

Chairman Saccaro asked all present to rise for the Pledge of Allegiance. A moment of silence was held in support of our Armed Forces and all victims still suffering from Hurricane Sandy.

APPROVAL OF MINUTES OF SEPTEMBER 13, 2012

Motion to approve minutes made by Commissioner D'Arminio; seconded by Commissioner Stassi.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

RESOLUTIONS #2012-22 through #2012-26 (see attachments)

1. #2012-22 – ADOPTION OF JOB DESCRIPTION & AUTHORIZATION TO ADVERTISE FOR EMPLOYMENT

Motion to approve made by Commissioner D'Arminio; seconded by Commissioner Saccaro.

Mr. Snyder explained at a Closed Session meeting earlier this year, it was discussed about hiring someone with appropriate credentials to hopefully, maybe, possibly be the Director of the Housing Authority. This is the official approval by the Board advertising for that person, who will be vetted.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

2. #2012-23 – CONTRACT AWARD FOR SPRINKLER SYSTEM MAINTENANCE

Motion to approve made by Commissioner Stassi; seconded by Commissioner McCall.

Mr. Snyder said there is a contract with a company that tests and maintains sprinklers in the buildings. An RFP was issued and five proposals were received. Lowest proposal was submitted by Cerullo Fire Protection for two years: \$5100 for 2012/\$5200 for 2013.

Commissioner D'Arminio asked where Cerullo is located. Mr. Snyder thought they were from Hudson County.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

3. #2012-24 – APPROVAL OF CHANGE ORDERS #3 & #4 FOR INTERIOR WORK AT ORATAM COURT

Motion to approve made by Commissioner D'Arminio; seconded by Commissioner Stassi.

Mr. Snyder stated this is for interior work at Oratam Court where work was done in the common areas. Two change orders were previously approved. There was a charge of \$2100 to adjust some piping where the lighting was because the lighting went through the piping. The other was Plexiglas was reduced in size in different areas because bicycles were doing damage to the walls. That was a reduction of \$5300, a net deduct of \$2800 or so. This brings the new contract amount with previous change orders to \$204,229, less than what can be exceeded in the original contract amount, up to 20 percent. The original change orders were higher in price because several items were added at that time: new mailboxes, etc.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

4. #2012-25 – APPROVAL OF CONTRACT FOR INTERIOR RENOVATION OF TWO ELEVATORS AT 65 FIRST STREET

Motion to approve made by Commissioner Casamenti; seconded by Commissioner Saccaro.

Mr. Snyder explained he always comments on the mustard color walls in the elevators. The interiors of the cars will be modernized and made cheerful. On two occasions no bids were received to do this renovation. The law allows the Authority to negotiate with a contractor, who does this work specifically, but he doesn't do public bid work. He does a lot of apartment buildings. A price was negotiated with him, because two times no bids were received. The amount is \$8,000 a car totaling \$16,000. It will include lowering the ceiling with recessed lighting and a stainless steel ceiling. Panels will be put in and Fritz tile on the floor.

Commissioner Casamenti asked what the \$8,000 includes. Mr. Snyder said: new flooring, totally new interior of the car. Commissioner McCall asked in regard to time lines, when will work begin? Mr. Snyder said they'd notify the man, sign a contract and most likely hold off until after the holidays, not wanting to disturb the residents until after the New Year. Mr. Bellocchio said the contractor was looking at the end of January. He'll order the material after the contract is signed. Each elevator will be down two days, he'll work longer hours on this project.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

5. #2012-26 – ADOPTION OF NON-SMOKING POLICY IN ELDERLY HIGH-RISE STRUCTURES

Motion to approve made by Commissioner Stassi; seconded by Commissioner Saccaro.

Mr. Snyder said several months ago residents came to meetings complaining about smoke coming through ventilation system in high-rise building at 65 First Street. Correspondence received from HUD indicated that they were encouraging HHA and all housing authorities to ban smoking, not only in common areas, but apartments and this was due to studies that they had done by health organizations indicating that second-hand smoke was detrimental to the apartments going through ventilation systems. HHA was required, before a policy was adopted, to notify all tenants and amend Annual Plan. Notifications were sent out to everyone soliciting their comments. The overwhelming comments were in favor of non-smoking and only one negative comment was received regarding changing the policy. The lease will be amended and actual date this will become effective is February 1, 2013. Everyone will be notified again that there is no smoking anywhere including tenant apartments. During the annual inspections of the apartments, it will be determined whether people are still smoking and if excessive complaints are received, it will be checked out as to who is doing the smoking and the Authority will act accordingly and turn it over to HHA attorneys.

Research was done on this subject by our attorneys, because HHA wasn't sure if they could do a non-smoking policy for old tenants, and found out there is no problem – new or old tenants. Commissioner McCall asked what the penalty is if they are found to be still smoking. Mr. Snyder said eviction. Mr. Asadurian said the tenant would receive a notice first saying "cease and desist", but if they continue to smoke, then eviction will be forthcoming. Fining will not take care of the problem. Mr. Bellocchio said this policy has been fairly well received and at 175 W. Railroad, tenants are going outside to smoke now. They know the change is coming and they're already complying. Commissioner Casamenti asked if signs would be put up. Mr. Snyder said notes would go out to tenants in English and Spanish saying that on this date there is no more smoking and the potential penalties.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

CORRESPONDENCE

Chairman Saccaro had a question on 7.1 – contract awarded to Tozour Energy. She asked if they were the people the Commissioners had met with previously. The \$25,000 is for them to do the energy study. Mr. Snyder said they're in a stall right now, as Mr. Asadurian

is working with their attorney. There are certain items each side wants and they have to be in the contract and the two attorneys are working it out.

PAYMENT OF CLAIMS

Motion to approve payment of claims made by Commissioner D'Arminio; seconded by Commissioner Stassi.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

MANAGEMENT REPORT & UNFINISHED BUSINESS

Mr. Snyder explained the State Association held a work shop on how to cope with bed bug pandemic that is being seen across the country. Mr. Bellocchio, Carmine and Dave attended the work shop along with Mr. Snyder. Because of the proactive measures that HHA has taken in the past regarding heat equipment and other things that HHA is doing to try to contain it, what came out of the program is that you have to be proactive and Mr. Snyder believes the entire staff is. Tenants have been and will continue to be notified and to be the eyes and ears of the Authority.

