
CHAPTER 12. PROJECT CONSTRUCTION AND COMPLETION

Section 1. Introduction

- 12-1. GENERAL. This chapter establishes the procedures for PHA administration of the construction contract and the contract of sale, inspections during construction, acceptance of the construction work, and settlement upon project completion. If assistance is required, the PHA should contact the AE Chief or the designated construction analyst who will provide guidance and assistance to the PHA. Except where otherwise specified, the following terms are used throughout this chapter:
- a. Contract. This term refers to the construction contract (conventional) or the contract of sale (turnkey).
 - b. Contractor. This term refers to the general contractor (conventional) or the developer (turnkey).
 - c. Construction. This term refers to new construction and rehabilitation.
- 12-2. CONSTRUCTION CONFERENCE. A construction conference will be held within ten (10) calendar days of execution of the contract by the PHA and the contractor to discuss the public housing program construction requirements. This is necessary to provide for the timely construction of the proposed project by eliminating any misunderstanding of the program regulations and procedures, contract requirements, and the responsibilities of the PHA, the PHA architect, the contractor, and the Area Office.
- a. Participants. The AE Chief will coordinate the meeting and will lead the discussion. The designated construction analyst and representatives from the Labor Relations Staff and the FHEO Division shall attend to discuss and answer questions concerning their technical requirements. The MHR shall also attend the meeting. The PHA Executive Director, or designee, the PHA architect, and the contractor and any subcontractors shall also attend the meeting.
 - b. Discussion Items. The PHA may submit a list of specific discussion items (including items identified by the contractor) to the construction analyst prior to the date scheduled for the construction conference. In addition to the items identified by the PHA, the following should be discussed:

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- (1) the content and requirements of the contract;
 - (2) the project construction and completion requirements identified in this chapter;
 - (3) the PHA and contractor insurance requirements identified in Chapter 3 (Section 3);
 - (4) the FHEO requirements identified in Chapter 3 (Section 4);
 - (5) the prevailing wage rate requirements identified in Chapter 3 (Section 2); and
 - (6) the need for the PHA to promptly notify the construction analyst of any problems being encountered so that assistance may be provided by the Area Office staff to keep project construction on schedule.

- c. Minutes of Meeting. The construction analyst, immediately following the construction conference, shall prepare a summary of the items discussed at the meeting. A copy of this summary shall be sent to each of the Area Office participants and to the PHA.

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Section 2. Contract Administration

12-11. PUBLIC HOUSING AGENCY. The PHA pursuant to the ACC is responsible for enforcing the PHA architect's contract and the construction contract or contract of sale and for ensuring retention of all contractual rights.

- a. Contracting Officer. The PHA shall designate an employee as its contracting officer. The scope and limitation of the contracting officer's responsibility shall be identified in writing and copies shall be provided to the PHA architect and the contractor.
- b. Contract Administrator. The PHA shall designate a qualified professional to administer the contract. Unless otherwise authorized by the Area Office, the PHA architect will be designated as the contract administrator.

- c. Start of Work. The PHA shall advise the AE Chief in writing of the date that construction work begins. The PHA letter shall also indicate for conventional projects that the evidence of insurance (Chapter 3, Section 3) has been received by the PHA and is in compliance with the construction contract.
- d. Reports. The PHA shall obtain the reports and construction documents required by the contract and this chapter from the PHA architect and contractor. A copy of these reports will be retained by the PHA and, as required, a copy will be sent to the AE Chief.
- e. HUD Construction Forms. The PHA shall maintain a supply of required HUD Forms for use by the PHA, the PHA architect, and the contractor. An initial supply of HUD Forms will be provided by the Area Office upon approval of the contract (paragraph 12-13).
- f. Construction Progress Meetings. The PHA Executive Director shall meet with the PHA architect and the contractor on a monthly basis. These meetings will be held to discuss the progress of construction work, any problems or deficiencies noted during inspection visits, overdue reports and the construction schedule. The PHA shall prepare a written record of the items discussed at each meeting and a copy shall be placed in the PHA project construction file.

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- g. Correction of Deficiencies. The PHA, upon being notified by the PHA architect or the Area Office construction analyst of construction deficiencies, shall promptly notify the contractor in writing of the deficiencies observed. This notification shall also advise the contractor that failure to make timely corrections would be an infraction of the contract and that the contractor is liable for any resulting losses or delays.
- 12-12. PHA ARCHITECT. The PHA architect is responsible for ensuring that the project is constructed in accordance with the construction documents approved by the Area Office, as well as applicable State and local requirements.
- a. Basic Services. The PHA architect, as an agent of the PHA, is responsible for providing the services identified in the PHA architect's contract such as:
 - (1) making periodic site visits to determine the quality

and progress of work and compliance with the contract;

- (2) advising the PHA of any deficiencies noted and preparing a notification to the contractor to correct such work;
- (3) preparing applicable change orders (conventional) to the contract and submitting change orders to the PHA for Area Office approval;
- (4) for conventional projects, reviewing the contractor's schedule for construction contract payments and recommending payments to be made by the PHA in accordance with the contract; and
- (5) participating in the final inspection, identifying punch list items and amounts to be withheld until such work is corrected, and signing the project completion documents.

- b. Additional Services. The PHA architect's contract may require the architect to employ representatives to provide daily on-site supervision of work in progress. This generally will be limited to projects with more than fifty (50) units. In such instances, the number of on-site inspectors specified in the PHA architect's contract shall not exceed the following:

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- (1) Projects of fifty (50) to one hundred (100) units: one full-time inspector for the entire contract period; or
- (2) Projects of more than one hundred (100) units: one full-time "clerk of the works" for the entire contract period and one full-time inspector for one-half of the contract period.

- c. Reports. The PHA architect shall prepare and promptly submit the following reports to the PHA:

- (1) Deficiencies: a written report of any deficiencies or disputes that the PHA architect brought to the contractor's attention but which the contractor has not corrected or has refused to correct; and
- (2) Construction Report: a Construction Report (Form HUD 5378) shall be prepared on the first and sixteenth day of each month during the construction period -- from the date of contract execution to final inspection.

