan must be annually updated to eliminate the previous year and add an additional fifth year so that it always covers the present five-year period, be with the current year.
- C. Funding Estimates. In developing the Five-Year Action Plan, the HA shall assume that the current year formula amount will be available in each year of years two through five, plus the HA's estimate of the funds that will be available from other private and public sources, such as State and local/tribal government funds, operating funds, Community Development Block Grant funds, unobligated CIAP funds being reprogrammed for CGP purposes, etc. All work specified in the Five-Year Action Plan is contingent upon the availability of funds.
- D. Setting Priorities. The HA shall consider the urgency of need assigned to work on the Physical Needs Assessment. In addition, the HA shall give priority to activities required to:
 - 1. correct emergency conditions, as defined in paragraph 1-6; and
 - 2. meet statutory or other legally mandated requirements, such as compliance with a court-order or voluntary compliance agreement.

Note: In setting priorities, the HA is responsible for determining the appropriate sequencing and coordination of work to maximize dollars and avoid waste.

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- E. Annual Revision. The HA shall maintain a current Five-Year Action Plan by annually amending its Action Plan, in conjunction with the Annual Submission (see Chapter 6).

4-11.LOCAL GOVERNMENT STATEMENT. As part of the Comprehensive Plan, and with each Annual Submission, the HA shall obtain a signature on Form HUD-52835, Local Government Statement, from each jurisdiction in which HA developments covered by the Comprehensive Plan are located. For IHAs established pursuant to tribal ordinance, the IHA shall obtain a statement from each

tribe pursuant to whose ordinance the IHA was established or in whose jurisdiction its area of operation extends. For IHAs established pursuant to State law, the IHA shall obtain a statement from each tribe that petitioned for the creation and the development of the IHA or that participates in or is responsible for the development of policy and oversight of the IHA. For Alaska IHAs, consult HUD Counsel. A sample Form HUD-52835 is contained in Appendix 4-5. Form HUD-52835 is signed by the chief executive officer (CEO) or Indian governing tribal official, as defined in paragraph 1-6, of the unit of general local government or Indian tribe. ['968.315(e)(6) or '950.652(d)(6)]

A. Certification. The Local Government Statement certifies that:

1. The HA developed the Comprehensive Plan/Annual Statement in consultation with local government officials/Indian tribal officials and with residents of the developments covered by the Comprehensive Plan/Annual Statement, in accordance with the requirements of the CGP;
2. The Comprehensive Plan/Annual Statement is consistent with:
 - a. For PHAS, the unit of general local government's assessment of its low-income housing needs (as evidenced by its Consolidated Plan under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services; or
 - b. For IHAs, the appropriate governing body's assessment of its low-income housing needs and that the appropriate governing body will cooperate in providing resident programs and services.
3. The HA's proposed drug and crime elimination activities are coordinated with and supportive of local strategies and

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neighborhood improvement programs, if applicable. Under the Cooperation Agreement, the local/tribal government is providing public services and facilities of the same character and to the same extent to Public and Indian housing as are furnished to other dwellings and residents of the locality. Where additional on-duty police are being funded under the CGP, such police will only provide additional security and protective services over and above those for which the local/tribal government is contractually obligated to provide under the Cooperation Agreement.

- B. Consolidated Plan (Not Applicable to IHAs). The Consolidated Plan requires a description of the number of public housing units in the jurisdiction, their physical condition, and the restoration and revitalization needs of the public housing developments within the jurisdiction. In addition, the Consolidated Plan requires the strategy of the PHA and the jurisdiction for improving the management and operation of public housing developments and the living environments of low- and very low-income families residing in public housing. Since the Consolidated Plan includes substantial information about public housing modernization needs, it is recommended that the PHA and local government work closely together to identify and plan for those needs. A simple way to coordinate the Consolidated Plan and the CGP Comprehensive Plan after the first year is for the Consolidated Plan to be amended to cross-reference the Reapproved CGP Comprehensive Plan.
- C. Use of Advisory Group. In the case of the HA with developments in more than one jurisdiction, the HA may submit to the FO, with the Comprehensive Plan or Annual Submission, Form HUD-52835 signed by an advisory group representative of the participating jurisdictions in lieu of Form HUD-52835 from the CEO of each participating jurisdiction. In such case, the CEO of each jurisdiction participating in the advisory group shall state in a written letter to the advisory group that the certifications set forth in Form HUD-52835 are true for its jurisdiction. Therefore, the advisory group is only for administrative convenience and not a means to circumvent local/tribal government certifications.
- D. Inability to Obtain Form HUD-52835. Where the HA is unable to obtain a signed Form HUD-52835 from certain jurisdictions, the HA shall submit to the FO, with the Comprehensive Plan or Annual Submission, a statement that the HA will not expend any funds from the annual grant in the identified jurisdictions and that the HA consulted with the local/tribal government officials and residents of the developments in such jurisdictions regarding the Comprehensive Plan or Annual Submission.

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- 4-12. HA BOARD RESOLUTION. As part of the Comprehensive Plan, and with each Annual Submission, the HA shall submit to the FO Form HUD-52836, HA Board Resolution Approving Comprehensive Plan or Annual Statement. Form HUD-52836 approves the Comprehensive Plan or Annual Statement or any amendments and certifies that the HA has complied or will comply with HUD requirements. Where the HA is an agency of the local government and has no legally responsible Board, the mayor or legal designee shall sign the Resolution. A sample Form HUD-52836 is contained in Appendix 4-6. ['968.315(e)(7) and

'950.652(d)(7)]

- 4-13. USE OF UNOBLIGATED CIAP FUNDS FOR CGP PURPOSES. HAs have the flexibility to use previously approved, but unobligated CIAP funds for the approved CIAP work items or for different work items which are consistent with the HA's Physical and Management Needs Assessments and Five-Year Action Plan under the CGP. [Sec. 14 (o)]; ['968.101(c) or '950.600(c)]
- A. HA Submission. If the HA elects to use any previously approved, but unobligated CIAP funds for work items under the CGP, the HA shall submit the following items to the FO with the initial submission of the Comprehensive Plan or at any subsequent time:
1. Revised Forms HUD-52825 (CIAP Budget), with brief narrative explanations of the proposed revisions;
 2. Evidence of consultation with the residents of the developments affected by the revisions. Note: The CGP advance meeting and public hearing requirements do not apply; and
 3. HA Board Resolution approving the proposed revisions to the CIAP Budget(s).
- B. FO Review. The FO shall review the proposed budget revisions in accordance with the following criteria.
1. The HA has submitted all required material under subparagraph A;
 2. The proposed work items are eligible modernization costs; and
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3. The proposed management and physical improvements are set forth in the Physical and/or Management Needs Assessments and the Five-Year Action Plan.
- C. FO Action.
1. Approval. Where the proposed budget revisions meet the criteria in subparagraph B, the FO shall approve the revisions and notify the HA of approval within 75 calendar days of receipt of the Comprehensive Plan in accordance with the procedures in paragraph 5-5 or, where submitted after Comprehensive Plan approval, within 21 calendar days of receipt. Where approval results in adding or deleting developments from the original CIAP Budget, an ACC amendment is required for CIAP Budgets approved before 1993.
 2. Disapproval. Where the proposed budget revisions do

not meet the criteria in subparagraph B, the FO shall disapprove the revisions and notify the HA of disapproval, including the reasons, within 75 calendar days of receipt of the Comprehensive Plan in accordance with the procedures in paragraph 5-5 or, where submitted after Comprehensive Plan approval, within 21 calendar days of receipt.

4-14.AMENDMENTS TO COMPREHENSIVE PLAN. The HA shall submit amendments to the Comprehensive Plan to the FO for review and approval as required below: [Sec. 14(e)(3)(B)]; ['968315(f) or '950.652(e)]

- A. Annually. The HA shall submit an annual update of the Five-Year Action Plan, eliminating the previous year and adding an additional fifth year, as part of the Annual Submission. The annual update of the Five-Year Action Plan is required even when all remaining needs and anticipated replacements will be funded during the five-year period or even where there are no current or anticipated needs. In such cases, the HA shall indicate the amount of the annual grant which will be placed into the replacement reserve (see paragraph 2-7). See paragraph 6-5 for the Annual Submission requirements.
- B. As Needed. The HA shall revise its Physical or Management Needs Assessments whenever it wishes to carry out activities in its Five-Year Action Plan or Annual Statement that are not reflected in its current needs assessments, except in the case of emergencies. Also, when the needs assessments have substantially changed, the HA may submit an amendment to its needs assessments.

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The HA may submit amendments and a Board Resolution approving the amendments at the time of the next Annual Submission or at any other time during the year. Examples of revisions include:

1. A revised Form HUD-52832, Physical Needs Assessment, for any development whose physical needs have significantly changed since the last needs assessment was undertaken, and now need to be reflected in the Five-Year Action Plan, excluding changes occurring because of work previously funded and completed under the CIAP or the CGP or with other funding sources. Changed needs may be due to such factors as the need for partial demolition in lieu of total rehabilitation, a redetermination of long-term viability, HUD disapproval of the HA's request to exceed 90% of TDC, the results of LBP testing, or accelerated deterioration of the property.
2. A revised Form HUD-52833, Management Needs Assessment, where the management needs have significantly changed

since the last needs assessment was undertaken, and now need to be reflected in the Five-Year Action Plan, excluding changes occurring because of work previously funded and completed under the CIAP or the CGP or with other funding sources. Changed needs may be due to such factors as a revised assessment of management performance, resulting in a new or revised MOA or IP for PHAs or MIP for IHAs, audit or other monitoring findings, or an HA self-assessment.

- C. Every Six Years. To ensure that the HA's needs assessments remain reasonably current, the HA shall submit a complete revision of its Comprehensive Plan every sixth year from the initial year of participation. The revision shall reflect the deletion of physical and management needs already funded and the addition of any new needs which have occurred since the last update, including any replacements likely to be needed during the second five-year period. The HA shall submit the following revisions, with the Annual Statement, in the sixth year:

1. Executive Summary, under paragraph 4-6;
2. Form HUD-52832, Physical Needs Assessment, for each development under paragraph 4-7;

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3. Form HUD-52833, Management Needs Assessment, under paragraph 4-9;
4. Form HUD-52834, Five-Year Action Plan, under paragraph 4-10;
5. Form HUD-52835, Local Government Statement under paragraph 4-11; and
6. Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement, under paragraph 4-12.

- D. FO Review and Action. The FO shall review and act on the amendments in accordance with Chapter 5.

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CHAPTER 5. HUD RESPONSIBILITY: REVIEW AND ACTION
ON COMPREHENSIVE PLAN

- 5-1. OBJECTIVE. The objective of this Chapter is to set forth the prerequisite for receiving CGP assistance and the criteria for HUD acceptance of the Comprehensive Plan for review and for HUD review and action on the Plan and any amendments. [Sec. 14(e)(2)(A) and (B)]
- 5-2. PREREQUISITE FOR RECEIVING ASSISTANCE. ['968315(g) or '950.652(f)]
- A. Except for emergency work, as defined in paragraph 1-6, and for modernization needs resulting from natural and other disasters under paragraph 3-8, no financial assistance may be made available under the CGP unless HUD has approved a Comprehensive Plan submitted by the HA which meets the requirements of Chapter 4.
 - B. The HA that fails to obtain approval of its Comprehensive Plan by the end of the FFY (or fails to submit its Comprehensive Plan by July 15 because there will be insufficient time for HUD review) shall have its formula allocation for that year (less any formula amounts provided to the HA for emergencies) carried over and added to the subsequent FFY's appropriation of funds for CGP grants. HUD then shall allocate such funds to all CGP agencies in accordance with the formula under Chapter 3 in the subsequent FFY. If the HA obtains approval of its Comprehensive Plan in the next FFY, the HA shall receive its formula allocation for that FFY but not for the previous FFY. The HA that chooses not to participate in the CGP in any FFY may choose to participate in the CGP in a subsequent FFY without adverse consequences.
- 5-3. HUD ACCEPTANCE FOR REVIEW. ['968.320(a) or '950.654(a)]
- A. HUD Determination. Upon receipt of the Comprehensive Plan, the FO shall conduct a completeness review to determine whether:
 - 1. The Comprehensive Plan contains each of the required components specified in paragraph 4-4. (See Appendix 5-1, HUD Review Checklist for Comprehensive Plan); and
 - 2. Where applicable, the HA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate HA performance, audit

corrective action orders.

- B. Acceptance for Review. If the HA has submitted a complete Comprehensive Plan under subparagraph A, the FO shall accept the Comprehensive Plan for review within 14 calendar days of its receipt in the FO, as evidenced by a date stamp. The FO shall notify the HA in writing that its Comprehensive Plan has been accepted for review and that the 75-day review period is proceeding (i.e., 14 calendar days for acceptance for review plus 61 calendar days for substantive review).
- C. Time Period for Review. A Comprehensive Plan that is accepted by the FO for review, shall be considered to be approved unless the FO notifies the HA in writing, postmarked within 75 calendar days of the date of HUD's receipt of the Comprehensive Plan for review, that the Plan is disapproved. The FO shall not disapprove a Comprehensive Plan on the basis that it cannot complete its review within the 75-day deadline.
- D. Consultation with HA during Review Period. Although HAs are responsible for submitting approvable Comprehensive Plans, the Department believes that it is in the best interest of the CGP to work cooperatively with HAs to maximize approval of the Comprehensive Plans. Therefore, the FO shall communicate informally with the HA during the review period to obtain clarification of data or information or to request corrections, such as for ineligible work items, mathematical errors, or other items which may result in disapproval. Such consultation is permitted under the Reform Act since it will not affect the amount of the HA's formula-based grant. Notwithstanding any informal consultations, if the FO determines that the HA's Comprehensive Plan meets the statutory/regulatory criteria for disapproval, the FO is responsible for disapproving the Plan within the 75-day review period.
- E. Rejection of Plan for Review. If the HA has submitted a Comprehensive Plan, which is not complete under subparagraph A, the FO shall notify the HA in writing within 14 calendar days of its receipt that the Comprehensive Plan has been rejected for review and that the review clock has been stopped. The FO shall indicate all the reasons for rejection, the modifications required to qualify the Comprehensive Plan for HUD review, and the deadline for receipt of any modifications so that a subsequent HUD review may be completed by the end of the FFY (September 30).

- 1. The FO shall establish the deadline for resubmission no later than 75 calendar days before the end of the FFY or July 15 since no substantive review of the Plan was conducted. If the HA resubmits before July 15, a new 75-day review period begins upon receipt of the

resubmission.

2. It is advantageous for the HA to resubmit quickly in order to obtain its annual grant funds as early as possible in the FFY.
3. If the HA resubmits after July 15, the FO has the discretion to reject the Comprehensive Plan for review in that FFY on the basis that there is insufficient time for HUD review.

5-4. HUD REVIEW CRITERIA. Under the CGP, the HA, in consultation with residents and local/tribal government, is responsible for development of the Comprehensive Plan which identifies all work required to bring its units up to the modernization and energy conservation standards, addresses all management deficiencies, and establishes modernization strategies and funding priorities. The CGP differs from the CIAP in that HUD is not responsible for determining modernization strategies and funding priorities. Therefore, the FO shall approve the Comprehensive Plan except where it makes a determination in accordance with one or more of the following statutory/regulatory criteria. Although examples of situations which are and are not a basis for disapproval are provided, it is not possible to provide an all-inclusive list. Where the FO determines that the Comprehensive Plan meets the following statutory/regulatory criteria for disapproval, the FO must present objective and documented data to support its position. During the review period, FO Public/Indian Housing (PIH) staff shall consult with Fair Housing and Equal Opportunity (FHEO) staff regarding whether there are any civil rights compliance issues. PIH shall use the HUD Review Checklist for Comprehensive Plan, contained in Appendix 5-1, and include the completed Checklist in each HA's file. ['968.320(b)(2) or '950.654(b)(2)]

- A. Comprehensive Plan is Incomplete in Significant Matters. The FO determines that the HA has failed to include all required information or documentation in its Comprehensive Plan to the degree that the Plan is substantially incomplete in significant matters and does not reflect the true needs of the HA.

Example: The HA has not completed a Physical Needs Assessment for one of its 20 developments or has completed the Physical Needs Assessment for each development, but has omitted substantial information on several Assessments, as documented by HUD monitoring reviews or audits. This is a basis for disapproval.

Example: The HA has failed to check the boxes related to occupancy and structure type on 3 of 20 of its Physical Needs Assessments. Since these omissions do not substantially affect the completeness of the Comprehensive

Plan, this is not a basis for disapproval.

- B. Identified Needs are Plainly Inconsistent with Facts and Data. On the basis of available significant facts and data pertaining to the physical and operational condition of the HA's developments or the management and operations of the HA, the FO determines that the HA's identification of modernization needs (see paragraphs 4-7 and 4-9) is plainly inconsistent with such facts and data. The FO shall take into account facts and data, such as those derived from recent HUD monitoring, audits, and resident comments, and shall disapprove a Comprehensive Plan based on such findings as:

1. Identified physical improvements and replacements are inadequate. The completion of the identified physical improvements and replacements will not bring all of the HA's developments to a level at least equal to the modernization and energy conservation standards.

Example: A HUD monitoring review has documented major physical deficiencies at various developments. The HA has not demonstrated that it will correct these deficiencies up to the modernization standards on the Physical Needs Assessments for those developments. Since there is a pattern of incomplete identification of physical needs, this is a basis for disapproval.

Example: A HUD monitoring review has documented the need for electrical upgrade at one development. The HA has not included this need on the Physical Needs Assessment for that development. Since this one omission does not indicate a pattern of incomplete identification of physical needs, this is not a basis for disapproval unless the HA includes the electrical work in the Five-Year Action Plan. All work included on the Five-Year Action Plan must be reflected on the Physical Needs Assessments.

2. Identified management improvements are inadequate. The identified management and operations improvement needs do not address all of the HA's mandatory improvement areas or the completion of those improvements will not result in an acceptable level of management performance, as set forth in paragraph 4-9B.

Example: HUD monitoring reviews and independent audits have documented that the HA's financial and accounting control systems have major deficiencies. The HA has submitted the Management Needs Assessment without addressing these deficiencies. Since correction of deficiencies in financial and accounting control systems is a mandatory management improvement, this is

a basis for disapproval.

Example: The HA has identified rent collection as a serious problem and a major management improvement need, but has proposed correcting the deficiency by sending a letter to each resident in arrears. The HA tried this approach several years ago without any success. The FO will not generally question the HA's proposed action for correcting management deficiencies. However, where documentation exists in regard to this HA that the proposed corrective action was tried previously, was unsuccessful in correcting the deficiency, and, therefore, is now insufficient this is a basis for disapproval. It is anticipated that disapproval on this basis will be rare.

3. Proposed physical and management improvements fail to address identified needs. The proposed physical and management improvements in the Five-Year Action Plan are not related to the identified needs in the needs assessment portions of the Comprehensive Plan.

Example: The HA has included a heating plant renovation in the Five-Year Action Plan, but not in the Physical Needs Assessment for that development. This is a basis for disapproval.

- C. Action Plan is Plainly Inappropriate to Meeting Identified Needs. On the basis of the Comprehensive Plan, the FO determines that the Five-Year Action Plan (see paragraph 4-10) is plainly inappropriate to meet the needs identified in the Comprehensive Plan; e.g., the proposed work item will not correct the need identified in the needs assessment. In making this determination, the FO shall take into account the availability of funds and whether the Five-Year Action Plan fails to address or give appropriate priority to work items, as set forth in paragraph 4-10D, that are needed to correct emergency conditions or to meet statutory or other legally mandated requirements (excluding local codes), as identified by the HA in its Comprehensive Plan. Otherwise, the FO will not generally

question the HA's priorities for addressing needs or developments.

Example: A development with three-story walk-up units has a significant number of hard to market one-bedroom units, but a large demand for family-size units. The FO strongly advocates the conversion of these units to larger size bedrooms. The HA does not agree and has not adopted a conversion strategy for the one-bedroom units. This is not a basis for disapproval since it is the HA's prerogative to develop a strategy to successfully market the one-bedroom

units. Although the FO may suggest strategies, it is expected that the FO will defer to local judgement. If the HA carries out the strategies in its approved Five-Year Action Plan, the FO will not issue a notice of deficiency or corrective action order on this issue. However, if the one-bedroom vacancies result in an unacceptable level of performance under PHMAP the FO shall deal with the deficiency under PHMAP procedures. (see Chapter 12).

Example: A recent HUD monitoring review has documented extensive roof problems at a particular development, which will result in emergency conditions within the next several years. Although roof replacement is listed on the Physical Needs Assessment for the development, the roof work does not appear on the Five-Year Action Plan. This is a basis for disapproval because the FO can substantiate that an emergency will occur unless the roof work is performed within the next five years.

Example: The HA has failed a PHMAP indicator and its Improvement Plan (IP) indicates that CGP funds will be needed in year two to correct the deficiencies. The Five-Year Action Plan does not include this management improvement until year five and the HA has not requested a revision to its IP. This is a basis for disapproval.

- D. Inadequate Demonstration of Long-Term Viability at Reasonable Cost. The FO determines that the HA has failed to demonstrate that completion of the improvements and replacements identified in the Comprehensive Plan, as required by paragraphs 4-7 and 4-9, will reasonably ensure the long-term viability at a reasonable cost of one or more developments, as required by paragraph 4-8. In most cases, HUD intends to accept the HA's viability determinations without doing its own independent determinations. This is because residents and other interested parties will have an opportunity to express their concerns about the HA's viability determinations at the required public hearing. However, in exceptional cases, where HUD believes that the HA has failed to demonstrate long-term viability at a reasonable cost for a development, the FO shall disapprove the Comprehensive Plan.

Example: A development with a high vacancy rate has unfunded hard costs estimated at 85% of computed Total Development Cost (TDC). The HA has stated that the development has long-term viability and will be fully occupied at the completion of the modernization work. It is a large family development in a high crime, deteriorated, impacted neighborhood with high concentrations of subsidized housing. The HA makes a reasonable case that social viability problems will be overcome through substantial rehabilitation of the development in its current

configuration. Although the FO doubts that long-term viability may be achieved without partial demolition to reduce density, the FO will not substitute its judgement for that of the HA. This is not a basis for disapproval.

Example: A development with a high vacancy rate has unfunded hard costs estimated to exceed 90% of computed TDC. The HA has submitted its request to exceed 90% of TDC and has stated that the development has long-term viability and will be fully occupied at the completion of the modernization work. It is a large family development in a high crime, deteriorated, impacted neighborhood with high concentrations of subsidized housing. The HA does not make a reasonable case that social viability problems will be overcome through substantial rehabilitation of the development in its current configuration. The HA previously received funds for the comprehensive modernization of the development, which was completed in 1987. Since then, the development has deteriorated again to the point where substantial rehabilitation is required. In such case, the FO has hard evidence that a refunding of this development in its current configuration will not result in long-term viability. This is a basis for disapproval.

- E. Contradiction of Local Government Statement or HA Board Resolution. The FO has evidence which tends to challenge, in a substantial manner, the Local Government Statement or the HA Board Resolution, as required by paragraphs 4-11 and 4-12. Such evidence may include:

Example: HUD has evidence that the HA failed to conduct an advance meeting for resident groups, but did conduct a public hearing. Since the advance meeting requirement is a substantive requirement to ensure adequate opportunity for resident participation, this is a basis for disapproval.

- 5-5. HUD ACTION. After FO review of the entire Comprehensive Plan, including the Five-Year Action Plan, in accordance with paragraph 5-4, the FO shall notify the HA in writing of approval or disapproval, as follows:

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- A. Approval. ['968.320(c) or '950.654(c)]

1. Where the FO is approving the Comprehensive Plan, or any amendment to the Plan, the FO letter shall so state, provide any non-binding advice and guidance, and indicate that approval does not constitute any endorsement of the HA's priorities or funding strategies. Where the FO also is approving the use of unobligated CIAP funds for CGP purposes, the letter shall so state. The Comprehensive Plan, or any amendments, is then binding upon HUD and the HA until such time as the HA submits, and the FO approves, an

amendment to its Plan. See Appendix 5-2 for sample approval letter.

2. Subsequent to approval, if the FO determines, as a result of an audit or monitoring findings, that the HA has provided false or substantially inaccurate data in its Comprehensive Plan/Annual Submission or has circumvented the intent of the program, the FO may take appropriate action, including sending a notice of deficiency or a corrective action order under paragraph 12-9. Moreover, in accordance with 18 U.S.C. 1001, any individual or entity who knowingly and willingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

B. Disapproval. Where the FO is disapproving the Comprehensive Plan, or any amendment to the Plan, the FO letter shall state all the reasons for the disapproval the modifications required to make the Comprehensive Plan approvable, and the deadline for receipt of any modifications so that a subsequent HUD review may be completed by the end of the FFY (September 30). The FO shall send copies of all disapproval letters to Headquarters. ['968320(b)(1) or '950.654(b)(1)]

1. In establishing the deadline for resubmission, the FO may allow up to 75 calendar days before the end of the FFY for HUD review; however, the FO may allow less than 75 calendar days for its review since a substantive review of the Plan was previously conducted. See paragraph 5-2B regarding reallocation of funds when the Comprehensive Plan is disapproved.
2. It is advantageous for the HA to resubmit quickly in order to obtain its annual grant funds as early as possible in the FFY.

CHAPTER 6. HA RESPONSIBILITY: ANNUAL SUBMISSION

- 6-1. OBJECTIVE. The objective of this Chapter is to set forth the requirements of the Annual Submission, including the Annual Statement, for the formula allocation, for emergencies out of the formula allocation where there is no approved Comprehensive Plan, and for the \$75 million reserve for natural and other disasters and for emergencies, as well as for amendments to the Annual Statement. Since the requirements for the Comprehensive Plan and the HUD review criteria are statutorily different from the Annual Statement, the requirements for the Comprehensive Plan are set forth in Chapter 4. ['968.325 or '950.6561
- 6-2. HUD NOTICE OF ANNUAL FORMULA AMOUNT. Annually, Headquarters shall notify the HA in writing of its actual formula amount for use in developing and/or finalizing the Annual Submission. Refer to paragraph 3-7D.
- 6-3. PLANNING AND PREPARATION. In developing the Annual Statement and updating the rolling base Five-Year Action Plan, the HA may use either (A) the actual formula amount from the latest FFY or (B) the current formula amount provided in HUD's annual notification, for presentation at the annual advance meetings for residents and the annual public hearing. ['968325(a) and (d)(4) or '950.656(a) and (d)(4)]
- A. Use of Latest Actual Formula Amount. For example, the HA may wish to start its planning for the FFY 1997 grant in the summer of 1996. Since the FFY 1997 formula amount is not yet available, the HA may use its FFY 1996 actual formula amount for planning purposes and for presentation at the resident meetings and the public hearing, with the caveat that the FFY 1997 actual formula amount may be higher or lower. If higher, the HA should identify what work from the Five-Year Action Plan (years two through five) would be moved into the Annual Statement (year one); if lower, the HA should identify what work in the Annual Statement would be deferred. By using the latest actual formula amount for planning, the HA is able to finalize and make the Annual Submission to HUD shortly after receiving HUD's notice of the annual formula amount and, thereby, have earlier access to its annual grant.
- B. Use of Current Formula Amount. For example, the HA may wait to start its planning for the FFY 1997 grant until it receives HUD's notice of the FFY 1997 formula amount. By using the current formula amount for planning, the HA is not able to make

the Annual Submission to HUD shortly after receiving HUD's notice of the annual formula amount and, thereby, does not

have earlier access to its annual grant.

- 6-4. RESIDENT AND LOCAL GOVERNMENT PARTICIPATION. The HA shall develop its Annual Submission, including any proposed amendments to its Comprehensive Plan under paragraph 4-14, in consultation with local/tribal government officials of the appropriate governing body (or, in the case of an HA with developments in multiple jurisdictions, in consultation with the Chief Executive Officer of each such jurisdiction or with an advisory group representative of all jurisdictions) and with residents and duly elected resident organizations of all developments covered by the Comprehensive Plan. Refer to Chapter 9 for specific requirements and guidance.

['968325(d) or '950.656(d)]

- 6.5. HA ANNUAL SUBMISSION FOR FORMULA ALLOCATION. The Annual Submission is a collective term for all documents which the HA shall submit to HUD for review and approval before accessing current FFY grant funds. After being advised by HUD of its formula amount for the FFY and estimating how much funding will be available from other sources, such as State and local/tribal governments, and determining its activities and costs based on the actual formula amount, the HA shall submit the following documents which comprise the Annual Submission no later than July 15 of each FFY: [Sec. 14(e)(3)(A)J; ['968.325(e) or '950.656(e)]

- A. Form HUD-52837, Annual Statement, in an original and one copy, covering year one and setting forth the planned physical and management improvements which are to be funded out of that year's grant, as specified in HUD's notice of annual formula amount. Refer to paragraph 6-6. A sample Form HUD-52837 with instructions is contained in Appendix 6-1.
- B. Form HUD-52834, Five-Year Action Plan, in an original and one copy, covering years two through five and eliminating the previous year and adding a new fifth year to the rolling base, and any other amendments to the Comprehensive Plan, as set forth in paragraphs 4-10 and 4-14. In preparing the Five-Year Action Plan, the HA shall assume that the current year formula amount will be available in each year of years two through five. In addition, the HA shall consider the urgency of need assigned to work on the Physical Needs Assessments. See sample Form HUD-52834 in Appendix 4-4.

Note: All physical and management improvements set forth on the Annual Statement and Five-Year Action Plan must be identified on the

Physical Needs Assessments or the Management Needs Assessment. If not, the HA shall submit revised Assessments, as appropriate.

Note: All administrative costs and management improvements on the Annual Statement and Five-Year Action Plan shall be in

sufficient detail for the FO to make an eligibility determination. For example, "upgrade computer system" would be insufficient for an eligibility determination; "upgrade computer system to improve rent collection -- see MOA" would be sufficient.

- C. Where applicable, HA request to exceed 90% of the computed TDC limit, as required by paragraph 4-8C.
- D. Cost Allocation Methodology, in an original only, setting forth allocation of salary expenses as explained in paragraph 2-14A. This is required only in the first year of CGP participation, unless the HA changes its methodology.
- E. Form HUD-50070, Certification for a Drug-Free Workplace, in an original only. See sample Form HUD-50070 in Appendix 6-2.
- F. Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements, in an original only, required of HAs established under State law, applying for grants over \$100,000. Refer to the Public and Indian Housing Lobbying Handbook 7570.1. See sample Form HUD-50071 in Appendix 6-3.
- G. Standard Form (SF)-LLL, Disclosure of Lobbying Activities, in an original only, required of HAs established under State law, where any funds, other than federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress, and congressional staff regarding specific grants or contracts. The HA determines if the submission of the SF-LLL is applicable. If the HA does not submit the SF-LLL, the FO shall assume that the HA does not have any lobbying activity unless there is evidence to the contrary. Refer to Handbook 7570.1.
- H. Summary of general issues raised by residents, local/tribal government officials and others during the public comment process and the HA's response to those general issues. The HA is not required to respond to each public comment.
- I. Form HUD-52835, Local Government Statement, in an original only. See sample Form HUD-52835 in Appendix 4-5.

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- J. Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement, in an original only. See sample Form HUD-52836 in Appendix 4-6.
- K. Where applicable, any additional information or assurances required as a result of HUD monitoring, findings of inadequate HA performance, audit findings, civil rights compliance findings, or corrective action orders. In addition, for Public Housing, any documentation requested by HUD that HUD needs to carry out its responsibilities under the National Environmental Policy Act and other related

authorities in accordance with '968.110(c) and (d).

