

§ 905.515

the PHA has conformed to the Declaration of Trust requirements in accordance with this subpart.

(7) *Board resolution and counsel's opinion.* The PHA must submit evidence of a PHA Board resolution that authorizes the PHA to: Undertake the loan up to a specified amount, provide all security interests required by the loan, and repay the loan with Capital Funds (including RHF funds, when applicable) as required by the financing documents. The Board resolution must also provide authorization for the Executive Director or other executive staff to negotiate and enter into all legal documents required as part of the transaction. The PHA must submit PHA counsel's opinion, which opines that the PHA has the authority to enter into the transaction, and affirms that the transaction complies with the requirements of the 1937 Act, as amended; Federal regulations; and the ACC, as amended.

(8) *Depository Agreement and ACC.* The PHA must submit a Depository Agreement (form HUD-51999) and a CFF ACC Amendment.

(9) Other documents as required by HUD.

§ 905.515 HUD review and approval.

(a) After receipt of a Capital Fund Financing Proposal, HUD shall review the proposal for completeness. HUD will return to the PHA all incomplete or unapprovable proposals, identifying the deficiencies, and will not take any further action. HUD will also return proposals submitted by entities other than the PHA (e.g., the PHA's consultants). HUD shall review all complete proposals for compliance with the requirements under this subpart. HUD may require the PHA to make modifications to any of the CFFP documents submitted and may require the PHA to resubmit all or any portion of the proposal. After HUD determines that a proposal complies with all applicable requirements, HUD shall notify the PHA in writing of its approval and any condition(s) of the approval.

(b) (1) A copy or copies of the CFF ACC Amendment shall accompany the approval letter.

(2) Within 60 days of the date of HUD's approval of the transaction or,

24 CFR Ch. IX (4-1-14 Edition)

if HUD sets conditions on its approval, within 60 days of the date that the PHA satisfies such conditions (as evidenced by documentation retained in the PHA's file and available to HUD upon request), but in no event longer than 120 days after the HUD approval, unless the time has otherwise been extended by HUD in writing, the PHA must submit:

(i) Closing documents as directed by HUD; and

(ii) All documents required by HUD to take certain actions such as initiating debt service payments through HUD's automated systems.

(3) Failure to provide the required documents to HUD within the time frame required under § 905.515(b)(2) may result in HUD rescinding its approval.

Subpart F—Development Requirements

SOURCE: 78 FR 63786, Oct. 24, 2013, unless otherwise noted.

§ 905.600 General.

(a) *Applicability.* This subpart F applies to the development of public housing units to be included under an ACC and which will receive funding from public housing funds. PHAs must comply, or cause the Owner Entity and its contractors to comply, as applicable, with all of the applicable requirements in this subpart. Pursuant to § 905.106 of this part, when a PHA, a PHA partner, and/or an Owner Entity submits a development proposal and, if applicable, a site acquisition proposal, and executes an ACC covering the public housing units being developed, it is deemed to have certified by those executed submissions its compliance with this subpart. Noncompliance with any provision of this subpart or other applicable statutes or regulations, or the ACC Amendment, and any amendment thereto may subject the PHA, the PHA's partner and/or the Owner Entity to sanctions contained in § 905.804 of this part.

(b) *Description.* A PHA may develop public housing through the construction of new units or the acquisition,

with or without rehabilitation, of existing units. A PHA may use any generally accepted method of development including, but not limited to:

(1) *Conventional*. The PHA designs a project on a property it owns. The PHA then competitively selects an entity to build or rehabilitate the project.

(2) *Turnkey*. The PHA advertises for and competitively selects a developer who will develop public housing units on a site owned or to be owned by the developer. Following HUD approval of the development proposal, the PHA and the developer execute a contract of sale and the developer builds the project. Once the project is complete, the developer sells it to the PHA.

(3) *Acquisition with or without rehabilitation*. The PHA acquires an existing property that requires substantial, moderate, or no repair. Any repair work is done by PHA staff or contracted out by the PHA. The PHA must certify that the property was not constructed with the intent of selling it to the PHA or, alternatively, the PHA must certify that HUD requirements were followed in the development of the property.

(4) *PHA use of force account labor*. The PHA uses staff to carry out new construction or rehabilitation, as provided in § 905.314(j) of this part.

(5) *Mixed finance*. Development or modernization of public housing units where the public housing units are owned in whole or in part by an entity other than a PHA, pursuant to Section 905.604.

(c) *Development process*. The general development process for public housing development, using any method and with any financing, is as follows:

(1) The PHA will identify a site to be acquired or a public housing project to be developed or redeveloped. The PHA or its Partner and/or the Owner Entity will prepare a site acquisition proposal pursuant to § 905.608 of this part and/or a development proposal pursuant to § 905.606 of this part for submission to HUD or as otherwise directed by HUD. The PHA may request predevelopment funding necessary for preparation of the acquisition proposal and/or development proposal, as stated in § 905.612(a) of this part.

(2) The PHA must consult with affected residents prior to submission of an acquisition proposal, development proposal, or both to HUD to solicit resident input into development of the public housing project.

(3) After HUD approval of the site acquisition proposal and/or development proposal, HUD and the PHA shall execute the applicable ACC Amendment for the public housing units and record a Declaration of Trust or Declaration of Restrictive Covenants on all property acquired and/or to be developed. The PHA may then commence development of the units.

(4) Upon completion of the public housing project, the PHA will establish the DOFA. After the DOFA, the PHA will submit a cost certificate to HUD attesting to the actual cost of the project that will be subject to audit.

(d) *Funding sources*. A PHA may engage in development activities using any one or a combination of the following sources of funding:

(1) Capital Funds;

(2) HOPE VI funds;

(3) Choice Neighborhoods funds;

(4) Proceeds from the sale of units under a homeownership program in accordance with 24 CFR part 906;

(5) Proceeds resulting from the disposition of PHA-owned land or improvements;

(6) Private financing used in accordance with § 905.604 of this part, Mixed-finance development;

(7) Capital Fund Financing Program (CFFP) proceeds under § 905.500 of this part;

(8) Proceeds resulting from an Operating Fund Financing Program (OFFP) approved by HUD pursuant to 24 CFR part 990; and

(9) Funds available from any other eligible sources.

§ 905.602 Program requirements.

(a) *Local cooperation*. Except as provided under § 905.604(i) of this part for mixed-finance projects, the PHA must enter into a Cooperation Agreement with the applicable local governing body that includes sufficient authority to cover the public housing being developed under this subpart, or provide an opinion of counsel that the existing,