12-13. AREA OFFICE. The Area Office is responsible for ensuring that the PHA, in accordance with the terms of the ACC, is enforcing the PHA architect's contract and the construction contract or contract of sale, including the construction documents approved by the Area Office.

a. General. The Area Office will provide technical assistance and guidance to the PHA concerning contract administration and enforcement, reporting, interpretation of construction documents, and other related matters such as:

- (1) PHA supervision of the PHA architect and contractor;
- (2) completing standard HUD Forms;
- (3) reviewing and approving change orders and revisions to the construction documents;
- (4) PHA acceptance of completed work; and
- (5) procedures for resolving disputes and contract enforcement by the PHA.

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b. HUD Construction Forms. As soon as the contract is approved by the Housing Development Division Director, the PCR Unit shall send a sixty (60) day supply of standard HUD Forms to the PHA.

(1) Turnkey Projects: The following HUD Forms shall be sent:

Number	Title	
* Form HUD 5372	Construction Progress	*
Form HUD 5378	Construction Report	
Form HUD 51002	Schedule of Change Orders	

(2) Conventional Projects: The following HUD Forms as well as the HUD Forms for turnkey projects shall be sent:

Number	Title	
* Form HUD 51000	Schedule of Amounts for Contract Payments	*
Form HUD 51001	Periodic Estimate for Partial Payment	

(3) Site Visits. The construction analyst, designated by the AE Chief all visit the construction site at least monthly to evaluate project construction and PHA administration activities. The construction analyst shall review such matters as the following:

- (1) general performance of the PHA in administering all project related contracts in accordance with the ACC;
- (2) PHA records to determine that required insurance coverage is in force;

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- (3) construction work, material, and equipment to determine that the contract requirements are being met; and
- (4) the contractor's payroll records, employment practices, material invoices and project accounting records, to ensure the contract requirements are being met.

d. Reports. The construction analyst, upon concluding each site visit, shall discuss any observations or findings with the PHA Executive Director or PHA architect and advise the PHA to take necessary action to correct any deficiencies that were observed. The construction analyst shall subsequently prepare a HUD Representatives Trip Report (Form HUD 5379) and submit it to the AE Chief and send a copy to the PHA.

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Section 3. General Requirements for Project Construction

12-21. SUBCONTRACTORS. All contracts between the contractor and any subcontractors shall contain the FHEO employment requirements (Chapter 3, Section 4) and the prevailing wage rate requirements (Chapter 3, Section 2). The contractor is responsible for

determining that potential subcontractors are not on the HUD consolidated list of debarred, suspended or ineligible contractors.

12-22. CONTRACTOR PAYROLL. The contractor is responsible for paying prevailing wage rates (Chapter 3, Section 2) to all employees engaged in work under the contract and ensuring that any subcontractors also pay prevailing wage rates.

- a. Payroll Report. The contractor shall submit a certified payroll report to the PHA each week during the contract period --i.e., from execution of the contract to project completion and acceptance by the PHA. A separate payroll report shall be submitted for the contractor and subcontractor.
- b. Payroll Forms. The contractor's report shall be submitted on the Payroll Form (WH 347) and Statement of Compliance (WH 348). Such forms can be obtained from the Government Printing Office, Washington, D.C. 20402. The contractor may substitute computer generated forms, instead of the Payroll Form (WH 347), provided that all of the required information is included.
- c. Retention. The PHA shall retain all payroll reports for three years from the date of project completion and acceptance by the PHA.

12-23. AS-BUILT DRAWINGS. The PHA shall be provided with a copy of the as-built drawings for its project construction file upon project completion. These drawings shall include all significant deviations from the working drawings approved by the Field Office.

- a. Responsibility. The as-built drawings shall be prepared as follows:
 - (1) Turnkey projects: The turnkey developer is responsible for preparing and submitting the as-built drawings to the PHA.

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- (2) Conventional projects: The general contractor is responsible for providing all necessary information to the PHA architect in order that the PHA architect may prepare the as-built drawings.

- b. Utilities. The proposed underground utility lines are usually identified on the working drawings in diagram form. The actual location of underground utilities shall be recorded on the as-built drawings to indicate:

- (1) the depth of underground lines from finished grade

and the distance from buildings;

- (2) the depth from finished grade and the distance from buildings of related underground work such as bands, cleanouts, connections, branches, cutoffs and sewer ends; and
- (3) the invert elevations of the storm and sanitary sewer systems.

c. Other. All significant deviations from the working drawings shall be noted on the applicable architectural sheet. Detailed descriptions and changes may be made to the applicable sheet or a note may be made referring to attachments, other sheets, or to change orders. Separate attachments or drawings shall cross reference the related architectural sheet.

12-24. PHA SUBMISSION OF CHANGE ORDERS. The PHA shall not order or agree to any changes in the contract work without the prior written approval of the Area Office. Changes in construction work that are beyond the scope of the contract shall be limited to work that is required to provide a necessity, appropriate betterment, or equivalent, for the proposed project.

a. Limitation. Changes in work shall be authorized by the Area Office only when such changes are clearly in the interest of the PHA. Changes generally will be limited to work required for the safety of the occupants or to protect the structural soundness of the project. In addition, the cost of such changes must be within the applicable project prototype cost limit.

b. Preparation. Change orders shall be prepared by the following:

- (1) Turnkey projects. The turnkey developer is responsible for preparing and submitting change orders to the PHA.

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(2) conventional projects. The PHA architect is responsible for determining whether a change is necessary and preparing and submitting change orders to the PHA. The general contractor is responsible for submitting any information required by the PHA architect.

c. Content. Changes in contract work shall be documented by a change order. A change order is a written agreement, executed by all parties to the contract, which describes the changes in work to be performed. Change orders shall be prepared

in the form prescribed by the Area Office and shall include the following:

- (1) a detailed description of the proposed change in work;
 - (2) a reference to the applicable working drawings and specifications;
 - (3) a fixed price (credit, debit, or no change) for the change in contract work;
 - (4) an estimate of any additional time required to complete the work;
 - (5) the contractor's itemized breakdown of the cost of materials and labor and, for conventional projects, an itemized breakdown for any applicable subcontractors; and
 - (6) the change indicated on the architectural drawings, if applicable.
- d. Submission. A proposed change order shall be signed by the PHA architect and by the contractor and the PHA. A copy of each proposed change order and the supporting documentation shall be submitted to the Area Office for review and approval.
- e. Numbering. The PHA shall assign a consecutive number to each change order submitted to the Area Office. The prefix "T" shall be used for turnkey projects and "G" for conventional projects. However, for conventional projects having separate trade contracts the following prefixes shall be used: demolition (D); plumbing (P); heating (H); electrical (E); and landscaping (L).