- 6-6. ANNUAL STATEMENT. The Annual Statement is the first year of the FiveYear Action Plan and sets forth the activities and expenditures which the HA plans to undertake, in whole or in part, with current year funds. The Annual Statement shall include, for each development or on an HA-wide basis, the work to be funded from the current year grant: ['968.325(e) or '950.656(e)]
- A. A list of development accounts with an identification of major work categories and the cost for each major work categories, as well as a summary of cost by development account, for each development. In addition, a list of HA-wide or development specific management improvements, as well as list of HA-wide physical improvements.
- B. Implementation schedules which are target dates for the obligation and expenditure of funds for each development and for each management improvement not covered by a HUD-approved Memorandum of Agreement (MOA) or Improvement Plan (IP) for PHAs or Management Improvement Plan (MIP) for IHAs. Target dates for management improvements covered by such documents are not required since such dates are set forth in those documents. Excluding the funded accounts for operations (Account 1406) and replacement reserve (Account 1490), HUD generally expects that the HA will obligate its current year funds within two years and expend such funds within three years of approval from HUD, unless longer time frames are approved by the FO due to local differences in work scope and complexity, construction seasons, material or equipment supply, State or local/tribal contracting requirements. ['968.125 or '950.614]
- 6-7. NUMBERING OF COMPREHENSIVE GRANT. Each annual grant shall be assigned an unique Comprehensive Grant number, which is an 13-digit alpha numeric code in the following format: Positions 1-2, State code (alpha); Positions 3-4, FO code (numeric); Position 5, P for Public Housing or B
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- for Indian Housing; Positions 6-8, PHA/IHA number; Positions 9-11; Grant number; Positions 12-13, FFY identifier. The first Comprehensive Grant approved under the CGP shall be 701; e.g., VA36PO3070192. The second Comprehensive Grant approved under the CGP shall be 702; e.g., VA36PO3070293. All funding from the \$75 million reserve for disasters and emergencies shall be given a separate Comprehensive Grant number from the HA's annual formula grant; e.g., VA36PO3070393.
- 6-8. HA SUBMISSION REQUIREMENTS FOR FORMULA FUNDING OF EMERGENCIES WHERE NO APPROVED COMPREHENSIVE PLAN. ['968.315(g)(2) or '950.652(f)(2)]

- A. Prerequisite for Receiving Assistance. To receive funding from its formula allocation for emergency work, where the FO has disapproved the HA's Comprehensive Plan or Annual Statement or the HA has failed to submit the Comprehensive Plan or Annual Statement, the HA is first required to deplete any previously approved, but unobligated CIAP and CGP funds and any funds in the CGP-funded replacement reserve.
- B. Submission Requirements. The HA shall submit the following documents to the FO:
 - 1. Form HUD-52837, Annual Statement, in an original and one copy, which identifies:
 - a. the development(s) with the emergency conditions;
 - b. the nature of the immediate threat to the health or safety of residents, the work needed to correct the emergency condition(s); and the estimated cost; and
 - c. the amount of previously approved, but unobligated modernization (CIAP and CGP) funds and the amount in the CGP-funded replacement reserve. Subtract the total of these amounts from the estimated cost of the emergency work to determine the amount eligible for funding from the annual formula allocation.
 - 2. Form HUD-50070, Certification for a Drug-Free Workplace, in an original only, unless already submitted for the CGP in the same FFY;

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- 3. Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements, in an original only;
- 4. Standard Form (SF)-LLL Disclosure of Lobbying Activities in an original only; and
- 5. Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement, in an original only.

Note: There are no resident or local/tribal government consultation requirements or public hearing requirements for formula funding of emergency work where there is no approved Comprehensive Plan or Annual Statement because of HA need to submit quickly. However, the HA is urged to consult, where possible, with residents and local/tribal government officials.

The HA is required to inform residents and local/tribal government officials of any approved emergency funding.

C. HUD Review and Action.

1. The FO shall review the HA's request immediately upon receipt to determine that:
 - a. the condition described appears to constitute an immediate threat to the health or safety of residents and the proposed work is appropriate to correct the condition; and
 - b. previously approved, but unobligated CIAP and CGP funds, plus any funds in the CGP-funded replacement reserve, are not adequate to pay for the necessary work.
2. Where necessary to verify the emergency condition or the work needed to correct the condition, the FO shall immediately schedule an on-site review.
3. Within 14 calendar days of receipt of the HA's request, the FO shall complete its review and:
 - a. where approved, request fund assignment from Headquarters and prepare the grant approval documents in paragraph 8-2; or
 - b. where disapproved, notify the HA in writing, including the reasons for the disapproval.

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6-9. HA SUBMISSION REQUIREMENTS FOR RESERVE FOR DISASTERS AND EMERGENCIES. ['968.104 or '950.606]

- A. Prerequisite for Receiving Assistance. To receive funding from the \$75 million reserve for natural and other disasters or for emergencies under paragraph 3-8, whether or not the FO has approved the HA's Comprehensive Plan, the HA must first:
 1. For natural and other disasters, determine the extent to which its needs are in excess of its expected reimbursement from insurance and other sources, such as the Federal Emergency Management Administration (FEMA).
 2. For emergencies, deplete its annual formula allocation of CGP funds, other unobligated CGP and CIAP funds, and any funds in the CGP-funded replacement reserve.
- B. Submission Requirements. The HA shall submit the following documents to the FO:

1. Form HUD-52837, Annual Statement, in an original and one copy, which identifies:
 - a. the development(s) where there is work resulting from a disaster or an emergency;
 - b. for a natural or other disaster, the nature of the disaster and why the HA believes it qualifies for grant funding under the reserve, the work needed to repair the damage caused by the disaster, the estimated cost, and the expected reimbursement from insurance and other sources such as FEMA to pay for the damage caused by the disaster. Subtract the total expected reimbursements from the estimated cost of the repair work to determine the amount eligible for funding from the \$75 million reserve.
 - c. for emergencies, the nature of the immediate threat to the health or safety of residents, the work needed to correct the emergency condition(s), and the estimated cost. The HA also shall provide the estimated or actual amount of its current year formula allocation, the amount of previously approved, but unobligated CIAP and CGP funds, and the amount in the CGP-funded replacement reserve. Subtract the total of these

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three amounts from the estimated cost of the emergency work to determine the amount eligible for funding from the \$75 million reserve.

2. Form HUD-50070, Certification for a Drug-Free Workplace, in an original only, unless already submitted for the CGP in the same FFY;
3. Form HUD-50071, certification for Contracts, Grants, Loans and Cooperative Agreements, in an original only;
4. Standard Form (SF)-LLL, Disclosure of Lobbying Activities, in an original only; and
5. Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement in an original only.

Note: There are no resident or local/tribal government consultation requirements or public hearing requirements for funding from the \$75 million reserve because of HA need to submit quickly. However, the HA is urged to consult, where possible, with residents and local/tribal government officials. The HA is required to inform residents and local/tribal government officials of any approved disaster

or emergency funding.

C. HUD Review and Action. The FO shall review the HA's request immediately upon receipt to determine that:

1. For disasters:

- a. the extraordinary event which caused the damage appears to qualify as a disaster for purposes of funding under the reserve; and
- b. funds available to the HA from insurance and other reimbursements are not adequate to pay for the necessary work.

2. For emergencies:

- a. the condition described appears to constitute an immediate threat to the health or safety of residents and the proposed work is appropriate to correct the condition; and

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- b. the amount of the current year formula allocation, the amount of other unobligated CIAP and CGP funds, and the amount in the CGP-funded replacement reserve, when added together, are not adequate to pay for the necessary work.

3. Where necessary to verify the condition or the work needed to correct the condition, the FO shall immediately schedule an on-site review.

4. Within 14 calendar days of receipt of the HA's request, the FO shall complete its review and:

- a. where the FO recommends approval, forward its recommendation, with the HA's request, to Headquarters for review and final decision. If approved, Headquarters shall notify the FO when funds have been assigned for the HA from the \$75 million reserve.
- b. where the FO cannot recommend approval based on the criteria in subparagraph C1 or C2 or because additional information is needed, the FO shall disapprove the request and notify the HA in writing, including the reasons for disapproval.

5. The HA may appeal the FO's disapproval to Headquarters. Headquarters shall make a decision on the HA's appeal.

D. Use of Leftover Funds. The use of leftover funds received from the \$75 million reserve differs for emergencies and for

disasters due to the varying repayment requirements.

1. For emergencies, where the HA overestimated the cost of the emergency work, the HA may use the leftover funds for other work set forth in the Five-Year Action Plan without requesting prior HUD approval. The HA is required to repay all emergency funds received and expended from the \$75 million reserve.
2. For disasters, where the HA overestimated the cost of the disaster work, the HA shall not use any of the excess amount for other work without prior HUD approval. The HA is not required to repay any funds received and expended from the \$75 million reserve.

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6-10.AMENDMENTS TO ANNUAL STATEMENT. [Sec. 14(e)(3)(B)]; ['968.325(h) or '950.656(h)] The HA shall have a system in place to record/control all revisions to and all financial obligations against the approved Annual Statement, regardless of whether prior HUD approval is required.

A. Parts I and II Summary and Supporting Pages.

1. Prior HUD Approval. The HA shall request prior FO approval where the HA wishes to add to the HUD-approved Annual Statement any work (except for emergency work) which is not covered by the HA's latest HUD-approved Five-Year Action Plan or a prior approved modernization budget or where there is any change in the approved use of replacement reserve funds. In such cases, the HA shall submit the following documents:
 - a. Revised Form HUD-52837, Annual Statement, Parts I and II only, in an original and one copy, showing all revisions to date, including the revisions which triggered the need for prior HUD approval;
 - b. Evidence of consultation with residents affected by the revisions and local/tribal government officials (refer to paragraph 9-2A2 for general guidance on establishing a Partnership Process). No public hearing is required; and
 - c. Form HUD-52836, PHA/IHA Board Resolution, in an original only, approving the revisions.
2. No Prior HUD Approval. The HA shall advise HUD of all revisions, which occurred throughout the program year where no prior HUD approval was required, in the annual Performance and Evaluation Report. The HA is not required to submit the following revisions to HUD for prior approval:

- a. Addition of emergency work, as defined in paragraph 1-6, which is not included in the Annual Statement or Five-Year Action Plan; or
- b. Deletion of work or reduction in work scope; or
- c. Transfer of work from the latest HUD-approved Five-Year Action Plan or prior approved CIAP Budgets or CGP

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Annual Statements to the Annual Statement.

B. Part III, Implementation Schedule.

- 1. Prior HUD Approval. The HA shall request prior FO approval where HA need to extend the target dates for fund obligation or expenditure in the approved Annual Statement is due to reasons within the HA's control. In such case, the HA's score on the Modernization Indicator of PHMAP will be adversely affected. The HA shall submit a revised Form HUD-52837, Annual Statement, Part III only, in an original and one copy, and Form HUD-52836, PHA/IHA Board Resolution, in an original only. Examples of delay within the HA's control include:
 - a. Change of HA staff, Executive Director, or Board of Commissioners; and
 - b. Delay in developing bid documents due to inability to procure A/E services in a timely manner.
- 2. No Prior HUD Approval. The HA may extend the target dates for fund obligation or expenditure in the approved Annual Statement without prior HUD approval whenever any delay outside of the HA's control occurs. Where the HA revises its implementation schedule, the HA shall inform the FO so that the FO may enter a revised Obligation End Date in LOCCS. Such revision is subject to post-review by the FO in determining whether the HA has a continuing capacity to carry out its Comprehensive Plan in a timely manner (see paragraph 12-8). In addition, HUD may take other appropriate action as set forth in paragraph 12-9. Examples of delay outside of the HA's control include:
 - a. Need to use unobligated funds which are left over after completion of all planned work under an Annual Statement for additional work included in the Five-Year Action Plan;
 - b. Unforeseen delays in contracting or contract administration, such as the need to rebid due to no bids received or bids received over budget, hidden conditions,

etc;

- c. Litigation, where approved by HUD; and

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- d. HUD or other institutional delay, excluding delay by the HA itself (i.e., HA staff, Executive Director or Board of Commissioners).

- C. HUD Review and Action. The FO shall review a request to amend the Annual Statement in accordance with the review criteria in paragraph 7-3. The FO shall complete its review within 14 calendar days and notify the HA in writing of approval, approval with modifications or disapproval. Where disapproved, the HA shall not expend funds on the work since such work is not included in the approved Annual Statement or Five-Year Action Plan.

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CHAPTER 7. HUD RESPONSIBILITY: REVIEW AND ACTION
ON ANNUAL SUBMISSION

7-1. OBJECTIVE. The objective of this Chapter is to set forth the criteria for HUD acceptance of the Annual Submission, including the Annual Statement and related documents, for review and for HUD review and action on the Annual Submission. [Sec. 14(e)(3)(C)]; ['968.325(g) or '950.656(g)]

7-2. HUD ACCEPTANCE FOR REVIEW.

- A. Deadline for Submission. After HUD notifies the HA of its annual formula amount, the HA may make its Annual Submission to the FO as soon as all program requirements have been met. The outside deadline for the Annual Submission is July 15 so that the FO may exercise its full 75-day review authority where needed.
- B. HUD Determination. Upon receipt of the Annual Submission, the FO shall conduct a completeness review to determine whether:
 - 1. The Annual Submission contains each of the required components specified in paragraph 6-5. (See Appendix 7-1, HUD Review Checklist for Annual Submission); and
 - 2. Where applicable, the HA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate HA performance, audit findings, civil rights compliance findings, or corrective action orders.
- C. Time Period for Review. An Annual Submission shall be considered to be approved unless the FO notifies the HA in writing, postmarked within 75 calendar days of the date of HUD's receipt of the Annual Submission for review, that the Annual Submission is disapproved. The FO shall not disapprove an Annual Submission on the basis that it cannot complete its review within the 75-day deadline. The FO shall make every effort to complete its review within 14 calendar days.
- D. Consultation with HA during Review Period. Although HAs are responsible for submitting approvable Annual Submissions, the Department believes that it is in the best interest of the CGP to work cooperatively with HAs to maximize approval of the Annual Submissions. Therefore, the FO shall communicate informally with the HA during the review period to obtain clarification of data or information or to request corrections, such as for ineligible

work items, mathematical errors or other items which may result in disapproval. Such consultation is permitted under the Reform Act since it will not affect the amount of the HA's formula-based grant. Notwithstanding any informal consultations, if the FO determines that the HA's Annual Submission meets the statutory/regulatory criteria for disapproval, the FO is responsible for disapproving the Annual Submission within the 75-day review period.

- E. Rejection of Annual Submission for Review. If the HA has submitted an Annual Submission which is not complete under subparagraph B, the FO shall notify the HA within 14 calendar days of its receipt that the Annual Submission has been rejected for review and that the review clock has stopped. The FO shall indicate all the reasons for rejection, the modifications required to qualify the Annual Submission for HUD review, and the deadline for receipt of any modifications so that a subsequent HUD review may be completed by the end of the FFY (September 30).
1. The FO shall establish the deadline for resubmission no later than 75 calendar days before the end of the FFY or July 15 since no substantive review of the Annual Submission was conducted. If the HA resubmits before July 15, a new 75-day review period begins upon receipt of the resubmission.
 2. It is advantageous for the HA to resubmit quickly in order to obtain its annual grant funds as early as possible in the FFY.
 3. If the HA resubmits after July 15, the FO has the discretion to reject the Annual Submission for review in that FFY on the basis that there is insufficient time for HUD review. Headquarters shall reallocate the HA's annual formula funds to all CGP agencies in accordance with the formula under Chapter 3 in the subsequent FFY.

7-3. HUD REVIEW CRITERIA. Under the CGP, the HA, in consultation with residents and local/tribal government, is responsible for development of the Annual Submission which identifies the work to be funded with the current year grant. The CGP differs from the CIAP in that HUD is not responsible for determining modernization strategies and funding priorities. Therefore, the FO shall approve the Annual Submission except where it makes a determination in accordance with one or more of the following statutory/regulatory criteria. Although examples of situations which are and are not a basis for disapproval are provided, it is not possible to provide an all-inclusive list. Where the FO determines that the Annual Submission meets the following statutory/

regulatory criteria for disapproval, the FO must present objective and documented data to support its position. During the review period, FO Public/Indian Housing (PIH) staff shall consult with Fair Housing and Equal Opportunity (FHEO) staff regarding whether there are any civil rights compliance issues. PIH shall use the HUD Review Checklist for Annual Submission, contained in Appendix 7-1, and include the completed Checklist in each HA's file.

- A. Plainly Inconsistent with Comprehensive Plan. The FO determines that the activities and expenditures proposed in the Annual Statement are plainly inconsistent with the HA's approved Comprehensive Plan.

Example: The HA has included kitchen renovation for a particular development in the Annual Statement, but "kitchens", as a major work category, was not included in the Physical Needs Assessment for that development. This is a basis for disapproval. Unless the Physical Needs Assessment has been amended to include the new physical needs, the new needs may not be included in the Five-Year Action Plan or Annual Statement.

Example: The HA has included implementing a preventative maintenance program as a HA-wide management improvement in the Annual Statement, but "improving maintenances, as a major work category, was not included in the Management Needs Assessment. This is a basis for disapproval. Unless the Management Needs Assessment has been amended to include the new management needs, the new needs may not be included in the Five-Year Action Plan or Annual Statement.

- B. Contradiction of HA Board Resolution. The FO has evidence which tends to challenge, in a substantial manner, the certifications contained in the HA Board Resolution, as required by paragraph 4-12. Such evidence may include the following items:

1. A pattern of substantiated complaints from residents that they did not have an opportunity to express their views or did not have their views considered by the HA.

Example: The HA has conducted an advance meeting for resident groups and a public hearing on the Annual Submission, but the FO has received numerous complaints that the HA did not consider resident views. The HA's summary of general issues raised during the public comment process and response to those issues indicate that the HA did consider the views of residents, but was not able to accept all

resident recommendations for funding priorities. There is no evidence that the HA failed to consult with or

consider the views of residents. Therefore, there is no basis for disapproval.

2. Failure to address work items that are needed to correct emergency work, as defined in paragraph 1-6, or to meet statutory or other legally mandated requirements, as identified by the HA in its Comprehensive Plan.
3. Failure to address Section 504 accessibility requirements when there are substantial or other alterations, as required by 24 CFR 8.23.
4. Failure to carry out the approved modernization in a timely, efficient, and economical manner, including revision of implementation schedules where delay was within the HA's control.

Example: The Performance and Evaluation Reports indicate that the HA is not meeting its target dates for fund obligation and expenditure and the reasons for delay are within the HA's control. This is a reason for approval with issuance of a corrective action order since the HA is not implementing its approved annual grants in a timely manner.

5. Certain proposed activities or expenditures are inconsistent with the requirements of NEPA and related environmental authorities under '968.110(c) and (d). Refer to paragraph 7-4.

Example: The HUD monitoring review indicates that there is a high level of noise at a particular development due to its location next to an interstate highway. The Annual Statement indicates that the HA is planning site improvement work, but no barriers or plantings for noise attenuation. Since the nature of the site work requires that the noise level be addressed, and the Annual Statement does not include noise attenuation measures, this is a basis for disapproval.

6. Certain proposed expenditures duplicate funding already provided for the same work item or activity. This is a basis for disapproval.

Example: The HA is proposing to use CGP funds to reimburse costs already incurred in prior year operating budgets.

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7. Work proposed by the HA is ineligible or exceeds the cost limitations in paragraph 2-19. This is a basis for disapproval.

Note: The FO shall review the Five-Year Action Plan and any proposed amendments to the Comprehensive Plan in accordance with the review criteria in paragraph 5-4.

7-4. ENVIRONMENTAL REVIEW. For each development proposed for funding in the Five-Year Action Plan, including the Annual Statement, either HUD under 24 CFR Part 50 or a responsible entity under 24 CFR Part 58 shall review the environmental impact of the modernization activities under the National Environmental Policy Act (NEPA) and related environmental laws, orders and regulations.

A. Environmental Review by HUD. During the 75-day review period, the FO shall complete the environmental review. Refer to Appendix 1-5 for additional guidance on expediting the review process.

1. Required Modifications. Where modifications to the Annual Statement or Five-Year Action Plan are necessary to ensure compliance with 24 CFR Part 50, the FO may request the HA by telephone to make the necessary modifications and resubmit the applicable documents or portions of documents. If the HA does not resubmit in a timely manner, the FO shall proceed with the written notification of disapproval within the 75-day review period.

2. Environmental Assessment for Compliance with NEPA and Related Laws, Orders and Regulations.

- a. An environmental assessment is required for each development with less than 2,500 units, where the proposed modernization meets any one of the following criteria:

- (1) The number of dwelling units in the affected buildings is changed by more than 20%. Increases will occur where larger size units are converted into smaller size units; or
 - (2) Land uses are changed from residential to nonresidential or vice versa. The conversion of dwelling units to community, management or maintenance space or new construction of such space on the existing site does not change the basic residential nature of the land use; or

- (3) The proposed modernization costs 75% or more of the total estimated replacement cost of the development after modernization; or

- (4) The proposed modernization involves the demolition of a building, or parts of a building, containing dwelling units.
 - b. FO PIH staff shall complete Form HUD-4128, Environmental Assessment for Subdivision and Multifamily Projects (known as the long form), before the end of the 75-day review period. Where 200 or more units are involved, the Field Office Environmental Clearance Officer (ECO) also shall sign the form. Where fewer than 200 units are involved, FO PIH staff shall send a copy of the completed form to the ECO for informational purposes.
3. Environmental Review for Compliance with Related Laws, Orders and Regulations.
- a. An environmental review is required for each development with less than 2,500 units, where none of the criteria in subparagraph A2a is present.
 - b. FO PIH staff shall complete Form HUD-4128.1, Compliance and LAC Conditions Record (known as the short form), before the end of the 75-day review period. FO PIH staff shall document the reasons for and source of information used in arriving at each conclusion on the form and send a copy of the completed form to the ECO for informational purposes.
 - c. Since developments may be proposed for modernization work on an annual basis, the FO may maintain the completed Forms HUD-4128.1 and supporting documentation in a separate file for each HA to facilitate required reviews in subsequent FFYs.
4. Environmental Impact Statement (EIS). The FO shall prepare an EIS for each development where dictated by the results of the environmental assessment or for each development which has 2,500 or more units, unless: (a) an environmental assessment under subparagraph A2a is not required; or (b) it is determined, as a result of an environmental assessment or in preparing a draft EIS that the modernization will not have a significant impact on the human environment; in

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that case, FO PIH staff shall contact the ECO for procedures.

- B. Environmental Review by Responsible Entity. Effective 10/14/96, the environmental review may be conducted by a

responsible entity, rather than by the FO, under 24 CFR Part 58. The HA negotiates an arrangement with the unit of general local government in which the developments are located for conduct of the environmental review, unless the FO approves an alternative arrangement.

1. Responsible Entity. For PHAS, the responsible entity is the unit of general local government within which the development is located that exercises land use responsibility or, if the FO determines this infeasible, the county or the State. For IHAs, the responsible entity is the Indian tribe, or in the case of IHAs in Alaska, the Alaska native village, state or local government. If the responsible entity is unable or unwilling to conduct the environmental review during the 75-day review period, the FO itself shall conduct the environmental review.
2. Environmental Review Record (ERR). The responsible entity must maintain a written record of the environmental review undertaken for each development.
3. Request for Release of Funds and Certification. The responsible entity shall prepare and forward to the HA the request for release of funds (RROF) and certification. The HA, in turn, shall forward the documents to the FO. Until the FO has approved the release of funds, the HA shall refrain from undertaking any physical activities or choice limiting actions, such as obligating or expending funds.

7-5. HUD ACTION .

A. Approval.

1. Processing Instructions. Refer to Chapter 8.
2. Advice. Refer to paragraph 12-9A.
3. Notice of Deficiency or Corrective Action Order. Refer to paragraph 12-9B.

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4. Compliance with Environmental Requirements. Where required consultation with another agency, such as the State Historic Preservation Office, or the preparation of an EIS results in the inability of the responsible entity or the FO to determine compliance with 24 CFR Part 50 within the 75-day review period, the FO shall proceed to approve the Annual Submission, with the restriction that the HA may not obligate funds for the activity or activities in question until compliance with 24 CFR Part 50 has been determined and the HA notified in writing of compliance.

5. Approval to Exceed 90% of Computed TDC. Refer to paragraph 4-8C.
- B. Disapproval. Where the FO is disapproving the Annual Submission, or any amendment to the Annual Statement, the FO letter shall state all the reasons for disapproval, the modifications required to make the Annual Submission or Annual Statement approvable, and the deadline for receipt of any modifications so that a subsequent HUD review may be completed by the end of the FFY (September 30). The FO shall send copies of an disapproval letters to Headquarters.
1. In establishing the deadline for resubmission, the FO may allow up to 75 calendar days before the end of the FFY for HUD review; however, the FO may allow less than 75 calendar days for its review since a substantive review of the Annual Submission was previously conducted. If the HA fails to obtain approval of the Annual Submission by the end of the FFY, HUD shall reallocate such funds to all CGP agencies in accordance with the formula under Chapter 3 in the subsequent FFY.
 2. It is advantageous for the HA to resubmit quickly in order to obtain its annual grant funds as early as possible in the FFY.
 3. Where modifications are necessary to ensure that all work items are eligible, to meet NEPA and other statutory requirements, or for other reasons, the FO may request the HA by telephone to make the necessary modifications and resubmit the applicable documents or portions of documents within the 75-day review period. If the HA does not resubmit in a timely manner, the FO shall proceed with the written notification of disapproval.
- C. Notification to CPD. After approval of the Annual Statements, FO PIH staff shall notify Community Planning and Development (CPD)

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staff of any HAs with Annual Statements being approved which involve relocation and acquisition (see Appendix 1-4).

CHAPTER 8. HUD RESPONSIBILITY: FUND RESERVATION AND
OBLIGATION

- 8-1. OBJECTIVE. The objective of this Chapter is to provide instructions to HUD field staff on grant approval and fund reservation and obligation. [Sec.14(b)]
- 8-2. HUD PREPARATION OF GRANT APPROVAL DOCUMENTS. Within 65 calendar days of the date of HUD's receipt of the Comprehensive Plan or Annual Submission for review, where the grant is being approved, the FO shall prepare the following documents:
- A. Approval Letter to HA, transmitting documents and, where necessary, providing any non-binding advice and explaining any notice of deficiency or corrective action order (see paragraph 12-9). The letter also shall indicate whether HUD or the responsible entity has complied with the environmental requirements of 24 CFR Part 50 or, if not, what activities the HA may not expend funds on until HUD has notified the HA of compliance. See Appendix 5-2 for sample FO approval letter.
 - B. Form HUD-52840 or Form HUD-52840A, Comprehensive Grant Program Amendment. Prepare one Amendment for each grant being funded; i.e., one Amendment for the current year annual grant and another Amendment for any funding from the \$75 million reserve for disasters and emergencies. The FO Office of Public Housing (OPH)/Office of Native American Programs (ONAP) shall prepare the Amendment, including obtaining the Amendment number from HUD Counsel, who shall concur in the Amendment. Refer to paragraph 8-3.
 - C. Form HUD-52540 (5/95), Project Accounting Data (PAD). Prepare one PAD for each grant being funded; i.e., one PAD for the current year annual grant and another PAD for any funding from the \$75 million reserve for disasters and emergencies. A sample Form HUD-52540 (5/95) is contained in Appendix 8-1.
 - D. HUD Notification. Prepare one HUD Notification for each grant, using the most recently issued format and instructions from the Office of Congressional and Intergovernmental Relations (OCIR).
- 8-3. COMPREHENSIVE GRANT PROGRAM AMENDMENT TO ACC. Form HUD-52840 or HUD-52840A, Comprehensive Grant Program Amendment, requires low-income use of the housing for not less than 20 years from the date of the Amendment (subject to sale of homeownership units in accordance with

the terms of the ACC). It also includes by general reference an

developments eligible for CGP funding within the HA's inventory and amends all consolidated ACCs of the HA. This coverage allows the HA to shift funds among developments, including those under different ACCS, during program implementation and negates the need for a subsequent Amendment when adding or deleting developments to or from the Annual Statement. The ACC Amendment sets forth the amount of the annual grant and whether the HA's use of the annual grant is subject to any corrective action order. Form HUD-52840 (1/95) is used where the revised Consolidated ACC has not been executed (see Appendix 8-2 for a sample form). Form HUD-52840A (8/95) is used where the revised Consolidated ACC has been executed (see Appendix 8-3 for a sample form). ['968.3250) or '950.656(i)]

8-4. HUD GRANT APPROVAL AND FUND RESERVATION.

- A. Assembly of Documents. Within 65 calendar days of the date of HUD's acceptance of the Comprehensive Plan/Annual Submission for review (assuming the Plan/Submission is approvable), the FO shall prepare, assemble and route the following documents to the OPH Director/ONAP Administrator for approval:
 - 1. Original and two copies of the approval letter to the HA;
 - 2. Original and three copies of the CGP Amendment;
 - 3. Original and one copy of the PAD;
 - 4. Original and one copy of the HUD Notification; and
 - 5. Original and one copy of the Annual Statement and the Five-Year Action Plan.
- B. Reservation Procedures. Reservation procedures differ during the first eleven months of the FFY and the last month of the FFY, with regard to the establishment of the Notification Date.
 - 1. First Eleven Months of the FFY Procedures. During this period, the Notification Date is the date the transaction is recorded in the Program Accounting System (PAS).
 - a. FO. After the OPH Director/ONAP Administrator signs the PAD, the FO shall forward the signed PAD, together with a signed copy of the undated approval letter, to the Field Accounting Division (FAD).

- b. FAD. The FAD shall ensure that funds for the grant are reserved within 72 hours from the date

the reservation documents are received from the FO. After reviewing the reservation documents for correctness, the FAD (assuming the documents are correct) enters the data into PAS. The FAD enters the transaction entry date (the date data are being keyed -- month/day/year) as the transaction effective date. After the date has been entered into PAS, the FAD will review the computer-generated transaction listing. If the grant reservation has been accepted by PAS, the FAD will then insert the effective date displayed on the transaction listing on the PAD.

2. Last Month of the FFY Procedures. During this period, the effective date is the date the OPH Director/ONAP Administrator signs the approval letter.
 - a. FO. The procedures are the same as subparagraph B1a, except that the approval letter is dated when the OPH Director/ONAP Administrator signs it, and the FO inserts that date on the PAD.
 - b. FAD. The procedures are the same as subparagraph B1b, except that the FAD enters the effective date into PAS from the PAD and the FAD ensures that the date on the PAD and the effective date on the transaction listing are the same.
3. FAD Confirmation. The FAD shall provide the FO with confirmation of fund reservation through telephone, electronic mail or a copy of the Acceptance Report, generated by PAS.

8-5. HUD TRANSMITTAL OF HUD NOTIFICATION.

- A. Upon notification from the FAD that the fund reservation has been accepted by PAS, the FO shall transmit the HUD Notification to OCIR by facsimile machine. The FO shall note the actual date and time of transmission.
- B. The FO shall announce the grant approval only after OCIR has provided a release date. Where the FO has not been provided a release date within three working days, the FO shall contact OCIR to determine the status.

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8-6. HUD DISTRIBUTION OF APPROVED DOCUMENTS.