There was a problem with Wells Fargo Bank. They had HHA security deposits and several years ago money was moved out of there. Wells Fargo was charging a fee to HHA and within a few years, many of the tenants would not have a security deposit left. Mr. Snyder did not think that was appropriate. Immediately, the money was moved over to Mariner's Bank. Mr. Snyder is aware of some of the publicity that Mariner's Bank has gotten over the past few years, but HHA has additional protections that a private investor would not have. One being a "Governmental Unit Deposit Protection Act" which protects all deposits from a bank that participates. Banks form a conglomeration and that conglomeration puts in five percent of their deposits in the event that a member bank fails. In addition to that, HUD requires that HHA have a general depository agreement that sets aside in the same amount HHA has in that bank collateral in the form of treasury bills and other investments that are in our name. If that bank fails, those investments are in HHA's name and we can redeem them for the full amount. No matter what bank HHA is in, HHA has the General Depository Agreement.

Commissioner McCall asked about Wells Fargo Bank where they will charge HHA? Mr. Snyder said it's a Rent Security account. The money comes in, someone moves out, the money is moved to a Master Account and then take a prorated amount on any individual account. So your charge per month might be \$2, but if you have an 80 or \$75 security deposit, that's \$25/year so in the end you'll have no money left. Mr. Snyder had previously moved money from Wells Fargo because they were not paying a very good interest

amount on HHA investments. The fees will not be charged at Mariner's Bank. The interest, albeit small, will be added to the tenants' accounts each year.

Energy Performance Contract, Mr. Snyder already discussed. The actual contract document is being worked on to make sure it has everyone's concerns in it. Then they'll move forward with the actual Investment Grade Energy Audit.

Listed in Correspondence is the new budget and renewal for contract at 40 Passaic Street, which is managed by HHA for the County of Bergen. Mr. Snyder included a small escalation for the security officers who are working there as they have not had a raise in three years.

The only other capital project in progress is as a result of Superstorm Sandy. Mr. Bellocchio had noticed the generators were being stressed, excessively burning oil. Mr. Bellocchio is in the process of rebuilding one and looking at replacing the generators so they're all new to avoid having a power outage to the extent of the last one.

Mr. Bellocchio had nothing to add at this point in the meeting.

HACKENSACK POLICE DEPARTMENT REPORT

Officers Greg Zisa and Rob Carucci were in attendance. Officer Zisa reported Officer Carucci made his presence well-known during Hurricane Sandy and helped a great deal at Kansas Street. He made sure everyone had food. (Capt. Padilla was also in the room.) (Thank you and applause at this point in the meeting for the Officers.) It was reported that Officer Sirocco had a bad accident and was not able to be here. He will be unavailable for duty for a few weeks. Capt. Padilla said the report would be forthcoming on HHA activities and would be sent to the Commissioners. HPD was kept very busy during the hurricane. Capt. Padilla thanked the residents and said they were very cooperative. He added Officer Carucci went above and beyond in helping. Capt. Padilla added that all the police in HHA volunteer to be in that patrol, and there is a waiting list.

Capt. Padilla said he retiring at the end of next month and came to thank the Commissioners, Mr. Snyder and Mr. Bellocchio having worked with HHA for a while and started back when he was a Lieutenant. (Applause.) He also added there was a problem with a certain resident at Kansas Street, but it has been rectified.

BOYS & GIRLS CLUB OF HACKENSACK/LODI – SONIA VERDADE

Sonia reported 92 turkeys were delivered – 34 for Hackensack residents and Lodi took the rest. There was an article in the newspaper regarding the food giveaway. Sunday was

Breakfast with Santa and there is a photograph of the teenage volunteers with Santa Claus. In the back of the report is a sample of Kids College (attachment 4). The children will participate in a holiday gift wrapping store, were in attendance at tree lighting ceremony in Hackensack promoting the gift wrapping at 159 Main Street for a donation. FDU Athletic Department brought their mascot to the Club and made cards for the children and provided a photo for each child.

Everything is pretty much the same; the statistics are included in the report also. Chairman Saccaro complimented Sonia about a summary meeting she had attended. The children in attendance were articulate and very well-behaved. Chairman Saccaro said Sonia had taken the children to see a performance of the Toad and the Frog and how well they behaved and enjoyed it.

NEW BUSINESS

Mr. Snyder said that an employee, Roseanna Romero, assists Kathy Nielsen in terms of doing certifications for tenants (certifying that tenants are income eligible, Admission Continued Occupancy Policy). Mr. Snyder likes employees to actually be certified by one of the national associations in terms of knowing how to do this work. Mr. Bellocchio and Mr. Snyder would like to send Roseanna to Nan-McKay (one of the national training groups that deal specifically with Housing Choice Voucher Program), so she can get certified and become a Public Housing Specialist. The certification is in Florida, they rarely come to New Jersey. The course is May 20-May 24th and then there's an exam you have to pass. Cost is \$150 & \$850 and Mr. Snyder is requesting authorization of the Commissioners so she can be certified.

Commissioner Casamenti asked if Roseanna was interested in this and Mr. Snyder said she was very excited and down the road would probably be taking over in this area.

Motion to approve made by Commissioner Stassi; seconded by Commissioner McCall.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

REMARKS OF CITIZENS

SUSAN BROOKS, 60 Kansas Street, said Officer Carucci got one of the local churches to bring one meal a day during the Storm; otherwise nothing was available from Monday to Thursday for them. Ms. Brooks said no one from Housing went to see how difficult the situation was.

Ms. Brooks said on Thursday mornings, the bus goes to Kohl's. No one goes to Kohl's, they would like to go to Kmart in Lodi as there are other stores there: Burger King, Dollar Store, Mande's, perhaps they could alternate Kohl's with Wal-Mart. The last time Mr. Snyder did a survey for the tenants of where they'd like to go, maybe he could do that again.

Monday/Wednesday afternoons, the bus goes to Farmer's Market for two hours, but it's too long to just go there. Tuesday/Thursday afternoon is Target and Sears. Thursday morning is Kohl's. Friday mornings get switched around. People would like it switched around. Liquidators is two times a week.

Ms. Brooks said there is a serious problem with the heat in her building. It is either freezing or over 80 degrees. Last weekend it was 60 degrees out, her apartment was 81 degrees at 11 PM in the evening. She ran her air-conditioner. She thinks it's energy inefficiency. The tenants signed a petition and are requesting something be done – turn it off during the day and on at night. Ms. Brooks in speaking of the Petition said some were afraid to sign because they thought there would be repercussions; some didn't understand because they speak Spanish. (At this point in the hearing, the Petition was handed to Mr. Snyder and Mr. Bellocchio.) Ms. Brooks said since the new boiler went in, things have gotten worse. Mr. Bellocchio answered the boiler was put in 13 years ago. Commissioner Stassi asked if there were individual thermostats or one thermostat. Mr. Bellocchio said there's an exterior thermostat that turns it on according to the outside temperatures. There is a same problem at #164 and 40 Passaic. All the steam units are a problem. Commissioner Stassi added the energy audit will be looking into this problem and perhaps changing the entire system. Commissioner Stassi said it wasn't fair to say that the Authority doesn't care. Ms. Brooks said many of the people don't know what is going on. Mr. Bellocchio said if the people would look in the minutes, they would find out things. Commissioner McCall said not everyone comes to the meeting, and the Authority needs to find a way to notify everyone.