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- f. PHA Register. The PHA shall maintain a separate change order register for each project--i.e., on a project-by-project basis. This is required to provide a permanent record of all actions taken in connection with each project. The register shall identify:
- (1) the change order number;
 - (2) a brief description of the change;
 - (3) the cost of the proposed change;
 - (4) the date submitted to the Area Office;

- (5) any critical deadline dates that must be met by the Area Office;
- (6) the date of Area Office approval or disapproval, and the action taken; and
- (7) the amount of any additional time required by the contractor.

12-25. AREA OFFICE APPROVAL OF CHANGE ORDERS. The AE Chief is responsible for coordinating the review and recommending approval (or disapproval) of change orders by the Housing Director.

- a. Standard Processing Time. The standard processing time (SPT) is the number of calendar days from receipt of the proposed change order by the PCR Unit and a decision by the Housing Director. The SPT for Area Office review and action on a change order is ten (10) calendar days.
- b. AE Branch. The AE Chief, in order to recommend approval, shall determine, with respect to the proposed change that:
 - (1) it is not within the scope of the contract;
 - (2) it is a necessity and in the interest of the PHA;
 - (3) it is consistent with the standards for the public housing program;
 - (4) it cannot practicably be performed under a separate contract after completion of the project; and
 - (5) any additional time required for the change is reasonable.

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- c. Cost Branch: The Cost Chief in order to recommend approval shall determine and advise the AE Chief that:
 - (1) the fixed price for the change order is reasonable; and
 - (2) any additional costs can be approved based on the project prototype cost limit.
- d. Mortgage Credit Branch. The Mortgage Credit Chief shall review the proposed change order to determine that any additional costs can be made available from the contingency account.

- e. AHM Branch. Change orders that would affect project management or maintenance operations (e.g., substitute materials or equipment, changed utility combinations) shall be submitted to the AHM Branch for review. The AHM Chief shall promptly submit any recommendations to the AE Chief.
- f. Legal Division The Area Counsel shall be requested to provide assistance if there is reason to believe that a proposed change is within the scope of the original contract, or to correct work which is the responsibility of the PHA architect or the contractor.
- g. PHA Notification. The AE Chief, upon determining that the change order is approvable, shall sign the change order as the authorized Area Office official if signature authority has been delegated by the Housing Director. If a change order is disapproved, a letter shall be prepared for the AE Chief's signature, if signature authority has been delegated, advising the PHA of the reasons for disapproval.

12-26. TIME EXTENSIONS. The contractor is responsible for completing the project within the time established in the contract. Accordingly, the PHA shall not authorize any time extensions without the prior written approval of the Area Office.

- a. PHA Records. The PHA, upon project completion, shall determine the number of calendar days and reasons for any delays beyond the date established in the contract. The PHA shall maintain a record of potential causes for delays which will be used as the basis for granting time extensions or for determining the amount of liquidated damages to be assessed against the general contractor for conventional projects (paragraph 12-46). The PHA shall maintain a record of the following:

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- (1) the daily temperature;
 - (2) the daily amount of precipitation;
 - (3) delays in obtaining labor and materials, including the duration and reason;
 - (4) labor disputes or strikes, including the duration, and the applicable construction trade;
 - (5) delays experienced by others in completing non-contract public improvements (whether on-site or off-site); and

- (6) other causes for delays, such as fires, floods, vandalism or court orders.
- b. Basis for Time Extensions. In order to be considered for approval by the Area Office, requests for time extensions must meet the following criteria:
 - (1) the contractor must have submitted a written notice to the PHA within ten (10) calendar days of the start of any delay;
 - (2) the severity and extent of adverse weather could not have been reasonably foreseen by the contractor (normal seasonal levels of rain, snow, cold, or heat should have been considered by the contractor);
 - (3) the cause of the delay was beyond the contractor's control; and
 - (4) any additional cost attributable to the delay is being borne by the contractor.
- c. Contractor Request. The PHA immediately upon receipt of a contractor's notification of delay or request for time extension shall send a letter of acknowledgement to the contractor. The letter shall indicate:
 - (1) immediate attention will be given to the contractor's request and that a "finding of fact" will be submitted to the Area Office for consideration and approval; or
 - (2) the actual delay in the work is difficult to determine and a "finding of fact" will be sent to the Area Office for consideration and approval upon completion of work.

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- d. PHA Finding of Fact. The PHA shall review its records to ensure that the information provided by the contractor is accurate, to determine the cause of the delay and the extent that it was within the general contractor's control, and the request meets the criteria established in subparagraph b. The PHA, based on its review, shall prepare a "finding of fact" with the assistance of the PHA architect and PHA attorney and submit its recommendation to the Area Office for approval.
- e. Area Office Approval. The AE Chief shall review each PHA "finding of fact". In order to recommend approval, the AE Chief must determine that:

- (1) the contractor's request, as documented by the PHA "finding of fact," meets the requirements of subparagraph b;
- (2) the additional time requested by the contractor is reasonable based on the nature and duration of the delay; and
- (3) if there is some question of the contractor's liability for the delay, the PHA "finding of fact" shall be reviewed in accordance with paragraph 12-27.

12-27. DISPUTES AND CLAIMS. The PHA shall promptly notify the Area Office of any problems or disputes experienced during construction which could result in a claim by the PHA architect or the contractor. This may include claims for extra costs due to delays, claims for time extensions or extra costs based on PHA actions, or claims resulting from contract changes.

- a. PHA Records. It is imperative that the PHA maintain a complete written and dated record of any actions that may result in a dispute or claim for damages. This is required to protect the PHA interest during any litigation proceedings that may subsequently arise. In such instances, the PHA shall, at a minimum, maintain the following:
 - (1) a complete and detailed (daily job record;
 - (2) a disputes and claims file, cross-referencing other pertinent files, for each dispute or claim, and
 - (3) any correspondence relating to the dispute, including written minutes of any meetings, which identify actions taken by the PHA, PHA architect or contractor and decisions or agreements made concerning the dispute.