- A. Grant Approval Documents. Immediately following receipt of the release date, the FO shall arrange for the following distribution:
 1. To the HA, the original of the approval letter, one copy of the approved Annual Statement and Five-Year

Action Plan, and the original and three copies of the CGP Amendment. Where the HA does not have access to the Line of Credit Control System/Voice Response System (LOCCS/VRS), the Departmental system for fund requisitions, the FO also shall forward to the HA the following forms necessary for access:

- a. Form HUD-27054, LOCCS/VRS Access Authorization, for each new user. The HA shall send this form to the FO for review. If correct, the FO shall forward the form to: Department of HUD, Attention: LOCCS Security Officer, P.O. Box 23774, Washington, DC 20026-3774.
 - b. SF-1199A, Direct Deposit Sign-Up Form, where the HA wishes to change its bank account or where the HA is currently receiving no grant funds from HUD. The HA shall send this form to the FO for verification. If correct, the FO shall forward the form to: Department of HUD, Chief Financial Officer, Office of Cash Management, Attention: ACH, P.O. Box 44816, Washington, DC 20026-4816.
2. To the FO program files, the original of all documents submitted by the HA, including the approved Annual Statement and Five-Year Action Plan, and one copy each of the approval letter, the PAD, and the HUD Notification for records purposes.
- B. HA Action on CGP Amendment. The HA shall enter its tax identification number (TIN) directly on the CGP Amendment which will allow the CGP grant to be linked with established banking information already in LOCCS. Where permitted by State/tribal law and the HA's own by-laws, the HA Executive Director may sign and return the original and three copies of the CGP Amendment without Board Resolution; where not permitted, the Board of Commissioners shall authorize, through Board Resolution, the Board Chairman or the Executive Director to sign the CGP Amendment.

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- C. CGP Amendment. Immediately upon receipt of the signed CGP Amendment from the HA, the OPH Director/ONAP Administrator shall execute the CGP Amendment and arrange for the following distribution:
1. To the FAD, the original of the executed CGP Amendment for purposes of entering the fund obligation into PAS. After the FAD has entered the fund obligation into PAS and linked to LOCCS and the FO has spread the grant in LOCCS, the HA may draw down funds, when needed.
 2. To HUD Counsel's files, one copy of the executed CGP Amendment for official Departmental records purposes.

3. To the FO program files, one copy of the executed CGP Amendment for records purposes.
4. To the HA, one copy of the executed CGP Amendment for records purposes.

8-7. DECLARATION OF TRUST. ['968.325(k) or '950.656(k)]

- A. Promptly after grant approval, HUD Counsel shall ensure that Form HUD-52190B, Declaration of Trust (non-Indian grants), or Form HUD-52190C, Declaration of Trust (Indian grants), covering all of the developments in the HA's inventory, is in place or is current. As provided under the ACC, the Declaration of Trust protects the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations.
- B. If a Declaration of Trust is not in place or is not current, HUD Counsel shall advise the HA to execute and file for record the Declaration of Trust and to provide HUD Counsel with a copy as soon as it has been recorded. The Declaration of Trust is updated only where there has been a change, such as adding land through purchase, subtracting land through disposition, restricting the property through an easement, or, in rare cases, receiving a lien on the property through HUD approval of additional debt.
- C. HUD has determined that its interest in Mutual Help units is sufficiently protected without the further requirement of a Declaration of Trust. Therefore, a Declaration of Trust is not required for Mutual Help units.

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8.8. SPECIAL REQUIREMENTS FOR HOMEOWNERSHIP DEVELOPMENTS. Refer to paragraph 2-4.

8-9. SPECIAL REQUIREMENTS FOR SECTION 23 LEASED HOUSING BOND-FINANCED PROJECTS. A Section 23 Leased Housing Bond-Financed project (BFP) is eligible for modernization only if the PHA determines that the BFP has met all of the following conditions:
['968.101(b)(3)]

- A. Bond Financing. The BFP was financed by the issuance of bonds.
- B. Clear Title. Clear title to the BFP will be conveyed to or vested in the PHA at the end of the Section 23 lease term. The Lease Agreement and Trust Indenture must provide that title to the property will pass to the PHA at that time. Based on title evidence, the PHA's attorney shall determine whether the PHA is assured of obtaining good title under the legal arrangements for the BFP and whether there are any

hens or encumbrances against the property junior to the bond indenture.

- C. No Initial Obstacles. Based upon a full review of the legal documentation for the BFP, the PHA's attorney shall determine that there are no legal obstacles affecting the PHA's use of the property as public housing during the 20-year period following the modernization. This review would include any known pending or threatened litigation affecting the BFP.
- D. Useful Life. After completion of the modernization, the BFP will have a remaining useful life of at least 20 years, assuming timely maintenance and replacements, and it is in the financial interest of the Federal Government to improve the BFP.
- E. Cooperation Agreement. The BFP is covered by a Cooperation Agreement between the PHA and the local governing body during the 20-year period of the modernization, assuring tax exemption and provision of municipal services as in the case of PHA-owned developments.
 - 1. If the BFP is not already covered by a sufficient Cooperation Agreement, the PHA shall enter into a Cooperation Agreement with the local government. In such case, the Cooperation Agreement shall specifically designate the BFP to which the exemption applies in a manner that clearly indicates the real property covered by the exemption (generally in the same manner used to designate properties for local tax billing). If any tax lien has been or may be

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attached to the property before execution of the ACC Amendment, but covering taxes for any period subsequent to execution of the ACC Amendment, the PHA's attorney shall ensure (by specific provision in the Cooperation Agreement or otherwise) that the lien of and liability for the tax is released before execution of the ACC Amendment.

- 2. If the BFP is already exempt from real and personal property taxes under State law, or under a Cooperation Agreement that does not provide for Payments in Lieu of Taxes (PILOT), the Cooperation Agreement shall not include any provision for PILOT. If the BFP is already exempt from taxation under a Cooperation Agreement that provides for PILOT, the Cooperation Agreement may include provision for PILOT, but not to exceed the amounts required under Section 6(d) of the Act.

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CHAPTER 9. HA RESPONSIBILITY: RESIDENT AND LOCAL/TRIBAL
GOVERNMENT PARTICIPATION

- 9-1. OBJECTIVE. The objectives of this Chapter are to set forth the statutory and regulatory requirements for resident and local/tribal government participation in the development, implementation and monitoring of the Comprehensive Plan and Annual Submission. It is the Department's position that the success or failure of the CGP rests upon the degree to which the residents and the community work with the HA in all aspects of its program and hold the HA accountable for the quality of the work performed. [Sec. 14(e)(1)(E), (e)(3)(A) and (B), and (e)(4)(a)]
- 9-2. COMPREHENSIVE PLAN AND ANNUAL SUBMISSION.
- A. General Requirements.
1. Resident Participation. The HA is required to develop, implement, monitor, and annually amend portions of its Comprehensive Plan in consultation with residents of the developments covered by the Comprehensive Plan (i.e., all developments eligible for CGP funding). In addition, the HA shall consult with Resident Management Corporations (RMCs) to the extent that an RMC manages a development covered by the Comprehensive Plan. The HA, in partnership with the residents, shall develop and implement a process for resident participation that ensures that residents are involved in a meaningful way in all phases of the CGP. Such involvement shall include implementing the Partnership Process as a critical element of the CGP. ['968.315(b)(1) or '950.652(b)(1)]
 2. Establishment of Partnership Process. The HA, in partnership with the residents of the developments covered by the Comprehensive Plan (and which may include resident leaders, resident councils, resident advisory councils/boards, and RMCs) shall establish a Partnership Process to develop and implement the goals, needs, strategies and priorities identified in the Comprehensive Plan. As defined in paragraph 1-6, the Partnership Process is a specific and ongoing process that is designed to ensure that the HA and residents work in a cooperative and collaborative manner to develop, implement and monitor the CGP. After residents have organized to participate in the CGP, they may decide to establish a volunteer advisory group of experts in various professions, including persons with disabilities or advocacy groups representing persons

with disabilities, to assist them in the CGP Partnership Process. The HA is encouraged to use the checklist for development of the Partnership Process as set forth in Appendix 9-1. The HA shall design the Partnership Process to achieve the following: ['968.315(b)(2) or '950.652(b)(2)]

- a. To assure that residents are fully briefed and involved in developing the content of, and monitoring the implementation of, the Comprehensive Plan including, but not limited to, the Physical and Management Needs Assessments, viability and reasonable cost analysis, Five-Year Action Plan, and Annual Statement. If necessary, the HA shall develop and implement capacity-building strategies to ensure meaningful participation. Such technical assistance efforts are eligible CGP administrative costs (see paragraph 2-14D).
 - b. To enable residents to participate, on a HA-wide or area-wide basis, in ongoing discussions of the Comprehensive Plan and strategies for its implementation, and in all meetings necessary to ensure meaningful participation.
3. Local/Tribal Government Participation. The HA shall consult with and provide information to appropriate local/tribal government officials regarding the development of the Comprehensive Plan. For PHAS, this is to ensure that there is coordination between the actions taken under the Consolidated Plan (see 24 CFR Part 91) for project and neighborhood improvements where public housing units are located or proposed for construction or modernization and improvement and to coordinate meeting public and human service needs of the public and assisted housing projects and their residents. [Note: The Consolidated Plan does not apply to IHAs.] The HA with developments in multiple jurisdictions may meet this requirement by consulting with an advisory group representative of all the jurisdictions. At a minimum, this consultation shall include providing such officials with: ['968.315(c) or '950.652(c)]
- a. Advance written notice of the public hearing required under subparagraph B3;
 - b. A copy of the Executive Summary, prepared as part of the Comprehensive Plan, which includes a Summary of Preliminary Estimated Costs and a description of the resident partnership and summary of general issues.

c. An opportunity to express their priorities and concerns to ensure due consideration in the HA's planning process.

4. Participation in Coordinating Entities. To the extent that coordinating entities are set up to plan and implement the Consolidated Plans under 24 CFR Part 91, the PHA shall participate in these entities to ensure coordination with broader community development activities. ['968.315(d)]
5. Funding. Funding may be provided for resident participation under either management improvements (1408) or administration (1410). Residents are encouraged to seek outside assistance to supplement any funds received from the HA. Possible sources may include, but not be limited to CDBG funds, private foundations, etc.

B. Specific Annual Requirements.

1. Public Notice. Within a reasonable amount of time before the advance meeting for residents under subparagraph B2 and the public hearing under paragraph B3, the HA shall annually provide public notice of the advance meeting and the public hearing in a manner determined by the HA and which ensures notice to all duly elected resident councils. ['968.315(b)(3) and 968.325(d)(1) or '950.652(b)(3) and 950.656(d)(1)]
2. Advance Meeting for Residents and Duly Elected Resident Councils. Within a reasonable amount of time before the public hearing under subparagraph B3, the HA shall annually hold a meeting for residents and duly elected resident councils at which the HA shall explain the components of the Comprehensive Plan or Annual Submission, including any amendments to the Comprehensive Plan. The HA shall advise residents before the meeting that the draft Comprehensive Plan or Annual Submission shall be available for their review at specified locations within the HA's jurisdiction. The meeting shall be open to all residents and duly elected resident councils. The purpose of the meeting is to provide information concerning the contents of the Comprehensive Plan or Annual Submission so that residents may make informed comments at the public hearing. ['968.315(b)(4) and 968.325(d)(2) or '950.652(b)(4) and 950.656(d)(2)]

3. Public Hearing. The HA shall annually hold at least one annual public hearing, and any appropriate number

of additional hearings, to present information on the Comprehensive Plan or Annual Submission and the status of prior approved programs. The public hearing shall provide ample opportunity for residents, local/tribal government officials, and other interested parties, such as persons with disabilities or advocacy groups representing persons with disabilities, to express their priorities and concerns. The HA shall give full consideration to the comments and concerns of residents, local/tribal government officials, and other interested parties. [''968.315(b)(5) and 968.325(d)(3) or ''950.652(b)(5) and 950.656(d)(3)]

C. Submission Requirements.

1. Every Six Years. As part of its Comprehensive Plan, submitted and updated every six years, the HA shall submit, as part of its Executive Summary, a description of its process for maximizing the level of participation by residents during the development, implementation and monitoring of the Comprehensive Plan, a summary of the general issues raised on the Plan by residents, local/tribal government officials, and others during the public comment process, and the HA's response to those general issues. Refer to paragraph 4-6B.
2. Annually.
 - a. Local Government Statement. As part of its Comprehensive Plan and Annual Submission, the HA shall submit Form HUD-52835, Local Government Statement. Refer to paragraph 4-11 and Appendix 4-5.
 - b. HA Board Resolution. As part of its Comprehensive Plan and Annual Submission, the HA shall include Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement. Refer to paragraph 4-12 and Appendix 4-6.
3. As Needed. Where prior HUD approval is required to amend the Annual Statement, the HA shall submit, with the amendment, evidence of consultation with residents affected by the revisions and local/tribal government officials. Refer to paragraph 6-10A1.

- 9-3. PROGRAM IMPLEMENTATION. The HA shall establish and maintain a process for resident comment on the implementation of work included in the Annual Statement to ensure its quality and timeliness. The HA shall make reasonable efforts to notify residents and officials of the appropriate governing body of the availability of the draft Performance and Evaluation Report, make

copies available to residents in the development office or upon request, send a copy of the draft Report to local/tribal government, and provide residents and local/tribal government officials with at least 30 calendar days in which to comment on the draft Report. ['968.330 or '950.658]

CHAPTER 10. HA RESPONSIBILITY: CONDUCT OF APPROVED ACTIVITIES

10-1.OBJECTIVE. The objective of this Chapter is to set forth requirements for the conduct of approved activities, including fund requisitions, cash management, procurement, and fiscal closeout. The Chapter also explains the revised requirements for previously funded CIAP programs in progress.

10-2.FORCE ACCOUNT.['968.120 or '950.612]

- A. Public Housing. The PHA may undertake the modernization activities using force account labor, only where specifically approved by HUD in the CIAP Budget or CGP Annual Statement, except no prior HUD approval is required where the PHA is designated as both an Overall High Performer and Mod High Performer under the Public Housing Management Assessment Program (PHMAP). The FO shall approve the use of force account labor only where it is cost-effective and appropriate to the scope and type of physical improvements and the PHA has the capacity to serve as its own main contractor and to maintain an adequate level of routine maintenance during force account activity.
- B. Indian Housing. The IHA may undertake the modernization activities using force account labor or contract labor, including contracting with a Resident Management Corporation (RMC), without prior HUD approval.
- C. Both Public and Indian Housing. If the entirety of a modernization activity (including the planning and architectural design of the rehabilitation) is administered by the RMC, the HA shall not retain for any administrative or other reason, any portion of the modernization funds provided, unless the HA and the RMC provide otherwise by contract.

10-3.INITIATION OF ACTIVITIES. After the FO has approved the Annual Statement and has entered into the ACC Amendment with the HA, the HA shall begin to undertake the modernization activities set forth in its approved Annual Statement. ['968.125 or '950.614]

10-4.REVISED REQUIREMENTS FOR CIAP PROGRAMS IN PROGRESS. Where the HA is still implementing previously approved CIAP programs, the Department will permit the CGP agency, after approval of its Comprehensive Plan, to administer both CIAP and CGP funds on a similar basis in certain

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key functional areas. These same rules shall apply to Major Reconstruction of Obsolete Projects (MROP) approved with Modernization Project numbers in FFYs 1986-88 and subsequent FFY amendments to those MROPs; these same rules do not apply to MROPs

approved in FFY 1989 and thereafter because they were approved as development not modernization. The Department's goal is to provide maximum flexibility to the HA, while protecting the Federal interest, and to avoid HUD and HA operation of dual programs with different sets of requirements. Where there are significant program deficiencies, the FO may issue either a notice of deficiency or a corrective action order in accordance with paragraph 12-9. Generally through the first operational year of the HA's participation in the CGP and until there is evidence of the HA's performance under the CGP, the FO shall include consideration of the HA's performance under the CIAP in determining whether a notice of deficiency or a corrective action order is appropriate. Such notice or order may establish additional requirements for the CGP, as well as the CIAP.

- A. Thresholds for Contracting Actions. Under the CIAP, HUD establishes dollar thresholds for prior HUD approval of the following three contracting activities: (1) architectural/engineering and other professional services contracts before execution or issuance; (2) construction solicitations before issuance; and (3) contract modifications before issuance. There are no similar thresholds under the CGP. However, where HUD issues a notice of deficiency or a corrective action order in this functional area, HUD will establish the same thresholds for both the CIAP and the CGP. The thresholds will be established as high as possible to provide maximum flexibility to the HA, while protecting the Federal interest. Where no notice of deficiency or corrective action order is issued in this functional area, the HA will have no thresholds for either CIAP or CGP, and may undertake the above activities, regardless of dollar amount, without prior HUD approval.
- B. Construction Requirements. The construction requirements are the same for both the CIAP and the CGP. However, where HUD issues a notice of deficiency or a corrective action order in this functional area, HUD will establish the same submission requirements (e.g., periodic construction progress reports or construction completion documents) for both the CIAP and the CGP.
- C. Fund Requisitions. Refer to paragraph 10-5. Where HUD issues a notice of deficiency or a corrective action order in this functional area, HUD will establish the same review requirements for both the CIAP and the CGP.

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- D. Budget Revisions.
 - 1. General Requirements. The budget revision requirements are the same for both the CIAP and the CGP. Refer to paragraph 6-10, Amendments to Annual Statement. However, where HUD issues a notice of deficiency or a

corrective action order in this functional area, HUD will establish the same submission requirements for both the CIAP and the CGP.

2. Closing Out CIAP Budgets. To close out older CIAP Budgets, completed work items in CGP Annual Statements may be substituted for uncontracted work items in CIAP Budgets. Where undertaking this type of budget revision, the HA shall notify the FO and request a disbursement adjustment in LOCCS. The HA shall identify each grant involved in the adjustment and, by grant, the disbursed amounts by Budget Line Item (BLI) to be adjusted. The FO shall request that the Field Accounting Division (FAD) make the disbursement adjustment. Note: CIAP funds are not transferred from the original CIAP grant, but remain in and are accounted for in the original CIAP grant.
- E. Semi-Annual Progress Reports. Under the CIAP, HUD requires the HA to submit semi-annual progress reports until all funds for a particular CIAP grant are expended. The CIAP progress report is due 30 calendar days after the six-month periods ending 9/30 and 3/31. This CIAP requirement remains unchanged because of the Department's need to ensure that all approved CIAP funds are obligated and expended as quickly as possible by CGP agencies.
- F. Time Extensions. The time extension requirements are the same for both the CIAP and the CGP. However, where HUD issues a notice of deficiency or a corrective action order in this functional area, the HA will not be allowed to revise target dates under either the CIAP or the CGP without prior HUD approval.
- G. Actual Modernization Cost Certificate (AMCC). Under the CIAP, HUD requires the HA to submit an AMCC when a particular CIAP grant has been terminated or has been completed with all funds expended. This requirement remains unchanged because of the Department's need to complete fiscal closeout of approved programs. Refer to paragraph 10-10.

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10-5.FUND REQUISITIONS. To request CGP funds against the approved Annual Statement, the HA shall follow the requirements set forth in the latest HUD Notice on LOCCS/VRS for Modernization Program Areas. ['968.130 or '950.616]

10-6.CASH MANAGEMENT.

- A. Accounting Procedures. Refer to Appendix 2-2.
- B. Treatment of Interest Income Earned.

1. For Cash Drawdowns Other than for Replacement Reserve. U.S. Treasury requirements provide that the HA shall disburse cash within three working days of receipt. As with all CIAP funds, the CGP funds that are drawn down for purposes other than funding the CGP replacement reserve shall be reported in the calculation of Estimated Investment Income/Target Investment Income (EII/TII) for the calculation of operating subsidy in the Performance Funding System (PFS).
2. For Funds in the Replacement Reserve.
 - a. The HA is permitted to retain the interest earned on the replacement reserve. Such interest income is excluded from the EII/TII calculation of operating subsidy in PFS. Even though the replacement reserve funds are excluded from the EII/TII calculation, the HA shall ensure that the funds in the replacement reserve earn interest at or above the operating budget TII rate (average 91-day Treasury bill rate) which coincides with the HA's CGP reporting period (July 1 through June 30). The interest rate earned on the replacement reserve will be reviewed and reported by the Independent Auditor in the annual audit report.
 - b. For the day-to day cash management of the replacement reserve, the HA shall follow the requirements set forth in Notice PIH 96-33, Required HA Cash Management and Investment Policies and Procedures, dated June 4, 1996. These requirements include competitive selection of a bank, collateralization of deposits, and HUD-approved investment securities.

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- C. Replacement reserve funds, including accrued interest, shall be used only for eligible modernization costs.

10-7.TIME EXTENSIONS. The HA shall not obligate or expend funds after the obligation or expenditure deadline date approved by HUD in the original implementation schedule (Part III of Annual Statement) without a time extension as set forth in subparagraphs A or B. ['968325(i)(2) or '950.656(i)(2)]

- A. No Prior HUD Approval. The HA may extend the target dates for fund obligation and expenditure in the HUD-approved original implementation schedule whenever any delay outside of the HA's control occurs and the extension occurs no later than 30 calendar days after the existing deadline dates. Such extension is subject to HUD review under paragraph 12-5 as to the HA's continuing capacity. Examples of delay outside of the HA's control are:

1. Need to use leftover funds from a completed modernization program for additional work. Note: LBP Risk Assessment funds that are leftover shall not be used for other purposes and shall be recaptured after audit;
2. Unforeseen delays in contracting or contract administration;
3. Litigation; or
4. Delay by HUD or other institutions. Note: Delay by the HA's staff, Board of Commissioners or, where the HA is part of the local government, the local government itself, or a change in the Executive Director is considered to be within the HA's control and, therefore, requires prior HUD approval.

B. Prior HUD Approval. The HA shall not extend the target dates for fund obligation and expenditures whenever any delay within the HA's control occurs or the extension occurs 30 calendar days after the existing deadline dates. In such case, the HA may request FO approval of a time extension to avoid recapture of funds. The request shall include an explanation of the delay, steps taken to prevent future delay, and the requested extension. FO approval of a time extension will allow the PHA more time to obligate and expend funds, but will adversely affect the PHA's PHMAP score on the Modernization Indicator, Components #1 and #2.

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10-8.CONTRACTING REQUIREMENTS. The HA shall comply with the contracting requirements set forth in 24 CFR 85.36, except as noted in subparagraphs B and D, and set forth in the Procurement Handbook for PHAs and IHAs 7460.8, as revised. ['968.135 or '950.618]

- A. Wage Requirements. The HA shall comply with the prevailing wage rate requirements set forth in Appendix 1-8.
- B. Assurance of Completion. For each construction contract over \$100,000 or any lesser amount required by State or local/tribal law or the HA's own procurement policy, the contractor shall furnish a bid guarantee from each bidder equivalent to 5% of the bid price and one of the following:
 1. A performance and payment bond for 100% of the contract price; or
 2. Separate performance and payments bonds, each for 50% or more of the contract price; or
 3. A 20% cash escrow; or
 4. A 25% irrevocable letter of credit.

C. Prior HUD Approval Under '85.36(g). The HA is exempt from the prior HUD approval requirements of this subparagraph if the HA requests a HUD determination, and HUD determines, that the HA's procurement systems comply with the standards of '85.36. If the HA fails to request such a determination or if HUD determines that the HA's procurement procedures or operation fails to comply with the standards of '85.36, the HA shall obtain prior HUD approval when:

1. The procurement is expected to exceed \$100,000 and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
2. The procurement is expected to exceed \$100,000 and specifies a "brand name" product; or
3. The proposed award over \$100,000 is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

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4. A proposed contract modification changes the scope of a contract or increases the contract amount by more than \$100,000 on a noncumulative basis.

D. Prior HUD Approval Notwithstanding '85.36(g). Notwithstanding '85.36(g), where HUD issues a notice of deficiency or a corrective action order in this functional area, the HA may be required to submit the following documents to HUD for prior approval:

1. Proposed agreement with the architect/engineer (A/E) or other professional services contractors before execution or issuance;
2. Complete construction and management improvement solicitations before inviting bids or proposals; and
3. Proposed modifications to construction and management contracts before issuance, except in an emergency endangering life or property.

E. Construction Requirements. Where poor performance is indicated, the HA may be required to submit to the FO periodic construction progress reports and, for prior HUD approval, construction completion documents above a HUD-specified amount. The FO shall notify the HA of additional construction requirements by a notice of deficiency or a corrective action order.

F. Lists of Parties Excluded. The HA shall retain documentation on file that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or

Nonprocurement Programs.

- G. Contracting with Resident-Owned Businesses. The PHA may use an alternative procurement when contracting with businesses owned in substantial part by public housing residents, as set forth in 24 CFR Part 963, and with Section 3 business concerns, as set forth in 24 CFR Part 135. The IHA should refer to 24 CFR 950.175 for Indian preference requirements.

10-9.ON-SITE INSPECTIONS. It is the responsibility of the HA, not HUD, to provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an A/E to ensure work quality and progress. ['968.140 or '950.6201

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10-10.HA SUBMISSION OF ACTUAL MODERNIZATION COST CERTIFICATE (AMCC) AND FINAL REPORT. Upon completion or termination of the modernization activities funded by each annual grant and payment of all authorized costs, the HA shall submit Form HUD-53001, AMCC, to the FO for review before inclusion in the HA's annual audit. Complete instructions for preparing Form HUD-53001 are set forth in Appendix 10-1. In addition, the HA shall submit Form HUD-52837, Annual Statement/Performance and Evaluation Report, marked "final." ['968.145(a) or '950.622(a)]

10-11.HUD REVIEW OF AMCC. Upon receipt of the required documents, the FO shall review the documents as follows:

- A. The amounts on the "final" Report and the AMCC must agree as to funds approved, obligated, and expended. The FO is not required to respread the BLIs in LOCCS to reflect actual expenditures by BLI.
- B. The amount of funds approved and disbursed on the AMCC must agree with Departmental records in LOCCS.
- C. If the "final" Report and the AMCC indicate that excess funds have been provided to the HA, the FO shall direct the HA to remit immediately the excess funds, without waiting for the audit, and then subsequently to submit a revised "final" Report or AMCC, showing that total funds disbursed, obligated and expended are equal amounts. If the audit of the AMCC shows that the HA over-remitted funds, HUD will return the amount of the overremittance to the HA.
- D. When the amounts disbursed, obligated and expended are equal in LOCCS, the FO shall enter the Pre-Audit End Date in LOCCS, which stops all reminder letters.

10-12.AUDIT VERIFICATION OF AMCC. When the submitted documents are correct, the FO shall notify the HA in writing that the AMCC is approved for audit and shall be included in the HA's next

regularly fiscal audit conducted by the Independent Auditor. The audit shall follow the guidelines prescribed in 24 CFR Part 44, Non-Federal Government Audit Requirements (Single Audit Act of 1984 (31 U.S.C. 7501-7507)). HUD reserves the right to conduct audits. If the audited AMCC discloses unauthorized or ineligible expenditures, the HA shall take such corrective actions as the FO may direct. ['968.145(b) or '950.622(b)]

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10-13.HUD APPROVAL OF AMCC. Upon receipt of a copy of the audit report from the HA, the FO shall review the audit report to determine if the audited costs agree with the costs shown on the AMCC. If the audited AMCC indicates that there are still excess funds, the HA shall remit the excess funds, as directed by the FO. If the audited AMCC discloses unauthorized expenditures, the HA shall take such corrective actions as the FO may direct. After all audited costs have been reconciled, the OPH Director/ONAP Administrator shall approve the AMCC. After signature, the FO shall distribute the original and copies of the approved AMCC as follows:

- A. To the HA, one copy for records purposes.
- B. To HUD Counsel's files, one copy for attachment to the CGP Amendment. Where necessary, the AMCC shall serve to automatically amend the CGP Amendment to reduce the amount of the annual grant to the actual modernization cost.
- C. To the FO program files, one copy for records purposes.
- D. To the FAD, the original for entry of the Post-Audit End Date in LOCCS.
 1. Where HUD records (LOCCS) and HA records (audit) agree as to funds obligated, expended and disbursed, the FAD shall immediately enter the Post-Audit End Date in LOCCS, which interfaces with PAS to record that the grant has been closed out.
 2. Where the HA owes funds to HUD (i.e., the amount disbursed by LOCCS is greater than the amount obligated and expended by the HA per the audit), the FAD shall establish an accounts receivable in PAS through LOCCS, which will automatically adjust the obligation and expenditure information downward by the amount of the receivable. In addition, the FAD shall record the receivable in the Departmental Accounts Receivables Tracking System (DARTS). Upon receipt of the remittance by the Department, the FAD shall record the remittance so that the amount disbursed by LOCCS is equal to the amount obligated and expended by the HA per the audit. The FAD then shall enter the Post-Audit End Date. The HA shall remit as follows:

- a. Where the remittance is \$2,000 or less, the HA make out a check payable to the Department of HUD and notate on

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the check the Modernization program area ("COMP", "CIAP" or "LBP") and the grant number. The HA shall send the check to NationsBank, Excess Financing, P.O. Box 100144, Atlanta, GA 30384.

- b. Where the remittance is over \$2,000, the HA shall request is financial institution to wire the funds to HUD in accordance with instructions set forth in the Financial Management Handbook 7485.1, as revised. The wire transfer shall identify the Modernization program area and the grant number.
3. Where HUD owes funds to the HA (i.e., the amount disbursed by LOCCS is less than the amount obligated and expended by the HA per the audit), the FAD shall enter the Post-Audit End Date and the amount owed by HUD. LOCCS will automatically adjust the obligation and expenditure information upward by the amount which HUD owes and generate a voucher for that amount. After FO review and approval, LOCCS will generate a letter to the HA identifying the grant for which the additional payment is being made.
4. After the FAD enters the Post-Audit End Date, all undisbursed balances will be automatically recaptured through LOCCS. The FO is no longer required to prepare PAD forms to recapture excess authority.

10-14.CGP PHASE-OUT AND USE OF REPLACEMENT RESERVE. If the HA's unit count falls below the CGP levels as described in paragraph 3-7C, the HA shall use its replacement reserve only for eligible modernization activities, as approved by the FO.

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CHAPTER 11. HA RESPONSIBILITY: ANNUAL REPORTING REQUIREMENTS

11-1.OBJECTIVE. The objective of this Chapter is to set forth the annual

reporting requirements for HAs with previously approved annual grants and with funded replacement reserves. [Sec.14(e)(4)(A)]

11-2.PROGRAM YEAR/REPORT DEADLINE. The CGP program year is established for the 12-month period from July 1 through June 30. By September 30 of each year for the program year ending June 30, the HA shall annually submit to the FO the Performance and Evaluation Report for each approved Annual Statement, where the HA is still expending funds. The first Report after a grant is approved is due by September 30 of the FFY following grant approval; e.g., the first Report for the 1996 grant would be due 9/30/97 for the program year ending June 30, 1997. ['968.330 or '950.658]

11-3.RESIDENT AND LOCAL/TRIBAL GOVERNMENT PARTICIPATION. Refer to paragraph 9-3.

11-4.PERFORMANCE AND EVALUATION REPORT. The annual Report is comprised of the following documents:

- A. Form HUD-52837, Annual Statement/Performance and Evaluation Report is a combined form, permitting the HA to report on its progress in implementing a particular annual grant, as set forth in the Annual Statement. A sample Form HUD-52837 is contained in Appendix 6-1. A separate Form HUD-52837 is submitted for each annual grant for which the HA is still expending funds and includes:
 - 1. Report on the status of each major work category, explaining any additions, deletions or modifications of any major work category, such as the addition of any emergency work, or changes to the Annual Statement by substituting major work categories from the Five-Year Action Plan or other approved modernization budgets;
 - 2. Where funds were budgeted for HA-wide physical improvements, identification of the actual developments/number of units where the funds were expended;
 - 3. Cumulative fund obligations/expenditures for each development and HA-wide activity; and

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- 4. Report on the HA's Performance with respect to the target dates established in Part III, Implementation Schedule, and an explanation of any revised target dates where the HA has self-extended due to delay outside of the HA's control or where HUD has approved a

time extension due to delay within the HA's control. The HA shall maintain adequate documentation in its files to support such extensions.

- B. Narrative Report on resident and local/tribal government participation during CGP implementation and a summary of comments received on the draft Report.
- C. Board Resolution approving the Performance and Evaluation Report and certifying that residents had an opportunity to review and comment on the draft Report.

Note: At the same time the Performance and Evaluation Report is submitted, the HA shall submit Form HUD-60002, Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects, as required by 24 CFR Part 135.

