

§ 968.315

24 CFR Ch. IX (4-1-05 Edition)

the PHA in addition to a PHA's regular formula allocation under § 968.103(e) and (f), and shall consist of:

(A) The total amount of credits accumulated by the PHA under paragraph (c)(6)(i) of this section; minus

(B) Any reductions under paragraph (c)(6)(ii) of this section to the total accumulated credits, based upon the length of time that the PHA has taken to remove its mod troubled designation; and

(C)(1) Adjusted by HUD to take into account the PHA's ability to expeditiously expend 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 under this section. As a general guideline, HUD intends to provide a 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;

(2) In any FFY where formerly mod troubled PHAs are entitled to credits exceeding the five percent reserve, HUD shall apply a pro rata reduction for each formerly mod troubled PHA for such FFY. A 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 § 968.103(c).

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§ 968.315 Comprehensive Plan (including five-year action plan).

(a) *Submission.* As soon as possible after modernization funds first become available for allocation under this subpart, HUD shall notify PHAs in writing of their formula amount. For planning purposes, PHAs may use the amount they received under CGP in the prior year in developing their comprehensive plan, or they may wait for the annual HUD notification of formula amount under § 968.310(b)(1).

(b)(1) *Resident participation.* A PHA 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. In addition, the PHA shall consult with resident management corporations (RMCs) to the extent that an RMC manages a development covered by the comprehensive plan. The PHA, in partnership with the residents, must 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 involve implementing the Partnership Process as a critical element of the CGP.

(2) *Establishment of Partnership Process.* The PHA, in partnership with the residents of the developments covered by the plan (and which may include resident leaders, resident councils, resident advisory councils/boards, and RMCs) must establish a Partnership Process to develop and implement the goals, needs, strategies and priorities identified in the comprehensive plan. After residents have organized to participate in the CGP, they may decide to establish a volunteer advisory group of experts in various professions to assist them in the CGP Partnership Process. The Partnership Process shall be designed to achieve the following:

(i) To ensure 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 analysis, Five-Year Action Plan, and Annual Statement. If necessary, the PHA shall develop and implement capacity building strategies to ensure meaningful resident participation in CGP. Such technical assistance efforts for residents are eligible management improvement costs under CGP;

(ii) To enable residents to participate, on a PHA-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) *Public notice.* Within a reasonable amount of time before the advance meeting for residents under paragraph (b)(4) of this section and the public hearing under paragraph (b)(5) of this section, the PHA shall provide public notice of the advance meeting and the public hearing in a manner determined by the PHA that ensures notice to all duly elected resident councils.

(4) *Advance meeting for residents.* The PHA shall hold, within a reasonable amount of time before the public hearing under paragraph (b)(5) of this section, a meeting for residents and duly elected resident councils at which the PHA shall explain the components of the comprehensive plan. The meeting shall be open to all residents and duly elected resident councils.

(5) *Public hearing.* The PHA shall hold at least one public hearing, and any appropriate number of additional hearings, to present information on the comprehensive plan/annual submission and the status of prior approval programs. The public hearing shall provide ample opportunity for residents, local government officials, and other interested parties to express their priorities and concerns. The PHA shall give full consideration to the comments and concerns of residents, local government officials, and other interested parties.

(c) *Local government participation.* A PHA shall consult with and provide information to appropriate local government officials with respect to the development of the comprehensive plan 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 and/or modernization and improvement and to coordinate meeting public and human service needs of the public and assisted housing projects and their residents. In the case of a PHA with developments in multiple jurisdictions, the PHA may meet this requirement by consulting with an advisory group representative of all the jurisdictions. At a minimum, such consultation must include providing such officials with:

(1) Advance written notice of the public hearing required under paragraph (b)(5) of this section;

(2) A copy of the summary of total preliminary estimated costs to address physical needs by each development and management/operations needs PHA-wide and a specific description of the PHA's process for maximizing the level of participation by residents and a summary of the general issues raised on the plan by residents and others during the public comment process and the PHA's response to the general issues. PHA records, such as minutes of planning meetings or resident surveys, shall be maintained in the PHA's files and made available to residents, resident organizations, and other interested parties upon request; and

(3) An opportunity to express their priorities and concerns to ensure due consideration in the PHA's planning process;

(d) *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 strategies.