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- b. Contractor Notice. The contractor must submit a written notice of claim to the PHA within ten (10) calendar days from the date of the incident on which the claim is based. The contractor's initial notice must identify the nature and scope of the claim, including extra costs sought by the contractor. The contractor will subsequently be required to submit a detailed description and supporting evidence for the claim.
- c. PHA Acknowledgement. The PHA immediately upon receipt of a contractor's notice shall date stamp the notice and shall send a letter to the contractor acknowledging receipt of the claim. The PHA's letter shall also indicate:

- (1) if the claim was filed within the ten (10) day period, that the contractor is required to submit a detailed justification for the claim; or
 - (2) if the claim was not filed within the ten (10) day period, the contractor's claim is not eligible for consideration.
- d. PHA Finding of Fact. The PHA shall review its records to assure that the information provided by the contractor is accurate. The PHA, based on its review of the contractor's claim and its knowledge of the circumstances, shall prepare a "finding of fact" with the assistance of the PHA architect and PHA attorney and submit its recommendations for a determination by the Area Office.
- e. Area Office Approval. The AE Chief, in conjunction with the Area Counsel, shall review the PHA "finding of fact" and proposed disposition of the claim. In making this review, consideration shall be given to the contractor's claim and the PHA recommendations in light of the obligations of both parties under the contract. Upon completion of the review, the AE Chief shall prepare a letter for the Housing Director's signature (with the concurrence of the Area Counsel) instructing the PHA to promptly:
- (1) notify the contractor of the PHA decision (as approved by the Area Office);
 - (2) if applicable, request the PHA architect to prepare a change order to reflect any modifications to the contract as a result of the decision;
 - (3) notify the Area Office, if the Area Office decision is not acceptable to the PHA; or

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- (4) notify the Area Office, if the contractor does not accept the decision (if court action is taken, the PHA shall submit a copy of the contractor's assertions to the Area Office).

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Section 4. Construction Requirements for Conventional Projects

- 12-41. CONSTRUCTION PROGRESS SCHEDULE. A construction progress schedule shall be prepared to monitor construction activities from the date specified in the "notice to proceed" through the actual project completion date.
- a. Contractor Schedule. The contractor shall prepare a Construction Progress Schedule (Form HUD 5372) for each project immediately after PHA issuance of a "notice to proceed". The information shall be realistic and consistent with the information provided by the general contractor on the approved Schedule of Amounts for Contract Payments (Form HUD 51000a). The contractor may substitute alternate forms (e.g., tracings) provided that all information identified on Form HUD 5372 is included.
 - b. PHA Approval. The PHA architect shall review the general contractor's construction progress schedule to determine that the scheduled dates and amount of work to be completed are reasonable and consistent with the construction contract. If acceptable, the PHA architect shall sign the schedule and forward it to the PHA for approval. Upon approval by the PHA, the approved construction progress schedule shall be returned to the general contractor and a copy forwarded to the AE Chief.
- 12-42. SCHEDULE OF AMOUNTS FOR CONTRACT PAYMENTS. The Schedule of Amounts for Contract Payments (Form HUD 51000a) approved by the Area Office is used by the PHA for making progress payments to the general contractor.
- a. Contractor Schedule Immediately after execution of the construction contract, the general contractor shall prepare a Form HUD 51000a. The completed form shall be sent to the PHA to review and obtain Area Office approval.
 - b. PHA Review. The completed Form HUD 51000a shall be reviewed by the PHA and the PHA architect to determine that the scheduled work to be completed by the specified dates and the amount of payment for such work is reasonable. If acceptable to the PHA, the Form HUD 51000a shall be submitted to the Area Office.
 - c. Area Office Approval. The AE Chief shall review the Form HUD 51000a completed by the general contractor as well as PHA recommendations. The AE Chief shall prepare a letter for the Housing Director's signature advising the PHA that:

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- (1) the Form HUD 51000a is either approved as submitted or as modified by the Area Office;
 - (2) it should promptly send a copy of the approved Form HUD 51000a to the general contractor for acceptance; and
 - (3) it is authorized to make progress payments to the general contractor in accordance with paragraph 12-43.

12-43. CONTRACT PAYMENTS. The PHA is responsible for making progress payments to the general contractor based on the Schedule of Amounts for Contract Payments (Form HUD 51000a) approved by the Area Office. Generally, progress payments for acceptable work and materials delivered and stored on the site are made at thirty (30) day intervals.

- a. Area Office Approval. Area Office authorization of progress payments, based on the approved Form HUD 51000a, is not required. However, written Area Office approval is required before any of the monthly retainage is advanced or before final payment is made.
- b. Contractor Request for Payment. The general contractor must submit a request for payment on Periodical Estimate for Partial Payment (Form HUD 51001) for each project. The request shall be accompanied by the general contractor's written designation of a certifying officer. In addition, the general contractor must submit the following documentation, if applicable, with each Form HUD 51001:
 - (1) Schedule of Change Orders, Form HUD 51002;
 - (2) Schedule of Materials Stored, Form HUD 51003; and
 - (3) Summary of Materials Stored, Form HUD 51004.
- c. PHA Approval. The PHA shall review each general contractor request and shall approve the advance if the following conditions have been met:
 - (1) the general contractor request is consistent with the approved Schedule of Amounts for Contract Payments (Form HUD 51000a);
 - (2) the request does not include the amount to be retained by the PHA pursuant to the construction contract;

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- (3) the work covered by the payment has been performed in accordance with the construction documents;
 - (4) the Form HUD 51001 has been properly executed and all applicable supporting documentation submitted; and
 - (5) the general contractor has submitted all required reports (e.g., payroll reports).

d. Distribution of Documents. The PHA shall retain the original Periodical Estimate for Partial Payment (Form HUD 51001) and any applicable supporting documentation for its project file. A copy of the PHA approved forms shall be sent to the AE Chief and to the general contractor.

12-44. PROJECT PHOTOGRAPHS. The PHA shall periodically take photographs to illustrate the progress of construction work. In addition, these photographs may be required to protect the PHA interest in disputes relating to defective workmanship, cave-ins, or accidents.

a. Prints. Prints shall be at least five (5) inches by seven (7) inches. Each print shall be identified as follows:

- (1) project number and name;
- (2) city and state;
- (3) date photograph taken;
- (4) description of view (e.g., block, street and special features); and
- (5) the camera position identified on a site diagram.

b. Site Diagram. The site diagram, prepared by the PHA architect, shall be used to indicate camera positions. The diagram shall be an eight by eleven inch (8" x 11") photo reduction of the construction contract site plan showing the PHA architect's name, the PHA, the project number, a graphic scale, streets, and the North point.