11-5. PERFORMANCE AND EVALUATION REPORT ON REPLACEMENT RESERVE. Where the replacement reserve (Account 1490) has been funded with CGP funds, the HA shall annually submit Form HUD-52842, Annual Statement/Performance and Evaluation Report on Replacement Reserve, and a Board Resolution, approving the Report, to the FO by September 30 for the program year ending June 30. The first Report after the replacement reserve is funded is due by September 30 of the FFY following funding; e.g., the first Report for a replacement reserve that was first funded by the 1996 grant would be due 9/30/97 for the program year ending June 30, 1997. Where the replacement reserve has been funded from more than one grant, the HA shall submit one combined Report on Replacement Reserve. The HA shall continue to submit the Report on Replacement Reserve until all funds in the replacement reserve have been withdrawn/expended. A sample Form HUD-52842 is contained in Appendix 11-1 and addresses the following:

- A. Reserve Funded, No Withdrawal/Expenditure. Where the replacement reserve has been funded, but no funds have been withdrawn/expended, the HA shall annually complete Part I, Section 1, Replacement Reserve Status, on the estimated and actual interest income earned on the replacement reserve. Refer to paragraph 10-6B regarding treatment of interest income earned.

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- B. Planned/Actual Withdrawal. Where the HA wishes to withdraw/expend funds from the funded replacement reserve to carry out eligible modernization activities, the HA shall complete Part I, Section 2, Replacement Reserve Withdrawal Report, and Part II, Supporting Pages, which serve as the Annual Statement for replacement reserve funds. The HA should submit these Parts to the FO for approval before withdrawing/expending funds. After FO approval, the HA shall annually complete these Parts, as well as Part I, Section 1, for the annual Report on Replacement Reserve.

CHAPTER 12. HUD RESPONSIBILITY: REVIEW OF HA PERFORMANCE

12-1.OBJECTIVE. The objective of this Chapter is to provide guidance to the FO on developing and carrying a monitoring strategy and to set forth requirements for an annual in-office review, resulting in an annual determination of HA performance, and for communication of deficiencies and design of corrective action.

A. A CGP monitoring strategy should be designed to:

1. Establish a framework for determining the appropriate level of monitoring for each HA, consistent with available resources;
2. Obtain sufficient information to make the determinations required by paragraph 12-8, regarding the HA's conformity with the Comprehensive Plan, continuing capacity, and reasonable progress;
3. Support the HA's flexibility in planning and carrying out its modernization strategies under the CGP;
4. Determine HA compliance with program requirements;
5. Ensure that modernization work is progressing efficiently and effectively to preserve or restore housing to decent, safe and sanitary condition for residents;
6. Assure that Federal funds are being managed properly and not being wasted or used for fraudulent purposes; and
7. Assist the HA to improve its performance, and enhance its management and technical capacity.

B. In reviewing HA performance under the CGP, the FO shall determine whether the HA is complying with the statutory and regulatory requirements of the CGP. In the area of management improvements, the FO will determine whether the HA carried out the activities set forth in its Annual Statement or Five-Year Action Plan, but not whether those activities resulted in the correction of the identified management deficiency. For example, a PHA has a management deficiency under the Public Housing Management Assessment Program (PHMAP) related to vacancy number and percentage and the PHA's proposed activity to correct the

deficiency is to develop and issue a revised occupancy manual as a CGP-funded management improvement. In evaluating performance under the CGP, the FO will determine

whether the PHA issued the manual within the established target date, but not whether vacancies were actually reduced. In whether vacancies were actually reduced and take appropriate action to remedy any lack of performance in achieving vacancy reduction.

- C. In conducting reviews for HA compliance with CGP requirements under subparagraph B, including on-site monitoring reviews, the FO shall determine whether the HA is carrying out the physical and management improvement activities set forth in the Annual Statement or Five-Year Action Plan. If during the conduct of such reviews, the FO identifies new management deficiencies, through PHMAP or other monitoring, not addressed in the HA's Comprehensive Plan, the FO shall pursue correction under the PHMAP for PHAs or under '950.135 for IHAs. Where new management deficiencies are subsequently addressed in a Memorandum of Agreement (MOA)/Improvement Plan (IP) for PHAs or a Management Improvement Plan (MIP) for they shall result in an amendment to the Management Needs Assessment in the subsequent year FFY, as needed.

12-2.APPROACH TO CGP MONITORING. The FO should view CGP monitoring not as a once a year or periodic activity, but as a continuous process. Such a process involves telephone contacts, written communications, analysis of reports and audits, and periodic meetings. The overriding goal of monitoring should be to avoid deficiencies and, where possible, to ensure satisfactory HA performance. The emphasis should be on prevention, detection, and correction, with a positive attitude on the part of HUD staff. Whenever possible, deficiencies should be corrected through discussion, negotiation or technical assistance in a manner that maximizes HA flexibility and discretion. The two major types of CGP reviews, the on-site monitoring review and the annual in-office monitoring review, are discussed in paragraphs 12-5 and 12-7, respectively.

12-3.SCOPE OF CGP MONITORING. Section 14(e)(4)(B) of the Act requires that HUD, at least annually, conduct whatever reviews are necessary to determine whether the HA has carried out its activities on a timely basis in conformance with its Comprehensive Plan, has a continuing capacity to carry out its Plan, and is making reasonable progress toward satisfying Secretary-prescribed performance standards and toward completion of its modernization. As further defined by the regulation, CGP monitoring focuses on six key areas which are:

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1) timeliness of work; 2) completion of physical work to modernization and energy conservation standards; 3) eligibility of work items in relation to overall eligibility, specific program rules, and consistency with the Annual Statement and Five-Year Action Plan; 4) compliance with procurement requirements; 5) compliance with financial management

requirements; and 6) reasonable progress to meet the needs identified in the Physical and Management Needs Assessments, whether or not these needs are funded by the CGP. Non-CGP monitoring may produce information or reports that can be incorporated into CGP monitoring.

12-4. USE OF RISK ANALYSIS. The FO shall use a risk analysis methodology to: establish priorities for monitoring; determine the most effective use of staff and travel resources; determine which HAS require more frequent on-site monitoring than the time frames in paragraph 12-5C; identify the functional areas within the CGP to be emphasized; and determine the intensity of the on-site review. Use of risk analysis will ensure that those HAS which represent the greatest vulnerability to fraud, waste, and mismanagement receive a level of monitoring appropriate to their level of vulnerability. The FO shall conduct a risk analysis for each HA using the following four general risk factors: program complexity; local capacity; recent problems; and past monitoring. Based on the significance of the problems identified, the FO shall prioritize HAS for on-site review and establish its monitoring strategy.

A. Program complexity includes, but is not limited to:

1. Large CGP grant amounts;
2. Large number of high cost developments;
3. Activities involving subgrantees, such as RMCS; and
4. Modernization activities which are particularly complex or which involve multiple parties.

B. Local capacity includes, but is not limited to:

1. Staff turnover;
2. Experience level of HA staff;

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3. Past ability to adequately carry out CIAP or CGP activities and responsibilities;
4. Adequacy of progress;
5. Productivity of staff; and
6. Previous CIAP experience.

C. Recent problems include, but is not limited to:

1. Inaccurate or incomplete reports;
2. Audit findings or no audit;

3. Resident/citizen comments or complaints, including those received under paragraph 11-4B;
 4. Failure to meet implementation schedules set forth in approved Annual Statements;
 5. Issues remaining from a previous monitoring review;
 6. Trending which indicates that a problem is worsening; and
 7. Litigation.
- D. Past monitoring includes, but is not limited to:
1. Recurring findings;
 2. Inability to clear findings adequately;
 3. Need to review actions taken to clear previous findings; and
 4. No on-site review for a long period of time.

12-5. ON-SITE CGP MONITORING REVIEW.

- A. Intensity of On-Site Review. The on-site CGP monitoring review may be a limited review or an in-depth, comprehensive review of the HA's CGP activities. The intensity of the review shall be dictated by the risk analysis factors described in paragraph 12-4. HAs with large, complex CGP programs and PHAs which are

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- designated Mod Troubled under the PHMAP shall receive in-depth monitoring. HAs that have not been monitored in-depth in the recent past or whose capacity has been weakened due to staff turnover also may be scheduled for more intensive reviews.
- B. Frequency of On-Site Review. The following time frames are the standards for the frequency of on-site reviews. However, on-site reviews may be conducted more or less frequently, based on the FO's use of risk analysis in paragraph 12-4. The on-site CGP review may be combined with other reviews to maximize the use of staff and travel resources.
1. For PHAs designated Mod Troubled under the PHMAP, the standard for on-site monitoring is two times per year.
 2. For all other HAs, the standard for on-site monitoring is once a year.

C. Coverage of On-Site Review. The FO is responsible for determining whether the HA has adequate systems and controls in place to ensure its own compliance with program requirements during its implementation of the CGP, and for monitoring the HA's adherence to its own systems and controls. The FO shall review the HA's systems and test whether those systems are working by sampling the HA's activities in the following areas during the on-site review:

1. HA inspection reports to determine whether the HA or its architect has adequately inspected its modernization activities to ensure that the physical work is being carried out in accordance with the plans and specifications;
2. Inspection of the physical work completed and in progress to ensure that the activities undertaken are eligible modernization activities and in compliance with the modernization and energy conservation standards and with program accessibility requirements at 24 CFR 8.23 regarding substantial and other alterations, and that any problems with work quality are being corrected;
3. Inspection of units and review of HA annual unit inspections reports to determine the extent to which physical needs identified in the Physical Needs Assessments have been met

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and brought up to the modernization and energy conservation standards;

4. Supporting documentation, maintained on file at the HA in support of the Comprehensive Plan, to ensure that modernization activities are consistent with the needs identified; and records documenting the degree and adequacy of resident consultation and participation;
5. Compliance with requirements for procurement and contract administration;
6. Correctness of HA revisions to the Annual Statement which did not require prior HUD approval;
7. Compliance with HUD financial management and accounting requirements with respect to the HA's internal controls for its modernization program, as determined by the fiscal audit;
8. Compliance with other statutory and regulatory requirements, such as displacement, relocation and acquisition requirements;

9. Review of the HA's progress toward obligating and expending funds and completing the work set forth in the Annual Statement;
10. Analysis of the HA's overall capability and the need for additional monitoring;
11. HA's compliance with carrying out management improvement activities set forth in the Annual Statement or Five-Year Action Plan; i.e., the HA undertook or is undertaking what it planned to undertake;
12. Other concerns resulting from the use of risk analysis or from the annual in-office CGP monitoring review; and
13. Where the environmental reviews are conducted by the responsible entity, there is a separate Environmental Review Record (ERR) for each development in the Five-Year Action Plan, which meets all requirements of 24 CFR Part 58; and no physical activities were initiated and no grant funds were obligated or expended before FO execution of Form HUD-

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7015.16, Notice of Removal of Grant Conditions.

12-6. CONFIRMATORY REVIEW/RISK ASSESSMENT.

- A. Public Housing PHMAP Confirmatory Review. The PHMAP confirmatory review is an on-site validation of a PHA's performance under all of the PHMAP indicators. The confirmatory review is performed to verify FO documentation and information to which the PHA has certified regarding its performance. The PHMAP confirmatory review is a separate activity from the on-site CGP monitoring review, although both may be conducted during the same visit to the PHA. However, the PHMAP confirmatory review presents an opportunity to verify FO information concerning PHA performance under the PHMAP indicator relating to modernization.
- B. Indian Housing Risk Assessment and Determination for Allocation of Resources (RADAR). The RADAR is an annual in-office evaluation of the IHA's compliance with programmatic requirements and risk assessment for the purpose of prioritizing FO monitoring of IHAS.

12-7. ANNUAL IN-OFFICE CGP MONITORING REVIEW. The FO shall annually conduct an in-office review during the 75-day period of October 1 - - December 15. In the beginning of the HA's participation in the CGP, the FO shall assess the HA's performance under the CIAP. After the first full operational year of the CGP for any given

HA, the FO shall not consider CIAP experience, except where the HA has not yet had comparable experience under the CGP.

A. Sources of Information. The annual in-office review uses data available at the FO to monitor HA performance under the CGP. At a minimum, these data shall include, but not be limited to:

1. Required CGP reports, including: Form HUD-52837, Performance and Evaluation Report; narrative report on resident and local/tribal government participation during CGP implementation and summary of comments received on draft Report, as set forth in Chapter 11; and, where applicable, Form HUD-52842, Performance and Evaluation Report on Replacement Reserve;
2. Latest HUD-approved Comprehensive Plan, including the Five- Year Action Plan, and the Annual Statement;

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3. Most recent PHMAP/RADAR ratings, to determine the HA's overall performance and whether the HA is adequately addressing management deficiencies identified by the PHMAP/RADAR (see paragraph 12-6);
4. Previous monitoring reports, including CIAP reviews, PHMAP confirmatory reviews, and other reviews;
5. Independent audit reports;
6. Litigation records;
7. Contract files, where prior HUD approval was required; and
8. Coordination with other functional areas, such as Community Planning and Development, Labor Relations, Fair Housing and Equal Opportunity, HUD Counsel, and the Contracting Officer, as appropriate.

B. Review of CGP Report Submission. As part of the annual in-house review, the FO shall review the CGP report submission from the HA, using the Annual In-Office CGP Monitoring Review and HUD Determinations Checklist in Appendix 12-1. A copy of the completed Checklist shall be retained in program files for each HA.

1. Completeness Review. Within 14 calendar days of receipt, the FO shall review the Report for completeness. The FO shall promptly either return the incomplete Report to the HA for correction and resubmission or, for minor changes, record a telephone correction from the HA. Where the FO determines that the Report is complete, no letter to the HA is required

and the FO shall enter receipt of the Report in LOCCS before reviewing the Report for substance. If the FO does not enter receipt of the Report within 30 days after the due date of September 30, LOCCS will automatically suspend future payments for the grant. The HA shall make any additions or modifications resulting from the completeness review within 30 calendar days from the date of return by the FO.

2. Substantive Review. After the Report has been determined to be complete, the FO shall conduct the substantive review and make the determinations set forth in paragraph 12-8, using the Checklist in Appendix 12-1.

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12-8.HUD DETERMINATIONS. At least annually, in conjunction with the annual

in-office monitoring review in paragraph 12-7, and at any other time during the year where circumstances warrant new determinations, the FO shall make the following determinations. [Sec. 14(g); Sec. 14(e)(4)(B)]; ['968.335(a) or '950.660(a)]

- A. Conformity with Comprehensive Plan. The FO shall determine whether the HA has carried out its activities in a timely manner and in accordance with its Annual Statement, latest HUD-approved Five-Year Action Plan, and other statutory and regulatory requirements.
- B. Continuing Capacity. Although the FO determines whether a PHA is Mod Troubled under the PHMAP or an IHA is high risk under '950.135, the FO shall determine whether the HA has a continuing capacity to carry out its Comprehensive Plan in a timely manner and expend the annual grant funds.
 1. In general, HUD expects that the HA will obligate its current year's allocation of CGP funds within two years of the date of receipt from HUD and expend such funds within three years of the date of receipt from HUD, unless longer time frames are initially approved by the FO.
 2. The FO shall give particular attention to HA efforts to accelerate the progress of its modernization program and to prevent the recurrence of past deficiencies or noncompliance with applicable laws and regulations.
- C. Reasonable Progress. The FO shall determine whether the HA has satisfied, or has made reasonable progress towards satisfying, the following performance standards:
 1. With respect to the physical condition of each development whether the HA has brought, or is making reasonable progress toward bringing, all of its developments to the modernization and energy

conservation standards; and

2. With respect to the management condition of the HA, whether the HA has implemented or is implementing the work specified in the Annual Statement or Five-Year Action Plan, which are designed to address deficiencies identified through the PHMAP/RADAR, HUD reviews, or audits.

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12-9.DOCUMENTS FOR COMMUNICATING DEFICIENCIES. In the CGP, there are three

methods for communicating HUD determinations of deficiency: a letter; a notice of deficiency; and a corrective action order.

- A. Letter. A letter shall cover minor issues, situations where similar lapses have generally not occurred in the past, or errors which are infrequent and not typical of the HA's performance. A letter may provide non-binding advice concerning HA priorities and other matters involving judgement. A letter may be used alone or refer to an attached notice of deficiency or corrective action order which covers more serious concerns. For example, a letter covering a variety of minor concerns, such as occasional lapses in maintenance or complete back-up data, may reference an attached corrective action order prescribing steps to be taken regarding a serious, long-standing procurement issue.

- B. Notice of Deficiency or Corrective Action Order.
['968.335(b) and (c) or '950.660(b) and (c)]

1. A notice of deficiency shall be issued, in lieu of a letter, when the deficiency is of a more serious nature, has persisted for a substantial period of time, or represents a pattern of errors and the FO believes that the HA will promptly comply with the FO request that the HA take corrective action. It is important to note that, in a notice of deficiency, the FO requests, not orders corrective action by the HA. It is not necessary for HUD Counsel to review and approve a notice of deficiency because the notice does not become a part of the ACC Amendment. The notice shall be issued by the OPH Director/ONAP Administrator.
2. A corrective action order shall be used to address the same type of deficiencies as a notice of deficiency in cases where the FO is not confident that the HA will comply unless corrective action is ordered, not requested. It is not necessary for a notice of deficiency to precede a corrective action order. However, if a notice has been issued and the HA has not complied, a corrective action order should be issued quickly to ensure compliance. A corrective action

order shall be concurred in by HUD Counsel and issued by the OPH Director/ONAP Administrator. An order becomes a formal part of the ACC Amendment and is enforceable by declaration of breach of the ACC or by withholding funds.

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3. A notice of deficiency or corrective action order shall include the following:
 - a. A citation of the section of the regulation which has been violated;
 - b. A statement of actions that the HA has taken or failed to take which are in violation of the referenced citation(s). The HA's failings must be fully documented by current, accurate information and based on a adequate sample to show the extent and frequency of the problem; and
 - c. A description of the corrective action HUD is requesting (in the case of a notice of deficiency) or requiring (in the case of a corrective action order), the date on which it is to be accomplished (where applicable), and any related reporting requirements. Corrective action may include not only a requirement that the HA correct the deficiency, but also such actions as submitting additional information, submitting documents for prior HUD approval, and not expending funds for particular activities, except with prior HUD approval.

12-10.PROCEDURES FOR COMMUNICATING DEFICIENCIES. A letter, notice of deficiency, or corrective action order may be issued at any time. However, to ensure that HUD determinations are made at least annually, as required by the statute, and communicated appropriately to the HA, the FO shall make an annual determination of deficiencies.

- A. Annual Determination. During the period of October 1 - December 15, the FO shall annually determine whether the HA has any deficiencies listed in subparagraph C and determine whether any new notice of deficiency or corrective action order should be issued and whether any outstanding notices or orders should be revised or withdrawn.
- B. Communication to the HA.
 1. No later than December 15 of each year, at the completion of the in-house review, a letter shall be sent to each CGP agency stating that there are no deficiencies under subparagraph C or describing any deficiency determined under subparagraph C. Where

deficiencies are identified, the letter may include a proposed new or revised notice or

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order or withdrawing outstanding notices or orders, as appropriate. Similarly, at the completion of any on-site monitoring, the FO shall send to the HA a written summary of the nature of the visit and a statement of any deficiencies found, attaching any proposed new or revised notice or order or withdrawing outstanding notices or orders, as appropriate.

2. The FO shall send any proposed new or revised notice or order to the HA with an invitation to discuss or comment on it within the next 30 calendar days. Letters which do not include a notice or an order as an attachment do not need to include an invitation for comment since they are advisory in nature and cover minor issues or provide non-binding advice.
 3. Based on discussions with or information from the HA, the FO may revise the determination of deficiency or the proposed corrective action for such reasons as more current or accurate information, a new assessment of the nature of the deficiency, or a proposal of more appropriate corrective action, or may determine that issuance of a notice or order is not appropriate at that particular time.
 4. At the conclusion of the 30-day period, the FO shall send to the HA the letter either with the notice or order or informing the HA that no notice or order will be issued at that time, including the reasons why.
- C. Basis for Notice of Deficiency and Order of Corrective Action. The FO may issue a notice of deficiency or corrective action order only if the FO makes a determination of one of the following compliance deficiencies: [Sec. 14(e)(4)(D)]; ['968.335(d) or '950.660(d)]
1. The HA has not submitted the required annual Report in accordance with Chapter 11;
 2. The HA has not carried out its activities under the CGP in a timely manner and in accordance with the Annual Statement or the latest HUD-approved Five-Year Action Plan, or other HUD requirements, as set forth in paragraph 12-8A;
 3. The HA does not have a continuing capacity to carry out its Comprehensive Plan in a timely manner or expend its annual

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grant funds, as set forth in paragraph 12-8B;

4. The HA has not satisfied, or has not made reasonable progress towards satisfying, the performance standards specified in paragraph 12-8C. Failure to meet PHMAP performance standards is not a management deficiency under the CGP; however, failure to carry out actions and strategies identified in the Annual Statement or Five-Year Action Plan to remedy PHMAP failures is a deficiency under the CGP;
 5. An audit conducted in accordance with 24 CFR Part 44 or other HUD reviews reveals deficiencies that the FO reasonably believes require corrective action;
 6. The HA has failed to repay HUD for amounts awarded under the CGP that were improperly expended; or
 7. An IHA is determined by HUD to be high risk in accordance with '950.135, or the IHA fails to meet, or make reasonable progress toward meeting, the goals established in its MIP under '950.135.
- D. Purpose of Corrective Action. The FO shall design corrective action to: prevent a continuation of the deficiency; mitigate any adverse effects of the deficiency to the extent possible; and prevent a recurrence of the same or similar deficiencies.
- E. Types of Corrective Action. The FO may direct the HA to take one or more of the following corrective actions to bring it into compliance: ['968335(e) or '950.660(e)]
1. Correct the deficiency in a time period prescribed by HUD;
 2. Submit additional information:
 - a. Concerning the HA's administrative, planning, budgeting, accounting, management, and evaluation functions, to determine the cause for the HA not meeting the standards in paragraph 12-8;
 - b. Explaining any steps that the HA is taking to correct the deficiencies;

- c. Documenting that HA activities were consistent with the HA's Annual Statement, Five-Year Action Plan, or other applicable laws, regulations, or program requirements; and

- d. Demonstrating that the HA has a continuing capacity to carry out the Comprehensive Plan in a timely manner.
- 3. Submit schedules for completing the work identified in its Annual Statement and report more frequently on its progress in meeting the schedules;
- 4. Notwithstanding '85.36(g), submit to HUD the following documents for prior approval, which may include, but are not limited to:
 - a. Proposed architectural/engineering (A/E) and other professional services contracts before execution;
 - b. Complete construction and bid documents before issuing solicitations,
 - c. Proposed award of contracts, including construction and equipment contracts and management contracts; or
 - d. Proposed contract modifications prior to issuance.
- 5. Submit supporting material to document one or more of the statements, resolutions, and certifications submitted as part of the HA's Comprehensive Plan, Annual Statement or Performance and Evaluation Report;
- 6. Not to incur financial obligations. Note: The FO may suspend payments for one or more activities;
- 7. Reimburse, from non-HUD sources, one or more program accounts for any amounts improperly expended;
- 8. Submit to an alternative management strategy which may involve third-party oversight or administration of the modernization function; or
- 9. Take such other corrective actions that the FO determines appropriate to correct HA deficiencies consistent with

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outstanding regulations and guidance.

- F. Assessment of Compliance with Notices and Orders. The FO shall monitor compliance with all reporting dates and progress deadlines established in the notice of deficiency or corrective action order and shall assess all outstanding notices and orders to determine the following:
 - 1. If progress under the notice or order has been sufficient to eliminate or substantially reduce the

deficiency, the notice or order shall be terminated by notification to the HA. A copy of this notification shall be attached to the ACC Amendment.

2. If progress under the notice or order has been poor, the FO shall consider ordering alternative corrective action by issuing a new, more stringent notice or order, or changing from a notice to an order. The new notice or order must comply with all provisions of paragraph 12-9B and 12-10B, including consultation with the HA.
3. If the HA has failed to take the action required in a corrective action order, the FO shall either issue a new order, take steps toward declaration of breach of the ACC with respect to all or some of the HA's functions, issue sanctions against responsible individuals, take steps toward withholding funds, or take other sanctions authorized under law or regulation, as described in paragraph 12-12.

12-11.GUIDANCE FOR DETERMINATION OF DEFICIENCIES AND DESIGN OF
APPROPRIATE
CORRECTIVE ACTION.

- A. General Principles. Section 119 of the Housing and Community Development Act of 1987, in establishing the CGP, stated as one of its purposes "to provide considerable discretion to HAs to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds in the modernization of developments under Section 14 of the United States Housing Act of 1937." Accordingly, not only is the scope of HUD's up-front review of the Comprehensive Plan and Annual Statement markedly limited, but HUD review of program operations should also encourage and permit HAs as much flexibility as possible, maintaining compliance with the law, regulations, and other HUD requirements.

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1. All thresholds applicable in the CIAP are automatically removed for the CGP program (see paragraph 10-4). Therefore, any notice or order establishing prior HUD review shall be based on an up-to-date assessment of current capability as well as recent experience and past performance. For an HA just entering the CGP, if the HA's submissions under the CIAP were substantially correct, there should be no need to impose thresholds for the CGP.
2. All notices and orders shall be based on one of the deficiencies in paragraph 12-10C. Failure to comply with CIAP requirements, such as failure to submit required information in a timely manner, is not a basis

for a CGP notice or order. However, notices and orders should be fully considered in the first year of the CGP, based on CIAP experience in relation to the specific deficiencies listed in paragraph 12-10C.

3. Corrective action shall be targeted at and justified by the specific deficiency to which it is addressed.
4. Failure to take the corrective action specified in a notice is grounds for issuance of an order where the original deficiency still exists. However, failure to take the correction action specified in a notice is not grounds for issuance of an order where the original deficiency no longer exists. For example, if a notice requests prior HUD approval of contracts because there has been a finding that work has not been done to the modernization standards and the HA has not submitted its contracts for prior HUD review, an order cannot be issued to correct that deficiency unless the work is still not being done to the modernization standards.
5. If the HA uses CGP funds for ineligible purposes, the FO may use an order to require the HA to repay HUD from nonprogram funds. If such repayment is not forthcoming, the FO may recommend withholding of a portion of the HA's next year's grant pursuant to paragraph 12-12.
6. Items that are repaired or replaced in one year may sometimes require repair or replacement in a subsequent year. Generally, such action should not result in a determination of a deficiency. However, where the HA has had a documented high rate of failure of a particular piece of equipment or a rehabilitation practice with a usable

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lifetime well below expected norms for the situation and degree of wear, the FO may issue a notice or order to prevent the HA from continuing to use that type of equipment or rehabilitation practice.

B. Examples of Use of Letters, Notices, and Orders.

1. If the HA expends CGP funds on an ineligible item, the FO shall direct the HA in writing to charge the item to another program, if appropriate, and reimburse the CGP. The FO letter shall confirm any conversation with HA staff.
2. If a small percentage of units inspected show incomplete or poor workmanship in a few items, the FO should handle the matter as set forth in subparagraph B1, through an oral conversation and a confirming

letter requesting that the HA go back to the contractor and have the items corrected. However, if the quality failures are more serious, or there is a persistent pattern of failure, a notice or order should be issued.

3. If the HA continues to fail to perform cost analyses on A/E contracts despite the provision of technical assistance and the issuance of a letter requesting correction of the deficiency, a notice/order should be issued requesting/requiring that the HA specifically hire a person to carry out this requirement, or obtain prior FO approval on all A/E contracts exceeding a certain amount, or take any other appropriate action to correct the deficiency.
4. If the HA has a pattern of slippage where several contracts are significantly behind schedule without any action on the part of the HA to enforce the schedule, the FO may handle the situation through an oral conversation and a confirming letter if the slippage has not been typical of the HA's behavior in the past. If the slippage represents a continuing pattern, a notice or order should be issued.

12-12.FAILURE TO COMPLY WITH CORRECTIVE ACTION ORDER. [Sec. 14(e)(4)(D)]; ['968.335(f) or '950.660(f)]

- A. Available Compliance Mechanisms. If the HA fails to take the required corrective action, in addition to issuing a more stringent order HUD may withhold funds temporarily until the HA has corrected the deficiency and can administer the funds

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legally and responsibly. Such withholding provisions apply on a case-by-case basis to all HAs, including those designated as Mod Troubled, and are not related to the reductions in formula funding for Mod Troubled PHAs under paragraph 3-9. In addition, for substantive non-compliance by the HA, HUD may declare breach of the ACC with respect to all or some of the HA's functions so that such functions or the entire HA can be administered by another entity.

- B. Use Of Compliance Mechanisms. It is not HUD's intention to withhold funds and then reallocate the funds to other HAs, except in the most extreme and rare cases where it is not possible to resolve the situation in a more satisfactory manner. Wherever possible, it is HUD's intention to permit the full formula share to be available to each HA so that its physical and management deficiencies may be corrected and decent, safe and sanitary housing may be provided to residents.
- C. Procedures.

1. Before recommending declaration of breach or withholding of funds, the FO shall give the HA, within a prescribed period of time, an opportunity to provide any additional facts and data concerning the proposed action. The FO's recommendation shall be sent to Headquarters for review and action. The recommendation shall include supporting documentation in the form of copies of all corrective action orders issued to the HA with which the HA failed to comply, data that documents the continuing existence of the deficiency or deficiencies on which the orders were based and the failure to comply with the orders, all correspondence with the HA and written reports of meetings with the HA regarding the deficiency and the orders, applicable monitoring reports, and any other information which would assist in a HUD determination of whether to declare breach or withhold funds.
2. In the case of a recommendation of breach, the FO shall specify which functions of the HA should be declared in breach. In the case of a recommendation of withholding of funds, the FO shall specify the amount of funds that should be withheld, actions that the HA should take during the time the funds are withheld to correct the continuing deficiency, and the length of time that the funds should be held before reallocation is considered if significant progress to correct the deficiency is not made.

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3. The Assistant Secretary for Public and Indian Housing (PIH) shall review the FO's recommendations and supporting documentation, including the HA's facts and data, and determine what, if any, functions should be declared in breach, whether funds should be withheld, the amount of funds to be withheld, any conditions under which HUD will consider providing all or part of the funds to the HA, and the date on which reallocation will be considered if adequate progress is not made to correct the deficiency. The Assistant Secretary for PIH shall directly notify the HA, with copies of the letter of notification to the FO.
- D. Reallocation. Where HUD has withheld for the period of time prescribed in the withholding action some or all of the HA's annual grant, HUD may reallocate some or all of such amounts to other HAs under the CGP, subject to approval in appropriations acts. ['968.335(g) or '950.660(g)]
1. Before considering reallocation, the FO shall prepare for the Assistant Secretary for PIH a report of the current status of the HA with regard to the failure to take corrective action on which the withholding of

funds was based. The report shall be fully documented with current data, monitoring reports, correspondence with the HA, minutes of any meeting with the HA, and any other information useful to the Assistant Secretary's decision as to whether or not to reallocate the funds. The report also shall include a recommendation as to whether all or part of the funds should be reallocated.