Ms. Brooks thanked Officer Sirocco for bringing her to the voting polls at 5:30 AM, he brought lunch and dinner also.

Mr. Snyder responded to Ms. Brooks' statements. He was in communication with Mr. Bellocchio during the storm and days afterwards. Mr. Bellocchio was at Kansas Street. Not all day long, but once each day. Dave Vanteen was also there, as the Authority has his work orders. With respect to the bus: the Office will do another survey. Ms. Brooks brought the same thing up a year ago, and a survey went out. The overwhelming majority of the tenants didn't want to change the schedule. He'll do it again, but the schedule can't be changed because one person wants to go to one place – majority rules.

With respect to the heat problems, about 11 months ago, tenants were at the meeting saying it was too cold. At that point, Mr. Snyder picked the tenants who said it was too cold and put thermometers in their apartments and found out the temperatures were not too cold. Granted...81 degrees is too hot. The Board members or the administrators cannot take the position that there is a problem. First it has to be verified. Sometimes people come to the meeting and they're exaggerating. Mr. Snyder will go to Ms. Brooks' apartment and some other people's apartments. They'll put up a thermometer and check it three times a day and take readings. Many times what people say is so, isn't. Steam heat is difficult to adjust and to make everyone comfortable. The heat goes on and off based on the outside temperature.

Mr. Snyder said the Authority is looking at a phone system, which will allow the office to capture the tenants' phone numbers from the computer program and the office can talk into a microphone at any time, make an announcement and will convert it to Spanish and will call all of the tenants starting at a certain time, ending at a certain time. For example, when the exterminator is going to come, power outage problem, snowstorm issues, making repairs, etc.

ISABELLA TILLERY – 65 First Street, 8B, thanked the Commissioners for taking an interest in the smoking problem, because it had been very bad for her on the 8th floor where her apartment is. The man next door to her smokes in the hallway. There is no circulation in the hallway either. Ms. Tillery is also asking about people smoking out front. Will there be a sign up? Mr. Snyder said he isn't a big sign person. The State law is that you cannot be within 50 or 100 feet. If someone is smoking there, the Office will have to say you can't move in this area. It will be for any entrance to the building.

MISCELLANEOUS

Commissioner McCall read a letter that came to Commissioner D'Arminio from the City of Hackensack: "The City Council at a recent meeting reappointed him to the Housing Authority for willingly serving. He will be reappointed on December 6 until the year 2017, five more years." (Applause.) "When he serves the other five years, he will have served as a Commissioner for 30 years."

Commissioner D'Arminio thanked everyone and said it was a great pleasure.

ADJOURNMENT

Motion to adjourn made by Commissioner Stassi; seconded by Commissioner McCall.

VOTE: AYES/All Present Commissioners (5)

Absent: Rivera/Tessaro

Respectfully submitted,

Deborah L. Alvarez, Secretary

No Smoking sign
Notices
50 feet of the
Building entrance

Did nothing Susan Brooks →
for the stain

HACKENSACK HOUSING AUTHORITY
Proposed Agenda
12/7/12

Bus Kohls
New Survey ✓

1) Regular Meeting-Thursday, December 13, 2012 at 4:00 P.M.
Location: 65 First Street, Hackensack, NJ

- 2) Roll Call
- 3) Opening Statement:

Thermometer
13 yrs old

Heat pretty
81° at
night ✓

"Adequate notice of this meeting, as required by the Open Public Meetings Act, has been provided by the filing of an Annual Meeting Notice with the Municipal Clerk, the posting of said notice on the official bulletin board in the Municipal Government Building, and delivery of same to the Bergen Record & Star Ledger on 12/14/11. This body wishes to advise you that, in accordance with N.J.S.A. 26:3D (1), et seq. (Smoking in Public Buildings), smoking is prohibited while this body is in open or closed session".

- 4) Flag Salute
- 5) Approval of Previous Meeting Minutes: 9/13/12
- 6) Resolutions:

Phone System
Announcement

- ✓ 6.1 **2012-22** Adoption of Job Description and authorization to advertise for employment
- 6.2 **2012-23** Contract award for sprinkler system maintenance
- 6.3 **2012-24** Approval of Change-orders #3 & #4 for Interior work at Oratam Court
- 6.4 **2012-25** Approval of Contract for interior renovation of 2 elevators at 65 First Street
- 6.5 **2012-26** Adoption of non-smoking policy in elderly highrise structures

- 7) Correspondence:
 - 7.1 Notice of Contract Awards
 - 7.2 Job Description-"Operations Manager"
 - 7.3 9/4, OPRA Request from Bergen Record
 - 7.4 9/7, Notice to residents regarding non-smoking policy
 - 7.5 9/12, Capital Fund Program Status of work-items
 - 7.6 9/17, Letter to Attorney regarding EPC Contract
 - 7.7 10/5, RFP Sprinkler system maintenance
 - 7.8 11/15, Letter to Bank about security deposits
 - 7/9 11/19, Letter to Bergen County about 40 Passaic Street
 - 7/10 11/26, 2013 Annual Meeting Notice
 - 7/11 Non-smoking policy resident comments and notices

Kansas
Street

Grog Nitzbach 4J

Car with Gantale
↳ Inoperable

- 8) Payment of Claims: October, November & December
- 9) Management Report & Unfinished Business:
- 10) Old Business:
- 11) New Business: 0
- 12) Other Business:
- 13) Remarks of Citizens
- 14) Adjournment

STATE OF NEW JERSEY
HACKENSACK HOUSING AUTHORITY
65 FIRST STREET
HACKENSACK, NEW JERSEY 07601

THURSDAY, SEPTEMBER 13, 2012

(This is a condensed version of the taped minutes of the Regularly Scheduled Monthly Meeting of the Hackensack Housing Authority commencing at 6:00 P.M.)

Chairman AnnMarie Saccaro called the meeting to order.