12-45. SHOP DRAWINGS AND MATERIALS. Shop drawings and material samples shall be prepared and submitted in accordance with the agreements reached at the construction conference.

a. Contractor Submission. The contractor is responsible for

preparing and submitting shop drawings to the PHA architect. The contractor's letter shall list the shop drawings being submitted and state whether the shop drawings deviate from the approved construction documents. Each shop drawing shall include:

- (1) a descriptive title and drawing number;
 - (2) a brief description of the work involved;
 - (3) the project number and name;
 - (4) the contractor's and any subcontractor's name; and
 - (5) evidence of the contractor's approval.
- b. PHA Architect's Approval. The PHA architect shall review the shop drawings to determine whether they are consistent with the construction documents. The PHA architect shall require that any corrections be made prior to approval. upon approval, the PHA architect shall:
- (1) sign and date each shop drawing and include the following statement: "This shop drawing is approved, but the general contractor shall verify and shall be responsible for all related documents and job conditions on the work."
 - (2) send a letter to the general contractor indicating that the shop drawing was approved and advising the contractor that:
 - (a) "This approval of the enclosed shop drawing is general and does not relieve the contractor of the responsibility for adherence to the contract, nor is the contractor relieved of the responsibility for any error which may exist", and
 - (b) if applicable, "The modification shown on the enclosed shop drawing is approved in the interest of the PHA to effect an improvement for the project and is ordered with the understanding that it does not involve any change in the contract price or time; it is subject to all contract stipulations. and covenants; and it is without prejudice to any and all rights of the PHA under the contract and bond."

c. Distribution of Documents. The PHA architect shall

retain a copy of the approved shop drawing, and shall forward a copy to the general contractor and the PHA.

- d. Samples. The general contractor shall submit certificates, material samples, and test results to the PHA architect for approval. The PHA architect shall advise the general contractor of the reasons for any disapproval and request that another sample be submitted. Approved samples and data shall be retained both at the PHA office and the project office for comparison during construction.

12-46. LIQUIDATED DAMAGES. The general contractor is responsible for completing the project within the time established in the construction contract unless time extensions are authorized in accordance with paragraph 12-26. If the construction work is not completed by the contract date, the general contractor shall be liable for liquidated damages resulting from such unexcused delays.

- a. Finding of Fact. The PHA shall prepare a "finding of fact" pursuant to paragraph 12-26 and shall submit it to the Area Office for review and approval.
- b. Amount of Damages. The PHA's "finding of fact" shall identify the amount of liquidated damages to be assessed against the general contractor and the basis used in determining the amount. Liquidated damages shall be assessed at the rate established in the construction contract and shall be withheld from any payment due the contractor.
- c. Area Office Approval. The AE Chief, in consultation with The Area Counsel, shall review the PHA "finding of fact" to determine whether the contractor is responsible for the delay and the amount of damages established by the PHA is reasonable. Upon completing this review, the AE Chief shall prepare a letter for the Housing Director's signature advising the PHA to:
 - (1) send a letter to the general contractor identifying the amount of liquidated damages being assessed and the reasons;
 - (2) send a letter to the general contractor's bonding company identifying the amount of liquidated damages being assessed on the general contractor; and

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- (3) send copies of both letters to the AE Chief.

12-47. PARTIAL PROJECT ACCEPTANCE. The PHA, with Area Office approval, may accept part of a project for occupancy prior to settlement.

a. Conditions. The PHA may not permit early occupancy unless the following conditions are met:

- (1) the dwelling units to be accepted (except punch list items) have been completed and are ready for occupancy;
- (2) the general contractor agrees to early occupancy and completion of the punch list items;
- (3) early occupancy will not inconvenience or represent a safety risk to the occupants while the unfinished work is being completed;
- (4) the PHA has obtained occupancy permits from the responsible local agency for each unit to be accepted; and
- (5) the PHA has executed an occupancy agreement with the general contractor indicating that the PHA partially accepts specified work provided that the contractor accepts the responsibility to complete the project by the established completion date.

b. Occupancy Agreement. The PHA shall submit the proposed occupancy agreement to the Area Office for approval prior to execution by the PHA.

c. Area Office Approval. The construction analyst shall review the proposed occupancy agreement to determine whether the conditions identified in subparagraph a have been satisfied. Upon completion of this review, the construction analyst shall prepare a letter for the AE Chief's signature advising the PHA of the Area Office decision:

- (1) if approvable, the letter shall:
 - (a) authorize the PHA to execute the occupancy agreement; and
 - (b) request that a copy of the occupancy agreement be submitted to the AE Chief after execution by the PHA and the general contractor.

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- (2) if not approvable, the letter shall identify the

reasons for disapproval, including the work to be completed or corrected prior to reconsideration by the Area Office.

12-48 thru 12-60. RESERVED.

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12-39 thru 12-44

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Section 5. Project Completion and Final Inspection

12-61. GENERAL. The contractor is responsible for providing the PHA with a forty-five (45) day written notice of the expected date by which the project will be completed and ready for final inspection. This section establishes the inspection requirements which must be met prior to acceptance of completed work and contract settlement (Section 6).

12-62. PHA ARCHITECT'S INSPECTION. The PHA architect shall schedule with the contractor a date to inspect the project and prepare a punch list of the incomplete work.

- a. Content of Punch List. A separate punch list shall be prepared for each building which identifies the:
 - (1) date of the inspection;
 - (2) name and title of the contractor representative;
 - (3) each incomplete or unsatisfactory work item; and
 - (4) specific location of each item of incomplete work.
- b. Contractor Notification. The PHA architect shall send a letter to the contractor which:
 - (1) transmits a copy of the punch list;
 - (2) advises the contractor to promptly correct each item of incomplete or unsatisfactory work; and
 - (3) requests that the contractor promptly notify the PHA of the date by which the corrective work will be complete so that the PHA can schedule a final inspection prior to contract settlement.
- c. Deductions for Incomplete Work. The PHA shall consult with the PHA architect to determine if it would be advantageous to accept a project prior to final inspection. In such instances, the PHA architect shall prepare a deductive

change order for Area Office approval prior to the final inspection. The amount of deductions from the contract price shall be based on current replacement cost for correcting any incomplete or unsatisfactory work.