2. Before making a determination regarding reallocation of some or all of the HA's annual grant, the Assistant Secretary for PIH shall notify the HA in writing of the an opportunity to provide, within a prescribed period of time, any additional facts and data concerning the proposed action.
3. Based on the FO report and recommendation, any submission from the HA, and any other relevant information available, the Assistant Secretary for PIH shall determine whether to reallocate all or part of the funds that have been withheld and shall provide direct written notification to the HA, with a copy. of the notification to the FO. ['968.335(h) or '950.660(h)]

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4. Any reallocation shall be made to PHAs which are not designated as either Troubled or Mod Troubled under the PHMAP at 24 CFR Part 901, and to IHAs which have been determined by HUD to be not high risk under '950.135, based on the relative needs of these PHAs and IHAs, as determined under the formula set forth in Chapter 3.
- E. Notification to Residents. The HA's Board of Commissioners shall provide written notification to affected residents of HUD's final determination to withhold funds, declare a breach of the ACC, or reallocate funds, as well as the basis for, and the consequences resulting from, such a determination. ['968.335(i) or '950.660(i)]
- F. Recapture. Based on a recommendation from the FO, Headquarters may recapture for good cause any grant amounts previously provided to the HA, based upon a determination that the HA has failed to comply with the requirements of the CGP. Before recapturing some or all of the HA's annual grant, the Assistant Secretary for PIH shall give written notification to the HA and give it an opportunity, within a prescribed period of time, to present any arguments or additional facts and data concerning the proposed action. ['968.335(i) or '950.660(j)]
- G. Cumulative Remedies. The authority to condition, withhold, reallocate or recapture an HA's grant, as provided in this paragraph, is in addition to the authority set forth in

paragraph 3-9 to reduce a PHA's formula allocation based upon its designation as a Mod Troubled PHA. ['968.335(k) or '950.660(k)]

PART 968-PUBLIC HOUSING
MODERNIZATION

Subpart A-General

Sec.	
968-101	Purpose and applicability.
968.102	Special requirements for Turnkey III developments.
968.103	Allocation of funds under section 14.
968.104	Reserve for emergencies and disasters.
968.105	Definitions
968.108	Displacement, relocation, and real property acquisition.
968.110	Other program requirements.
968.112	Eligible costs.
968.115	Modernization and energy conservation standards.
968.120	Force account.

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COPIES OF THE ABOVE SECTIONS OF THE 1996 SECTION OF THE 24 CFR WERE INCLUDED HERE STARTING ON PAGE 376.

APPENDIX 1-2 CIVIL RIGHTS REQUIREMENTS

1. For Public Housing, refer to 24 CFR Part 5 and '968.110(a).
2. For Indian Housing, refer to '950.115(a) for the Indian Civil Rights Act, '950.115(b) for the applicability of certain civil rights acts, '950.115(d) for disability requirements, and '950.115(e) for minority and women's business enterprise opportunity.

APPENDIX 1-3 LEAD-BASED PAINT (LBP) POISONING PREVENTION

The HA shall comply with the LBP Poisoning Prevention Act (42 U.S.C. 4821-4826) and HUD implementing regulations (24 CFR Part 35). The HA was required to conduct LBP testing of all family developments built before 1978 by December 6, 1994, and then to abate where the level of lead in paint exceeds the standard provided in the LBP Poisoning Prevention Act or established by the Secretary. Further, the Department strongly recommends that the HA use the Guidelines for the Evaluation and Control of LBP Hazards in Housing, published in July 1995, to assist with the identification of its LBP needs. Refer to '968.110(k) or 24 CFR Part 950, Subpart H.

APPENDIX 1-4 DISPLACEMENT, RELOCATION AND ACQUISITION

1. Minimizing Displacement and Temporary Relocation.*

- a. Displacement. Consistent with the other goals and objectives of the CGP, the HA shall assure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of CGP-funded acquisition, rehabilitation, or demolition.
- b. Temporary Relocation. The HA shall assure that it has taken all reasonable steps to accomplish the modernization work with residents-in-place. The Department is very concerned about the length of time that it takes HAs to modernize units. This time may be shortened to the extent that relocation is minimized and HAs are able to complete rehabilitation work in a time period comparable to the private sector. Where temporary relocation is necessary due to the type or scope of the modernization (e.g., LBP abatement), the HA shall minimize the time between moving persons out of the units to be modernized and the start of the modernization work, as well as the time between the completion of the modernization work and moving persons back into the completed units. Such approach reduces the risk of vandalism to the units.

*Note: HAs are encouraged to explore ways in which residents may be employed in any relocation activities that become necessary, such as contracting with resident-owned businesses to move residents.

2. Assistance for Persons Who Must Move, But are Not Displaced (Temporary Relocation and Moves Within the Development). Persons who are not displaced, but must move temporarily (e.g., to permit rehabilitation) or move permanently within the same development/site, are entitled to reimbursement for all reasonable out-of-pocket expenses incurred. The HA shall provide temporary housing which is suitable, decent, safe and sanitary at the same cost on a nondiscriminatory basis for a person who is moved temporarily from the development/site and is offered the opportunity to return to the same development/site, although not necessarily the same building/unit.

- a. Provision of Notice. The HA shall provide appropriate advisory services, including reasonable advance written notice to affected persons of. (1) the date and approximate duration of the temporary relocation; (2) the suitable, decent, safe, and sanitary unit to be made available for the temporary, period; (3) the terms and conditions under which the person may lease and

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- occupy a suitable, decent, safe, and sanitary unit in the development following completion of the CGP-funded activity; and (4) whether the cost of the move will be paid for by direct payment or reimbursement under subparagraph b, including any eligible incidental costs under subparagraph c.
- b. Direct Payment or Reimbursement. The HA shall either: (1) undertake the move itself, using force account labor, a resident-owned business, or a moving company, and therefore be directly responsible for all actual reasonable moving and related expenses; or (2) reimburse persons for all reasonable out-of-pocket expenses incurred in connection with the temporary move. In the latter case, the HA shall not make fixed payments for moving expenses since such payments are not representative of actual reasonable costs.
 - c. Incidental Costs. Incidental costs shall include utility deposits if required at the temporary housing, and telephone installation and cable TV hook-up at the temporary housing and the newly rehabilitated development if the person previously had a telephone and cable TV. If the newly rehabilitated development now has tenant-purchased rather than HA-furnished utilities, which require utility deposits, the HA shall not pay for the new utility deposits since they are required to be paid by any person currently living in a development which is being converted to tenant-purchased utilities or by any new person moving into such development. The HA should work with the utility company to ensure that residents who are unable to pay the entire utility deposit up-front receive a payment plan from the utility company.
 - d. Cost of Temporary Housing. When it is necessary to temporarily house persons in units other than public housing, rents paid by the HA shall not exceed Section 8 Fair-Market Rents, except as may be approved by the FO. When a decent, safe, and sanitary public housing unit of suitable size and location becomes available, the person must agree to move into the unit or assistance shall terminate.
3. Assistance in Place. Where persons are not required to move, but are unable to use their kitchens for a short period of time or be in their units during the day due to modernization activities, the HA may use CGP funds for meal vouchers where the HA can document, and maintain such documentation on file, that the cost of the meal vouchers is less than the cost of temporary moves.
 4. Assistance for Displaced Persons. A displaced person, defined in paragraph 7 of this Appendix, shall be provided relocation assistance at the levels set forth in Chapters 1 through 6 of Handbook 1378,

Tenant Assistance, Relocation and Real Property Acquisition; also, Real Property Acquisition; also, see Section 9 of Chapter 8 of that Handbook which implements the Uniform Relocation Act (URA) and other relocation policies.

- a. Relocation Notices to Families or Individuals. The HA shall provide written notices (general information notice and notice of eligibility for relocation assistance), as set forth in paragraph 2-3 of Handbook 1378. Each notice shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the HA's files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice (e.g., illiterate, foreign language, or impaired vision) must be provided with appropriate translation/communication and counseling. Each notice shall indicate the name and telephone number (including the TTY number or a TTY Relay Service) of a person who may be contacted for answers to questions or other needed help.
- b. Relocation Advisory Services. The HA shall provide relocation assistance advisory services, as set forth in paragraphs 2-4, 2-5 and 2-6 of Handbook 1378, and properly coordinate relocation activities, as set forth in paragraph 2-5 of Handbook 1378. The HA shall not require any person to move unless it has provided at least one referral (where possible, three or more) to a comparable replacement dwelling (CRD), as set forth in paragraph 1-6 of Handbook 1378.
- c. Payments for Moving and Related Expenses.
 - (1) Person (Family or Individual). The payment options are set forth in paragraph 3-2 of Handbook 1378. In summary:
 - (a) The HA may, at its discretion, elect to perform the move itself, using force account labor or a moving company (possibly resident-owned), at no cost to the person being displaced. In such case, the HA also shall pay for the incidental moving costs, as described in paragraph 2c of this Appendix, and provide the person with an allowance of \$50.
 - (b) If the HA does not elect to perform the move itself, the person shall have the option to elect either a payment for actual reasonable moving and related expenses (see paragraph 3-2a of Handbook 1378) or the applicable fixed moving expense and dislocation allowance (see paragraph 3-2b of

Handbook 1378) indicated in a schedule, which is published

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periodically in the Federal Register by the Department of Transportation and available from the FO.

- (2) Business or Nonprofit Organization. A business or nonprofit organization may have payment options. Such entity is eligible for a payment for actual reasonable moving and related expenses (see paragraph 4-2 of Handbook 1378). If it chooses this option, it also may be eligible for payment for reestablishment expenses (see paragraph 4-3 of Handbook 1378). Paragraph 4-5 of Handbook 1378 describes those businesses/nonprofit organizations which may qualify to choose a fixed payment in lieu of the payments under paragraphs 4-2 and 4-3 of Handbook 1378.
- d. Replacement Housing Assistance. It is expected that most persons displaced from a dwelling will be provided the opportunity to relocate to another public housing unit that qualifies as a CRD. This will satisfy the basic replacement housing requirements of the URA and, ordinarily, no additional cash replacement housing assistance would be necessary. If the HA does not provide referrals to comparable subsidized housing, the person will be entitled to cash assistance sufficient to rent a CRD on the private market for up to a 42-month period. The person may use the cash payment to rent or buy a replacement dwelling. If the person rents a replacement dwelling, the payment shall not exceed the amount needed to rent the decent, safe and sanitary dwelling to which the person relocates. At its discretion, the HA may provide a rental assistance payment in monthly installments. If the person elects to buy a decent, safe and sanitary replacement dwelling, the HA shall provide the payment in a lump sum amount. The requirements governing replacement housing assistance are set forth in paragraph 3-4 of Handbook 1378.
5. Real Property Acquisition Requirements. The acquisition of real property with CGP funds is subject to the URA and the requirements set forth in Chapter 5 of Handbook 1378.
6. Appeals. A person who disagrees with the HA's determination concerning whether the person qualifies as a "displaced person," or the amount of the relocation assistance for the which the person is eligible, may file a written appeal of that determination with the HA. A low-income person who is dissatisfied with the RA's determination on his/her appeal may submit a written request for review of that determination to the

FO. The procedures for filing and reviewing appeals are set forth in paragraph 1-33 of Handbook 1378.

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7. Definition of Displaced Person. Each "displaced person" is eligible for relocation assistance as set forth in paragraph 4 of this Appendix. The term "displaced person" is generally described in paragraph 1-8 of Handbook 1378; '968.108 or '950.117 provides the following guidance.

a. The term "displaced person" includes, but may not be limited to:

- (1) The person who moves permanently from the development/site after the initiation of negotiations, if the move occurs before the person is provided written notice offering the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same development/site, under reasonable terms and conditions, upon completion of the activity. Reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the total tenant payment, as determined under '913.107; or
- (2) The person is required to relocate temporarily from the development/site, but does not return to the development/site, if either: (a) the person 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 and any increased housing cost; or (b) other conditions of the temporary relocation are not reasonable; or
- (3) The person is required to move to another unit in the same development/site, if either: (a) the person is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or (b) other conditions of the move are not reasonable; or
- (4) The person, including a person who moves before the initiation of negotiations for the CGP-funded activity that the HA or HUD determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the CGP-funded activity.

b. Notwithstanding the provisions of subparagraph a, a person does not qualify as a "displaced person" and is not entitled to relocation assistance at URA levels, if:

- (1) The person is excluded under paragraph 1-8c of Handbook 1378; or

- (2) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy

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agreement, violation of applicable Federal, State or local/tribal law, or other good cause, and the HA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or

- (3) The person moves into the property after the HA's submission of the Annual Statement and, before signing a lease and commencing occupancy, was provided written notice of the CGP-funded activity, its possible impact on the person (e.g., that the person may be displaced or temporarily relocated) and the fact that the person would not qualify as a "displaced person as a result of the CGP-funded activity; or

- (4) The relocation is determined to be a "general transfer" in accordance with applicable Public and Indian Housing Program policies. The HA shall not use CGP funds to pay for reasonable out-of-pocket expenses for general transfers. To minimize disputes regarding eligibility, HA records shall state the cause of general transfers.

c. The HA may ask HUD at any time to determine whether a person qualifies as a displaced person or would be covered by this paragraph.

8. Definition of Initiation of Negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a person who is displaced by rehabilitation or demolition, the term "initiation of negotiations" means 45 calendar days before either the issuance of the invitation for bids or the start of force account work for the CGP-funded activity.
9. Recordkeeping Requirements. The HA shall maintain records in sufficient detail to demonstrate compliance with applicable policies, as set forth in Chapter 6 of Handbook 1378.
10. Costs of Assistance. Costs of required relocation assistance under this Appendix are eligible CGP costs in the same manner and to the same extent as other CGP costs. Such costs also may be paid for with funds available from other sources.
11. Technical Assistance. The HA shall direct all questions on relocation to the FO Public or Indian Housing (PIH) staff for appropriate coordination with Community Planning and Development (CPD). PIH will refer questions regarding relocation under the URA to the Relocation/Realty Specialist in CPD and regarding

equal opportunity and fair housing to the Equal Opportunity Specialist in Fair Housing and Equal Opportunity.

APPENDIX 1-5 ENVIRONMENTAL COMPLIANCE

1. General Compliance. Before approving CGP funds, HUD will comply with all applicable requirements of 24 CFR Part 50, implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), and related requirements of 24 CFR 50.4, pertaining to related environmental laws, Executive Orders and HUD standards. Refer to paragraph 7-4A of this Guidebook. ['968.110(c) or '950.120(a)]
2. Coastal Barriers. In accordance with the Coastal Barriers Resources Act (16 U.S.C. 3501), no financial assistance under the CGP shall be made available within the Coastal Barrier Resources System. ['968.110(m) or '950.120(h)]
3. Expediting Review. Each development included on the Annual Statement and the Five-Year Action Plan must have a current environmental review completed and on file. To expedite the review process, the FO is encouraged to use existing environmental reviews where developments have been funded in prior years and update them as necessary. The following guidance is provided to assist the FO in completing the environmental reviews in a timely fashion for areas where it has shown to be time-consuming:
 - a. Historic Preservation. Before taking any action with the State Historic Preservation Office (SHPO), the FO shall make a determination of applicability for each development:
 - (1) If the work being funded is limited to internal repairs or in-kind repairs and the building is not listed on the National Register of Historic Places, historic preservation under the 106 process is not generally required. In some cases, interior work may be applicable (e.g., antebellum staircases). The 106 process is required where external repairs or improvements are contemplated.
 - (2) Where exterior improvements are contemplated and the 106 process has been completed within the past five years and a determination was made previously that the building is not an historic structure and that there are no historic structures in the area, the FO shall simply notify the SHPO of the location of the development, the nature of the rehabilitation proposed, and that there has been no significant change in the area and, therefore, of HUD's finding that there is nothing historic and that HUD will proceed if there is no written objection within 10 working days.

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- (3) If a previous review revealed historic properties in the area, or if the development itself is historic, the FO shall determine if the proposed activities will have an effect on the historic property. Where the FO has determined that there is no effect, the FO shall notify the SHPO in writing of the determination. After the SHPO indicates no objection, the FO may proceed to grant approval.
 - (4) If the FO determines that there is an effect, and or an adverse effect, additional requirements and time may be necessary to determine compliance with 24 CFR Part 50. In such case, the FO shall proceed with further processing, including fund reservation, subject to the following restriction: the HA may not obligate funds for the activity or activities in question until the FO has complied with all requirements of 24 CFR Part 50. At that time, the FO shall notify the HA in writing that HUD has complied.
 - (5) If no previous 106 review has been conducted on the development and the activities proposed are subject to the 106 process, the FO shall proceed to follow the 106 process.
- b. Floodplain/Wetlands Management. Compliance with Executive Orders 11988 and 11990 and 24 CFR Part 55, which is applicable to new construction, substantial improvements, and landscaping and grading activities, requires the completion of the "eight-step process" outlined in 24 CFR Part 55. However, if a previous review has been conducted, the FO may reference the previous review and the consistency of the activity with the previous review. The FO shall amend this review as necessary (e.g., changes made in the last year to the floodplain or wetlands maps for this development area). If no previous review exists for floodplains, the eight-step process must be completed, unless a letter of map amendment or a letter of map revision excluding the site is obtained from the Federal Emergency Management Administration.

APPENDIX 1-6 ADMINISTRATIVE REQUIREMENTS

1. The HA shall comply with the Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, as set forth in 24 CFR Part 85, except as specified

in: '968.135 and '990.201 for PHAS; and '950.120(f) for IHAs.

2. The CGP is excluded from the requirements of Executive Order 12372 on Intergovernmental Review of Federal Programs and HUD implementing regulations (24 CFR Part 52) because the program involves financial transfers for which HUD has no funding discretion or direct authority to approve specific sites of projects.

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APPENDIX 1-7 INSURANCE

1. Flood Insurance. The HA shall comply with all applicable requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.) and HUD implementing regulations (24 CFR Part 50). The HA shall certify that the development to be modernized is not located in an identified special flood hazard area, or if the development is located in such an area, the HA shall maintain on file a copy of the flood insurance policy obtained by the HA, or the HA shall certify that the special flood hazard area has been identified for less than one year and the community in which the development is located is not participating in the National Flood Insurance Program. A development located in a special flood hazard area of a community that has been formally notified of the area for more than one year, but is not participating in the National Flood Insurance Program, is not eligible for CGP funding until the community participates in the program. ['968.110(d) or '950.120(b)]
 - a. If a development is located in an identified special flood hazard area and the community is participating in the National Flood Insurance Program, the HA shall obtain flood insurance coverage for each affected building in an amount equal to its replacement cost after the proposed modernization (less estimated land cost) or to the maximum limit of coverage made available with respect to that particular type of property under the National Flood Insurance Act of 1968, whichever is less. For each affected building in Lanham or Public Works Administration developments, the HA shall obtain flood insurance coverage in an amount equal to its full insurable value after the proposed modernization (less estimated land cost) or to the maximum limit of coverage made available with respect to that particular type of property under the National Flood Insurance Act of 1968, whichever is less. The HA shall continue to carry the required flood insurance after completion of the modernization. Flood insurance premiums are not eligible CGP costs because they are ongoing operating costs, except under Account 1406, Operations.
 - b. If the proposed modernization program involves new construction or substantial improvements of an existing structure, as defined in 44 CFR Part 60, the HA shall comply

with the requirements on elevation and flood proofing.

2. Lead-Based Paint (LBP) Liability Insurance. Refer to '965.215 and '950.195, regarding the minimum insurance requirements that must be in place before beginning any work for the testing, abatement, clean-up and disposal of LBP. LBP insurance costs are eligible CGP costs.

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3. Other Insurance.

a. Review of Existing Coverages.

- (1) The HA is required to have in effect: (1) workers' compensation insurance; (2) property insurance; (3) commercial general liability insurance; (4) automobile liability insurance for both HA-owned and non-owned automobiles; and (5) a fidelity bond. In many instances, the additional exposures created by the modernization activities can be insured by either an endorsement to the existing policy or a letter from the insurance broker/company, acknowledging that the existing policy as written is broad enough to include the additional exposure.
- (2) Following HUD approval of the Annual Statement, the HA shall notify the insurance broker/company in writing of the modernization activities and request written advice concerning what steps, if any, need to be taken to ensure proper coverage. The HA's letter shall describe the modernization activities in sufficient detail to allow the insurance/broker company to decide what coverage would be adequate. This description shall include the type and cost of work to be performed, the nature of any structural alterations, and the involvement of HA employees in the work.

b. Property Insurance. In addition to the general requirements set forth in subparagraph a1, the following special requirements apply to property insurance:

- (1) Where the modernization work is to be performed by contract and is insured under the HA's existing policy, the HA shall include notice to prospective bidders of this coverage in the bid documents so that this cost-savings may be reflected in the bid amounts.
- (2) If the existing policy cannot be endorsed to include the modernization activities because of substantial structural alterations, the HA shall obtain a builder's risk policy on a "100% Completed Value" basis either directly or through the contractor. This policy shall remain in effect through substantial completion of the

modernization work, at which time the coverage shall be transferred to the HA's existing policy.

- c. Commercial General Liability. Under no circumstances shall the HA assume the liability of the contractor under a "Hold Harmless" or contractual liability agreement.

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- d. Contractor Insurance.

- (1) Required Insurance. Before beginning work, the contractor and each subcontractor shall furnish the HA with certificates of insurance showing that the following insurance is in force and will insure all operations under the contract. All insurance shall be carried with companies which are financially responsible and rated B+VI or higher by the A.M. Best Co. or equivalent and authorized to do business in the State in which the development is located. Contractor insurance shall include:

- (a) Workers' Compensation, in accordance with State or Territorial Workers' Compensation laws, for all employees engaged under the modernization contract.
- (b) Commercial General Liability which is comprehensive general liability insurance with bodily injury and property damage. The minimum amount of required coverage is \$500,000 per occurrence.
- (c) Automobile Liability on owned, non-owned and hired motor vehicles used on or in connection with the site(s) for a combined single limit for bodily injury and property damage of not less than \$500,000 per occurrence.
- (d) Builder's Risk.
 - (i) This insurance is needed only for construction of a new building or a major addition to an existing building. If the contract involves installing equipment or materials in an existing building, the contractor should have in effect an "installation floater." Before beginning work, the contractor shall furnish the HA with a certificate of insurance evidencing that a builder's risk (property) is in force. The builder's risk insurance shall be for the benefit of the contractor and the HA as their interests may appear and each shall be named, in the policy or policies as an insured.

- (ii) The contractor is not required to carry builder's risk insurance on: excavations, piers, footings or foundations until such time as work on the superstructure is started; or work which does not

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involve structural alterations or additions and where the HA's existing policy will provide coverage.

- (iii) Policies shall furnish coverage at all times for the full replacement cost of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the HA. The contractor may terminate this insurance on buildings taken over for occupancy by the HA as of the date the buildings are taken over.

- (2) Expiration or Cancellation. If any insurance is due to expire during the construction period, the contractor (including any subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the HA and its contracting officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 calendar days prior written notice has been given to the HA or its contracting officer.

- c. Noncompliance. The HA shall monitor the insurance policies obtained by all contractors and subcontractors to ensure that the coverage required by the modernization work is kept in force until the contractor's work is accepted by the HA. The HA shall notify the contractor to stop work if the required insurance coverage is not in force at the time the work begins or if the coverage expires before the work is accepted. The HA also shall notify the contractor that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

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APPENDIX 1-8 PREVAILING WAGE RATES

- 1. Legislative Provisions. Section 12(a) of the Act contains prevailing wage requirements and Section 12(b) contains volunteer

labor provisions. These requirements and provisions may not be waived. ['968.110(e) and (f) or '950.120(c) and (d)]

- a. Cross-References. Refer to HUD Handbook 1344.1 REV-1, CHG-1, Federal Labor Standards Compliance in HUD Programs; Labor Relations Desk Guide LR-II, Labor Standards Administration and Enforcement Guidelines for HUD Program Participants; Labor Relations Letters LR-93-019, LR-95-01, LR-96-01. In addition, Labor Relations Letters, Desk Guides and other helpful tools are available on the World Wide Web HUD Home Page at <http://www.hud.gov/>.
- b. Application of Prevailing Wage Rates. Construction work under the CGP is subject to either Department of Labor (DOL)-determined (Davis-Bacon and Related Acts) prevailing wage rates or HUD-determined prevailing wage rates, depending on the nature of work that is performed. Therefore, the nature of the work must be determined before a further determination can be made as to whether the contract is covered by a DOL- or HUD-determined prevailing wage requirement and a wage schedule can be issued.

Note: For ease in reference, this Appendix will frequently use the terms "CGP projects" or "CGP work". Unless otherwise specified, these terms shall mean all CGP-eligible activities, all Comprehensive Improvement Assistance Program (CIAP) activities, and any work paid for with operating funds which is not routine maintenance.

- c. HA Request. At least 45 calendar days in advance of bid solicitations or, where the HA intends to use force account labor, 30 calendar days before commencement of CGP work, the HA shall request in writing a wage rate determination from the appropriate HUD Labor Relations Staff. The request shall include a description of work which is sufficiently detailed to allow for a correct determination by HUD as to the nature and scope of the work to be performed. At a minimum, the request shall include:

- (1) the number of buildings and the number of stories in each building;
- (2) the number of units involved;

- (3) the total estimated cost of the work;
- (4) the specific work that is to be performed, including whether repair, replacement or new installation; what building or unit equipment, fixtures, finishes, or materials will be involved; what activities will involve which building(s) or unit(s); and

- (5) the construction trade classifications for which wage rates are needed.

2. Determination of Nature and Scope of Work. After any necessary consultation, with Office of Public Housing (OPH)/Office of Native American Programs (ONAP) Staff, the Labor Relations Staff shall evaluate the proposed work and determine whether such work is nonroutine maintenance (subject to HUD-determined wage rates) or a betterment or improvement or reconstruction or remodeling (subject to Davis-Bacon rates determined by the DOL). In order to perform the evaluations necessary to reach this determination, i.e., the extent, scope and context of the proposed work, it may be necessary to review the CGP program budget(s) and/or contract specifications.

a. Characterization of Work. As defined in paragraph 1-6, nonroutine maintenance includes work items that ordinarily would be performed on a regular basis and that have become substantial because they have been put off. Nonroutine maintenance may include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Although nonroutine maintenance is a form of construction work, it does not include work that constitutes reconstruction, a substantial improvement in the quality or kind of original equipment and materials, or the initial installation of equipment or fixtures, or remodeling that alters the nature or type of housing units. Additionally, the abatement of asbestos or lead-based paint or suspected lead-based paint, and repainting or encapsulation does not constitute nonroutine maintenance.

b. Substantiality. Often HUD decisions regarding the nature of work must distinguish between nonroutine maintenance and other, seemingly similar work that, because of substantiality, constitutes "reconstruction, remodeling or repair of existing buildings," terms which are used in the Act specifically to characterize work that is subject to Davis-Bacon wage rates. The Labor Relations Staff shall carefully consider the proposed work against criteria involving not only "normal wear and tear" and "replacement with substantially the same kind," but also the extent or magnitude of the work in terms of whether the work

amounts to remodeling or reconstruction. The tests that are applied measure the extent of the project (e.g., what portion of the unit(s), building(s), or equipment), the nature and scope of construction work that is involved, and whether the finished work represents a significant change, betterment, improvement, or addition.

c. Replacement with Items of Substantially the Same Kind.

Replacement of materials or equipment that is outdated or otherwise unsatisfactory may include the replacement of nearly any component of a unit or building. Such items may include windows, doors, cabinets, carpeting, floor or wall tile, shower doors, appliances, electrical or other fixtures, water heaters, air conditioners, or interior or exterior finishes. For example:

- (1) Replacing a single kitchen cabinet or all of the cabinet doors or, in isolation, even replacing all of the cabinets in an entire project, can be considered nonroutine maintenance. However, where such replacement is performed as a part of, or in conjunction with, overall remodeling of the kitchen(s) or unit(s), taken in context, it involves substantial construction work and is viewed as reconstruction.
- (2) Patching or repairing a roof, or patching or repairing drywall. This type of work, because of its character, is viewed as nonroutine maintenance, even where there are several roofs or walls to be repaired. However, replacing a roof in its entirety or nearly so, or replacing or encapsulating entire interior wall systems, because of the scope of the work, are appropriately characterized as reconstruction.
- (3) Other issues that are considered include whether the replacement (or other work) involves a change in the type or nature of what is being replaced (e.g., a change from standard electrical receptacles to ground fault interrupter receptacles) or whether structural or other modifications are necessary to accommodate the replacement (e.g., wiring modifications, gas or electric conversions, widening or moving doors or passages, or walls or other partitions). These characteristics are indicative of reconstruction or remodeling, not nonroutine maintenance.

Note: The very act of replacing outdated materials or equipment should always result in an improved unit(s) or building(s), if only because the replacement materials or equipment will be newer and in better condition. This improved condition should not be

confused with "improvement" or "betterment" that is associated with "reconstruction and remodeling."

- d. Betterments and Additions. Betterments and additions refer to replacements or alterations which materially enhance the character or type of the premises. Examples include the conversion of units to accommodate physically disabled residents or combining smaller units to create larger units

with more bedrooms. The nature of these activities is such that, in most cases, significant construction will be involved and the work will result in a substantial improvement. Consequently, the work is viewed as reconstruction or remodeling.

3. Davis-Bacon Wage Rate Determination Decisions. Where it has been determined that the proposed work constitutes a major repair, improvement or reconstruction, or is construction work that otherwise does not meet the definition of nonroutine maintenance, the Labor Relations Staff shall issue the current, applicable Davis-Bacon wage rate determination decision.
4. Wage Determinations for Nonroutine Maintenance. Where it has been determined that the proposed work is nonroutine maintenance, the Labor Relations Staff shall issue a Nonroutine Maintenance wage rate determination to the HA either on an annual basis or on a project (case-by-case) basis. Nonroutine Maintenance wage determinations for CGP or other nonroutine maintenance should not be confused with the HUD-determined maintenance wage rates (Form HUD-52158) issued annually to the HA.
 - a. Annual Nonroutine Maintenance Wage Rate Determinations. The HA that anticipates a significant amount of nonroutine maintenance work may request from HUD an annual Nonroutine Maintenance wage rate determination. To request an annual determination, the HA shall forward to HUD a list of the trade or construction work classifications that will be needed, accompanied by a recommended schedule of wage rates and appropriate supporting documentation.
 - (1) Timing of Request. Requests for annual Nonroutine Maintenance wage rate determinations shall be submitted concurrently with the HA's recommendation for its annual Routine Maintenance wage determination. The Labor Relations Staff shall review the submission and, if acceptable, issue an annual Nonroutine Maintenance wage rate determination with the HA's annual Routine Maintenance wage rate determination.
 - (2) Advance Consultation. Because of the range of data sources and considerations that are involved in wage rate determinations for nonroutine maintenance (see paragraph
- 5), the HA is encouraged to consult with the Labor Relations Staff before submitting this request.
- (3) Application to Specific Contracts or Work Orders. The HA that has an annual Nonroutine Maintenance wage rate determination is not permitted to apply or otherwise use such determinations without the prior approval of HUD. The HA shall request a wage rate determination

from the Labor Relations Staff for each contract or work order. Where the work is found to be nonroutine maintenance, HUD will advise the HA in writing to use the annual Nonroutine Maintenance wage rate determination.

- b. Project Nonroutine Maintenance Wage Rate Determinations. Where the HA has not requested or received an annual Nonroutine Maintenance wage rate determination, HUD will determine prevailing nonroutine maintenance wage rates on a case-by-case basis and will issue a project Nonroutine Maintenance wage rate determination for the proposed work.
5. HUD-Determination of Prevailing Nonroutine Maintenance Wage Rates. The Labor Relations Staff may draw upon existing wage rate schedules, i.e., the current HA maintenance wage rate determination (HUD-51258), the Davis-Bacon residential wage determination, and/or survey data or other pertinent information, in order to determine the appropriate wage rates for nonroutine maintenance work. Since nonroutine maintenance is construction work, the HUD-52158 maintenance classifications and wage rates are not applicable by virtue of definition. However, in certain cases, the HUD-52158 classifications and/or wage rates may be used. The following paragraphs describe how certain HUD-52158 classifications and/or wage rates may be used, and the steps that should be taken where such use is not possible. The Labor Relations Staff may use any one of the following methods or a combination of methods, provided that the wage rates, including fringe benefits, bear a reasonable relationship to each other with respect to the skills and requirements of the various classifications which are needed for the work in question.
- a. Wage Rates Based on HA Maintenance Wage Rate Determinations.
 - (1) Construction Trade Classifications. Where the HA's current Maintenance wage rate determination (HUD-52158) contains the construction trade classifications (i.e., Maintenance Carpenter, Maintenance Painter, Maintenance Plumber, etc.) which generally correspond to the trade classifications required for the proposed work, the applicable trade classifications and corresponding hourly rates, plus the

monetized value for any prevailing fringe benefits, may be issued by HUD for the nonroutine maintenance work. Where the HA's current HUD-52158 does not contain the specific construction trade classification(s) required for the proposed work, the Labor Relations Staff may conform the work to another trade classification on the HUD-52158, provided that the classifications involve comparable work and/or levels of skill. For example, if the CGP work requires a Drywall Hanger, and the

HUD-52158 does not have a Drywall Hanger, but does have a Carpenter classification with an hourly wage rate of \$10 (basic) plus \$4 (fringe benefits), because the work and skills are comparable, the CGP Drywall Hanger can be conformed to the Carpenter's wage rate. The Nonroutine Maintenance wage rate determination will reflect a Drywall Hanger work classification and a wage rate of \$10, plus \$4 fringe benefits.