ROLL CALL

Present: Commissioner Ralph Rivera
Commissioner Gino Tessaro
Chairman AnnMarie Saccaro
Commissioner Michael D'Arminio
Commissioner Anthony Stassi
Commissioner Pargellan McCall

Absent: Commissioner Al Casamenti

Also Present:

William F. Snyder, Consultant to the Authority
John Bellocchio, Acting Executive Director
Gregory Asadurian, Esq. Counsel to the Authority
Hackensack Police Officers Rob Carucci and Greg Zisa

OPEN PUBLIC MEETINGS ACT

"Adequate notice of this meeting, as required by the Open Public Meetings Act, has been provided by the filing of an Annual Meeting Notice with the Municipal clerk, the posting of said notice on the official bulletin board in the Municipal Government building, and delivery of same to the Bergen Record & Star Ledger on 12/14/11. This body wishes to advise you that, in accordance with N.J.S.A. 26:3D(1) et seq. (Smoking in Public Buildings), smoking is prohibited while this body is in open or closed session."

FLAG SALUTE

Chairman Saccaro asked all to rise, recite the Pledge of Allegiance and remain standing for a moment of silence in support of our Armed Forces, and those that passed away on 9/11/2001.

APPROVAL OF PREVIOUS MEETING MINUTES – July 12, 2012

Motion to approve minutes of July 12th made by Commissioner Stassi; 2nd by Commissioner Rivera.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

RESOLUTIONS #2012-15 THROUGH 2012-22 (See attachments)

1. 2012-15 – ADOPTION OF BUDGET FOR FYE 9/30/13

Motion made by Commissioner Stassi; 2nd by Commissioner Tessaro.

Mr. Snyder explained this is the adoption of the budget introduced two months ago. It has been sent to State, they've approved original version. When adopted by this Authority, it goes back to State and they review it again and then final approval. It calls for total revenue of \$4,018,000 and expenses of \$4,200,000; utilization of fund balance of \$189,000.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

2. 2012-16 – AWARD OF CONTRACT FOR ACCOUNTING SERVICES

Motion made by Commissioner Rivera; 2nd by Commissioner Tessaro.

Mr. Snyder explained professional service contracts have to be done yearly. An RFP goes out annually. This is for accounting services, a one-year period being awarded to William Katchen, Cliffside Park, NJ in the amount of \$36,000.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

3. 2012-17 – AWARD OF CONTRACT FOR AUDITING SERVICES

Motion made by Commissioner Stassi; 2nd by Commissioner D'Arminio.

Mr. Snyder explained RFPs went out and several were received. This auditor is different than last year. Policari's price is \$5,900, substantially less than 2011 and it is the cheapest price paid since Mr. Snyder's been in-house.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

4. 2012-18 – AWARD OF CONTRACT FOR LEGAL SERVICES – FYE 9/30/13

Motion made by Commissioner D'Arminio; 2nd by Commissioner McCall.

Mr. Snyder explained numerous proposals were received. This contract is with the same firm as last year in the amount of \$36,000.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

5. 2012-19 – AWARD OF CONTRACT FOR RISK MANAGEMENT SERVICES

Motion made by Commissioner Tessaro; 2nd by Commissioner Rivera.

Mr. Snyder explained RFPs went out and several were received. This is going to the Scirocco Insurance Group as the Insurance Risk Manager in the amount of six percent, which is the standard fee in the Joint Insurance Fund.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

6. 2012-20 – AWARD OF CONTRACT FOR SOCIAL SERVICE PROGRAMS

Motion made by Commissioner Tessaro; 2nd by Commissioner D'Arminio.

Mr. Snyder explained this was for Social Services. The only bid was from current vendor, Boys & Girls Club of Hackensack in the same amount it was last year - \$50,000. Commissioner McCall asked if the YMCA submitted a bid. Mr. Snyder said no, they did not.

7. 2012-21 – AWARD OF CONTRACT FOR ENERGY PERFORMANCE CONTRACTING

Motion moved by Commissioner Stassi; 2nd by Commissioner Tessaro.

Mr. Snyder said this proposal is for an energy audit by Tozour Energy. A committee was formed that met with some vendors to talk about their proposals. Mr. Snyder is not thoroughly convinced this is the direction the Housing Authority wants to take. First, an energy audit will be done. That is \$25,120, expensive, but less than everyone else. Their price was less expensive on everything than anyone else. Tozour will give a list to the Authority of Energy Conservation Measures. Those ECM will range from replacing fluorescent tubes from T12's to T8's, putting aerators in sinks and showers to save on water, solar, geothermal. HUD is going to freeze the amount they give for utilities and then calculate what the savings is from installing all these energy conservation measures. The difference in that subsidy that the Authority will no longer be paying for gas, electricity and water can be used to issue debt to pay for all these improvements. It has to be done over a 15-year period.

Mr. Snyder has told these companies that are doing the energy audits their fees they are charging seem to be exorbitant. They range anywhere from 25 to 50 percent. If you do a \$2 million energy performance contract, the energy company gets 8 or \$900,000. HUD is pushing this and Mr. Snyder wants to move to the next step. The Committee will decide if they want to pay them that money. There are other options:

1. Is to not do it at all; 2. Is to do it ourselves. HHA goes out and gets their own financing and pay themselves the fee to do it, which is a lot of work, but would save HHA a lot of money.

Commissioner McCall asked if HHA chooses not to do it, will there be repercussions from HUD. Mr. Snyder said HUD allows you to do it either way.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

8. 2012-22 – AWARD OF CONTRACT FOR CUSTODIAL SERVICES

Motion made by Commissioner Rivera; 2nd by Commissioner McCall.

Mr. Snyder said Resolution first said "Best Maintenance". He corrected it and now says "R.B. Maintenance" because Mr. Bellocchio was checking references of lowest bidder and when Mr. Snyder did tabulations of lowest bids, he mistabulated numbers and had Best as being the low bidder. Mr. Bellocchio informed Mr. Snyder he was incorrect - \$20 difference over the year. The revised award has the correct numbers with the correct company - \$52,000.

The cleaning of Oratam Court is done by the outside custodial services. HHA does not have the manpower – sweeping, mopping, waxing all the flooring, cleaning handrails, etc. These people are here every single day, also doing the regular stripping and waxing of all of VCT around the buildings.

There is a day-to-day list of all chores to be done and the supervisors initial the work that's being done so that the Office knows it's being done. Times were adjusted to meet the schedules in the Boys & Girls Club.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

CORRESPONDENCE

Chairman Saccaro said Item 7.1 refers to the contract for Energy Performance Audit. There were no questions or comments. Chairman Saccaro thanked Commissioner McCall for her wonderful report about her conference in San Francisco.