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- 12-63. FINAL INSPECTION. A final project inspection shall be made when all work is completed. Until the final inspection has been made and approved by the Area Office, the PHA shall not advance any of the retainage (conventional project) or make the final payment to the contractor.
- a. Inspection Date. Upon receipt of the contractor's notification of the date when the corrective work will be completed, the PHA shall schedule a final inspection. Each member of the inspection team shall be given a fifteen (15) day notification of the scheduled inspection date.
 - b. Inspection Participants. The final inspection shall be conducted by:
 - (1) a PHA representative;
 - (2) the PHA architect;
 - (3) the AHM Chief, the AE Chief and the construction analyst;
and
 - (4) a contractor representative.
 - c. Inspection Conference. The inspection team shall meet after completing the final inspection to determine whether:
 - (1) the work has been completed in accordance with the construction documents;
 - (2) there are any minor items of incomplete or unsatisfactory work (or seasonal work such as planting of shrubs and lawns) and reach agreement on the items to be included on the PHA architect's final punch list; or
 - (3) there are any major deficiencies which must be corrected by the contractor so that another final inspection can be made prior to contract settlement.
 - d. Inspection Report. The PHA architect shall prepare a final inspection report and certificate of completion based on the agreements reached at the inspection conference. The certificate of completion will show the amount of payment

to be withheld for any incomplete work provided that such work is not of a major nature requiring correction before settlement.

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- e. Area Office Approval. The PHA shall submit a copy of the PHA architect's final inspection report and the proposed certificate of completion to the Area Office for approval. The AE Chief shall review the PHA submission to determine that the final inspection report is acceptable and, if applicable, any amount to be withheld is sufficient to complete the corrective work. If approvable, the AE Chief shall prepare a letter for the Housing Director's signature authorizing the PHA to accept the project and prepare for settlement.

12-64 thru 12-70. RESERVED.

12-47 thru 12-54

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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).

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- 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.

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- 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.

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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.

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- 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.

12-77. WARRANTY INSPECTIONS. The PHA is responsible for performing required warranty inspections during the warranty period and promptly notifying the contractor in writing to remedy any defects.

- a. Applicability. These requirements apply to projects developed under either the conventional or turnkey method and include:
 - (1) manufacturer or contractor warranties on equipment and systems; and
 - (2) contractor warranty on materials and workmanship.
- b. Contractor Responsibility. The contractor, upon receipt

of PHA written notice, shall promptly remedy any defects due to the use of faulty equipment or materials, or poor workmanship. The contractor is also responsible for paying for any damage to other work resulting from such defects.

- c. Warranty Period. The warranty period for all construction work shall be at least 365 calendar days from the date specified on the certificate of completion that is applicable to the work in question or such longer period otherwise specified in the construction contract.
- d. PHA Inspection. The PHA shall inspect each dwelling unit at least every three months during the warranty period. If any deficiencies are noted, the PHA shall take prompt action to protect its rights under the applicable warranty.

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- e. Final Inspection. The PHA shall schedule a final warranty inspection prior to the expiration of the one-year warranty period. The final inspection shall be performed by the PHA, the PHA architect, and the AE Chief and the AHM Chief to determine whether there are any deficiencies and whether such deficiencies are the responsibility of the PHA or contractor.

12-78 thru 12-90. RESERVED.

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12-60 thru 12-66

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Section 7. Date of Full Availability

12-91. DEFINITION. The date of full availability (DOFA) is the last day of the month in which all housing units in a project are available for occupancy. A unit is considered available if an occupancy certificate has been obtained from the responsible local agency. It is not necessary for the purpose of establishing DOFA that construction work such as landscaping and punch list items be completed.

- a. Turnkey Projects. DOFA shall be established as the last day of the month in which settlement takes place.

- b. Conventional Projects. DOFA shall be established as the last day of the month in which substantially all units (e.g., 95 percent) are available for occupancy.
- c. Acquisition Projects. DOFA shall be established as the last day of the month in which settlement takes place. For scattered site projects, DOFA shall be established as the last day of the month in which substantially all the units (e.g., 95 percent) have been acquired by the PHA.

12-92. PHA REPORTING. The PHA is responsible for notifying the Field Office when DOFA is achieved. It is critical that the PHA report DOFA promptly, since DOFA establishes the date on which interest * stops accruing toward the development cost of the project and * serves as the basis for determining the End of the Initial Operating Period.

- * a. PHA Submission. The PHA shall submit for Field Office approval two signed originals of the Notice of Date of Full Availability (Form HUD-52423).
- b. Delinquent PHA Submission. The construction analyst shall periodically determine if there is any project, based on occupancy agreements or construction progress reports, for which DOFA has not been but should have been reported by the PHA. If applicable, the construction analyst shall prepare a letter for the Housing Development Division Director's signature advising the PHA that:
 - (1) it appears, based on Field Office records, that DOFA has been achieved;
 - (2) if DOFA has been achieved, the PHA must submit the documents identified in subparagraph a within thirty (30) calendar days of the date of the Housing Development Division Director's letter;

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- (3) if DOFA has not been achieved, the PHA must submit an explanation of the reasons for delay within thirty (30) calendar days of the date of the Housing Development Division Director's letter; and
- (4) if the required information is not received by the thirty (30) day deadline date, the Field Office will prepare and execute the Form HUD-52423.

12-93. FIELD OFFICE REVIEW. The construction analyst shall review the PHA submission (including delinquent submissions) to verify that

substantially all housing units were satisfactorily completed and were available for occupancy on the date established by the PHA.

- a. Approval. If the DOFA date is approvable, the construction analyst shall prepare a letter, for the Housing Development Division Director's signature transmitting a copy of the approved Notice of Date of Full Availability (Form HUD-52423) signed by the Housing Development Division Director. A copy of the signed Form HUD-52423 shall be sent to the AHM Chief, the Mortgage Credit Chief, the Regional Financial Management Specialist, and the Assistant Secretary for Administration (Attention: Office of Finance and Accounting).
- b. Disapproval. If the DOFA date is not approvable, the construction analyst shall prepare a letter for the Housing Development Division Director's signature indicating that the Form HUD-52423 was not approved, the reasons for disapproval, and conditions which the PHA must meet before submitting a revised Form HUD-52423 to the Field Office.
- c. Unusual Conditions. The construction analyst, in consultation with the designated MHR and Mortgage Credit Chief, shall review any PHA submissions which indicate that DOFA will be delayed because of unusual circumstances. For example, the PHA may be experiencing difficulty in obtaining bids for rehabilitation of scattered site housing or existing housing may not be available to permit timely achievement of DOFA. In such instances, consideration shall be given to establish a separate project for all units that have been completed and to issue a Form HUD-52423 for those units that have been acquired and are available for occupancy. This action is necessary to stop the accrual of interest and minimize the amount of the initial operating deficit charged to the development cost of the project.