- (2) Other HA Maintenance Classifications. Where the HA's current HUD-52158 does not contain the specific trade classification(s) required for the CGP work, and where conformance to another trade classification is not possible, the Labor Relations Staff may consider the wage rates established for other maintenance positions (e.g., Maintenance Mechanic). Such consideration is possible only where the maintenance position involves significant construction skills and responsibilities. The Labor Relations Staff shall compare the position description for the maintenance position to the construction trade classification required for the proposed nonroutine maintenance work. Where it can be readily demonstrated that the skills and duties of the maintenance position involve a significant portion of construction activities which are comparable to the needed trade classification, the Labor Relations Staff may use the maintenance position wage rate (including any fringe benefits) for the CGP construction trade classification. Using the above Drywall Hanger example, the Nonroutine Maintenance wage rate determination will, likewise, reflect the Drywall Hanger work classification and whatever wage rates that correspond to the comparable maintenance position.

- b. Data or Survey-Based Classifications. Where the HA's current HUD-52158 does not contain the specific construction trade classifications required for the CGP work, and where conformance or comparability to a maintenance classification is not possible, the Labor Relations Staff will request wage payment data and recommended rates from the HA. In developing a recommendation for the CGP wage rates, the HA may use any relevant data or

information, including data collected or used during the annual maintenance wage process. If additional data collection is necessary, the HA may conduct a limited survey of construction contractors or other employers who perform similar work in the locality. Where a limited survey is used, the wage rate for each classification must be based on wage payment data collected from at least three employers. For example, if the CGP work will require a Plumber and a Electrician, the HA shall collect data from at least three

employers who perform plumbing work and data from at least three employers who perform electrical work. If an employer performs both plumbing and electrical work, that employer can be a data source for both classifications.

- c. Davis-Bacon Residential Wage Decisions. In evaluating the available data, the HA or HUD may take into consideration or use the current DOL Davis-Bacon residential wage determination decisions. While nonroutine maintenance clearly is not covered by Davis-Bacon wage requirements as a matter of statute, in some cases, the wage rates contained in the Davis-Bacon wage decision may reasonably reflect the rates which are prevailing for nonroutine maintenance work. In using Davis-Bacon wage rates, generally only residential classifications and wage rates would be appropriate for nonroutine maintenance in residential units, regardless of the number of stories in the buildings where the work will be performed. However, if the nonroutine maintenance work will be performed in other than residential space (i.e., HA offices or maintenance buildings), the residential Davis-Bacon wage rates shall not be used for that work.
- d. Issuance of the Nonroutine Maintenance Wage Determination. The Labor Relations Staff shall review the data and/or recommendations provided by the HA and issue the Nonroutine Maintenance wage rate determination reflecting the required construction trade work classifications and prevailing wage rates. HUD Nonroutine Maintenance wage determination decisions shall be issued on Form HUD-52160 and shall bear the signature of the Director of Labor Relations.

6. Use and Effectiveness of Prevailing Wage Determinations.

- a. Davis-Bacon wage rate determinations may be modified or superseded, and, in the case of project decisions, may expire. Such determinations are effective as described in the DOL Regulations at 29 CFR 1.6 and Handbook 1344.1 REV-1, CHG-1.
- b. Annual Nonroutine Maintenance wage rate determinations shall be

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after such effective period the determination will expire. Such determinations may not be used for specific contracts or work orders without prior HUD approval (see paragraphs 1 and 4).

- C. Project Nonroutine Maintenance wage rate determinations shall be project-specific; i.e., applicable only to the nonroutine maintenance work for which it was requested. Unless otherwise specified, the wage determination shall be effective for 180 days after the date it is issued.

- d. A wage determination shall be "locked-in" and shall remain in effect for the duration of the project on the date that bids are opened (for contracts entered into pursuant to competitive bidding), provided that the contract is awarded within 90 days after bid opening or on the date construction starts, whichever occurs first.
7. Additional Classifications and Wage Rates. The HA may request an additional classification and wage rate for any class of laborer or mechanic that is not listed on the HUD Annual or Project Nonroutine Maintenance wage determination and that is to be employed on nonroutine maintenance work. The request shall identify the needed classification and a recommended wage rate (including fringe benefits, if appropriate) and must be accompanied by supporting documentation. HUD will review the request and documentation and will issue appropriate additional classification(s) and wage rate(s) as an addendum to the Nonroutine Maintenance wage determination. Unless otherwise specified, the additional classification(s) and wage rate(s) shall be effective, retroactively, to the date of the original wage determination and shall expire with the original wage determination, accordingly.
8. Force Account. HA employees engaged in the performance of modernization-funded (or modernization-eligible) construction work are entitled to receive not less than the HUD-determined or Davis-Bacon wage rate, as applicable, for the type of work they actually perform.
9. Contracts for Construction. The HA shall ensure that the specifications for each contract for construction contains a copy of the wage rate determination (HUD-determined or Davis-Bacon) as issued to the HA by HUD. Such specifications must also contain the appropriate Federal labor standards provisions set forth in Form HUD-5370. Unless otherwise approved in advance by the Labor Relations Staff, each contract for construction shall contain only one wage rate determination.
10. Enforcement. Prevailing wage rate requirements (Davis-Bacon wage rates and HUD-determined wage rates) applicable to CGP projects shall

be enforced in accordance with appropriate DOL and HUD regulations, HUD Handbook 1344.1 REV-1, CHG-1, Federal Labor Standards Compliance in HUD Programs, and Labor Relations Desk Guide LR-II, Labor Standards Administration and Enforcement Guidelines for HUD Program Participants.

11. Special Employment Classifications and Wage Rates. The HA may establish wage rates for approved and bona fide job training programs, including Step-Up programs, to significantly enhance

efforts to provide residents with long-term employment opportunities. Additionally, the administrative flexibility available in these programs may prove valuable to the HA and its contractors in meeting area employment and contracting obligations under Section 3 of the Housing and Urban Development Act of 1968, as amended (see HUD implementing regulations at 24 CFR Part 135), and significantly enhance the Department's overall economic empowerment objectives for public housing residents. Also refer to paragraph 2-9 on funding and eligible costs relating to the development and implementation of job training programs.

12. Step-Up Apprenticeship Partnerships. The HA is encouraged to consider Step-Up apprenticeship as a means of promoting both resident self-sufficiency and Section 3 job training and employment and contracting objectives. Step-Up is based upon local needs, resources and partnerships to provide access for residents and other low-income persons to apprenticeship and career opportunities in a variety of occupations and job sites, including maintenance, nonroutine maintenance and construction work subject to Federal prevailing wage rates. Local Step-Up program design is tailored specifically to the locality and is highly flexible. HAs interested in developing a Step-Up program should contact the HUD Headquarters Labor Relations Staff at (202)708-0370.
 - a. Apprentices and Trainees. Apprentices and trainees may be employed by the HA or its contractors in positions that are subject to Federal prevailing wage rates (i.e., maintenance, nonroutine maintenance, development) and may be compensated at less than the prevailing wage rate for their craft or work classification, provided that they are registered in a job training program which has received the prior approval of the Director of Labor Relations having jurisdiction for the HA.
 - (1) Pre-Approved Programs. Some apprentice or trainee programs may have already been registered or received certification by the DOL, Bureau of Apprenticeship and Training (BAT), or by a State apprenticeship agency. In such cases, the HA need only provide a copy of the program to HUD with evidence of registration or certification. Such programs will be

approved by HUD for maintenance wage purposes with no further review required. All apprenticeship and trainee programs for construction work subject to Davis-Bacon wage rates shall be approved in advance by the BAT or State agency.

- (2) HUD-Approved Programs. The HA wishing to establish maintenance or nonroutine maintenance apprentice or

trainee classifications and wage rates shall submit a description of the proposed program to the Labor Relations Staff for review and approval of wage rates. The description shall include:

- (a) Target positions and job titles;
- (b) The training curriculum, including on-the-job training and any classroom instruction to be provided, including the number of hours dedicated to each;
- (c) The proposed wage rates over the course of the training period;
- (d) The organizations or institutions that will provide the training;
- (e) The supervision to be provided and the ratio of journeymen to apprentices/trainees during on-the-job training;
- (f) Where HA workers are represented under a collective bargaining agreement or memorandum of understanding, evidence of consultation with authorized employee representatives;
- (g) A specific plan for final job placement of participants, either for positions within the HA or with outside agencies or firms or resident management corporations (RMCs); and
- (h) A statement as to how HA residents will participate in the training program.

Note: HUD shall evaluate the program against the objectives and standards of the "National Apprenticeship and Training Standards for the Building Maintenance Repairer," which is sponsored by the National Association of Housing and Redevelopment Officials (NAHRO) and certified by the U.S. Bureau of Apprenticeship and Training. Programs that are

found to be substantially similar to these national standards may be approved for routine and/or nonroutine maintenance activities.

- (3) Approval of Program and Apprentice/Trainee Classifications, Wage Rates, and Ratios. Where a maintenance or nonroutine maintenance apprenticeship or trainee program is found acceptable for HUD-determined wage purposes, the Director, Labor Relations Staff,

shall issue a written approval of the program to the HA. The apprentice/trainee classifications, wage rates and ratios of apprentices/trainees to journeymen shall be specified within the approved program standards.

13. Volunteers and Other Donated Labor.

- a. Volunteers. Section 955 of the National Affordable Housing Act of 1990 created Section 12(b) of the Act, which exempts bona fide volunteers from the wage provisions at Section 12(a). This exemption applies to volunteers who would otherwise be covered by the DOL (Davis-Bacon) wage rates, or technical, maintenance or nonroutine maintenance wage rates applicable to laborers and mechanics, architects, technical engineers, draftsmen, and technicians (planners, surveyors, etc.) and who may perform services for a HA or RMC or other contractor without compensation, provided that such individuals are not otherwise employed in the development or operation of the project. Such individuals shall be considered volunteers only when their services are offered freely and without pressure or coercion, directly or implied, from an employer. Volunteers may receive paid expenses, reasonable benefits, or a nominal fee to perform the services for which they volunteered, but in no case shall such benefits be construed in any way as paid compensation. Any such payments shall be approved in advance by HUD. The HA is encouraged to consult with the Labor Relations Staff before using volunteers on projects covered by Federal prevailing wage requirements. Refer to 24 CFR Part 70 for further guidance.
- b. Waiver to Permit Donated Labor by HA Residents. HA residents who are employed by an RMC in the operation of a project or development may donate a portion of their labor to the RMC, provided that a written waiver is obtained in advance from HUD (see 24 CFR 70.5). The HA shall submit a waiver request in writing to the Labor Relations Staff and shall be specific as to the name of each participating resident and the number of hours each will donate. The donation of any labor is subject to the terms and conditions of any applicable collective bargaining agreement.

- c. Recordkeeping. The HA and the RMC shall maintain careful records of all volunteers and donated labor for administrative and monitoring purposes. Such records should include the name of each volunteer or donator, the type of work or services performed, the dates and number of hours of volunteer or donated work or services, and an accounting of any expenses, benefits or fees provided. These records should be preserved by the HA or RMC for a period of at least three years following completion of the

volunteer/donated work.

14. Preemption of State Prevailing Wage Requirements. Prevailing wage rates determined under State or tribal law are inapplicable under the circumstances set forth in '965.101 or '950.172(b).

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APPENDIX 1-9 AUDITS

Under the Single Audit Act of 1984 (31 U.S.C. 7501-7507), the HA which receives CGP assistance shall comply with the audit requirements of 24 CFR Part 44 and any other expanded audit requirements as HUD may require. The Secretary of HUD, the Inspector General of the Department of HUD, and the Controller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this Handbook in order to make audit examinations, excerpts, and transcripts. Due to the flexible nature of the CGP, HAs, residents and community members are advised that a comprehensive, well-conducted audit may serve as a primary tool in assuring that all modernization funds are used effectively. [Sec. 14(e)(4)(C)]; ['968.145(b) or '950.622(b)]

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APPENDIX 2.1 PUBLIC SAFETY AND SECURITY

1. General. Employment of security guard personnel through contract services or employment of individuals, and equipment for and employment of HA police officers for HUD-authorized HA police departments are eligible costs.
2. Contracted/HA Employed Individual(s) Security Guard Personnel Services.
 - a. Contracting for security guard services or direct HA employment of individual(s) security guard personnel services is permitted and shall be an open competitive process in which individual companies and/or individual(s) participate.
 - b. Security guard personnel shall only perform services not usually performed by local law enforcement agencies on a routine basis, such as patrolling inside buildings, providing personnel services at building entrances to check for proper identification, or patrolling and checking parking lots for appropriate parking decals.
 - c. Security guard personnel shall meet and demonstrate compliance with all relevant Federal, state, or local/tribal government insurance, licensing, certification, training, bonding, or other similar requirements relating to security services.
 - d. The HA and the provider (contractor/individual(s)) of the security guard personnel services are required to enter into and execute a security guard personnel services contract that includes, but is not limited to, the following: the activities to be performed by security guard personnel employed by the contractors; the scope of authority, written policies, procedures, and practices that will govern security personnel performance (i.e., a Policy Manual as described in subparagraph d(4)); how the contractors personnel shall coordinate activities with the local law enforcement agency; and the types of activities that the approved contractors security guard personnel are expressly prohibited from undertaking.
 - (1) Expenditures for activities under this paragraph will not be incurred by the HA and/or funds released by the FO until the HA has executed a written contract for security guard personnel services (contractor/individual(s)).
 - (2) Security guard personnel services shall be guided by a contract for services that includes a policy manual that regulates, directs, controls, and monitors the conduct

and activities of its personnel. The HA shall ensure all security guard personnel are trained at a minimum in the areas described in this paragraph. The up-to-date policy manual shall exist before a contract for services may be executed. Areas that shall be covered in the policy manual include, but are not limited to: use of force; resident contacts; enforcement of HA rules; response criteria to calls; pursuits; arrest procedures; reporting of crimes and workload; feedback procedures to victims; citizens' complaint procedures; internal affairs investigations; towing of vehicles; authorized weapons and other equipment; radio procedures internally and with local police; training requirements; patrol procedures; scheduling of meetings with residents; required reports; recordkeeping; position descriptions on all personnel; post assignments and monitoring and self-evaluation program.

3. Equipment for and Employment of Personnel for HA Police Departments.
 - a. Funding for equipment and employment of HA police department personnel is eligible only where HUD has authorized the HA police department.
 - b. HAs shall demonstrate the current level of local law enforcement agency baseline services being provided to the HA/developments. The baseline services are defined as ordinary and routine services provided to the residents, as a part of the overall city and county-wide deployment of police resources, to respond to crime and other public safety incidents, including 911 communications, processing calls for service, routine patrol, police officer response to calls for service, and investigative follow-up of criminal activity.
 - c. HA police departments shall meet, and demonstrate compliance with, all relevant Federal, state, or local/tribal government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.
 - d. HA police departments shall be guided by an up-to-date policy manual that regulates, directs, and controls the conduct and activities of its personnel. All HA police officers shall be trained at a minimum in the following areas: use of force; resident contacts; enforcement of HA rules; response criteria to calls; pursuits; arrest procedures; prisoner transport procedures; reporting of

crimes and workload; feedback procedures to victims;
citizens' complaint procedures; internal affairs

investigations; towing of vehicles; authorized weapons and other equipment; radio procedures internally and with local police; training requirements; patrol procedures; scheduling of meetings with residents; required reports; recordkeeping; evidence and drug seizures; position descriptions on every class of personnel; post assignments; and integration of HA police and security personnel with local police as part of the HA's comprehensive security and safety strategy.

- e. HA police departments shall collect information on drug-related crime and other criminal activities as defined by the Uniform Crime Reporting (UCR) system (any Part I or Part II crimes that occur). HA police departments shall establish, implement and maintain a system of records management that ensures confidentiality of criminal records and information. An HA-approved daily activity and incident complaint form shall be used for the collection, analysis, workload, response to service calls, reporting of activities and crime by officers within the HA/developments. Computers, software, and associated equipment are permitted as eligible items for HA crime and workload data collection activities to support the overall HA's comprehensive crime prevention, security and safety mission.
- f. HA police department officers shall have car-to-car (or other vehicles) and portable-to-portable radio communications links between HA police officers and local law enforcement officers to assure a coordinated and safe response to crimes or calls for services. The use of scanners (radio monitors) is not sufficient to meet this requirement.
- g. HA police departments shall employ a community policing concept.
 - (1) Community policing has a variety of definitions; however, for the purposes of the CGP, it is defined as a method of providing law enforcement services that stresses a partnership among residents, police, schools, churches, government services, the private sector, and other local/tribal, state, and Federal law enforcement agencies to prevent crime by addressing the conditions and problems that lead to crime and the fear of crime.

- (2) Community policing involves a philosophy of proactive measures, such as foot patrols, bicycle patrols and citizen contacts. It empowers police officers at the beat and zone levels and residents

in neighborhoods in an effort to: reduce crime and fear of crime; assure the maintenance of order; provide referrals of residents, victims, and the homeless to social services and government agencies; assure feedback of police actions to victims of crime; and promote a law enforcement value system on the needs and rights of residents.

- h. HA police departments that are not nationally or state accredited shall submit a plan and timetable for such accreditation. HAS may use either their state accreditation program, if one exists, or the Commission on Accreditation for Law Enforcement Agencies (CALEA) for this purpose.
- i. The law enforcement community developed a body of standards in 1981 against which law enforcement agencies could be evaluated. While some states have their own law enforcement accreditation program, the nationwide accreditation program is managed by the CALEA, which is located in Fairfax, VA. The purpose of accreditation is to reduce the liability exposure of agencies and personnel, and to assure that law enforcement agencies meet a uniform body of standards.
- j. The accreditation concept emphasizes a voluntary, self-motivated approach by which organizations seek to achieve and maintain objectively verified high quality operations through periodic evaluations conducted by an independent, nongovernmental body that has established standards for its "clientele". In simple terms, "to accredit" means to recognize or vouch for an agency as conforming to a body of standards related to a specific discipline - in this instance, law enforcement.
- k. The process for CALEA consists of formal application, a mutual aid contract, an in-depth self assessment, an on-site assessment by Commission-selected practitioner assessors from outside the state of the requesting agency, and final Commission review and decision. Self-assessment enables an agency to establish proofs of compliance with standards specific to the agency and to review its organization, management, operations, and administrative activities to determine if it meets the requirements. Certain standards are mandatory based on health, life, safety, and importance to the community and the agency.

- l. Use of CGP funds for HA police department accreditation activities is permitted, including hiring an HA police department accreditation specialist to manage the accreditation program.

- m. HAs with HUD-authorized police departments are permitted to use CGP funds to purchase or lease any law enforcement clothing or equipment, such as vehicles, uniforms, ammunition, firearms/weapons, police vehicles, including cars, vans, buses, and protective vests, or any other supportive equipment, etc. that supports the HA's security mission.
 - n. HAs that do not have HUD-authorized police departments are not permitted to use CGP funds to purchase or lease any law enforcement clothing or equipment for use by their police departments.
 - o. Expenditures for activities shall not be incurred by the HA and/or funds released by the FO until the HA has met all the above requirements.
4. Reimbursement of Local Law Enforcement Agencies for Additional Security and Protective Services.
- a. Additional security and protective services shall be over and above the local police department's current level of baseline services. Local police department baseline services are defined as ordinary and routine services provided to residents as a part of the overall, city and county-wide deployment of police resources, to respond to crime and other public safety incidents, including 911 communications, processing calls for service, routine patrol, police officer response to calls for service, and investigative follow-up of criminal activity.
 - b. HAs shall first define the current local police department's level of baseline services to the HA/residents (which should be the same city/county-wide) to include the number of officers and equipment and the actual percent of their time assigned to the HA/developments and then demonstrate to what extent the activity will represent an increase over and above these baseline services.
 - c. HAs are not permitted to supplant local existing police department positions. Funding from the HA shall be over and above the approved local government budget for the local law

enforcement provider and shall not be used to supplant the law enforcement agency's budget. Supplanting is defined as taking the place of or superseding.

- d. Reimbursement of local law enforcement agencies for additional protective services for communications and security equipment to improve collection, analysis, and use of information about drug-related crime, other criminal activities and associated problems in HAs/developments, such as surveillance equipment (e.g., Closed Circuit Television

(CCTV), software, cameras, monitors, components and supporting equipment), computers accessing national, state, or local/tribal government security networks and databases, facsimile machines, telephone equipment bicycles, and motor scooters is permitted for the HA/development's comprehensive security efforts, and in connection with the establishment of a law enforcement substation and presence on HA property. The reimbursement shall be provided in accordance with a contractual agreement between the HA and the local law enforcement agency.

- e. To reimburse the local law enforcement agency for additional security and protective services, the HA shall execute a long-term law enforcement service agreement, (over and above local law enforcement baseline services) with the primary law enforcement provider (local police, sheriff and/or state). The HA shall include in the service agreement, but not be limited to the following: supplemental law enforcement services to HA and residents and properties that shall be over and above the baseline services of the local law enforcement provider and HA funding shall be over and above the approved local government budget for the law enforcement provider and shall not be used to supplant the law enforcement agency's budget; the law enforcement provider shall employ a community policing model that is acceptable to the HA, the HA shall designate the locations and times for the supplemental law enforcement services; service level objectives shall be clearly defined in the service agreement; supplement law enforcement personnel shall complete specific forms provided by the HA for use in collecting, analyzing, and monitoring workload and activities; the municipality shall provide supervision of supplemental law enforcement personnel; and a demonstrated commitment from the municipality to develop and execute an law enforcement operations plan, regrading a comprehensive security strategy in the HA, that is acceptable to the HA.
- f. The local law enforcement agency shall collect police officer activity (not just hours of work) information for the HA. The agency shall use an HA-approved activity form for the collection,

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analysis and reporting of activities by officers funded under this section. Reimbursement of local law enforcement agencies for additional protective services for computers, software, and associated equipment are permitted as eligible items for HA crime and workload data collection activities to support its comprehensive security and safety mission.

- g. HAs are not permitted to supplant local police department existing positions. Funding from the HA shall be over and above the approved local government budget for the law enforcement provider and shall not be used to supplant the local law enforcement agency's budget.

- h. Expenditures shall not be incurred by the HA and/or funds released by the FO until the HA and the local law enforcement agency execute a contract for the additional law enforcement services.
- i. To assist HAs to develop and administer relevant, fair, and productive protective services or law enforcement contracts with local police departments for the delivery of effective services to HAs and residents, a sample contract for law enforcement services is provided with the application kit. A sample contract may be obtained by calling HUD's Drug Information and Strategy Clearinghouse at 1-800-578-3472.
- j. The Department encourages local community collaborations between HAs and local police departments, regarding elimination of drug-related crime, other criminal activities and associated problems to improve safety and security for HA residents. This strategy shall include implementation of a community policing program that is acceptable to the HA.
- k. The Department encourages HAs to work closely with local police departments to permit the admission to public housing of police officers and other security personnel, whose visible presence may serve as a deterrent to drug-related crime, other criminal activities and associated problems. Section 519 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a-1) permits HAs to allow police officers and other security personnel not otherwise eligible for occupancy to reside in public or Indian housing dwelling units under a plan that will increase security for residents, while minimizing both the reduction of available dwelling units and loss of HA income. Refer to 24 CFR Part 960, Subpart E, for PHAs or to 24 CFR 950.308 for IHAs. For assistance regarding this program contact the FO.

5. Physical Improvements to Enhance Security.

- a. Physical improvements that are specifically designed to enhance security are eligible costs. These improvements may include, but are not limited to: installation of barriers, lighting systems, fences, surveillance equipment (e.g., Closed Circuit Television (CCTV), cameras, monitors, components and supporting equipment, etc.), speed bumps, bolts, locks; and the landscaping or reconfiguration of common areas so as to discourage drug-related crime, other criminal activities and associated problems in the HA/developments.
- b. All physical improvements shall be accessible to persons with disabilities. For example, some types of locks, buzzer systems, doors, etc., are not accessible to persons with limited strength or mobility or hearing impairment.

6. Voluntary Tenant Patrols. The elimination of drug-related crime, other criminal activities and associated problems within the HA/developments requires the active involvement and commitment of residents and their organizations.
- a. The provision of training and equipment (including all season uniforms and equipment) for use by active voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies is an eligible cost. Members must be volunteers and must be tenants of the HA/developments. Voluntary tenant patrols established under the CGP are expected to patrol in the HA/developments, and to report illegal activities to appropriate HA staff, and local/tribal, state, and Federal law enforcement agencies, as appropriate. HAs are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol. The cost of this insurance is not an eligible CGP cost.
 - b. The HA and the cooperating local law enforcement agency, before expending any CGP funds, shall enter into and execute a written agreement that describes the following:
 - (1) The nature of the activities to be performed by the voluntary tenant patrol, the patrol's scope of authority and assignment the established policies, procedures and practices that will govern the voluntary tenant patrol's performance, and how the patrol will coordinate its activities with the local law enforcement agency;
 - (2) The types of activities that a voluntary tenant patrol is expressly prohibited from undertaking that include, but are not limited to, the carrying or use of firearms or other weapons, nightstick, clubs, handcuffs, or mace in the course of their duties; and
 - (3) The initial and follow-up training that the voluntary tenant patrol members receive from the local law enforcement agency. Training by the local law enforcement agency is required before putting the voluntary tenant patrol into effect.
 - c. Uniforms, communication and related equipment eligible for CGP funding shall be reasonable, necessary, justified and related to the operation of the voluntary tenant patrol and otherwise permissible under local/tribal, state, or Federal law. Bicycles, motor scooters, all season uniforms and associated equipment shall be identified with specific HA/development identification/markings and shall be used exclusively by the members of the voluntary tenant patrols in the course of their duties.
 - d. The salaries of HA personnel or residents hired to coordinate

the voluntary tenant patrols are eligible CGP costs.

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APPENDIX 2-2 DEVELOPMENT ACCOUNTS/ACCOUNTING PROCEDURES

INTRODUCTION

Appendix 2-2 is comprised of the following three sections:

- Section 1 - Chart of Accounts/Selected Definitions
- Section 2 - Listing of Ineligible Development Accounts
- Section 3 - Sample Accounting Entries

SECTION I - CHART OF ACCOUNTS/SELECTED DEFINITIONS

General Ledger Accounts: An asterisk (*) denotes development accounts used only for the Comprehensive Grant Program (CGP).

Account Number	Account Title
1400.1*	CGP Cost (Control)
2830*	CGP Replacement Reserve
2845	Cumulative HUD Grant Funds for CGP/CIAP at Fiscal Year End
6200*	Credits and Charges to CGP Replacement Reserve (Net)
8029.2	CGP/CIAP Funds Received During Current Year

Allowable Subsidiary Development Accounts to Account 1400.1, CGP Cost (Control):

For work to be funded with CGP funds, the appropriate development account number that relates to proposed work is entered on Form HUD-52837, Annual Statement/Performance and Evaluation Report, and, where applicable, on Form HUD-52842, Annual Statement/Performance and Evaluation Report on Replacement Reserve (when replacement reserve funds are utilized). The following development accounts may be used in the CGP and, therefore, represent eligible costs. An asterisk (*) denotes development accounts used only for the CGP.

Account Number	Account Title
1406	Operations
1408	Management Improvements
1410.1	Nontechnical Salaries
1410.2	Technical Salaries
1410.4	Legal Expense

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1410.9	Employee Benefit Contributions
1410.10	Travel
1410.12	Publications (limited to printing and distribution)

	of CGP-related materials)
1410.16	Telephone and Telegraph (including facsimile)
1410.19	Sundry (excluding costs not directly attributable to the Modernization Program)
1411*	CGP Audit Cost
1415	Liquidated Damages
1430.1	Architectural and Engineering Fees
1430.2	Consultant Fees
1430.6	Permit Fees
1430.7	Inspection Costs
1430.19	Sundry Planning Costs
1440.1	Property Purchases
1440.2	Condemnation Deposits
1440.4	Surveys and Maps
1440.5	Appraisals
1440.6	Title Information
1440.8	Legal Cost - Site
1440.10	Option Negotiations
1440.12	Current Tax Settlements
1440.19	Sundry Site Costs
1450	Site Improvements
1460	Dwelling Structures
1465.1	Dwelling Equipment - Nonexpendable
1470	Nondwelling Structures
1475.1	Nondwelling Equipment - Office Furniture and
Equipment	
1475.2	Nondwelling Equipment - Maintenance Equipment
1475.3	Nondwelling Equipment - Community Space Equipment
1475.4	Nondwelling Equipment - Computer Equipment
1475.7	Nondwelling Equipment - Automotive Equipment
1475.9	Nondwelling Equipment - Expendable (only in conjunction with HUD-approved force account labor)

1485	Demolition Costs
1490*	CGP Replacement Reserve
1495	Relocation Costs
1498	MOD Funds Used for Development

For descriptions of the above accounts, refer to the PIH Low-Rent Technical Accounting Guidebook 7510.1. Descriptions of existing accounts specific to modernization (accounts 1406, 1408, and 1498) and

specific to CGP (accounts 1411 and 1490), as well as a description of a new account (1485) are set forth below.

1400.1* CGP Cost (Control). This account shall be debited with all costs incurred in connection with an approved CGP Annual Statement. The costs are more specifically defined in the description of the subsidiary accounts to Account 1400.1. This account shall be supported by a CGP Cost Ledger containing the breakdown of costs by the subsidiary cost accounts. A separate account 1400.1 shall be maintained for each CGP Annual Statement for which an Actual Modernization Cost Certificate (AMCC) is required for fiscal closeout.

CGP Cost Ledger. The CGP Cost Ledger shall be maintained in such a way that the CGP costs classified by the prescribed classification of subsidiary accounts can be determined separately for each CGP Annual Statement. At the close of each reporting period, the cumulative total of the amounts recorded in the CGP Cost Ledger shall represent the total CGP costs incurred to date regardless of whether such costs have or have not been paid.

Subsidiary Accounts to General Ledger Account 1400.1 CGP Cost (Control). The subsidiary accounts to Account 1400.2, Development Cost, shall be used, to the extent applicable, as subsidiary accounts to Account 1400.1, CGP Cost (Control). The subsidiary account numbers and titles which may be used for the CGP are listed above; the subsidiary accounts which may not be used are listed in Section 2 of this Appendix. Except as noted, the definitions of the subsidiary accounts are the same as that provided in Guidebook 7510.1.

1406 Operations. This account shall be charged (and Account 3000/3690 credited) with the amount of modernization funds allocated by the HA to be used for operating

expenses of projects included under Section 9 of the U.S. Housing Act, as amended. For Modernization purposes, the funds for Account 1406 are considered to be obligated and expended at the point of drawdown.

1408 Management Improvements. This account shall be charged with all costs incurred by the HA for

management improvements, including nontechnical salaries, technical salaries, employee benefit contributions, and consultant fees. Non-expendable equipment shall not be charged to this account, but to Account 1475.