PAYMENT OF CLAIMS FOR AUGUST AND SEPTEMBER

Motion to pay payment of claims for two months – August and September – as there was no August meeting made by Commissioner Stassi; 2nd by Commissioner D'Arminio.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

MANAGEMENT REPORT & UNFINISHED BUSINESS

Mr. Snyder said the Energy Performance Contract Committee – Mr. Snyder, Commissioner D'Arminio, and Chairman Saccaro – went to Cooper Union in New York City to actually see cogeneration in action. The cogeneration generates electricity and heat generated from that generation is then used for heating and air-conditioning. The Committee climbed out on the roof at Cooper Union, looked at the equipment, spoke with Maintenance Supervisor to find out how sophisticated it is. The next phase is to have the energy audit done and see where the Authority goes from there.

Under **Correspondence**, Item No. 7.5 – listing of Board members and their terms. The Clerks lose tracks of the terms, i.e., someone is appointed to the Board by the Mayor or Council and it is assumed that the date that they're appointed is where their five-year term starts. It doesn't work that way. The way it works is: starting with the first person that was appointed to the Board, which was maybe in the 1950's. One person serves a one-year term; two-year term; three-year term; four-year term; five-year term. Then you have one Mayor's appointment and one Department of Community Affairs appointment. Terms are that way so the entire Board doesn't expire all at once. Commissioner McCall is the Mayor's appointment. Mr. Snyder requested that each Commissioner get back to him that the information is correct.

Mr. Snyder met with the consultant regarding the Capital Fund Program, where the Authority is financially, what money is coming from HUD to make capital improvements. The Authority has pretty much spent out Capital Fund money. The elevators will be redone in all of the buildings. Hopefully, all of the roofs will be replaced and entrance doors at Oratam and everywhere and the magnetic locks.

The intercom system will be replaced at Kansas Street. Intercoms will also be replaced at Oratam.

Mr. Snyder also spoke about tenants' complaints, particularly at 65 First, about smoking conditions. All the rules were researched about smoking. Smoke in some apartments is going up through the ventilation system and it has been checked out. Wind blows down and the smoke is a serious problem for the tenants in that riser. HUD has given authorities statistical compilations that smoke in these buildings does affect the health of the other residents. In accordance with what was discussed at previous meetings, a memo has gone out to all residents. They have 45 days to respond on that memo; all comments will be tabulated, brought back to the Board and the Commissioners can decide what they want to do. At the present time it is only in the elderly units, not in the family sites. Mr. Snyder asked that the comments be in writing, a spreadsheet will be done and the Commissioners can then decide if they want to make that policy change or not.

HACKENSACK POLICE DEPARTMENT

Officer Greg Zisa introduced himself to the Commissioners and said not too much is going on. There is a problem with roof hatches at Newman-Railroad buildings, one was found open. Mr. Bellocchio said the latches could be changed, but they cannot be locked. One was left open during a rainstorm and there was a lot of clean-up afterwards.

Officer Zisa introduced Officer Rob Carucci, who has been on the force a while, but is new to the Housing Authority. Officer Merino was reassigned to the Youth Division.

BOYS & GIRLS CLUB OF HACKENSACK/LODI – Sonia Verdade

Sonia gave the Commissioners a quick summary of the summer, as the after school program has just started and gave each Commissioner a packet containing many photographs and information about the Summer Adventure 2012. The teenage youth attended a National Night Out on Main Street helping to promote the program (photographs).

The 1st Summer Olympics was done at the Hackensack Club, a torch run with the Bergen County Police (photographs). Student volunteers in the Keystone Program come as volunteers to Boys & Girls Club programming, about academic success and leadership skills. There was a lunch, breakfast and snack program (photographs). Four tutors came from Bergen Academies to tutor the students. Two students did a debate team with the older children. A Kids College was also started (computer based program on academics, language arts and mathematics). The average attendance was 90. Hours of operation were longer – 8:30 AM to 5:30 PM. Kohl's in Nanuet gave a \$500 donation to help out at the Olympics and brought their volunteers. Kohl's in Paramus gave a \$500 donation for activities with the children.

The packet contained numbers about each week. The program was closed the first week of September for maintenance. There was also a Back Pack Program which the Community Food Bank of N.J. donated food every Friday for the children to take home over the week-end. Mac & cheese, applesauce, milk, cereal, etc. There is a little summary about the CFB of N.J. 126 youth were served.

After School Program – the Keystoneers had to do a national project and decided on "Operation Goodie Bag" having to decorate bags for the troops filled with candy and the children wrote notes. Sonia will be sending it to a Paramus non-profit organization that does send the bags to the troops.

A back pack drive was held at the North Jersey Community Bank in Hackensack and all their branches. They donated a ton of back pack supplies: crayons, pencils, notebooks, etc. (photographs).

September 30th, the children are participating in the street festival and a community event at the middle school to promote Boys & Girls Club hopefully to increase membership.

The After School Program went out to all the districts. Many phone calls received about programming. Mr. Bellocchio asked if they would have room for all the children. Sonia said even though there are 126 registered, they never had 126 in attendance. Average is 50-60. The DPI Grant did get renewed for the 4th year, and she is recruiting children for that, which is free of charge. Mr. Snyder asked under "Fee" it said 40 and what is the YDI? Sonia said it's the "at risk grant", which is different from the Housing children.

Commissioner McCall asked about the Kids College? Sonia said it's an online tool that they pay for. Every child has to do it: language arts and mathematics, and it tells you based on the curriculum where they fall. Are they on what grade level – 1st, 2nd. Boys & Girls Club Hackensack has to follow programming based on Boys & Girls Club of America. The children did it all summer and they're starting again this year.

Chairman Saccaro announced that Commissioner Dr. McCall is being honored by the Boys & Girls Club on Thursday, October 11th at the Venetian in Garfield. Congratulations, Dr. McCall. (Applause) Commissioner McCall added she is selling tickets and ads. The ticket is \$100, deadline for the ads is tomorrow.

REMARKS OF CITIZENS

LUIS VARGAS, a 7-year resident, a 9/11 volunteer for three months, has now had 4 operations and major lung problems. His neighbor smokes so much, Mr. Vargas has had to go to the hospital to sleep because the woman smokes so much. He doesn't want to complain, but it is very difficult. In one month, he was in the Emergency Room 2-3 times with his lung problem. Mr. Bellocchio asked Mr. Vargas if he understood that the Authority is in the process of banning all smoking in the building, which would begin some time after the first of the year if everything works out.

ISABELLE TILLERY, 8B, spoke about her next-door neighbor, who is also a heavy smoker and sometimes smokes in the hallway. Her doctor gave her a statement stating she is on medication due to the smoke coming from next door.

Attorney Asadurian said he's spoke to HUD in Washington, D.C. about implementing a smoking ban in the buildings. They said certain procedures must be followed. (1) give everyone advance notice; (2) set a date of January 1, 2013 and let everyone know as of that point, or whatever the date is, you're not going to be able to smoke and if you do, we're going to evict. Your comments have been received by the Board, but tenants have rights too.

