

CHAPTER 12. PROJECT CONSTRUCTION AND COMPLETION

Section 6. Contract Settlement

12-71. **GENERAL.** The PHA, upon receipt of written authorization from the Area Office, shall notify the contractor to prepare for settlement. The PHA shall also advise the contractor to submit the documentation identified in this section for PHA and Area Office approval prior to settlement.

12-72. **SETTLEMENT DOCUMENTS.** The contractor is responsible for preparing and submitting the following to the PHA:

- a. Conventional and Turnkey Projects. The following documents are required for all projects, whether developed under the conventional or turnkey method.
 - (1) a certificate of occupancy issued by the responsible local agency for each building;
 - (2) two notarized originals of the contractor's release and certification which indicates:
 - (a) the work was completed in accordance with the construction documents (including change orders) except any minor items identified on the PHA architect's final inspection report;
 - (b) the total amount due the contractor and a separately stated amount for each unsettled claim against the PHA;
 - (c) the PHA is released of all claims, other than those stated in the contractor's release; and
 - (d) wages paid to laborers or mechanics were consistent with the wage rate requirements of the contract, and there are no outstanding claims for unpaid wages.
 - (3) an assignment of all guarantees and warranties to the PHA.
- b. Conventional Projects. In addition to the documents identified in paragraph a, the general contractor shall submit a "final" Periodical Estimate for Partial Payment (Form HUD 51001).

c. Turnkey Projects. In addition to the documents identified in subparagraph a, the turnkey developer Shall submit the following:

- (1) the as-built drawings (paragraph 12-23);
- (2) a copy of the receipt for real property taxes paid by the developer during the construction period;
- (3) the title binder, evidencing that good and marketable title will be conveyed to the PHA; and
- (4) a copy of the proposed deed.

12-73. PHA CONTRACT SETTLEMENT REPORT. The PHA in consultation with the PHA architect and attorney shall review the contractor's settlement documents and prepare a report on its findings.

a. PHA Review. The PHA shall review the construction documents, the PHA records, and completed work, to determine whether the contractor's statements concerning compliance with the construction documents (including change orders) and identified work to be completed are accurate.

b. PHA Report. Upon completing its review, the PHA shall prepare a contract settlement report indicating PHA agreement with the contractor's statements. The PHA report shall also identify:

- (1) the current status of any incomplete or seasonal work;
- (2) any outstanding disputes or claims;
- (3) any PHA exceptions to the contractor's settlement documents; and
- (4) the PHA attorney statement as to the adequacy of the proposed deed and title information (turnkey projects only).

c. **Certificate of Completion.** The PHA or PHA architect shall prepare the proposed certificate of completion in the form prescribed by the Area Office.

d. **PHA Submission** The PHA shall submit a copy of the following to the Area Office for approval:

- (1) all settlement documents identified in paragraph 12-72 for the applicable development method;
- (2) the PHA contract settlement report; and
- (3) the proposed certificate of completion.

12-74. **AREA OFFICE REVIEW.** The AE Chief is responsible for coordinating the review and recommending approval of the certificate of completion.

a. **Standard Processing Time.** The standard processing time (SPT) is the number of calendar days from receipt of the settlement documents and certificate of completion by the PCR Unit and a decision by the Housing Director. The SPT for Area Office review and approval (or disapproval) of the certificate of completion is ten (10) calendar days.

b. **AE Branch.** The AE Chief in order to recommend approval must determine that:

- (1) all work has been completed in accordance with the construction documents;
- (2) the proposed certificate of completion is acceptable; and
- (3) the amount to be withheld from the contractor is sufficient to complete any items on the PHA architect's punch list, including seasonal work.

c. **Legal Division.** The Area Counsel, in order to recommend approval, must determine and advise the AE Chief that:

- (1) the contractor's release and certification is consistent with the terms of the contract;
- (2) for turnkey projects, the proposed deed and title information is acceptable and are consistent with the contract of sale; and
- (3) for turnkey projects, the scheduled closing date.

- d. Labor Relations Staff. The Labor Relations Staff, in order to recommend approval, must determine and advise the AE Chief that the contractor's wage certification is acceptable.
- e. **PHA Notification.** The AE Chief, upon determining that the contract settlement documents are in order, must sign the certificate of completion and submit it for the Housing Director's signature. The original shall be promptly sent to the PHA. If applicable, the PHA and turnkey developer shall be advised of the scheduled closing date.

12-75. **PAYMENT OF CONTRACTOR.** The PHA upon receipt of the approved certificate of completion is authorized to make payment to the contractor of the amounts approved by the Area Office. For turnkey projects, payment shall be made at the closing of the sale.

- a. Contract Payment. The PHA payment to the contractor shall be the amount specified in the **certificate of completion** approved by the Area Office and shall not include any amount to be retained for:
 - (1) warranty retainage or disputed items; and
 - (2) incomplete work, such as punch list or seasonal items.
- b. Final Payments. The PHA is not authorized to make final payment of any amounts withheld without prior Area Office approval. When punch list or seasonal work items are completed, the **PHA shall submit a revised certificate of completion** for Area Office approval.

12-76. **TURNKEY CLOSING PROCEDURES.** The closing for turnkey projects shall take place in accordance with the following requirements:

- a. Title Insurance. The PHA must obtain a title insurance policy, or other title guarantee acceptable to the Area Office, at closing. The title policy shall guarantee that title is good and marketable and is free of any mortgage, lease, lien or other encumbrances, such as use or building restrictions, zoning ordinances, easements or rights-of way which would affect the value or proposed use of the site. In those instances where several contiguous parcels are being acquired, a blanket title insurance policy should be obtained for the entire site.

- b. Curing Title Defects. The PHA attorney shall ensure that any outstanding mortgages, leases, or liens have been cleared.
- c. Settlement Record. The closing details for each transaction shall be recorded in triplicate on the Real Estate Settlement Record (Form HUD 51975) or a similar locally used and accepted settlement record.
- d. Deed Recordation. The PHA shall ensure that the deed is promptly recorded by its attorney.
- e. Declaration of Trust. The PHA shall execute and record the Declaration of Trust (Form HUD 52190) prepared by the Area Counsel. A copy of the executed Declaration of Trust shall be returned to the Area Office as soon as it has been recorded.