- 1411* CGP Audit Cost. This account shall be charged with the cost of the Independent Audit (IA) specifically authorized for the CGP.
- 1485 Demolition Costs. This account shall be charged with all costs incurred by the HA for demolishing and clearing existing public housing structures and other improvements, disconnecting utilities, and clearing the site.
- 1490* CGP Replacement Reserve. This account shall be debited (and Account 2830 credited) with the amount authorized by HUD in the CGP Annual Statement to be funded and set aside as a replacement reserve to carry out eligible activities in future years.
- 1498 MOD Funds Used for Development. This account shall be used to record, as part of the modernization program cost, costs that are funded by a modernization program for the development of low-rent housing. The development costs recorded in this account shall be included in the Actual Modernization Cost Certificate for the modernization project which provided the funding.
- 2830 Reserved Surplus - CGP Replacement Reserve. The credit balance in this account represents the amount available to carry out activities described in an approved Annual Statement on Replacement Reserve for use of CGP replacement reserve funds.
- This account shall be credited (and Account 1400.1/1490 debited) with the amount authorized and funded as a replacement reserve cost in the CGP Annual Statement.

At the end of the June 30 CGP Replacement Reserve reporting period each year, this account shall be (1) credited (and Account 6200 debited) with the amount of interest earned on the CGP replacement reserve funds invested, and (2) debited (and Account 6200 credited) with the amount of replacement reserve expenditures. A single account shall be maintained for all Replacement Reserves authorized and funded in the CGP Annual Statements.

6200*

Credits and Charges to CGP Replacement Reserve (Net). This account shall be used to record the interest income and expenditures of the CGP Replacement Reserve during the reporting period. The cost accounts in the 1400 series prescribed for use for the CGP shall be used as subaccounts to Account 6200 for classifying expenditures from the CGP Replacement Reserve. In addition the following account shall be used to record interest income from CGP Replacement Reserve investments:

6200/1420.7, Interest Income from Investments. This account shall be credited with interest earned on the CGP Replacement Reserve funds invested.

At the end of the June 30 CGP Replacement Reserve reporting period each year, the net balance of this account shall be closed into Account 2830, Reserved Surplus - CGP Replacement Reserve.

If the HA fiscal year end does not coincide with the June 30 CGP Replacement Reserve reporting date, the balance in Account 6200 shall be closed to Account 2830 for fiscal year end reporting purposes. The fiscal year end closing entry shall be reversed at the beginning of the new fiscal year in order to reestablish the Account 6200 balance for the June 30 reporting period requirement.

The Account 6200 data shall be maintained in sufficient detail to permit reporting of expenditures against approved Annual Statements on Replacement Reserve for use of CGP Replacement Reserve funds.

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SECTION 2 - LISTING OF INELIGIBLE DEVELOPMENT ACCOUNTS

The following listing of development accounts that may not be used in the CGP, and therefore represent ineligible cost, are defined in Guidebook 7510.1.

Account Number	Account Title
1410.3	Work - MH Contribution
1410.14	Membership Dues and Fees
1410.18	Equipment Expended
1410.19	Sundry (costs not directly attributable to the Modernization Program)
1418	Counseling and Training Costs

1420.1	Interest to HUD
1420.7	Interest - Income From Investments (except as a sub-account to 6200 for CGP Replacement Reserve Investments)
1425	Initial Operating Deficit
1430.9	Housing Surveys
1440.3	Excess Property
1440.7	Site - MH Contribution
1440.20	Site Net Income
1465.2	Dwelling Equipment - Expendable
1465.3	Dwelling Equipment - MH Contribution
1475.9	Nondwelling Equipment - Expendable (other than in conjunction with HUD-approved force account labor)
1475.10	Nondwelling Equipment - MH Contribution
1480	Contract Work in Progress
1482	Developer's Contract Price (Turnkey) Work in Progress

SECTION 3 - SAMPLE ACCOUNTING ENTRIES

Sample accounting entries for the CGP are as follows:

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Receipt of CGP Funds:

a. Debit: Account 1111.1, Cash, General Fund (CGP/CIAP)

 Credit: Account 8029.2, CGP/CIAP Funds Received During Current Year

To record receipt of CGP funds from HUD. [Account 8029.2 is closed to Account 2845, Cumulative HUD Grant Funds for CGP/CIAP at Fiscal Year End.]

Expenditure of CGP Funds:

A separate Account 1400.1, CGP Cost (Control), and subsidiary account CGP Cost Ledger are maintained for each CGP Annual Statement.

b-1. Example: To record the cost of site improvements included in the CGP Annual Statement:

General Ledger

Debit: Account 1400.1, CGP Cost (Control)

Credit: Account 1111.1, Cash, General Fund (CGP/CIAP)

CGP Cost Ledger
Debit: Account 1450, Site Improvements

- b-2. Example: To record allocation of modernization funds to be used for operating expenses.

General Ledger
Debit: Account 1400.1, CGP Cost (Control)

Credit: Account 3000, Operating Income

CGP Cost Ledger
Debit: Account 1406, Operations

Operating Income Ledger
Credit: Account 3690, Other Income

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- b-3. Example: To record CGP funds used to pay low-rent housing development costs.

General Ledger
Debit: Account 1400.1, CGP Cost (Control)

Credit: Account 1111.1, Cash, General Fund (CGP/CIAP)

CGP Cost Ledger
Debit: Account 1498, MOD Funds Used for Development

Recording CGP Replacement Reserve as CGP Cost:

Under certain circumstances, the HA may include in the CGP Annual Statement an amount to be funded and set aside as a "replacement reserve" to carry out eligible activities in future years. The funding of the CGP replacement reserve is an eligible cost to the CGP under which the replacement reserve amount is budgeted. The receipt of the funds from HUD is recorded as a credit to Account 8029.2 (see entry a). The cost of the CGP Replacement Reserve is recorded as follows:

- c. General Ledger
Debit: Account 1400.1, CGP Cost (Control)

Credit: Account 2830, CGP Replacement Reserve

CGP Cost Ledger
Debit: Account 1490, CGP Replacement Reserve

CGP Replacement Reserve Transactions:

Funds in the CGP Replacement Reserve are not identified with a specific CGP Annual Statement. Funds may be accumulated from various CGP Annual Statements, but shall be used for purposes specified on the Annual Statement/Performance and Evaluation Report on Replacement

Reserve. Interest income from CGP Replacement Reserve investments is credited to the Replacement Reserve and is not considered to be operating income subject to inclusion in the PFS subsidy calculation. The HA shall submit an annual report to HUD by September 30 on the status of the CGP Replacement Reserve as of the end of the program year (June 30).

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Income/Expenditure Transactions-CGP Replacement Reserve:

- d. Debit: Account 1162, Investments
Credit: Account 6200, Credits and Charges to CGP Replacement Reserve (Net)
-and-
Account 6200/1420.7, Interest Income from CGP Replacement Reserve Investments

To record interest income earned on CGP Replacement Reserve funds invested.

- e. Example: CGP Replacement Reserve funds are used to replace roofs.

Debit: Account 6200, Credits and Charges to CGP Replacement Reserve (Net)
-and-
Account 6200/1460, Dwelling Structures

Credit: Account 1111.1, Cash

To record roof replacement expenditures from the CGP Replacement Reserve.

Closing Entries - CGP Replacement Reserve:

- f. Assuming a net debit balance in Account 6200:

Debit: Account 2830, CGP Replacement Reserve
Credit: Account 6200, Credits and Charges to CGP Replacement Reserve (Net)
-and-
Debit/Credit: Account 6200/1400 subaccounts

To close the balance of Account 6200 at June 30 to the CGP Replacement Reserve.

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Note: If the HA fiscal year end does not coincide with the June 30 CGP Replacement Reserve reporting date, the balance in Account 6200 at FYE also shall be closed to Account 2830 for fiscal year end reporting purposes. The fiscal year end closing entry shall

be reversed at the beginning of the new fiscal year in order to reestablish the Account 6200 balance for the July 1 through June 30 reporting period requirement.

APPENDIX 3-1 SUMMARY EXPLANATION OF FORMULA CHARACTERISTICS
AND WEIGHTS

Section 509(a) of the National Affordable Housing Act (NAHA) established a system of formula allocation of modernization funds to HAs with 250 or more units.

Data Used for the Formula

This formula was developed using data derived from the following sources:

1. The Modernization Needs Study: National, Regional and Field Office Estimates: Backlog of Modernization Needs, prepared by Abt Associates, Inc., of Cambridge, Massachusetts, 1988 ("the Abt report");
2. Future Accrual of Capital Repair and Replacement Needs of Public Housing, prepared by ICF, Inc., of Fairfax, Virginia, 1989 ("the ICF report"); and
3. HUD operational information systems on past uses of modernization funds.

The basis for the formula established in NAHA is data on the estimated modernization needs of public housing developments derived from the inspections conducted as part of the study of the backlog of modernization needs in public housing developments. This development-level information was then tested against a wide variety of characteristics of public housing developments to determine which characteristics came closest to predicting what HUD already knew about the developments from the inspection data.

While the modernization needs study was not designed to produce development-level estimates of modernization need, but rather to produce national and regional totals of this need, the method of developing these estimates called for detailed inspections at a scientifically selected sample of 996 public housing developments. This method produced a wealth of data about individual developments, enough data to permit the development of modernization backlog estimates for each of these sampled developments.

The availability of this data for a large sample of individual developments permits the use of an indirect method, based on the characteristics of public housing developments, for determining the relative modernization need of individual HAs. This indirect method involves estimating statistical relationships between modernization needs and the characteristics of a HA's inventory of developments.

These relationships can be estimated from the information provided in the Modernization Needs Study, the Study of Future Accrual of Capital Repair and Replacement Needs, and from supplementary information provided by HUD and the Census on the PHAs and the communities in which they are located. These relationships are then applied to a database containing development, HA, and community characteristics for each HA with over 250 units to yield an estimate of modernization needs for each of these HAs. These HA needs estimates, when expressed as relative shares of total modernization needs, provide indicators of relative need and allocation factors that can be used to distribute funds in a formula-based funding system.

The Abt and ICF studies of modernization needs provide the essential tools for estimates of HA need based on development characteristics. First, they provide estimates of the backlog and accrual need for 996 developments on the basis of standardized inspection and modeling.

Second, Abt collected basic data about developments for these and 5,670 other developments in more than 950 HAs (including almost all HAS with 500 or more units under management). Previous Abt and HUD studies also provided contextual indicators of need at the HA and community level to apply to all of the developments.

Third, the Abt and ICF studies provided sampling weights that enable statistical relationships of need for the 996 developments to be generalized to all developments with the same set of objective indicators--the Abt sampling frame of 6,670 developments as well as other developments for which data are easily collected.

The formula estimate of needs for public housing developments was developed using a statistical technique called multivariate regression. Multivariate regression, a technique that HUD already uses to help set HA allowable operating expenses under the Performance Funding System (PFS), allows selection of a set of indicators which maximizes the explanation (or "fit") of an independent measure. The multivariate technique also suggests the explanatory contribution of each indicator, individually and in combination with other indicators.

Selection Criteria for Indicators

Development characteristics had to meet several criteria in order to be used as explanatory indicators in the final regression estimates of backlog need and accrual need (each estimated separately). These criteria were:

Believability. Previous studies or professional judgment related the characteristic to some aspect of public housing need.

Individual explanatory significance. The development characteristic had to be significantly related (positively or negatively), with 97.5 confidence, to the need measure--in statistical

terms, a "t-ratio" above 2, or below minus 2, as appropriate.

Net explanatory impact. When added to other characteristics to be used as indicators, the characteristic adds significantly to the "fit" (for this formula, an increase in "adjusted R-squared" of at least .25, when the maximum R-squared is 100).

Expected Sign. The characteristic is related to the estimated measure in the expected direction (over different time periods, in the case of the accrual measure).

Non-collinearity. The explanatory indicator cannot be explained to a large degree by one or a set of other explanatory indicators (operationalized by a R-squared of less than 75, where 100 is maximum). When indicators are collinear, the indicator with the best quality and rationale is chosen, or collinear indicators are combined.

Clarity. The characteristic has a clear-cut specification not easily manipulated in data reporting.

Continuity. The indicator has as continuous a range of values as possible, in order to avoid a notch effect.

Ease of collection. The characteristic has been collected, or can be collected, in a standardized form from all HAS.

Indicators Selected for the Backlog Formula

Using the selection criteria just described, seven indicators were chosen to estimate the backlog of modernization needs at public housing developments to modernize them to the HUD modernization standards and to ensure their long-term viability. These indicators were presented in Appendix B of the Report to Congress on Alternative Methods of Funding Public Housing Modernization, and are listed as the backlog formula elements in Section 509(a) of NAHA.

The formula elements used in the backlog formula and their assigned weights (i.e., formula coefficients) are as follows:

1. Average number of bedrooms or unit in a development (AVEBED), weighted at 2858.7. This indicator represents the mix of elderly and family units in a development and represents the square footage per unit that can require repair. A higher number should yield a higher backlog per unit. Efficiencies are counted as zero bedrooms for this indicator.

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2. Large family units in a development (LFAM), weighted at 7295.7. This indicator represents very large families and a concentration of children in a development, with consequent wear and tear on the physical facilities. A higher number should yield a higher backlog per unit. This indicator is the difference between the average number of bedrooms per unit and 2.5, with values below zero

set to zero.

3. High-rise family development (HRFAM), weighted at 5555.8. This indicator represents the special problems, such as elevator repair, of housing families with children in high-rise buildings. A value of "1" is given for developments averaging at least 35 units per building and averaging at least 1.5 bedrooms per unit or averaging between 1.2 and 1.5 bedrooms per unit and having at least 100 units of 2 or more bedrooms. A value of "1" should yield higher backlog per unit, relative to all other developments given a value of zero.

4. Age of development (BLDAG), weighted at 206.5. This indicator is the physical age of the development as of 1985 (the year in which the backlog inspections were conducted), capped at 50 years for acquired developments. It represents years of physical wear, and sometimes, years of undermaintenance. A higher value should yield a higher backlog per unit.

5. Total family units in a large HA (FAMLPHA), weighted at .433. This indicator is the number of units with 2 or more bedrooms in an HA, with 5,000 deducted from that number. Values are capped at zero and 15,000. It represents the complex social and physical environment of housing low-income families in a concentrated manner in a large HA. A higher number should yield a higher backlog per unit.

6. Area cost index (MEANS), weighted at 27544.3. This indicator is the R.S. Means index (the area cost index used in the Abt and ICF studies), calibrated nationally at 1.00, with values expressed as the index minus 1. It represents inter-area differences in the cost of rehabilitating a given physical property. A higher value should yield a higher backlog per unit.

7. Severe population decline in the community (SPOPL), weighted at 759.5. This indicator is a population loss from 1970 to 1980 in excess of 12 percent for the community. When community population loss is below 12 percent, or when the project is a project for the elderly, the value is zero. It represents community and neighborhood problems, such as abandonment of property, that can accentuate wear and tear for developments with children. A higher value should yield more backlog per unit. (Although data from the 1990 census are available, this indicator is not updated to reflect the more recent data, since it reflects conditions in a community in the years preceding the 1985 development inspections on which the regression equation is based.)

In addition, an equation constant of 1412.9 is used to calibrate these indicators for estimating backlog need per unit.

The following table shows the impact of each of these indicators in estimating the backlog needs for three types of developments:

1. FM--a "family" development in a medium HA. It is assumed to

average 2 bedrooms per units; to be in a HA with 400 units of 2 or more bedrooms; to be in an area with a R.S. Means index of .98 (so that the Means indicator is $-.02 = .98 - 1.0$); and to be in a community whose population increased 1% from 1970 to 1980.

2. EL--an "elderly" development in a very large HA. It is assumed to average one bedroom per unit and to be in an area with a R.S. Means index of 1.02, so that $.02 = 1.02 - 1.00$. Although the HA for this "elderly" development has 7000 family units and its area had a population loss of 16 percent, the "elderly" development is still given a value of zero on the FAMLPHA and SPOPL indicators. (Compare this to the very large family development assumed to be in the same PHA discussed below.)

3. LFL--A large family development in a very large HA. It is assumed to average 3.0 bedrooms per unit (so the value for LFAM is .50 which is 3 minus 2.5); to be in a HA with 7000 units of 2 or more bedrooms (so its indicator value for FAMLPHA is $2000 = 7000 \text{ minus } 5000$); and to be in a community with a population loss of 16% from 1970 to 1980 (so its value for SPOPL is $4 = 16 - 12$).

The net effect on estimated need column in the table below is the result of multiplying the regression coefficient by the respective indicator values.

Table 1 -- Estimating Backlog for Three Types of Developments

Indicator	Regression Coefficient	Indicator Values			Net Effect on Estimated Need		
		FM	EL	LFL	FM	EL	LFL
AVEBED	2858.7	2.0	1.0	3.0	5718	2859	8577
FAMPR	N/A	100	0	300	N/A	N/A	N/A
LFAM	7295.7	0	0	.5	0	0	3648
HRFAM	5555.8	0	0	1.0	0	0	5556
BLDAG	206.5	20	10	30	4130	2065	6195

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FAMLPHA	.433	0	0	2000	0	0	866
MEANS	27544.3	-.02	+.02	+.02	-551	551	551
SPOPL	759.5	0	0	4	0	0	3038
CONSTANT	1412.9	1413	1413	1413	1413	1413	1413
Predicted Need Per Unit:					10,710	6,888	28,844
Indicators Selected for the Accrual Formula							

For this formula, accrual need is the 1986-1995 average of age-related capital accrual needs as modeled by ICF from Abt data, and updated to 1990 national totals. Using the selection criteria

discussed above, six indicators were chosen to estimate accrual need per unit, and are incorporated as formula elements in Section 509 of NAHA. The formula elements used in the accrual formula and their assigned weights (i.e., formula coefficients) are as follows:

1. Average number of bedrooms per unit (AVEBED), weighted at 100.1. This indicator represents the mix of elderly and family units in a development, and the square footage per unit that can require repair. A higher value should yield a higher accrual per unit. Efficiencies are counted as zero bedrooms.

2. Age of development (BLDAG), weighted at 10.4. This indicator is the physical age of the development as of 1985, capped at 50 years for acquired developments. It represents the stage of the useful life of building systems and equipment. Up to a certain age, as modelled, a higher value should yield a higher accrual per unit.

3. Large family units in a development (LFAM), weighted at 356.7. This indicator represents very large families and a concentration of children in a development, with consequent wear and tear on the physical facilities. A higher number should yield a higher accrual per unit. This indicator is the difference between the average number of bedrooms per unit and 2.5, with values below zero set to zero.

4. Low-rise developments (LRIS), weighted at 87.1. This indicator represents the likelihood of fewer economies of scale for major systems, and the likelihood of larger square footage of floors, walls, and roof covering when the number of bedrooms per unit is held constant. It is the difference between five units per building and the actual average number of units per building, e.g., a maximum value of four for single-unit buildings. Values below zero are set to zero. A higher value should yield a higher accrual per unit.

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5. Cost index (MEANS), weighted at 679.1, This indicator is the R.S. Means index (the area cost index used in the Abt and ICF studies), calibrated nationally at 1.0, with values expressed as the index minus 1.0. It represents inter-area differences in the cost of rehabilitating a given physical property. A higher value should yield a higher accrual per unit.

6. HA total units (PHAUN), weighted at .0144. This indicator is the total number of units in the HA, capped at 8000. It represents the probable complexity of physical systems not captured by development-specific indicators. A higher value should yield a higher accrual per unit.

In addition, an equation constant of 602.1 is used to calibrate these indicators to estimate accrual need per unit.

Table 2 shows the effect of these indicators in estimating accrual need for the same three developments used to illustrate the

effects of the backlog indicators in Table 1, above.

Table 2 -- Estimating Accrual for Three Types of Developments

Indicator	Regression Coefficient	Indicator Values			Net Effect on		
		Dev. Type:			Estimated Need		
		FM	EL	LFL	FM	EL	LFL
1. AVEBE	100.1	2.0	1.0	3.0	\$200	\$100	\$300
2. BLDAG	10.4	20	10	30	205	104	312
3. LFAM	356.7	0	0	.5	0	0	178
4. LRIS	87.1	3	0	0	261	0	0
5. MEANS	679.1	.02	+.02	+.02	-14	+14	+14
6. PHAUN	.0144	1000	8000	8000	14	115	115
Constant	602.1	602.1	602.1	602.1	602	602	602
Predicted Accrual Per Unit:					\$1268	\$935	
\$1521							

Despite points of similarity, the selected indicators of accrual differ in their specification, impact, and statistical fit from the selected indicators of backlog need.

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Differences in the indicators of accrual and backlog needs simply reflect differences in the measures of backlog and accrual needs that are being estimated. Backlog and accrual are markedly different both in concept and in the way they are measured. Backlog in concept is an accumulation of need that can be expected to be higher, all else being equal, in older or undermaintained developments. These types of developments are usually found in larger HAs. Accrual in concept is an incremental development modernization need that arises as systems age, and begins to be high in developments of medium age. Many medium-sized and small HAs have housing developments in this age range. In practice, moreover, the accumulation of backlog needs in some developments in larger HAs led to their partial abandonment by both residents and management, thereby intensifying their backlog. Backlog can mark the ravages of long, neglectful time, whereas accrual is the slow decay of steady time.

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APPENDIX 4-1 CONTAINS FORM HUD-52831, EXECUTIVE SUMMARY OF PRELIMINARY ESTIMATED COSTS (Physical and Management Needs - Comprehensive Grant Program (CGP)).

[HUD-52831](#)

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APPENDIX 4-2 CONTAINS FORM HUD-52832, PHYSICAL NEEDS ASSESSMENT, COMPREHENSIVE GRANT PROGRAM (CGP).

[HUD-52832](#)

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APPENDIX 4-3 CONTAINS FORM HUD-52833, MANAGEMENT NEEDS ASSESSMENT, COMPREHENSIVE GRANT PROGRAM (CGP).

[HUD-52833](#)

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APPENDIX 4-4 CONTAINS FORM HUD-52834, FIVE-YEAR ACTION PLAN -- PART I: SUMMARY AND PART II: SUPPORTING PAGES, PHYSICAL NEEDS WORK STATEMENT(S) -COMPREHENSIVE GRANT PROGRAM (CGP).

[HUD-52834](#)

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APPENDIX 4-5 CONTAINS FORM HUD-52835, LOCAL GOVERNMENT STATEMENT - COMPREHENSIVE GRANT PROGRAM (CGP).

[HUD-52835](#)

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APPENDIX 4-6 CONTAINS FORM HUD-52836, HA BOARD RESOLUTION APPROVING COMPREHENSIVE PLAN OR ANNUAL STATEMENT - COMPREHENSIVE GRANT PROGRAM (CGP).

[HUD-52836](#)

Physical Needs Assessment
Comprehensive Grant Program (CGP)

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 11/30/2008)

HA Name				<input type="checkbox"/> Original <input type="checkbox"/> Revision Number _____	
Development Number		Development Name		DOFA Date or Construction Date _____	
Development Type	Occupancy Type	Structure Type	Number of Buildings	Number of Vacant Units	
Rental	Family	Detached/Semi-Detached	Current Bedroom Distribution		
Turnkey III - Vacant	Elderly	Row	0 _____ 1 _____ 2 _____	%	
Turnkey III - Occupied	Mixed	Walk-Up	3 _____ 4 _____ 5 _____	Total Current Units	
Mutual Help		Elevator	5+ _____		
Section 23, Bond Financed					
General Description of Needed Physical Improvements				Urgency of Need (1-5)	
Total Preliminary Estimated Hard Cost for Needed Physical Improvements				\$	
Per Unit Hard Cost				\$	
Physical Improvements Will Result in Structural/System Soundness at a Reasonable Cost				Yes <input type="checkbox"/> No <input type="checkbox"/>	
Development Has Long-Term Physical and Social Viability				Yes <input type="checkbox"/> No <input type="checkbox"/>	
Date Assessment Prepared					
Source(s) of Information					

Public reporting burden for this collection of information is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This collection of information requires that each eligible applicant submit comprehensive plan information to HUD every six years in order to receive its annual formula grant. This information will be used by HUD to determine whether the comprehensive plan/annual submission meets statutory and regulatory requirements for the annual formula grant. Responses to the collection are required by Section 14(e)(1)(A) and (C) of the U.S. Housing Act of 1937, as amended. The information requested does not lend itself to confidentiality.

Instructions for Preparation of Form HUD-52832—Physical Needs Assessment

Report Submission: Prepare a separate form HUD-52832 for each development in the HA's inventory, which is eligible for Comprehensive Grant Program (CGP) funding, for all HA-wide nondwelling needs, e.g., maintenance equipment, and for any development needs. Submit these forms to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the physical needs assessment is required. On an as-needed basis, submit a revised form where physical needs have significantly changed since the last needs assessment and the HA wishes to include these needs in the Five-Year Action Plan. Developments which are contiguous and treated as one development for management purposes may be grouped together on a single form.

Heading Instructions:

HA Name. Enter the HA name.

Original or Revision Number. Self Explanatory. Every sixth year a new original is prepared.

Development Number. Enter an 11-digit alpha numeric code as follows: two-digit State code (alpha); two-digit Field Office code (numeric); P for Public Housing or B for Indian Housing; three-digit HA number (numeric); and three-digit development number (numeric). For example, VA05PO36001. In lieu of a development number, enter "HA-wide" for physical needs that are HA-wide in nature.

DOFA Date. Enter the Date of Full Availability (DOFA).

Construction Date. For acquired developments enter the actual date of construction or for scattered sites, the average date of construction of all buildings. **Note:** When the construction date is provided, this date will be used in lieu of the DOFA, subject to a 50-year cap.

General Characteristics. Check the appropriate box that describes the type of development, the type of occupancy, and the type of structure. CGP funds may be used to provide for modernization activities in Turnkey III units that are vacant or non-homebuyer occupied, or to provide for limited activities in homeowner-occupied units as long as the work is completed prior to conveyance.

If Turnkey III - Vacant is checked, indicate the number of vacant or non-homebuyer-occupied units planned for substantial rehabilitation next to the box and circle "V". By so doing, the HA indicates that: (1) the proposed modernization will result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III Program; and (2) the HA has homebuyers who both are eligible for homeownership, in accordance with the requirements of 24 CFR Part 904 for PHAs or 24 CFR Part 950, Subpart G, for IHAs, and have demonstrated their intent to be placed into the Turnkey III units proposed to be substantially rehabilitated.

If Turnkey III - Occupied is checked, indicate the number of Turnkey III units which are paid off, where work will be performed to meet statutory or regulatory requirements next to the box and circle "O".

Number of Buildings. Enter the number of buildings containing dwelling units.

Current Bedroom Distribution. Enter the current number of units for each bedroom size.

Vacant Units. Enter the number of vacant units as of the date this form is prepared and the percentage of vacant units to the total number of units in the development.

Total Current Units. Enter the number of units in this development under ACC.

Column Instructions:

General Description of Needed Physical Improvements. Enter a general description of all unfunded physical improvements that must be undertaken

to bring the development (dwelling and nondwelling structures, dwelling and nondwelling equipment, and site) up to a level at least equal to the modernization and energy conservation standards and to comply with other program requirements. Also, include any replacements of equipment, systems and structural elements that will be needed, assuming routine and timely maintenance, within the next five years. Enter only physical improvements that are eligible for CGP funding. Do not enter any physical improvements already funded by CIAP or other sources which the HA plans to complete. However, enter physical improvements currently funded under CIAP where the HA plans to reprogram CIAP funds for other work under the CGP.

On a separate form, include any unfunded physical improvement needs for HA-wide nondwelling structures and equipment. Also, include any replacements/rehabilitation of nondwelling structures and equipment that will be needed, assuming routine and timely maintenance, within the next five years.

Describe the proposed improvements in broad categories, such as kitchens, bathrooms, roofs, electrical systems, heating systems, landscaping, nondwelling structures, lead-based paint abatement, physical accessibility, maintenance facility, computer hardware, etc. Include all broad categories of needed work without regard to the availability and/or source of funds.

If there are no current needs and the HA does not anticipate any replacement needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the HA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need. For each broad category of work identified under the General Description of Needed Physical Improvements, enter a number that corresponds to the urgency of the need on a HA-wide basis, with "1" reflecting the most urgent need and "5" reflecting the least urgent need. Assign a "1" to activities required to correct emergency conditions and to meet statutory or other legally mandated requirements, such as physical accessibility.

Total Preliminary Estimated Hard Cost for Needed Physical Improvements. Enter the total preliminary estimated hard cost for the broad work categories listed in the General Description of Needed Physical Improvements; excluding any management improvements, administration, architectural/engineering fees, relocation or other soft costs.

Per Unit Hard Cost. Divide the Total Preliminary Estimated Hard Cost for Needed Physical Improvements by the total number of current units in the development and enter the per unit hard cost.

Physical Improvements Will Result in Structural/System Soundness at a Reasonable Cost. Check Yes or No. For cost reasonableness, the preliminary estimate of hard costs for work proposed at the development shall be 90 percent or less of Total Development Cost (TDC).

Development Has Long-Term Physical and Social Viability. Check Yes or No as to whether the HA has determined that the development has long-term physical and social viability. **Note:** If No is checked, attach the viability analysis and an explanation of what actions are proposed regarding the nonviable development.

Date Assessment Prepared. Self-explanatory.

Source(s) of Information. Identify the source(s) of information used to develop the General Description of Needed Physical Improvements. Retain such information in HA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Management Needs Assessment

Comprehensive Grant Program (CGP)

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 3/31/2010)

HA Name		<input type="checkbox"/> Original <input type="checkbox"/> Revision Number _____
General Description of Management Needs	Urgency of Need (1- 5)	Preliminary Estimated HA-Wide Cost
Total Preliminary Estimated HA-Wide Cost		\$
Date Assessment Prepared		
Source(s) of Information		

Public reporting burden for this collection of information is estimated to average 13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This collection of information requires that each eligible applicant submit comprehensive plan information to HUD every six years in order to receive its annual formula grant. This information will be used by HUD to determine whether the comprehensive plan/annual submission meets statutory and regulatory requirements for the annual formula grant. Responses to the collection are required by Section 14(e)(1)(B) of the U.S. Housing Act of 1937, as amended. The information requested does not lend itself to confidentiality.

Instructions for Preparation of Form HUD-52833, Management Needs Assessment

Report Submission: Prepare one form HUD-52833 for the entire HA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP) and every sixth year when a complete revision of the management needs assessment is required. On an as-needed basis, submit a revised form whenever management needs have significantly changed since the last needs assessment and the HA wishes to include those needs in the Five-Year Action Plan.

Heading Instructions:

HA Name. Enter the HA Name.

Original or Revision Number. Self-explanatory. Every sixth year a new original is prepared.

Column Instructions:

General Description of Management Needs. Enter a general description of all unfunded and no cost improvements needed to upgrade the management and operation of the HA and of each viable development so that decent, safe and sanitary living conditions will be provided. Enter only management improvements that are eligible for CGP funding, including any management needs anticipated over the next five years.

Do not enter any management improvements already funded by CIAP or other sources which the HA plans to complete. However, enter management improvements currently funded under CIAP where the HA plans to reprogram CIAP funds for other work under the CGP.

Identify all current needs related to the mandatory areas set forth in the CGP Guidebook 7485.3, as revised. To the extent that any of these needs are addressed in an existing document, cross-reference that document. For PHAs, an existing document includes a Memorandum of Agreement (MOA) developed in accordance with the provisions of the Public Housing Management Assessment Program (PHMAP) or an Improvement Plan (IP). For example, "improve rent collection, see MOA." If a particular work category is targeted to a specific development, enter the development number in parentheses.

In addition, at the HA's option, include other management and operations needs identified through a self-assessment or identified under the PHMAP for PHAs, but not set forth in an MOA or IP.

