

CHAPTER 8. HUD RESPONSIBILITY: FUND RESERVATION AND
OBLIGATION

- 8-1. OBJECTIVE. The objective of this Chapter is to provide instructions to HUD field staff on grant approval and fund reservation and obligation. [Sec.14(b)]
- 8-2. HUD PREPARATION OF GRANT APPROVAL DOCUMENTS. Within 65 calendar days of the date of HUD's receipt of the Comprehensive Plan or Annual Submission for review, where the grant is being approved, the FO shall prepare the following documents:
- A. Approval Letter to HA, transmitting documents and, where necessary, providing any non-binding advice and explaining any notice of deficiency or corrective action order (see paragraph 12-9). The letter also shall indicate whether HUD or the responsible entity has complied with the environmental requirements of 24 CFR Part 50 or, if not, what activities the HA may not expend funds on until HUD has notified the HA of compliance. See Appendix 5-2 for sample FO approval letter.
 - B. Form HUD-52840 or Form HUD-52840A, Comprehensive Grant Program Amendment. Prepare one Amendment for each grant being funded; i.e., one Amendment for the current year annual grant and another Amendment for any funding from the \$75 million reserve for disasters and emergencies. The FO Office of Public Housing (OPH)/Office of Native American Programs (ONAP) shall prepare the Amendment, including obtaining the Amendment number from HUD Counsel, who shall concur in the Amendment. Refer to paragraph 8-3.
 - C. Form HUD-52540 (5/95), Project Accounting Data (PAD). Prepare one PAD for each grant being funded; i.e., one PAD for the current year annual grant and another PAD for any funding from the \$75 million reserve for disasters and emergencies. A sample Form HUD-52540 (5/95) is contained in Appendix 8-1.
 - D. HUD Notification. Prepare one HUD Notification for each grant, using the most recently issued format and instructions from the Office of Congressional and Intergovernmental Relations (OCIR).
- 8-3. COMPREHENSIVE GRANT PROGRAM AMENDMENT TO ACC. Form HUD-52840 or HUD-52840A, Comprehensive Grant Program Amendment, requires low-income use of the housing for not less than 20 years from the date of the Amendment (subject to sale of homeownership units in accordance with

the terms of the ACC). It also includes by general reference an

developments eligible for CGP funding within the HA's inventory and amends all consolidated ACCs of the HA. This coverage allows the HA to shift funds among developments, including those under different ACCS, during program implementation and negates the need for a subsequent Amendment when adding or deleting developments to or from the Annual Statement. The ACC Amendment sets forth the amount of the annual grant and whether the HA's use of the annual grant is subject to any corrective action order. Form HUD-52840 (1/95) is used where the revised Consolidated ACC has not been executed (see Appendix 8-2 for a sample form). Form HUD-52840A (8/95) is used where the revised Consolidated ACC has been executed (see Appendix 8-3 for a sample form). ['968.3250) or '950.656(i)]

8-4. HUD GRANT APPROVAL AND FUND RESERVATION.

A. Assembly of Documents. Within 65 calendar days of the date of HUD's acceptance of the Comprehensive Plan/Annual Submission for review (assuming the Plan/Submission is approvable), the FO shall prepare, assemble and route the following documents to the OPH Director/ONAP Administrator for approval:

1. Original and two copies of the approval letter to the HA;
2. Original and three copies of the CGP Amendment;
3. Original and one copy of the PAD;
4. Original and one copy of the HUD Notification; and
5. Original and one copy of the Annual Statement and the Five-Year Action Plan.

B. Reservation Procedures. Reservation procedures differ during the first eleven months of the FFY and the last month of the FFY, with regard to the establishment of the Notification Date.

1. First Eleven Months of the FFY Procedures. During this period, the Notification Date is the date the transaction is recorded in the Program Accounting System (PAS).
 - a. FO. After the OPH Director/ONAP Administrator signs the PAD, the FO shall forward the signed PAD, together with a signed copy of the undated approval letter, to the Field Accounting Division (FAD).