(e) *Contents of comprehensive plan.* The comprehensive plan shall identify all of the physical and management improvements needed for a PHA and all of its developments, and that represent needs eligible for funding under § 968.112. The plan also shall include preliminary estimates of the total cost of these improvements. The plan shall set forth general strategies for addressing the identified needs, and highlight any special strategies, such as major redesign or partial demolition of a development, that are necessary to ensure the long-term physical and social viability of the development. Where long-term physical and social viability of the development is dependent upon revitalization of the surrounding neighborhood in the provision of or coordination of public services, or the consolidation or coordination of drug prevention and other human service initiatives, the PHA shall identify these needs and strategies. In addition, the PHA shall identify the funds or other resources in the consolidated

plan that are to be used to help address these needs and strategies and the activities in the comprehensive plan that strengthen the consolidated plan. Each comprehensive plan shall contain the following elements:

(1) *Executive summary.* A PHA shall include as part of its comprehensive plan an executive summary to facilitate review and comprehension by development residents and by the public. The executive summary shall include the following:

(i) A summary of total preliminary estimated costs to address physical needs by each development and PHA-wide physical and management needs; and

(ii) A specific description of the PHA's 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 and others during the public comment process and the PHA's response to the general issues. PHA records, such as minutes of planning meetings or resident surveys, shall be maintained in the PHA's files and made available to residents, duly elected resident councils, and other interested parties, upon request;

(2) *Physical needs assessment—(i) Requirements.* The physical needs assessment identifies all of the work that a PHA would need to undertake to bring each of its developments up to the modernization and energy conservation standards, as required by the Act, to comply with the lead-based paint requirements in part 35, subparts A, B, L, and R of this title, and to comply with other program requirements under § 968.110. The physical needs assessment is completed without regard to the availability of funds, and shall include the following:

(A) A brief summary of the physical improvements necessary to bring each such development to a level at least equal to applicable HUD standards with respect to modernization standards, energy conservation and life-cycle cost effective performance standards, lead-based paint testing and abatement standards. This summary must indicate the relative urgency of need. If the PHA has no physical im-

provement needs at a particular development at the time it completes its comprehensive plan, it must so indicate. Similarly, if the PHA intends to demolish, partially demolish, convert, or dispose of a development (or units within a development) it must so indicate in the summary of physical improvements;

(B) The replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the period covered by the action plan;

(C) A preliminary estimate of the cost to complete the physical work;

(D) Any physical disparities between buildings occupied predominantly by one racial or ethnic group and, in such cases, the physical improvements required to correct the conditions; and

(E) In addition, with respect to vacant or non-homebuyer occupied Turnkey III units, the estimated number of units that the PHA is proposing for substantial rehabilitation and subsequent sale, in accordance with § 968.112(d)(3).

(ii) *Source of data.* The PHA shall identify in its needs assessment the sources from which it derived data to develop the physical needs assessment under this paragraph (e)(2) and shall retain such source documents in its files;

(3) *Management needs assessment—(i) Requirements.* The plan shall include a comprehensive assessment of the improvements needed to upgrade the management and operation of the PHA and of each viable development so decent, safe, and sanitary living conditions will be provided. The management needs assessment shall include the following, with the relative urgency of need indicated:

(A) An identification of the most current needs related to the following areas (to the extent that any of these needs is addressed in a HUD-approved memorandum of agreement or improvement plan, the PHA may simply include a cross-reference to these documents):

(1) The management, financial, and accounting control systems of the PHA;

(2) The adequacy and qualifications of personnel employed by the PHA in

its management and operation, for each significant category of employment;

(3) The adequacy and efficacy of:

- (i) Resident programs and services;
- (ii) Resident and development security;
- (iii) Resident selection and eviction;
- (iv) Occupancy;
- (v) Maintenance;
- (vi) Resident management and resident capacity building programs;
- (vii) Resident opportunities for employment and business development and other self-sufficiency opportunities for residents; and
- (viii) Homeownership opportunities for residents;

(B) Any additional deficiencies identified through PHMAP, audits and HUD monitoring reviews that are not addressed under paragraph (e)(3)(i)(A) of this section. To the extent that any of these is addressed in a HUD-approved memorandum of agreement or improvement plan, the PHA may include a cross-reference to these documents;

(C) Any other management and operations needs that the PHA wants to address at the PHA-wide or development level; and

(D) A PHA-wide preliminary cost estimate for addressing all the needs identified in the management needs assessment, without regard to the availability of funds;