Describe the needs in broad categories, such as rent collection, preventive maintenance, security, etc. Enter all broad categories of needs without regard to the availability and/or source of funds.

If there are no current needs and the HA does not anticipate any management needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the HA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need. For each broad category of need identified under the General Description of Management Needs, enter a number that corresponds to the relative urgency of the need, with "1" reflecting the most urgent need and "5" reflecting the least urgent need.

Preliminary Estimated HA-Wide Cost. Enter the preliminary estimated HA-wide cost for each broad category of need described in the General Description of Management Needs.

Total Preliminary Estimated HA-Wide Cost. Enter the total preliminary estimated cost for the broad categories listed in the General Description on Management Needs.

Date Assessment Prepared. Self-explanatory.

Source(s) of Information. Identify the source(s) of information used to develop the General Description of Management Needs. Retain such information in HA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Five-Year Action Plan

Part I: Summary

Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 3/31/2010)

HA Name		Locality (City/County & State)				<input type="checkbox"/> Original	<input type="checkbox"/> Revision No. _____
A.	Development Number/Name	Work Stmt. for Year 1 FFY _____	Work Statement for Year 2 FFY _____	Work Statement for Year 3 FFY _____	Work Statement for Year 4 FFY _____	Work Statement for Year 5 FFY _____	
		See Annual Statement					
B.	Physical Improvements Subtotal						
C.	Management Improvements						
D.	HA-Wide Nondwelling Structures and Equipment						
E.	Administration						
F.	Other						
G.	Operations						
H.	Demolition						
I.	Replacement Reserve						
J.	Mod Used for Development						
K.	Total CGP Funds						
L.	Total Non-CGP Funds						
M.	Grand Total						
Signature of Executive Director			Date	Signature of Public Housing Director			Date

Five-Year Action Plan
Part I: Summary (Continuation)
 Comprehensive Grant Program (CGP)

**U.S. Department of Housing
 and Urban Development**
 Office of Public and Indian Housing

A. Development Number/Name	Work Stmt. for Year 1 FFY _____	Work Statement for Year 2 FFY _____	Work Statement for Year 3 FFY _____	Work Statement for Year 4 FFY _____	Work Statement for Year 5 FFY _____
	<p style="text-align: center;">See Annual Statement</p>				

Five-Year Action Plan
Part II: Supporting Pages
Physical Needs Work Statement(s)
Comprehensive Grant Program (CGP)

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

Work Statement for Year 1 FFY _____	Work Statement for Year _____ FFY _____			Work Statement for Year _____ FFY _____		
	Development Number/Name/General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name/General Description of Major Work Categories	Quantity	Estimated Cost
See Annual Statement						
	Subtotal of Estimated Cost			Subtotal of Estimated Cost		

Five-Year Action Plan
Part III: Supporting Pages
Management Needs Work Statement(s)
 Comprehensive Grant Program (CGP)

**U.S. Department of Housing
 and Urban Development**
 Office of Public and Indian Housing

Work Statement for Year 1 FFY _____	Work Statement for Year _____ FFY _____			Work Statement for Year _____ FFY _____		
	General Description of Major Work Categories	Quantity	Estimated Cost	General Description of Major Work Categories	Quantity	Estimated Cost
See Annual Statement						
	Subtotal of Estimated Cost			Subtotal of Estimated Cost		

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This collection of information requires that each eligible applicant submit information to HUD in order to receive its annual formula grant. This information will be used by HUD to determine whether the annual submission meets statutory and regulatory requirements for the annual formula grant. Responses to the collection are required by Section 14(e)(1)(D) of the U.S. Housing Act of 1937, as amended. The information requested does not lend itself to confidentiality.

Instructions for Preparation of Form HUD-52834, Five-Year Action Plan

Report Submission: Prepare one form HUD-52834 for the entire HA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP). Thereafter, submit annually an updated form to eliminate the previous year and to add a new fifth year so that the form always covers the present five-year period beginning with the current year. Use as many pages of this form as necessary to cover all proposed work.

Part I: Summary

Heading Instructions:

HA Name. Enter the HA name.

Locality (City/County & State). Enter the City/County and State where the HA Central Office is located.

Original/Revision No. Self-explanatory.

Year 1. Enter the current FFY.

Years 2 through 5. Enter each successive FFY.

A. Development Number/Name. Enter the abbreviated number (e.g. VA 36-1) and name, if any, of each development that will be allocated funding for physical improvements during the five-year period covered by this Action Plan.

Work Statement(s) Years 2 through 5

For each development entered in A., enter the estimated amount of CGP funds to be allocated for physical improvements (development accounts 1450 through 1475) during each year of years 2 through 5.

B. Physical Improvements Subtotal. Enter the estimated subtotal amount of CGP funds to be allocated for physical improvements during each year of years 2 through 5.

C. Management Improvements. Enter the estimated amount of CGP funds to be allocated for management improvements, including those that are HA-wide and/or development-specific, (development account 1408) during each year of years 2 through 5. **Note:** The estimated amount may not exceed 20% of the annual grant, except where approved by HUD or the PHA is both an overall high performer and a Mod-high performer under the PHMAP.

D. HA-Wide Nondwelling Structures and Equipment. Enter the estimated amount of CGP funds to be allocated for HA-wide nondwelling structures and equipment during each year of years 2 through 5.

E. Administration. Enter the estimated amount of CGP funds to be allocated for administration costs (development account 1410) during each year of years 2 through 5. **Note:** The estimated amount may not exceed 10% of the annual grant, excluding certain costs, except where approved by HUD.

F. Other. Enter the estimated amount of CGP funds to be allocated for other costs (development accounts 1411, 1415, 1430, 1440, 1495,) and for contingencies (development account 1502) for each year of years 2 through 5.

G. Operations. Enter the estimated amount of CGP Funds to be allocated to operations (may not exceed 10% of line K) for each year of years 2 through 5.

H. Demolition. Enter the estimated amount of CGP funds to be used for demolition activities (development account 1485) for each year of years 2 through 5.

I. Replacement Reserve. Enter the estimated amount of CGP funds to be allocated to the replacement reserve (development account 1490) in accordance with the requirements of Handbook 7485.3, for each year of years 2 through 5.

J. Mod Used for Development. Enter the estimated amount of CGP funds to be used for development activities (development account 1498) for each year of years 2 through 5.

K. Total CGP Funds. Enter the total amount of CGP funds that is estimated for each year of years 2 through 5. This is the sum of B through J and should equal the amount of the current year annual grant.

L. Total Non-CGP Funds. Enter the estimated amount of non-CGP funds (e.g., Community Development Block Grant funds, CIAP funds being reprogrammed for use under the CGP, etc.) to be allocated in support of the CGP for each year of years 2 through 5.

M. Grand Total. Enter the total of K and L.

Note: Enter all estimates as current cost; not trended for inflation.

Part II: Supporting Pages—Physical Needs Work Statement(s)

FFY:

Work Statement for Year 1. Enter the current FFY.

Work Statements for Years 2 through 5. Enter each successive FFY.

Development Number/Name.

Enter the abbreviated development number (e.g., VA 36-1) and name, if any, of each development which will be funded in each year of years 2 through 5 or enter "HA-wide."

General Description of Major Work Categories. For each development entered, list the major work categories for which CGP funding, including non-CGP funds, will be allocated in each year of years 2 through 5. The work categories should be described in broad terms, such as kitchens, bathrooms, electrical, site, etc. A work category may encompass various components; e.g., the major work category of kitchens may include ranges, refrigerators, cabinets, floors, range hoods, etc.

For "HA-Wide," list HA-wide non-dwelling structures and equipment that will be funded.

Quantity. Enter the quantity of the major work category to be undertaken as a percentage or whole number, e.g., 50 percent of the units, 125 units, etc.

Estimated Cost. For each major work category or HA-wide nondwelling structures and equipment listed, enter the estimated hard cost that will be allocated in each year of years 2 through 5. Mark with an asterisk the estimated cost of each work item that will be funded with non-CGP funds, including reprogrammed CIAP funds. Enter the subtotal of estimated costs for each year of years 2 through 5 that will be funded with CGP funds, excluding asterisked items. This subtotal should be reflected on line B in Part 1: Summary for each year of years 2 through 5.

Part III: Supporting Pages—Management Needs Work Statement(s)

FFY:

Work Statement for Year 1. Enter the current FFY.

Work Statements for Years 2 through 5. Enter each successive FFY.

General Description of Major Work Categories. In each year of years 2 through 5, enter the major work categories for which CGP funding, including non-CGP funds, will be allocated as well as those work categories that are no cost items. This includes work identified through the Public Housing Management Assessment Program (PHMAP) for PHAs, or through audits, HUD monitoring reviews, or HA self-assessments. The work categories should be described in sufficient detail for HUD to make a determination of eligibility. For example, training activities must describe how they relate to identified physical or management improvements, e.g., staff training to improve PHMAP scores on rent collection. If a particular work category is targeted to a specific development, e.g., conduct study to determine the feasibility of resident management, enter the development number in parenthesis.

Quantity. Where appropriate, enter the quantity of the major work category to be undertaken as a percentage or whole number, e.g., train 50 residents, train 10 percent of the staff, etc.

Estimated Cost. For each major work category entered, enter the estimated cost that will be allocated in each year of years 2 through 5. Mark with an asterisk the estimated cost of each work item that will be funded with non-CGP funds, including reprogrammed CIAP funds. Enter the subtotal for each year of years 2 through 5 that will be funded with CGP funds, excluding asterisked items. This subtotal should be reflected on line C in Part I: Summary for each year of Years 2 through 5.

Local Government Statement
Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 3/31/2010)

Public reporting burden for this collection of information is estimated to average 0.5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This collection of information requires that each eligible applicant submit information to HUD in order to receive its annual formula grant. This information will be used by HUD to determine whether the annual submission meets statutory and regulatory requirements for the annual formula grant. Responses to the collection are required by Section 14(e)(1)(E) of the U.S. Housing Act of 1937, as amended. The information requested does not lend itself to confidentiality.

As Chief Executive Officer of the unit of general local government known as

in which the (name of Public Housing Agency (PHA))

operates,

I certify to the following:

1. The HA developed the Comprehensive Plan/Annual Statement in consultation with local government officials/Indian tribal officials and with residents of the developments covered by the Comprehensive Plan/Annual Statement, in accordance with the requirements of the Comprehensive Grant Program;

2. For PHAs, the Comprehensive Plan/Annual Statement is consistent with the unit of general local government's assessment of its low-income housing needs (as evidenced by its Consolidated Plan under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services; and
3. The HA's proposed drug and crime elimination activities are coordinated with and supportive of local strategies and neighborhood improvement programs, if applicable. Under the Cooperation Agreement, the local government is providing public services and facilities of the same character and to the same extent to Public housing as are furnished to other dwellings and residents of the locality. Where additional on-duty police are being funded under the Comprehensive Grant Program, such police will only provide additional security and protective services over and above those for which the local government is contractually obligated to provide under the Cooperation Agreement.

Note: The Comprehensive Plan includes the Action Plan.

Name of Chief Executive Officer	Signature of Chief Executive Officer	Date

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

HA Board Resolution Approving Comprehensive Plan or Annual Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 3/31/2010)

Public reporting burden for this collection of information is estimated to average 0.5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This collection of information requires that, as a condition to receive a CGP grant, each Housing Authority (HA) certify that it has complied or will comply with statutory, regulatory and other HUD requirements. This information is essential to determine HA compliance, or intent to comply, with CGP requirements. Responses to the collection are required by regulation. The information requested does not lend itself to confidentiality.

Acting on behalf of the Board of Commissioners of the below-named Housing Authority (HA), as its Chairman, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

☐ Comprehensive Plan Submitted on _____

☐ Amendments to Comprehensive Plan Submitted on _____

☐ Action Plan / Annual Statement Submitted on _____

☐ Amendments to Action Plan / Annual Statement
Submitted on _____

I certify on behalf of the (HA Name) _____ that:

1. The HA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;
2. The HA has established controls to ensure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity;
3. The HA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;
4. The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 968.115 or 24 CFR 950.610;
5. The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the HA;
6. The HA will comply with applicable nondiscrimination and equal opportunity requirements under 24 CFR 5.105(a) or 24 CFR 950.115;
7. The HA will take appropriate affirmative action to award modernization contracts to minority and women's business enterprises under 24 CFR 5.105(a) or 24 CFR 950.115(e); or the IHA will, to the greatest extent feasible, give preference to the award of modernization contracts to Indian organizations and Indian-owned economic enterprises under 24 CFR 950.175;
8. The HA has provided HUD or the responsible entity with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 968.110(c), (d) and (m) or 24 CFR 950.120(a), (b), and (h), and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the HA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;

9. The HA will comply with the wage rate requirements under 24 CFR 968.110(e) and (f) or 24 CFR 950.120(c) and (d);
10. The HA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 968.108 or 24 CFR 950.117;
11. The HA will comply with the requirements for physical accessibility under 24 CFR 968.110(a) or 24 CFR 950.115(d);
12. The HA will comply with the requirements for access to records and audits under 24 CFR 968.145 or 24 CFR 950.120(e);
13. The HA will comply with the uniform administrative requirements under 24 CFR 968.135 or 24 CFR 950.120(f);
14. The HA will comply with lead-based paint testing and abatement requirements under 24 CFR 968.110(k) or 24 CFR 950.120(g);
15. The HA has complied with the requirements governing local/tribal government and resident participation in accordance with 24 CFR 968.315(b) and (c), 968.325(d) and 968.330 or 24 CFR 950.652(b) and (c), 950.656(d) and 950.658, and has given full consideration to the priorities and concerns of local/tribal government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;
16. The HA will comply with the special requirements of 24 CFR 968.102 or 24 CFR 950.602 with respect to a Turnkey III development; and
17. The PHA will comply with the special requirements of 24 CFR 968.101(b)(3) with respect to a Section 23 leased housing bond-financed development.
18. The modernization work will promote housing that is modest in design and cost, but still blends in with the surrounding community.

Attested By: Board Chairman's Name

(Seal)

Board Chairman's Signature

Date

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

APPENDIX 5-1 HUD REVIEW CHECKLIST FOR COMPREHENSIVE PLAN

HA: _____
FFY: _____

Date of FO Receipt (Start of 75 Calendar Day
Review Period): _____

Date of End of 75 Calendar Day Review Period: _____
Part 1: Completeness Checklist

The Comprehensive Plan is complete only if the answers to all of the
following questions are YES.

- | | Yes | No |
|--|-------|-------|
| 1. Executive Summary: | | |
| Form HUD-52831, Executive Summary of
Preliminary Estimated Costs. | _____ | _____ |
| Description of Resident Partnership
and Summary of General Issues/HA Response | _____ | _____ |
| 2. Form HUD-52832, Physical Needs Assessment,
for each development and HA-wide | _____ | _____ |
| 3. Form HUD-52833, Management Needs Assessment. | _____ | _____ |
| 4. Form HUD-52834, Five-Year Action Plan. | _____ | _____ |
| 5. Form HUD-52835, Local Government Statement. | _____ | _____ |
| 6. Form HUD-52836, PHA/IHA Board Resolution
Approving Comprehensive Plan or Annual Statement. | _____ | _____ |
| 7. Any additional information or assurances,
where required. | _____ | _____ |

Accepted for Review (Y/N)? _____

If accepted for review, enter date of FO
letter to HA notifying of acceptance: _____

If not accepted for review, enter date of
FO letter to HA notifying of non-acceptance
and reasons: _____

Comments: _____

Enter HA resubmission due date: _____

Part II: Substantive Review

HUD shall approve the Comprehensive Plan if the answers to all of the following questions are YES:

	Yes	No
Comprehensive Plan is complete in significant matters.	_____	_____
Identified needs are plainly consistent with facts and data:	_____	_____
Identified physical improvements and replacements are adequate to bring the development(s) up to the modernization and energy conservation standards, including physical accessibility requirements.	_____	_____
Identified management improvements are adequate.	_____	_____
Proposed physical and management improvements address identified needs.	_____	_____
Action Plan is plainly appropriate to meeting identified needs.	_____	_____

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Demonstration of long-term viability at reasonable cost is adequate.	_____	_____
There is no evidence which tends to challenge, in a substantive manner, the certifications contained in the Local Government Statement or PIH/IHA Board Resolution.	_____	_____
All work categories appear to be eligible.	_____	_____
There is no evidence of failure to implement the Partnership Process.	_____	_____
There are no outstanding civil rights compliance issues. [If No, contact Headquarters.]	_____	_____

Approval of Comprehensive Plan is recommended (enter initials under Yes or No):

	Yes	No
Name/Title	_____	_____
Name/Title	_____	_____
Name/Title	_____	_____
Name/Title	_____	_____
OPH Director/ONAP Administrator	_____	_____

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APPENDIX 5-2 SAMPLE FIELD OFFICE APPROVAL LETTER ON
COMPREHENSIVE PLAN/ANNUAL STATEMENT

Dear Executive Director:

This is to inform you that the HA's Comprehensive Plan, including the Annual Statement for FFY _____ in the amount of \$ _____ submitted for the Comprehensive Grant Program (CGP), has been approved. This Comprehensive Plan is binding upon HUD and the HA until such time as the HA submits, and HUD approves, an amendment to the Plan.

This approval of the Comprehensive Plan does not constitute an endorsement of the HA's improvement strategies or funding priorities or approval of the Section 504 needs assessment and, where necessary, transition plan. However, [enter any non-binding advice].

Enclosed is an original and three copies of the Comprehensive Grant Program Amendment to the Annual Contributions Contract (ACC). Please enter the HA's tax identification number on the CGP Amendment in order to link the CGP grant with established banking information already in the Line of Credit Control System (LOCCS). Where permitted by State/tribal law and the HA's own by-laws, the HA Executive Director may sign and return the original and three copies of the CGP Amendment without Board Resolution. Where not permitted, the Board of Commissioners shall authorize, through Board Resolution, the Board Chairman or the Executive Director to sign the CGP Amendment. You are requested to return the signed CGP Amendment as quickly as possible so that you may begin program implementation.

In addition, a copy of the approved Annual Statement is enclosed. In reviewing the activities set forth in the Annual Statement, HUD has complied with the environmental requirements of 24 CFR Part 50.

The activities set forth in the Annual Statement shall be undertaken in accordance with the following implementation requirements set forth in the CGP Guidebook 7485.3, as revised. Particular attention should be given to:

1. Amendments to Comprehensive Plan' including Action plan in paragraph 4-14;

2. Amendments to the Annual Statement in paragraph 6-10;

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3. Resident and local government participation requirements during the implementation and monitoring of the Comprehensive Plan and Annual Statement in Chapter 9;
4. Conduct of approved activities in Chapter 10; and
5. Annual reporting requirements in Chapter 11.

If you have any questions, please do not hesitate to contact [insert name and title], at XXX-XXX-XXXX.

Sincerely,

OPH Director/ONAP Administrator

Enclosures

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APPENDIX 6-1 CONTAINS FORM HUD-52837, ANNUAL STATEMENT/PERFORMANCE AND EVALUATION REPORT - COMPREHENSIVE GRANT PROGRAM (CGP) - PART 1: SUMMARY; PART II: SUPPORTING PAGES; PART III: IMPLEMENTATION SCHEDULE. [HUD-52837](#)

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APPENDIX 6-2 CONTAINS FORM HUD-50070, CERTIFICATION FOR A DRUG-FREE WORKPLACE. [HUD-50070](#)

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APPENDIX 6-3 CONTAINS FORM HUD-50071, CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATION AGREEMENTS.
[HUD-50071](#)

APPENDIX 7-1 HUD REVIEW CHECKLIST FOR ANNUAL SUBMISSION

HA: _____ FFY: _____

Date of FO (Start of 75 Calendar Day
Review Period): _____

Date of End of 75 Calendar Day Review Period: _____

Part 1: Completeness Checklist

The Annual Submission is complete only if the answers to all of the
following questions are YES.

	Yes	No
1. Form HUD-52837, Annual Statement.	_____	_____
2. Form HUD-52834, Five-Year Action Plan.	_____	_____
3. HA request to exceed 90% of TDC limit, where applicable.	_____	_____
4. Cost Allocation Methodology, where applicable.	_____	_____
5. Form HUD-50070, Certification for a Drug-Free Workplace.	_____	_____
6. Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements.	_____	_____
7. SF-LLL, Disclosure of Lobbying Activities, where applicable.	_____	_____
8. Summary of General Issues raised during public comment process and HA response	_____	_____
9. Form HUD-52835, Local Government Statement.	_____	_____

10. Form HUD-52836, PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement.	_____	_____
11. Any additional information or assurances, where required.	_____	_____

Accepted for Review (Y/N)? _____

Comments:

Enter HA resubmission due date: _____

Part II: Substantive Review

Yes No

The activities and expenditures proposed in the in the Annual Statement are plainly consistent the Comprehensive Plan.

There is no evidence which tends to challenge, in a substantive manner, the certifications contained in the PHA/IHA Board Resolution.

All work categories appear to be eligible.

Funding for operations in account 1406 does not exceed 10% of annual grant.

Funding for management improvements in account 1408 does not exceed 20% of annual grant, unless the PHA has been designated both an Overall High Performer and Mod High Performer under PHMAP.

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Funding for administration in account 1410 does not exceed 10% of annual grant, excluding items not covered by 10% limit.

There is no pattern of substantiated complaints from residents that they did not have the opportunity to express their views or have their views considered.

Work items needed to correct emergency conditions are included.

Work items needed to address Section 504/ADA accessibility requirements in conjunction with substantial or other alterations are included.

Prior approved modernization has been carried out in a timely, efficient, and economical manner.

Prior revisions of implementation schedules were due to delay outside of the HA's control.

Civil Rights Compliance. (If the answer to any of the following statements is YES, contact Headquarters).

There is a pending proceeding against
the HA based upon a Charge of Discrimination. _____

There are outstanding HUD findings of HA
noncompliance with civil rights. _____

There is a deferral of processing under Title VI. _____

There is an adjudication of a violation under civil
rights authorities in a civil action filed
against the HA by a private individual. _____

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Environmental review completed (Y/N)? _____

Proposed activities are consistent
with NEPA requirements. _____

Approval of Annual Statement is recommended (enter initials under Yes
or No):

Yes No

Name/Title _____

Name/Title _____

Name/Title _____

Name/Title _____

OPH Director/ONAP Administrator _____

If approvable, enter dates of:

Fund reservation documents sent to Field
Accounting Division (FAD). _____

Confirmation by FAD of Fund Reservation. _____

HUD Notification sent to Headquarters OCIR. _____

Release date received from OCIR. _____

Approval letter and CGP Amendment sent to HA. _____

Receipt of signed CGP Amendment from HA. _____

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APPENDIX 8-1 CONTAINS FORM HUD-52540, PROJECT ACCOUNTING DATA (PAD),
PROJECT ACCOUNTING SYSTEM (PAS).

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APPENDIX 8-2 CONTAINS FORM HUD-52840,
COMPREHENSIVE GRANT PROGRAM (CGP) AMENDMENT.

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APPENDIX 8-3 CONTAINS FORM HUD-52840-A,
COMPREHENSIVE GRANT PROGRAM (CGP) AMENDMENT.

APPENDIX 9-1 SUGGESTED CHECKLIST FOR DEVELOPMENT OF
PARTNERSHIP PROCESS

As part of the Executive Summary, the HA is required to prepare a specific description of its process for maximizing the level of resident participation during the development, implementation and monitoring of the Comprehensive Plan. The HA also is required to prepare a summary of the general issues raised by residents, local/tribal government, and others during the public comment process and of the HA's response to those general issues.

In developing the Partnership Process, the HA should consider an six subject areas below. The questions are designed to assist HAs and residents. The questions do not have to be answered and do not attempt to state all the possible options in each area. The requirements for the Partnership Process are set forth in Chapter 9.

1. Structure of Resident Planning Group.

- a. Has an HA-wide resident planning group or area-wide resident planning groups been formed for the purpose of participating in the development of the Comprehensive Plan and/or Annual Statement?
- b. How was the planning group selected; e.g., elected at-large from each development, appointed by resident organizations in each development, previously elected resident leaders, etc.?
- c. Are local government/tribal officials part of the planning group? HA staff? Advisory group members?
- d. How does the planning group relate to existing resident organizations and resident management corporations?
- e. Where, when (time of day), and how frequently does the planning group meet? How are the meetings made accessible to persons with disabilities? Describe the kick-off meeting.
- f. How does the planning group keep all residents informed on the CGP process?
- g. Is there a Memorandum of Understanding to define the resident participation process? (Attach, if available.)

- h. Is the planning group culturally diverse? Does it include minorities, persons with disabilities, and women?

2. Development of Comprehensive Plan/Annual Submission.

- a. In what way did the residents contribute to the process of needs identification? By submitting lists of physical and management needs that concerned them? By conducting resident surveys in each of the developments? By having open meetings to discuss HA needs?
 - b. When in the process of developing the Comprehensive Plan and/or Annual Statement were the residents afforded the opportunity to provide input? Before the HA had a first draft? In relation to each draft? After the HA had a complete working draft?
 - c. What was the mechanism for resident input? Oral discussion in meetings? Written comments from the planning group?
 - d. Was there a written schedule for the presentation of draft documents to the residents, resident input, and final drafts?
3. Resident Capacity.
- a. Was the resident group initially fully capable of participating in the planning, implementation and monitoring of the CGP?
 - b. If not, what mechanism was used to provide technical assistance? HA staff consultation? Local volunteer advisory board? Technical assistance contract?
 - c. Describe the extent and nature of technical assistance provided during the planning period and during the implementation and monitoring of the ongoing program.
4. Implementation.
- a. What is the role of residents in CGP implementation? Participation in physical and management improvements through job training, employment, contracting with resident-owned businesses?
 - b. State the HA's goals for resident participation in job training, employment, and contracting? How does the HA plan to reach these goals?

5. Monitoring.
- a. In what way will residents assist in monitoring ongoing progress under the CGP?
 - b. How frequently will the resident group receive progress reports from the HA?
 - c. How will residents assist in preparing and reviewing the draft

Performance and Evaluation Report?

- d. Describe the HA system for documenting comments and complaints received from residents during implementation.
 - e. Describe the process for incorporating resident comments and addressing those issues raised by residents as concerns or complaints.
6. Advance Meeting and Public Hearing.
- a. Who conducted the advance meeting with residents before the public hearing? What documents were presented? In what form? How did the residents provide input? What materials did residents have before the meeting? How was the meeting made accessible to persons with disabilities?
 - b. Describe the public hearing. Who presented the material? How was it presented? What mechanism was used to notify residents and others in advance of the hearing? Where and when was the public hearing held? How was the public hearing made accessible to persons with disabilities?
7. Summary of General Issues.

Include a summary of general issues raised by residents, local government, and others during the public comment process and the HA's response to those issues. The HA is not required to respond to each comment.

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APPENDIX 10-1 CONTAINS FORM HUD-53001, ACTUAL MODERNIZATION COST CERTIFICATE.

NOTE: Form has been cancelled.

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APPENDIX 11 CONTAINS FORM HUD-52842,
ANNUAL STATEMENT/PERFORMANCE
AND EVALUATION REPORT ON REPLACEMENT RESERVE.

APPENDIX 12-1 ANNUAL IN-OFFICE CGP MONITORING REVIEW AND HUD
DETERMINATIONS CHECKLIST
(OCTOBER 1 - DECEMBER 15)

HA Name: _____

Comprehensive Grant Number: _____

Program Year Ending: June 30, _____

Date of FO Receipt of P&E Report: _____

Part 1: Completeness Checklist

Form HUD-52837, Performance and Evaluation Report, is complete only if the answers to all of the following questions are YES.

	Yes	No
1. Form HUD-52837 with all appropriate columns of Parts I, II and III completed.	_____	_____
2. Narrative Report on resident and local/tribal government participation during implementation and summary of comments received on draft Report.	_____	_____
3. Board Resolution approving Report and certifying that residents had an opportunity to review and comment on draft Report.	_____	_____

Accepted for Review (Y/N)? _____

If accepted for review, enter date that receipt of Report is entered into LOCCS: _____

If not accepted for review, enter date of FO letter to HA notifying of non-acceptance and reasons: _____

Comments: _____

Enter HA resubmission due date: _____

Part II: Substantive Review

	Yes	No
Conformity with Comprehensive Plan: HA is carrying out its activities in a timely manner and in accordance with its Annual Statement, latest HUD-approved Five-Year Action Plan, and other statutory and regulatory requirements:	_____	_____
Physical work in progress or completed is consistent with the Annual Statement or Five-Year Action Plan.	_____	_____
Management work in progress or completed is consistent with the Annual Statement or Five-Year Action Plan.	_____	_____
All activities carried out comply with applicable laws and regulations.	_____	_____
Actual cost of each major work category and overall cost of each development compare with estimated costs.	_____	_____
HA obtained prior HUD approval to exceed amounts in accounts 1406, 1408, 1410, 1411, 1490, and 1498.	_____	_____
Activities funded with non-CGP funds are identified.	_____	_____
Funds expended for emergencies are described and meet the definition of emergency work.	_____	_____
Narrative report indicates adequate participation by residents and local/tribal government officials.	_____	_____

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Continuing Capacity: HA has a continuing capacity to carry out its Comprehensive Plan in a timely manner and expend the annual grant funds:	_____	_____
HA is obligating and expending funds in accordance with the approved Annual Statement or Five-Year Action Plan.	_____	_____
HA is meeting the implementation schedules set forth in the approved Annual Statement.	_____	_____
HA has adequately explained each self-issued time extension for fund obligation or expenditure and delay		

was due to reasons outside of the HA's control.

HA is adequately inspecting the funded work to ensure that physical work is being carried out in accordance with the plans and specifications and the modernization and energy conservation standards.

HA is resolving or has resolved any HUD monitoring findings related to the quality of physical work.

HA has established and is maintaining internal controls for the modernization program in accordance with HUD requirements for financial management and accounting, as determined by fiscal audit.

HA is administering its modernization contracts in accordance with a HUD-approved procurement policy, which meets the requirements of '85.36(a).

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Reasonable Progress: HA has satisfied, or has made reasonable progress toward satisfying, the following performance standards:

With respect to the physical condition of each development, the HA has brought, or is making reasonable progress toward bringing, all of its developments to the modernization and energy conservation standards.

With respect to the management condition of the HA, the HA has implemented or is implementing the work specified in the Annual Statement or Five-Year Action Plan, which are designed to address deficiencies identified through the PHMAP/RADAR/ HUD reviews, or audits.

Part III: Monitoring Conclusions and HUD Determinations Review indicates that:

A notice of deficiency should be issued.

A corrective action order should be issued.

Enter date of FO letter to HA transmitting results of Annual In-Office Monitoring Review and HUD Determination (may include non-binding advice), including, where appropriate a notice of

deficiency or a draft corrective
action order:

Review completed (enter initials under Yes or No):

Yes No

Name/Title

Name/Title

Name/Title

Name/Title

OPH Director/ONAP Administrator

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Part IV. Review of Performance and Evaluation Report on Replacement
Reserve (Where Applicable)

Yes No

HA has met the criteria for funding the
the replacement reserve (see paragraph 2-7A).

Current FFY funding for replacement
reserve is correct. Line 15 of Form
HUD-52837 agrees with line 4 of Part 1,
Section 1 (Actual column) of Form HUD-52842.

HA is obligating and expending funds
in accordance with the approved Form
HUD-52842 or other approved Annual
Statements or Five-Year Action Plan.

There is no duplication of expenses
between the CGP and the replacement reserve.

Funds expended do not exceed the cost
limitations set forth in paragraph 2-19,
as percentages of the replacement reserve
withdrawal for the program year.

Annual audit reveals no deficiencies regarding the
HA's financial management and use of the replacement
reserve, including earning interest on the
replacement reserve at the Target Investment
Income (TII) rate.

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