- b. FAD. The FAD shall ensure that funds for the grant are reserved within 72 hours from the date

the reservation documents are received from the FO. After reviewing the reservation documents for correctness, the FAD (assuming the documents are correct) enters the data into PAS. The FAD enters the transaction entry date (the date data are being keyed -- month/day/year) as the transaction effective date. After the date has been entered into PAS, the FAD will review the computer-generated transaction listing. If the grant reservation has been accepted by PAS, the FAD will then insert the effective date displayed on the transaction listing on the PAD.

2. Last Month of the FFY Procedures. During this period, the effective date is the date the OPH Director/ONAP Administrator signs the approval letter.
 - a. FO. The procedures are the same as subparagraph Bla, except that the approval letter is dated when the OPH Director/ONAP Administrator signs it, and the FO inserts that date on the PAD.
 - b. FAD. The procedures are the same as subparagraph Blb, except that the FAD enters the effective date into PAS from the PAD and the FAD ensures that the date on the PAD and the effective date on the transaction listing are the same.
3. FAD Confirmation. The FAD shall provide the FO with confirmation of fund reservation through telephone, electronic mail or a copy of the Acceptance Report, generated by PAS.

8-5. HUD TRANSMITTAL OF HUD NOTIFICATION.

- A. Upon notification from the FAD that the fund reservation has been accepted by PAS, the FO shall transmit the HUD Notification to OCIR by facsimile machine. The FO shall note the actual date and time of transmission.
- B. The FO shall announce the grant approval only after OCIR has provided a release date. Where the FO has not been provided a release date within three working days, the FO shall contact OCIR to determine the status.

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8-6. HUD DISTRIBUTION OF APPROVED DOCUMENTS.

- A. Grant Approval Documents. Immediately following receipt of the release date, the FO shall arrange for the following distribution:
 1. To the HA, the original of the approval letter, one copy of the approved Annual Statement and Five-Year

Action Plan, and the original and three copies of the CGP Amendment. Where the HA does not have access to the Line of Credit Control System/Voice Response System (LOCCS/VRS), the Departmental system for fund requisitions, the FO also shall forward to the HA the following forms necessary for access:

- a. Form HUD-27054, LOCCS/VRS Access Authorization, for each new user. The HA shall send this form to the FO for review. If correct, the FO shall forward the form to: Department of HUD, Attention: LOCCS Security Officer, P.O. Box 23774, Washington, DC 20026-3774.
- b. SF-1199A, Direct Deposit Sign-Up Form, where the HA wishes to change its bank account or where the HA is currently receiving no grant funds from HUD. The HA shall send this form to the FO for verification. If correct, the FO shall forward the form to: Department of HUD, Chief Financial Officer, Office of Cash Management, Attention: ACH, P.O. Box 44816, Washington, DC 20026-4816.

2. To the FO program files, the original of all documents submitted by the HA, including the approved Annual Statement and Five-Year Action Plan, and one copy each of the approval letter, the PAD, and the HUD Notification for records purposes.

- B. HA Action on CGP Amendment. The HA shall enter its tax identification number (TIN) directly on the CGP Amendment which will allow the CGP grant to be linked with established banking information already in LOCCS. Where permitted by State/tribal law and the HA's own by-laws, the HA Executive Director may sign and return the original and three copies of the CGP Amendment without Board Resolution; where not permitted, the Board of Commissioners shall authorize, through Board Resolution, the Board Chairman or the Executive Director to sign the CGP Amendment.

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- C. CGP Amendment. Immediately upon receipt of the signed CGP Amendment from the HA, the OPH Director/ONAP Administrator shall execute the CGP Amendment and arrange for the following distribution:
1. To the FAD, the original of the executed CGP Amendment for purposes of entering the fund obligation into PAS. After the FAD has entered the fund obligation into PAS and linked to LOCCS and the FO has spread the grant in LOCCS, the HA may draw down funds, when needed.
 2. To HUD Counsel's files, one copy of the executed CGP Amendment for official Departmental records purposes.