12-94 thru 12-100. RESERVED.

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12-68 thru 12-74

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Section 8. End of Initial Operating Period

12-101. DEFINITION. The end of the initial operating period (EIOP) is the last day of the first calendar quarter (March, June, September, December) after DOFA, provided that ninety-five (95) percent of the units are occupied. However, if ninety-five (95) percent occupancy is not achieved, EIOP is automatically established as the last day of the second calendar quarter after DOFA.

12-102. PHA REPORTING. The PHA is responsible for promptly notifying

the Area Office of the EIOP date. It is critical that the PHA report EIOP promptly, since EIOP establishes the day that the project is eligible for operating subsidies.

- a. Determination of Date. The PHA shall determine EIOP in accordance with the following examples that are based on the assumption that DOFA was established on November 30, 1980.
 - (1) Example 1. Ninety-five (95) percent occupancy is achieved on February 10, 1981. In this example EIOP would be established as March 31, 1981 -- the end of the first calendar quarter after DOFA.
 - (2) Example 2. Ninety-five (95) percent occupancy is not achieved by March 31, 1981 -- the end of the first calendar quarter. In this example, EIOP would automatically be established as June 30, 1981 -- the end of the second calendar quarter after DOFA.
- b. PHA Submission. As soon as EIOP is determined, the PHA shall submit two signed originals of the Notice of End of Initial Operating Period (Form HUD 52344) to the Area Office.
- c. Delinquent PHA Submission. The AHM Chief shall determine at the end of each calendar quarter if there are any projects that have achieved DOFA for which EIOP has not been reported by the PHA. If applicable, the AHM Chief shall prepare a letter for the Housing Director's signature advising the PHA that:
 - (1) the first calendar quarter has passed and the PHA has not reported EIOP;

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- (2) the Area Office has prepared a Notice of End of Initial Operating Period (Form HUD 52344) which must be signed by the PHA and returned to the Area Office within (30) calendar days of the date of the Housing Director's letter; and
- (3) if the signed Form HUD 52344 is not returned by the thirty (30) day deadline date, the Area Office will execute it on behalf of the PHA.

12-103. AREA OFFICE REVIEW. The AHM Chief shall review the PHA submission (including delinquent submissions). If approvable, the AHM Chief shall sign the Form HUD 52344 and return it to the PHA. Otherwise, the AHM Chief shall contact the PHA to ascertain the correct date. A copy of the signed Form HUD 52423 shall

also be sent to the Mortgage Credit Chief, the Regional Financial Management Specialist, and the Assistant Secretary for Administration (Attention: Office of Finance and Accounting).

12-104 thru 12-110. RESERVED

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12-76 thru 12-80

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Section 9. Actual Development Cost

12-111. PHA REPORTING. The PHA is responsible for promptly notifying the Area Office when all project development activities are completed and the PHA has made payment for all obligations incurred in the development of a public housing project..

- a. Reporting Date. The PHA shall submit its report as soon as the actual development cost for the project is known. However, unless written Area Office authorization is obtained, the PHA report shall be submitted within
* twenty-four (24) months after DOFA. PHA requests for an extension shall be accompanied by a detailed explanation of the reasons that are beyond PHA control (e.g., litigation unresolved disputes, pending claims), justifying Area Office approval of an extension. *
- b. PHA ADCC Submission. The PHA upon determining the actual development cost for a specific public housing project shall submit the following for Area Office approval:
 - (1) Actual Development Cost Certificate (ADCC), Form HUD-52427;
 - (2) a copy of an Independent Public Accountant (IPA) audit including comments on the ADCC;
 - * (3) Statement of Actual Development Cost prepared on Form HUD-52484 (Development Cost Budget/Cost Statement); and *
 - (4) if applicable, a detailed explanation of any actual costs incurred that exceed the amount for any development cost account (total) of the latest Area Office approved development cost budget on Form HUD-52484.

12-112. AREA OFFICE MONITORING. The Mortgage Credit Chief is responsible for ensuring the timely development close-out of all public housing projects.

- a. Control Record. The Mortgage Credit Chief shall

establish a control record for all projects reaching
DOFA so that:

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- * (1) each PHA shall be notified one year after DOFA to be prepared for an IPA audit and arrange for submission of the ADCC by the deadline date; *
- * (2) the Assisted Housing Management (AHM) Branch shall be notified to incorporate the project's costs in the regularly scheduled biennial IPA audit. If the project's costs cannot practicably be incorporated in the regularly scheduled biennial IPA audit, then a separate audit for purposes of the ADCC shall be arranged to be completed in sufficient time to permit the ADCC to be submitted within the deadline. The cost of such an audit shall be included in the development cost for the project; *
- (3) the Regional Inspector General for Audit (RIGA) shall be advised of all overdue ADCCs so that IPA audits may be rejected if they fail to address ADCC audits (see Handbooks in the 7476 series);
- * (4) in those instances where the IPA auditor indicates to the RIGA that it will not be possible to make a final determination of Actual Development Cost for purposes of the ADCC, the RIGA shall notify the Housing Director. For projects that cannot be audited, the Housing Director is responsible for determining how many and which personnel will be detailed to establish the actual TDC cost using the actual cost in the latest approved development cost budget, the funds advanced and the Housing Agency's records of expenditures. The Housing Director is to submit to the Area Office Manager for approval a written recommendation of the amount to become the actual development cost for each such project. If the Area Office Manager does not agree with the recommendation, the Regional Administrator is to be advised. The Regional Administrator shall determine whether or not Regional assistance can be provided. If the Regional Administrator determines it appropriate, Headquarters guidance and/or assistance shall be requested; and *
- (5) close-out actions for each project shall be closely

monitored and a quarterly report transmitted to the Regional Project Financing Specialist and RIGA on all projects that have achieved DOFA but ADCCs have not been approved by the Area Office.