Ms. Tillery thanked the Commissioners for fixing the broken light she mentioned at the last meeting. Ms. Tillery asked the policemen to please come inside and look around. It makes her feel more secure.

Sonia Verdade asked if Commissioner Rivera spoke Spanish as some residents want to speak, but need an Interpreter.

(At this point in the meeting, Commissioner Rivera translated what the Spanish speaking tenants said.)

ALTA GRACIA PEREZ, 10A, suffers from asthma and serious allergy. Any strong odor aggravates her allergies. She used soaps, etc. without odors, fragrance free. Her neighbor is a heavy smoker. Because of the way the ventilation system is, if she smokes in her apartment, it comes into her kitchen, making her fatigued and this smoking is all hours of the day and night. Sometimes even in the middle of the night when she gets up to use the bathroom. There is no rest from the smoke.

Yesterday, the alarm in the next apartment went off early in the morning, Ms. Garcia-Perez called a different neighbor. That neighbor called 9-1-1 and the Fire Department came. Apparently, the woman has a smoke detector in her bathroom and that is what went off. Ms. Garcia-Perez does not know what happened after that in regards to HFD.

Mr. Bellocchio asked Commissioner Rivera to explain to the woman that the Authority is moving forward with this problem, but rules must be adhered to and HUD policies followed.

RAUL CONTRARA said a man in 8A smokes cigars and anyone walking in the hall has to cover their nose because the smoke is so bad. Commissioner Rivera also explained to this gentleman that HUD is involved and the Authority is following guidelines in order to make the problem go away.

(At this point in the proceeding, there was no more translations by Commissioner Rivera.)

LINDA RITTER, 1K, added that the smoke was coming in her window from the outside. Her window is on the front of the building.

YVONNE, 164 Beech Street, said when someone is smoking it does come in her apartment. Her 2nd complaint was with animals, but she requested that tenants keep them on the leash. One morning she walked out the door and the dog had "pooped" right in the middle of the doorway.

Mr. Bellocchio said there is a pet policy and people are allowed one complaint. If the person can be identified, they get a letter saying if there is another complaint, the animal must go. Mr. Snyder said call the office if the dog does it again, don't clean it up. Maintenance will come and get the owner to clean it up.

ADJOURNMENT

Public portion of meeting adjourned at 6:50 P.M. and Commissioners and Staff went into Executive Session.

Respectfully submitted,

Deborah L. Alvarez, Secretary/Transcriber

STATE OF NEW JERSEY
HACKENSACK HOUSING AUTHORITY
65 FIRST STREET
HACKENSACK, NEW JERSEY 07601

THURSDAY, SEPTEMBER 13, 2012

CLOSED EXECUTIVE SESSION

(This is a condensed version of the taped minutes of the **Closed Executive Session** of the Hackensack Housing Authority commencing at 6:55 P.M.)

Chairman AnnMarie Saccaro called the meeting to order.

PRESENT: Chairman AnnMarie Saccaro
Commissioner Ralph Rivera
Commissioner Michael D'Arminio
Commissioner Pargellan McCall
Commissioner Anthony Stassi
Commissioner Gino Tessaro

ABSENT: Commissioner Al Casamenti

Also Present:

William F. Snyder, Consultant
John Bellocchio, Acting Executive Director
Gregory Asadurian, Esq., Counsel to the Authority

Mr. Snyder said the Personnel Committee has been meeting since May or so. Its purpose is to hire a new, permanent Executive Director. Mr. Bellocchio is Acting Director. Several "generations of this" have taken place during this time.

Initially, Mr. Snyder wrote a memo to the Committee laying out the options.

1. Hire an employee, a person that can be trained to eventually become the Executive Director. Statutory requirements: minimum of five years experience and a four year degree (an accredited degree from a recognized college).
2. Go through the traditional search process. State of New Jersey has requirements, outlined at a previous meeting, which include under the Administrative Code & State Statutes that you do a national search, advertised in national trade publication, NAHRO and Public Housing Authority Director's Association. You review resumes, vet resumes, narrow them down, perform interviews and then select person that the Board thinks is best, generally done through Personnel Committee. Person would then meet entire Board.

Mr. Snyder presented pros and cons to the Board, same as he'd presented to Personnel Committee.

He stated that "The condition of the properties and entire system here at Hackensack is different than many other places. Hackensack Housing Authority's mission is pretty much driven through a social service program called "**Freedom Project**" which is to try and provide as many services as the Authority can to the children to help them break the generational cycle that exists in many places – where you see generation after generation after generation in public housing. Where young people have an opportunity to get up and out, Hackensack Housing Authority wants to help them and that is what this Authority is all about, and a model in doing that. The improvements made to our properties are all part of that concept. Way back Mr. Snyder gave a presentation about behavioral psychology: feeling good where you live.

Mr. Bellocchio told Mr. Snyder about someone being driven home to 230 Central in a cab, and the cab driver thought she lived on Prospect Avenue in one of the hi-rise buildings.

If the national search is used, the person should fit in here and carry that concept forward, not move it backwards. Mr. Snyder has seen others helping someone get a job and once they take over as Director, that person says, "I'm the boss, I'll do it my way." Everything unravels. It is also a process of making sure that things are moved forward in a positive manner for the benefit of the residents. In doing a national search, there may be some good people looking for an opportunity. You may get them, you may not. Because you're hiring a Director, the State has very rigid requirements in going through the search process.

If you decide to hire someone that can be trained and indoctrinated in the Authority's mission, it may take several years in order to be a position to determine if the person is qualified for the position. The person could be hired as an Operations Manager and be groomed to eventually take-over if they can prove themselves.

The Personnel Committee consisting of Commissioners Stassi, D'Arminio and McCall have been meeting and the consensus of the Committee would be to go through a search for an Operations Manager and train that person to ensure that they are capable of moving the Housing Authority forward in a positive manner and building on the existing successes. Mr. Snyder said it is up to the Committee in what direction they prefer to go.

Commissioner Stassi asked if Mr. Snyder was going to start taking resumes. Mr. Snyder said he produced job description for Executive Director and the advertisement to go with the option of doing it nationally. If the board goes with the option of grooming someone, the position would be advertised in accordance with the Personnel policy. Mr. Snyder said it would probably be a position that Mr. Bellocchio previously held – Operations Manager.