(ii) *Sources of funds.* The PHA shall identify in its needs assessment the sources from which it derived data to develop the management needs assessment under this paragraph (e)(3) and shall retain such source documents in its files;

(4) *Demonstration of long-term physical and social viability.* (i) *General.* The plan shall include, on a development-by-development basis, an analysis of whether completion of the improvements and replacements identified under paragraphs (e)(2) and (e)(3) of this section will reasonably ensure the long-term physical and social viability, including achieving structural/system soundness and full occupancy, of the development at a reasonable cost. For cost reasonableness, the PHA shall determine whether the unfunded hard costs satisfy the definition of "reasonable cost." Where the PHA wishes to fund a

development, for other than emergencies, where hard costs exceed that reasonable cost, the PHA shall submit written justification to the Field Office. If the Field Office agrees with the PHA's request, the Field Office shall forward its recommendation to Headquarters for final decision. Where the estimated per unit unfunded hard cost is equal to or less than the per unit TDC for the smallest bedroom size at the development, no further computation of the TDC limit is required. The PHA shall keep documentation in its files to support all cost determinations. The Field Office will review cost reasonableness as part of its review of the annual submission and the performance and evaluation report. As necessary, HUD will review the PHA's documentation in support of its cost reasonableness, taking into account broader efforts to revitalize the neighborhoods in which the development is located;

(ii) *Determination of non-viability.* Where a PHA's analysis of a development under paragraph (e) of this section establishes that completion of the identified improvements and replacements will not result in the long-term physical and social viability of the development at a reasonable cost, the PHA shall not expend CGP funds for the development, except for emergencies and essential non-routine maintenance necessary to maintain habitability until residents can be relocated. The PHA shall specify in its comprehensive plan the actions it proposes to take with respect to the non-viable development (e.g., demolition or disposition under 24 CFR part 970);

(5) *Five-year action plan.* (i) *General.* The comprehensive plan shall include a rolling five-year action plan to carry out the improvements and replacements (or a portion thereof) identified under paragraphs (e)(2) and (e)(3) of this section. In developing its five-year action plan, the PHA shall assume that the current year funding or formula amount will be available for each year of its five-year action plan, whichever the PHA is using for planning purposes, plus the PHA's estimate of the funds that will be available from other sources, such as state and local governments. All activities specified in a

PHA's five-year action plan are contingent upon the availability of funds;

(ii) *Requirements.* Under the action plan, a PHA must indicate how it intends to use the funds available to it under the CGP to address, over a five-year period, the deficiencies (or a portion of the deficiencies) identified in its physical and management needs assessments, as follows:

(A) *Physical condition.* With respect to the physical condition of a PHA's developments, a PHA must indicate in its action plan how it intends to address, over a five-year period, the deficiencies (or a portion of the deficiencies) identified in its physical needs assessment so as to bring each of its developments up to a level at least equal to the modernization and energy conservation standards. This includes specifying the work to be undertaken by the PHA in major work categories (e.g., kitchens, electrical systems, etc.); establishing priorities among the major work categories by development and year, based upon the relative urgency of need; and estimating the cost of each of the identified major work categories. In developing its action plan, a PHA shall give priority to the following:

(1) Activities required to correct emergency conditions;

(2) Activities required to meet statutory or other legally mandated requirements (e.g., compliance with a court-ordered desegregation plan or voluntary compliance agreement);

(3) Activities required to meet the needs identified in the Section 504 needs assessment within the regulatory timeframe; and

(4) Activities required to complete lead-based paint testing and abatement requirements;

(B) *Management and operations.* A PHA must address in its action plan the management and operations deficiencies (or a portion of the deficiencies) identified in its management needs assessment, as follows:

(1) With respect to the management and operations needs of the PHA, the PHA must identify how it intends to address with CGP funds, if necessary, the deficiencies (or a portion thereof) identified in its management needs assessment, including work identified through PHMAP, audits, HUD moni-

toring reviews, and self-assessments. The action plan must indicate the relative urgency of need;

(2) A preliminary PHA-wide cost estimate, by major work category.