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- b. Delinquent ADCC Submission. Where a PHA has not submitted an ADCC by the deadline date and has not requested an extension, the Mortgage Credit Chief shall prepare a letter for the Housing Director's signature advising the PHA that:
- (1) the PHA has not submitted the ADCC by the required date;
 - (2) the PHA must submit the documents identified in subparagraph 12-111 within sixty (60) days or must submit documentation justifying Area Office approval for an extension within thirty (30) days;
 - (3) the PHA is not authorized to make payment after the date of the Housing Director's letter for any PHA obligations with respect to the project without prior written Area Office approval;
 - (4) PHA requests to make payments must be accompanied by a current Development Cost Budget (Form HUD-52484) and an IPA audit;
 - * (5) in the event that the PHA fails to submit the budget and audit, the Area Office shall arrange for the IPA audit and shall charge it to the development cost for the project; and
 - (6) if the documentation required by paragraph 12-111 is not received within sixty (60) days or by the approved extended date, the Area Office will use the development costs (actual and committed) identified on the latest approved Development Cost Budget/Cost Statement, Form HUD-52484, as the basis for amending the ACC, the Permanent Note, the Development Cost Budget and approval of the ADCC and shall notify the PHA in writing. *

12-113. AREA OFFICE REVIEW. Each PHA submission shall be reviewed to determine that it is acceptable.

- * a. Mortgage Credit Branch. In order to recommend approval of the Statement of Actual Development Cost and the ADCC, the Mortgage Credit Chief must determine that: *

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- (1) the actual costs incurred for each development account (totals), do not exceed the amounts identified on the latest Area Office approved development cost budget, Form HUD-52484, and do not exceed the amount of advances authorized by the Area Office;
- (2) all disputed, contingent or unliquidated items have been satisfied;
- (3) the amounts identified in Accounts 1450 thru 1475 are consistent with the construction documents (including change orders);
- (4) there is a zero entry for contract work in progress (Account 1480); and

* (5) if applicable, the PHA's explanation of cost overruns for each account justifies Area Office approval but does not exceed the approved estimated TDC specified in the ACC.

b. AHM Branch.

- (1) in order to recommend approval of the ADCC, the AHM Chief must determine that no development deficiencies have been identified in the initial engineering survey, in accordance with the procedures set forth in the Project Management Handbook RHM 7460.1 SUPP 1, or in subsequent operations which have not been corrected. Development deficiencies are deficiencies in a project that relate to errors or inadequacies in the design or construction of a project which become known before approval of the ADCC. Design deficiencies result from the use of plans and specifications that fail to meet HUD and other applicable design standards in effect at the time of project approval. Construction deficiencies result from the use of improper construction methods or materials, poor workmanship, or failure to complete the project in accordance with HUD-approved plans.
- (2) If the AHM Chief determines that there are uncorrected development deficiencies, the AHM Chief shall not recommend approval of the ADCC and shall provide to the Chiefs, Multifamily Housing Programs, AE, and Mortgage Credit, a written description of the deficiencies and related cost estimates. Upon

correction of the deficiencies, the AHM Chief shall recommend approval. *

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- * c. Area Office Approval. If the Statement of Actual Development Cost and the ADCC are approvable, the Mortgage Credit Chief shall recommend approval by signing both documents, the AHM Chief shall recommend approval by signing the ADCC; and the Housing Director shall approve the ADCC and Statement of Actual Development Cost by signing both documents.
- d. PHA Notification. The Mortgage Credit Chief shall prepare a letter for the Housing Director's signature transmitting the approved ADCC and Statement of Actual Development Cost to the PHA. The letter shall also instruct the PHA to:
- (1) if the project has been permanently financed through the sale of bonds, deposit any excess development funds in the advance amortization fund;
 - (2) if the project has not been permanently financed through the sale of bonds, send any excess funds to the Assisted Housing Accounting Division, OFA, in Headquarters for application against outstanding financing and:
 - (a) the PHA is not authorized to use these funds for any purposes; and
 - (b) the Area Office will forward an amended ACC and Permanent Note for PHA execution to reflect the TDC amount identified on the ADCC.
- e. ACC and Permanent Note Amendments. If the amount in the approved ADCC differs from the TDC specified in the ACC and the project is not permanently financed by bonds, the Mortgage Credit Chief shall initiate amendments to the ACC and the Permanent Note and either reserve additional or recapture excess development funds. If the project is permanently financed by bonds, the procedure is the same except Permanent Notes are not required. In no event shall the reserved funds be reduced for an amount less than the amount required to pay the debt service on the outstanding bonds. The current and appropriate AC rate is used for the entire amount of the development cost. *
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- * (1) When additional funds are required the PCR Supervisor shall be requested to prepare a Project Accounting Data (HUD-52540) and a notification letter shall be signed by the Area Manager and processed by the Regional Accounting Director. The Area Counsel shall be requested to prepare an amended ACC and a revised Permanent Note based on the approved ADCC (a revised Permanent Note is issued only when the project was not financed by New Housing Agency Bonds). The amended ACC and Permanent Note shall be forwarded to the PHA simultaneously for execution. Upon receipt of the amended ADCC and Permanent Note executed by the PHA, the Housing Director shall execute them for HUD.
- (2) When it is necessary to recapture excess funds, the Area Counsel shall be requested to prepare an amended ACC and a revised Permanent Note based on the approved ADCC (a revised Permanent Note is issued only when the project was not financed by New Housing Agency Bonds). The amended ACC and Permanent Note shall be forwarded to the PHA simultaneously for execution. Upon receipt of the amended ACC and Permanent Note executed by the PHA, the Housing Director shall execute them for HUD. The PCR Supervisor shall then be requested to prepare a Project Accounting Data (HUD-52540) for the Area Manager's signature. The Form HUD-52540 and a copy of the amended ACC shall be transmitted to the Regional Accounting Director for processing.
- f. Distribution of Documents. The distribution of these documents should be made in accordance with Chapter 7, paragraph 7-115(b).
- g. Incurring Additional Obligations. After HUD approval of the ADCC, PHAs are prohibited from incurring additional obligations of development funds without the prior written approval of the Assistant Secretary for Housing. Approval will be given in writing and a copy will be sent to the Office of Finance and Accounting. In the event additional development work is approved, the PHA shall be instructed to submit revised Forms HUD-52427 and HUD-52484 (Statement of Actual Development Cost) when work is completed. The same general procedures as set forth in this Section shall pertain to the processing of the revised forms. *