Commissioner Rivera asked if it was appropriate to use the network of people you know to solicit or recruit individuals? Mr. Snyder said because it's a coveted position, and he does not want to create dissention amongst the Commissioners, because everyone in the room probably knows someone, as Commissioners you are going to get phone calls from local people saying they have the best possible person. Whatever direction the Board takes, the resumes have to be vetted, interviews made and a unified decision about who should be hired, not a sheer personal or political decision. The person selected must be the best qualified individual.

If the Commissioners suggest Option 2, the Commission will cultivate their own person who is going to start at the ground up and gain experience over a series of years, they're going to be given every opportunity to start the way Mr. Bellocchio did – at the construction end, Capital Fund Program, learning the Public Housing Program, learning the finances, etc.

Commissioner D'Arminio asked Mr. Bellocchio if he's going to be here for the five years. Mr. Bellocchio said a minimum of two years. Commissioner Stassi said the Authority wants to continue the same trend. Mr. Snyder said he can also be here to teach the new person. The Commissioners are going to make sure that the new person follows the same trend. Chairman Saccaro asked is this person is going to have a degree and what will the degree be in. Mr. Snyder said yes, they must have a degree. It is important the person being a good thinker, whether they have a Liberal Arts or whatever – just a four-year degree.

Mr. Snyder said if the Commissioners are going with the choice of hiring someone and training them over the next few years, he needs to prepare a job description and bring it back to the Commissioners. It would include a plan of action for hiring and grooming the new person.

Mr. Snyder said you can always fall back on the national search if you are satisfied with the option 2 candidate or its not going the way you like.

The consensus of the members was to go with option 2. The Authority can always go back to a national search if option 2 does not workout.

Mr. Snyder said he'd develop a job description and a written plan of action in accordance with what was discussed. No action will be taken until everyone meets again. If anyone has any opposite feelings, when you all meet again, and says "I don't think we should go in that direction or what-have-you", you'll have another option.

The board reconvened its public portion of the meeting and no action was taken. There being no other business, the board moved for adjournment

ADJOURNMENT

Motion to adjourn made by Commissioner McCall; 2nd by Commissioner D'Arminio.

VOTE: AYES/All Present Commissioners (6) Absent: Casamenti

Respectfully submitted,

Deborah L. Alvarez, Secretary/Transcriber

SHP D/S

RESOLUTION #2012-22

(Approval of Job Description and authorization to advertise position)

WHEREAS, the Board of Commissioners of the Housing Authority of the City of Hackensack have determined that it has a need to hire a person to serve as "Operations Manager"; and

WHEREAS, the Housing Authority has requested that its consultant prepare and distribute a job description for this position for review and approval by the Board of Commissioners; and

WHEREAS, the job description has been prepared in accordance with the request made by the Board of Commissioners; NOW THEREFORE

BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Hackensack that the attached job description for the position of Operations Manager be hereby approved; and

BE IT FURTHER RESOLVED that the process for hiring this individual shall be in accordance with the Housing Authority's Personnel Policy and shall commence immediately; and

BE IT FURTHER RESOLVED that funds for this position shall be paid from the operating budget and Capital Fund Program

5/1/12

RESOLUTION #2012-23
(Contract for Sprinkler system testing & maintenance)

WHEREAS, the Housing Authority of the City of Hackensack has need to test, maintain and inspect all sprinkler systems; and

WHEREAS, the Housing Authority solicited for proposals in accordance with the New Jersey Local Public Contracts Law and received proposals on October 5th at 10:00 AM which were opened and publicly read aloud; and

WHEREAS, the Housing Authority received 5 proposals in response to its duly issued Request for Proposals which were reviewed by the Acting Executive Director who has determined that the contract should be awarded to the lowest responsible bidder;
NOW THEREFORE

BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Hackensack that a contract for sprinkler system testing and maintenance is hereby awarded to:

Cerullo Fire Protection

In the amount of \$5,100.00	2012
\$5,200.00	2013

BE IT FURTHER RESOLVED that funds for this work shall be made available through the Housing Authority's Operating Fund.

Company	Service	Amount
Allstate Fire Technologies	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 7,850.00 2013: \$ 7,850.00 Hourly Rate: \$ 75.00
Oliver Fire Protection & Security	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 7,000.00 2013: \$ 7,000.00 Hourly Rate: \$ 185.00
Cerullo Fire Protection	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 5,100.00 2013: \$ 5,200.00 Hourly Rate: \$ 125.00
Total Fire Safety	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 5694.00 2013: \$ 5694.00 Hourly Rate: \$ 140.00
SimplexGrinnell LP	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 8,895.00 2013: \$ 8,895.00 Hourly Rate: \$ 118.00
	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 2013: \$ Hourly Rate: \$
	Sprinkler System, Testing, Inspection & Maintenance	2012: \$ 2013: \$ Hourly Rate: \$

RESOLUTION #2012-24
(Approval of Change-Orders #3 & 4 to the Contract for Interior renovations at
Oratam Court)

WHEREAS, the Housing Authority of the City of Hackensack has entered into a contract with V&K Construction in order to renovate the common areas at Oratam Court in the amount of \$183,300.00; and

WHEREAS, the Housing Authority previously approved change orders #1 & 2 in the amounts of \$7,080.00 and \$17,000.00 respectively; and

WHEREAS, all work has been completed and accepted by the project architect and is ready for close-out; and

WHEREAS, it is necessary to approve two final change-orders which have been reviewed by the project architect; NOW THEREFORE

BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Hackensack that change-orders # 3 & 4 with the contract with V&K construction is hereby approved as follows:

Change-order #3	\$ 2,150.00	Adjust lighting to go under piping
Change-order #4	(\$5,301.00)	Reduce Plexi-glass and corner guards

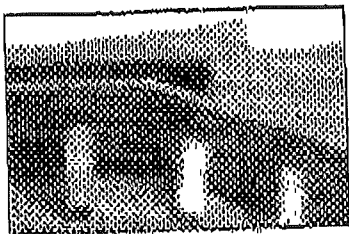
Original Contract Amount	\$183,300.00
Change-order #1	\$7,080.00
Change-order #2	\$17,000.00
Change-order #3	\$2,150.00
Change-order #4	(\$5,301.00)
Total revised contract	\$204,229.00

BE IT FURTHER RESOLVED that funds for this work shall be made available through the Housing Authority's Capital.

05/22/2012 15:09 2013860628

M VARCHITECTURE

PAGE 02/02



Minervini Vandermark Architecture

360 14th Street
 Hoboken, New Jersey 07030
 T 201-386-0637
 F 201-386-0628

Fax Cover Sheet

Send to: V & K Construction	From: Minervini Vandermark Architecture
Attention: George Kounellis	Date: 5-9-12
Office Location:	Office Location: 360 14th Street
Fax Number: F: 732-572-1797	Phone Number: 201-386-0637

Total pages, including cover: 1

- ☐ Urgent
- ☐ Reply ASAP
- ☐ Please comment
- ☐ Please review
- ☐ For your information

Comments: Final Inspections

Dear George,

Upon verbal notification by your field personnel they have deemed your company complete as of today May 9th, 2012. There are some outstanding issues that need to be addressed prior to closing you out.