3. To the FO program files, one copy of the executed CGP Amendment for records purposes.
4. To the HA, one copy of the executed CGP Amendment for records purposes.

8-7. DECLARATION OF TRUST. ['968.325(k) or '950.656(k)]

- A. Promptly after grant approval, HUD Counsel shall ensure that Form HUD-52190B, Declaration of Trust (non-Indian grants), or Form HUD-52190C, Declaration of Trust (Indian grants), covering all of the developments in the HA's inventory, is in place or is current. As provided under the ACC, the Declaration of Trust protects the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations.
- B. If a Declaration of Trust is not in place or is not current, HUD Counsel shall advise the HA to execute and file for record the Declaration of Trust and to provide HUD Counsel with a copy as soon as it has been recorded. The Declaration of Trust is updated only where there has been a change, such as adding land through purchase, subtracting land through disposition, restricting the property through an easement, or, in rare cases, receiving a lien on the property through HUD approval of additional debt.
- C. HUD has determined that its interest in Mutual Help units is sufficiently protected without the further requirement of a Declaration of Trust. Therefore, a Declaration of Trust is not required for Mutual Help units.

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8.8. SPECIAL REQUIREMENTS FOR HOMEOWNERSHIP DEVELOPMENTS. Refer to paragraph 2-4.

8-9. SPECIAL REQUIREMENTS FOR SECTION 23 LEASED HOUSING BOND-FINANCED PROJECTS. A Section 23 Leased Housing Bond-Financed project (BFP) is eligible for modernization only if the PHA determines that the BFP has met all of the following conditions:
['968.101(b)(3)]

- A. Bond Financing. The BFP was financed by the issuance of bonds.
- B. Clear Title. Clear title to the BFP will be conveyed to or vested in the PHA at the end of the Section 23 lease term. The Lease Agreement and Trust Indenture must provide that title to the property will pass to the PHA at that time. Based on title evidence, the PHA's attorney shall determine whether the PHA is assured of obtaining good title under the legal arrangements for the BFP and whether there are any

hens or encumbrances against the property junior to the bond indenture.

- C. No Initial Obstacles. Based upon a full review of the legal documentation for the BFP, the PHA's attorney shall determine that there are no legal obstacles affecting the PHA's use of the property as public housing during the 20-year period following the modernization. This review would include any known pending or threatened litigation affecting the BFP.
- D. Useful Life. After completion of the modernization, the BFP will have a remaining useful life of at least 20 years, assuming timely maintenance and replacements, and it is in the financial interest of the Federal Government to improve the BFP.
- E. Cooperation Agreement. The BFP is covered by a Cooperation Agreement between the PHA and the local governing body during the 20-year period of the modernization, assuring tax exemption and provision of municipal services as in the case of PHA-owned developments.
 - 1. If the BFP is not already covered by a sufficient Cooperation Agreement, the PHA shall enter into a Cooperation Agreement with the local government. In such case, the Cooperation Agreement shall specifically designate the BFP to which the exemption applies in a manner that clearly indicates the real property covered by the exemption (generally in the same manner used to designate properties for local tax billing). If any tax lien has been or may be

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attached to the property before execution of the ACC Amendment, but covering taxes for any period subsequent to execution of the ACC Amendment, the PHA's attorney shall ensure (by specific provision in the Cooperation Agreement or otherwise) that the lien of and liability for the tax is released before execution of the ACC Amendment.

- 2. If the BFP is already exempt from real and personal property taxes under State law, or under a Cooperation Agreement that does not provide for Payments in Lieu of Taxes (PILOT), the Cooperation Agreement shall not include any provision for PILOT. If the BFP is already exempt from taxation under a Cooperation Agreement that provides for PILOT, the Cooperation Agreement may include provision for PILOT, but not to exceed the amounts required under Section 6(d) of the Act.

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