

## § 906.40

presently public housing or Section 8 residents and not already on the PHA's waiting lists for those programs, the program must include an affirmative fair housing marketing strategy for such families, including specific steps to inform them of their eligibility to apply, and to solicit applications from those in the housing market who are least likely to apply for the program without special outreach, including persons with disabilities;

(e) *Sale and financing.* Terms and conditions of sale and financing, including any below-market financing under § 906.29;

(f) *Consultation with residents and purchasers.* A description of resident input obtained during the resident consultation process required by the PHA Plan under part 903 of this title. If the PHA is one whose Plan does not require information regarding homeownership under § 903.11(b)(1) of this title, the PHA must consult with the Resident Advisory Board or Boards regarding the homeownership plan, and provide the information required in this paragraph;

(g) *Counseling.* Counseling, training, and technical assistance to be provided to purchasers;

(h) *Sale via PRE.* If the program contemplates sale to residents by an entity other than the PHA, a description of that entity's responsibilities and information demonstrating that the requirements of § 906.19 have been met or will be met in a timely fashion;

(i) *Non-purchasing residents.* If applicable, a plan for non-purchasing residents, in accordance with § 906.23;

(j) *Sale proceeds.* An estimate of the sale proceeds and an explanation of how they will be used, in accordance with § 906.31;

(k) *Records, accounts, and reports.* A description of the recordkeeping, accounting, and reporting procedures to be used, including those required by § 906.33;

(l) *Budget.* A budget estimate, showing any rehabilitation or repair cost, any financing assistance, and the costs of implementing the program, and the sources of the funds that will be used;

(m) *Timetable.* An estimated timetable for the major steps required to carry out the program;

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

(n) *Deed restrictions.* A deed restriction or covenant running with the land that will assure to HUD's satisfaction that the requirements of §§ 906.27 and 906.15(b) are met.

### § 906.40 Supporting documentation.

The following supporting documentation must be submitted to HUD with the proposed homeownership program, as appropriate for the particular program:

(a) *Supporting documentation—PREs.* In approving homeownership programs in which the PHA contemplates selling public housing units to a PRE for operation as public housing during the 5 year interim period the department will require evidentiary materials including but not limited to:

(1) Organizational documents of the PRE;

(2) Regulatory and operating agreement between the PHA and PRE regarding the provision of operating subsidy and the operation of the public housing units in accordance with all applicable public housing requirements;

(3) Management agreement and plan;

(4) Financing documents, if any;

(5) A description of the use of operating subsidy during the PRE's period of ownership, in the form of an operating pro forma;

(6) A mixed-finance ACC amendment governing these units;

(7) A deed restriction or covenant running with the land that will assure to HUD's satisfaction that the PRE will operate the units in accordance with public housing laws and regulations, including § 906.19.

(8) A bond for repairs or proof of insurance to cover any damage to the property during the period of PRE ownership and operation;

(9) Such other materials as may be required by HUD.

(b) *Physical assessment.* An assessment of the physical condition of the properties, based on the standards specified in § 906.7;

(c) *Feasibility.* A statement demonstrating the practical feasibility of the program, based on analysis of data on such elements as purchase prices,

costs of repair or rehabilitation, accessibility costs, if applicable, homeownership costs, family incomes, availability of financing, and the extent to which there are eligible residents who are expected to be interested in purchase (See §906.45(a));

(d) *PHA performance in homeownership.* A statement of the commitment and capability of the PHA (and any other entity with substantial responsibility for implementing the homeownership program) to successfully carry out the homeownership program. The statement must describe the PHA's (and other entity's) past experience in carrying out homeownership programs for low-income families, and (if applicable) its reasons for considering such programs to have been successful. A PHA that has not previously implemented a homeownership program for low-income families instead must submit a statement describing its experience in carrying out public housing modernization and development projects under part 905 of this title, respectively;

(e) *Nondiscrimination certification.* The PHA's or PRE's certification that it will administer the plan on a non-discriminatory basis, in accordance with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, other authorities cited in §5.105(a) of this title, and the implementing regulations, and will assure compliance with those requirements by any other entity that may assume substantial responsibilities for implementing the program;

(f) *Legal opinion.* An opinion by legal counsel to the PHA, stating that counsel has reviewed the program and finds it consistent with all applicable requirements of federal, state, and local law, including regulations as well as statutes. At a minimum, the attorney must certify that the documents to be used will ensure sales only to eligible families under §906.15, compliance with the 5-year PRE sale guarantee in §906.19(d), and compliance with the restriction of use of resale proceeds of §906.27;

(g) *Board resolution.* A resolution by the PHA's Board of Commissioners, evidencing its approval of the program;

(h) *Section 8(y).* In any case where the PHA plans to provide families with assistance under the Section 8(y) homeownership option in connection with homeownership under this part, a certification that the PHA will comply with the requirements of the Section 8(y) statute and implementing regulations;

(i) *Other information.* Any other information that may reasonably be required for HUD review of the program. Except for the PHA-HUD implementing agreement under §906.49 and the deed restriction required by §906.39(n), HUD approval is not required for documents to be prepared and used by the PHA in implementing the program (such as contracts, applications, deeds, mortgages, promissory notes, and cooperative or condominium documents), if their essential terms and conditions are described in the program. Consequently, those documents need not be submitted as part of the program or the supporting documentation.

**§906.41 Additional supporting documentation for acquisition of non-public housing for homeownership.**

(a) *Proposal contents.* The PHA must submit an acquisition proposal to the HUD field office for review and approval before its homeownership plan containing acquisition of non-public housing can be approved. This proposal must contain the following:

(1) *Property description.* A description of the properties, including the number of housing units, unit types, and number of bedrooms, and any non-dwelling facilities on the properties to be acquired;

(2) *Certification.* If the housing units were constructed under a contract or an agreement that they be sold to the PHA, a certification that the developer/owner complied with all Davis-Bacon wage rate requirements under §906.37, including all required contractual provisions and compliance measures, and that the PHA received all applicable HUD environmental approvals and all applicable HUD releases of funds before executing the contract or agreement, in accordance with §906.47(d).

(3) *Site information.* A description of the proposed general location of the