Asst. Secry., for Public and Indian Housing, HUD § 941.201

Develop the project that are not covered under APC or Housing Construction Cost.

**Construction Contract.** A contract between the PHA and a contractor to build or rehabilitate a project using the conventional development method.

**Construction documents.** The working drawings and construction specifications and the rehabilitation work write-ups, where applicable, that set forth the work to be done under a construction contract or contract of sale.

**Contract of sale.** A contract between the PHA and a developer whereby the PHA agrees to purchase a completed project after construction or rehabilitation by a developer using the turnkey development method.

**Cooperation Agreement.** An agreement between a PHA and the applicable local governing body or bodies which assures exemption from real and personal property taxes, provides for local support and services for the development and operation of a public housing project, and provides for PHA payments in lieu of taxes.

**Design documents.** The preliminary drawings and specifications and the preliminary rehabilitation work write-ups, where applicable, in sufficient detail to define the extent of construction or rehabilitation and demonstrate compliance with HUD design and construction standards.

**Housing Construction Cost (HCC)** means the sum of the following HUD-approved costs related to the development of a public housing project: dwelling unit hard costs (including construction and equipment); builder’s overhead and profit; the cost of extending utilities from the street to the public housing project; finish landscaping; and the payment of Davis-Bacon wage rates.

**Proposal.** A document submitted by a PHA to HUD, in accordance with subpart C of this part, for approval of the development of a public housing project. As used in this part, “proposal” refers to both the “site acquisition proposal” (§941.303), and the “full proposal” (§941.304), unless specifically indicated otherwise.

Public housing capital assistance means assistance provided by HUD under the Act or the HOPE VI program in connection with the development of public housing under this part, including: Capital Fund assistance provided under section 9(d) of the Act, public housing development assistance provided under section 5 of the Act, Operating Fund assistance used for capital purposes under section 9(g)(1) or (g)(2) of the Act, and HOPE VI grant assistance.

**Reformulation.** The procedure by which HUD approves division of a project (including units and related funds) into two or more projects, or combining two or more projects into one, or redistributing units and related funds in a project among two or more projects, in order to provide PHAs with the flexibility to adapt to site availability, to resolve development problems, to acquire buildings ready for development (before acquisition of other buildings), and to save on interest and initial operating costs.

**Total Development Cost (TDC) limit.** The maximum amount of public housing capital assistance that can be used to pay for Housing Construction Costs and Community Renewal Costs in connection with the development of a public housing project, as determined under §941.306(b)(2). The TDC limit does not apply to Additional Project Costs.


Subpart B—PHA Eligibility and Program Requirements

§ 941.201 **PHA eligibility.**

(a) **General.** In order to participate in the public housing program, a PHA must be approved as an eligible PHA. HUD will determine eligibility based on a showing that the PHA has the legal authority and local cooperation required by this part.

(b) **Legal authority.** The PHA must demonstrate that it has the local authority to develop, own, and operate a public housing project under the Act.

(c) **Troubled PHAs.** Unless HUD determines that a PHA that has been classified as troubled or modernization-troubled, in accordance with 24 CFR part 901, has adequate capacity to develop...
§ 941.202 Site and neighborhood standards.

Proposed sites for public housing projects to be newly constructed or rehabilitated must be approved by the field office as meeting the following standards:

(a) The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed, and adequate utilities (e.g., water, sewer, gas and electricity) and streets must be available to service the site.

(b) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, E.O. 11063, and HUD regulations issued pursuant thereto.

(c)(1) The site for new construction projects must not be located in:

(i) An area of minority concentration unless (A) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (B) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. An “overriding need” may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable; or

(ii) A racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(2) Notwithstanding any other provision of this paragraph (c), public housing units constructed after demolition of public housing units may be built on the original public housing site, or in the same neighborhood, if one of the following criteria is satisfied:

(i) The number of public housing units being constructed is no more than 50 percent of the number of units in the original project;

(ii) In the case of replacement of a currently occupied project, the number of public housing units being constructed is the minimum number needed to house current residents who want to remain at the site; or

(iii) The public housing units being constructed constitute no more than twenty-five units.

(d) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(e) The site must be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank back-ups, sewage hazards or mudslides; harmful air pollution, smoke or dust; excessive noise vibration, vehicular traffic, rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(f) The site must comply with any applicable conditions in the local plan approved by HUD.