(iii) *Procedure for maintaining current five-year action plan.* The PHA shall maintain a current five-year action plan by annually amending its five-year action plan, in conjunction with the annual submission;

(6) *Local government statement.* The comprehensive plan shall include a statement signed by the chief executive officer of the unit of general local government (or, in the case of a PHA with developments in multiple jurisdictions, from the CEO of each such jurisdiction) certifying to the following:

(i) The PHA developed the comprehensive plan/five-year action plan or amendments thereto in consultation with officials of the appropriate governing body and with development residents covered by the comprehensive plan/five-year action plan, in accordance with the requirements of paragraphs (b) and (c) of this section;

(ii) The comprehensive plan/five-year action plan or amendments thereto are consistent with the appropriate governing body's assessment of its low income housing needs (as evidenced by its consolidated plan under 24 CFR part 91, if applicable), and that the appropriate governing body will cooperate in providing resident programs and services; and

(iii) The PHA's proposed drug elimination activities are coordinated with, and supportive of, local drug elimination strategies and neighborhood improvement programs, if applicable; and

(7) *PHA resolution.* The plan shall include a resolution, in a form prescribed by HUD, adopted by the PHA Board of Commissioners, and signed by the Board Chairman of the PHA, approving the comprehensive plan or any amendments.

(f) *Amendments to the comprehensive plan—(1) Extension of time for performance.* A PHA shall have the right to amend its comprehensive plan (including the action plan) to extend the time for performance whenever HUD has not provided the amount of assistance set forth in the comprehensive plan or has

not provided the assistance in a timely manner;

(2) *Amendments to needs assessments.* The PHA shall amend its plan by revising its needs assessments whenever it proposes 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). The PHA may propose an amendment to its needs assessments, in connection with the submission of its annual submission (see § 968.325) or at any other time. These amendments shall be reviewed by HUD in accordance with § 968.320.

(3) *Six-year revision of comprehensive plan.* Every sixth year following the initial year of participation, the PHA shall submit to HUD, with its annual submission, a complete update of its comprehensive plan. A PHA may elect to revise some or all parts of the comprehensive plan more frequently.

(4) *Annual revision of five-year action plan.* Annually, the PHA shall submit to HUD, with its annual submission, an update of its five-year action plan, eliminating the previous year and adding an additional year. The PHA shall identify changes in work categories (other than those included in the new fifth year) from the previous year five-year action plan when making this annual submission.

(5) *Required submissions.* Any amendments to the comprehensive plan under this section must be submitted with the PHA resolution under § 968.315(e)(7).

(g) *Prerequisite for receiving assistance—(1) Prohibition of assistance.* No financial assistance, except for emergency work to be funded under §§ 968.103(b) and 968.112(a)(1)(ii), and for modernization needs resulting from disasters under § 968.103(b), may be made available under this subpart unless HUD has approved a comprehensive plan submitted by the PHA that meets the requirements of this section. A PHA that has failed to obtain approval of its comprehensive plan by the end of the FFY shall have its formula allocation for that year (less any formula amounts provided to the PHA for emergencies) added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to PHAs and IHAs partici-

pating in the CGP in accordance with the formula under § 968.103(e) and (f) in the subsequent FFY. A PHA that elects in any FFY not to participate in the CGP may participate in the CGP in subsequent FFYs;

(2) *Requests for emergency assistance.* A PHA may receive funds from its formula allocation to address emergency modernization needs where HUD has not approved a PHA's comprehensive plan. To request such assistance, a PHA shall submit to HUD a request for funds in such form as HUD may prescribe, including any documentation necessary to support its claim that an emergency exists. HUD shall review the request and supporting documentation to determine if it meets the definition of "emergency work" as set forth in § 968.305.

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[61 FR 8744, Mar. 5, 1996, as amended at 64 FR 50229, Sept. 15, 1999]

§ 968.320 HUD review and approval of comprehensive plan (including five-year action plan).

(a) *Submission of comprehensive plan.*

(1) Upon receipt of a comprehensive plan from a PHA, HUD shall determine whether:

(i) The plan contains each of the required components specified at § 968.315(e); and

(ii) Where applicable, the PHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate PHA performance, audit findings, or civil rights compliance findings;

(2) *Acceptance for review.* If the PHA has submitted a comprehensive plan (including the action plan) which meets the criteria of paragraph (a)(1) of this section, HUD shall accept the comprehensive plan for review, within 14 calendar days of its receipt in the field office. The PHA shall be notified in writing that the comprehensive plan has been accepted by HUD for review, and that the 75-day review period is proceeding;

(3) *Time period for review.* A comprehensive plan that is accepted by HUD for review shall be considered to be approved unless HUD notifies the