

(b) For competitive funding under a NOFA, the application must be submitted by a PHA in accordance with the requirements of the NOFA.

(c) The application must include all information required by HUD. HUD requirements may be stated in the HUD-required form of application, the NOFA, or other HUD instructions.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23859, Apr. 30, 1998. Redesignated at 64 FR 56887, Oct. 21, 1999]

#### § 982.104 HUD review of application.

(a) *Competitive funding under NOFA.* For competitive funding under a NOFA, HUD must evaluate an application on the basis of the selection criteria stated in the NOFA, and must consider the PHA's capacity and capability to administer the program.

(b) *Approval or disapproval of PHA funding application.* (1) HUD must notify the PHA of its approval or disapproval of the PHA funding application.

(2) When HUD approves an application, HUD must notify the PHA of the amount of approved funding.

(3) For budget authority that is distributed to PHAs by competitive process, documentation of the basis for provision or denial of assistance is available for public inspection in accordance with 24 CFR 12.14(b).

(c) *PHA disqualification.* HUD will not approve any PHA funding application (including an application for competitive funding under a NOFA) if HUD determines that the PHA is disbarred or otherwise disqualified from providing assistance under the program.

[60 FR 34695, July 3, 1995, as amended at 64 FR 26642, May 14, 1999. Redesignated at 64 FR 56887, Oct. 21, 1999]

### Subpart D—Annual Contributions Contract and PHA Administration of Program

SOURCE: 60 FR 34695, July 3, 1995, unless otherwise noted.

#### § 982.151 Annual contributions contract.

(a) *Nature of ACC.* (1) An annual contributions contract (ACC) is a written contract between HUD and a PHA. Under the ACC, HUD agrees to make payments to the PHA, over a specified term, for housing assistance payments to owners and for the PHA administrative fee. The ACC specifies the maximum payment over the ACC term. The PHA agrees to administer the program in accordance with HUD regulations and requirements.

(2) HUD's commitment to make payments for each funding increment in the PHA program constitutes a separate ACC. However, commitments for all the funding increments in a PHA program are listed in one consolidated contractual document called the consolidated annual contributions contract (consolidated ACC). A single consolidated ACC covers funding for the PHA tenant-based assistance program.

(b) *Budget authority.* (1) Budget authority is the maximum amount that may be paid by HUD to a PHA over the ACC term of a funding increment. Before adding a funding increment to the consolidated ACC for a PHA program, HUD reserves budget authority from amounts authorized and appropriated by the Congress for the program.

(2) For each funding increment, the ACC specifies the term over which HUD will make payments for the PHA program, and the amount of available budget authority for each funding increment. The amount to be paid to the PHA during each PHA fiscal year (including payment from the ACC reserve account described in § 982.154) must be approved by HUD.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 64 FR 26642, May 14, 1999]

#### § 982.152 Administrative fee.

(a) *Purposes of administrative fee.* (1) HUD may approve administrative fees to the PHA for any of the following purposes:

- (i) Ongoing administrative fee;

(ii) Costs to help families who experience difficulty finding or renting appropriate housing under the program;

(iii) The following types of extraordinary costs approved by HUD:

(A) Costs to cover necessary additional expenses incurred by the PHA to provide reasonable accommodation for persons with disabilities in accordance with part 8 of this title (e.g., additional counselling costs), where the PHA is unable to cover such additional expenses from ongoing administrative fee income or the PHA administrative fee reserve;

(B) Costs of audit by an independent public accountant;

(C) Other extraordinary costs determined necessary by HUD Headquarters;

(iv) Preliminary fee (in accordance with paragraph (c) of this section);

(v) Costs to coordinate supportive services for families participating in the family self-sufficiency (FSS) program.

(2) For each HA fiscal year, administrative fees are specified in the HA budget. The budget is submitted for HUD approval. Fees are paid in the amounts approved by HUD. Administrative fees may only be approved or paid from amounts appropriated by the Congress.

(3) HA administrative fees may only be used to cover costs incurred to perform HA administrative responsibilities for the program in accordance with HUD regulations and requirements.

(b) *Ongoing administrative fee.* (1) The PHA ongoing administrative fee is paid for each program unit under HAP contract on the first day of the month. The amount of the ongoing fee is determined by HUD in accordance with Section 8(q)(1) of the 1937 Act (42 U.S.C. 1437f(q)(1)).

(2) If appropriations are available, HUD may pay a higher ongoing administrative fee for a small program or a program operating over a large geographic area. This higher fee level will not be approved unless the PHA demonstrates that it is efficiently administering its tenant-based program, and that the higher ongoing administrative fee is reasonable and necessary for administration of the program in accordance with HUD requirements.

(3) HUD may pay a lower ongoing administrative fee for PHA-owned units.

(c) *Preliminary fee.* (1) If the PHA was not administering a program of Section 8 tenant-based assistance prior to the merger date, HUD will pay a one-time fee in the amount of \$500 in the first year the PHA administers a program. The fee is paid for each new unit added to the PHA program by the initial funding increment under the consolidated ACC.

(2) The preliminary fee is used to cover expenses the PHA incurs to help families who inquire about or apply for the program, and to lease up new program units.

(d) *Reducing PHA administrative fee.* HUD may reduce or offset any administrative fee to the PHA, in the amount determined by HUD, if the PHA fails to perform PHA administrative responsibilities correctly or adequately under the program (for example, PHA failure to enforce HQS requirements; or to reimburse a receiving PHA promptly under portability procedures).

[60 FR 23695, July 3, 1995, as amended at 63 FR 23860, Apr. 30, 1998; 64 FR 26642, May 14, 1999]

**§ 982.153 PHA responsibilities.**

The PHA must comply with the consolidated ACC, the application, HUD regulations and other requirements, and the PHA administrative plan.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 61 FR 13627, Mar. 27, 1996; 63 FR 23860, Apr. 30, 1998]

**§ 982.154 ACC reserve account.**

(a) HUD may establish and maintain an unfunded reserve account for the PHA program from available budget authority under the consolidated ACC. This reserve is called the "ACC reserve account" (formerly "project reserve"). There is a single ACC reserve account for the PHA program.

(b) The amount in the ACC reserve account is determined by HUD. HUD may approve payments for the PHA program, in accordance with the PHA's HUD-approved budget, from available amounts in the ACC reserve account.

[64 FR 26642, May 14, 1999]