1. As per the construction drawings all exposed corners are to receive corner 3'-0" high guards. Based on this, the exposed corner adjacent to the first stair riser is to receive a guard.
2. As per your base contract scope of work. The owner now wants the 36" wide x 96" high plexiglass wall protection behind the roof access ladder.
3. The owner wishes to take a credit on the remaining 4'-0" height for all corner guards. Your base contract was to install 8'-0" in height. As per today only 4'-0" below the chair rail has been done.
4. The owner wishes to take a credit for outstanding plexiglass sections that were not installed at all stair landings. Once again you installed 48" high x 72" wide sections. You were required to provide 72" in height.

If you have any questions regarding the information listed above please contact

11/28/2012 11:05

2013860628

FROM: ANTHONY C. VAUSERHAE
MV ARCHITECTURE

TO: V & K

ATTN: GEORGE

GEORGE, SEE ATTACHED APPROVAL
OF CREDIT & CHANGE ORDER FOR HALLWAY
PROJECT. PROCEED WITH FINAL PAPERWORK FOR
LAST PAYMENT.

PROVIDE THE FOLLOWING:

RELEASE OF LIENS

" DEBTS & CLAIMS

PERFORMANCE BOND

COMPANY WARRANTY FOR 1 YEAR OF WORK
DEC. 1, 2012 TO DEC. 1, 2013

FINAL HUD 51001 FOR PAYMENT

FINAL PAYROLL -

CC: JOHN BELLOCCHIO - 201-342-5044
HNA

3. PAGES IN TOTAL

Schedule of Change Orders

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 01/31/2014)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This information is collected under the authority of Section 5(a) of the U.S. Housing Act of 1937 and HUD regulations. HAS are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the AGG, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: Contractors use this form for reporting the details of approved Change Orders. Attach an original (or a copy) to each copy of the Periodic Estimate for Partial Payment (form HUD-51001) submission, and send to the Public Housing Agency. Complete all entries. Only Change Orders which bear the signatures required by the contract are to be recorded.

Name of Public Housing Agency: **HACKENSACK HOUSING AUTHORITY**
15 FIRST ST.
HACKENSACK, N.J.

Supporting Periodic Estimate
for Partial Payment Number

Period
From (mm/dd/yyyy)

To (mm/dd/yyyy)

Location of Project: **ORATAM COURT HACKENSACK, N.J.**

Name of Contractor: **VTK CONSTRUCTION, INC.**
37 BARTHA AVE
HACKENSACK, N.J.

Contract Number

Approved Change Orders		Additions		Deuctions
Change Order Number (1)	Dated (mm/dd/yyyy) (2)	Total Amount of Change Order (3)	Value of Work Completed to Date (4)	Total Amount of Change Order (5)
ADJUSTING ALLWAY LIGHTS TO THEY CAN NOT GO UNDER PIPE WITH JUNCTION BOXES, PIPE AND WIRING BUILDINGS X 265 2,150	CO. #3	\$ 2,150	\$	\$ 2,150
		\$ 2,150	\$	\$ 2,150

Authorized Project Representative

Date (mm/dd/yyyy)

11.27.12

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions obsolete form HUD-51002 (3/92)

ref. Handbooks 7417.1 & 7450.1

MANUAL ENTRY

2013080628

11/28/2012 11:44

Schedule of Change Orders

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157

(exp. 01/31/2014)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This information is collected under the authority of Section 5(c) of the U.S. Housing Act of 1937 and HUD regulations. HHS are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACO, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: Contractors use this form for reporting the details of approved Change Orders. Attach an original (or a copy) to each copy of the Periodic Estimate for Partial Payment (form HUD-51001) submission, and send to the Public Housing Agency. Complete all entries. Only Change Orders which bear the signatures required by the contract are to be recorded.

Name of Public Housing Agency HACKENSACK HOUSING AUTHORITY 65 FIRST ST. HACKENSACK, N.J.	Supporting Periodic Estimate (or Partial Payment Number)	Period From (mm/dd/yyyy)	To (mm/dd/yyyy)
Location of Project COMMON AREA UPGRADES ORATAM COURT HACKENSACK, N.J.	Project Number		
Name of Contractor VTK CONSTRUCTION, INC. 37 BARTHA AVE. EDISON, N.J.	Contract Number		

Approved Change Orders		Additions		Deductions	
Change Order Number (1)	Dated (mm/dd/yyyy) (2)	Total Amount of Change Order (3)	Value of Work Completed to Date (4)	Total Amount of Change Order (5)	
REBATES		REBATE		REBATE	
1 36 W X 96" PLEXI GLASS 8 X 245 EACH		\$ 1,960		\$ 1,960	
1 CORNER GUARD 8 BUILDINGS		\$ 1,421		\$ 1,421	
1 48 X 72 PLEXI GLASS 8 X 240		\$ 1,920		\$ 1,920	
Totals		\$ 5,301		\$ 5,301	

Authorized Project Representative

Date (mm/dd/yyyy)

11-27-12

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Previous editions are obsolete form HUD-51002 (3/92)

ref. Handbooks 7417.1 & 7450.1

RESOLUTION #2012-25
(Contract for Renovation of Elevator cars at 65 First Street)

WHEREAS, the Housing Authority of the City of Hackensack desires to renovate the interior of its elevator cars at 65 First Street; and

WHEREAS, the Housing Authority solicited for public bids, on two separate occasions, in accordance with the New Jersey Local Public Contracts Law and did not receive any bids; and

WHEREAS, the New Jersey Local Public Contract Law allows for the award of a contract in instances where the bids were advertised on 2 occasions and no bids were received (N.J.S.A.40A:11-5) with the approval of the affirmative vote of two-thirds of the authorized board membership; and

WHEREAS, the Housing Authority negotiated a price with Roy Elevator Cab corporation to renovate the elevators in accordance with the terms of the public bidding documents; NOW THEREFORE

BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Hackensack that a contract for elevator renovation at 65 First Street be awarded to:

Roy Elevator Cab Corp.
1134 Elder Avenue
Bronx, NY

In the amount of \$8,000 per car for a total of \$16,000

BE IT FURTHER RESOLVED that funds for this work shall be made available through the Housing Authority's Capital Fund.

Roy Elevator Cab Corp.

1134 Elder Ave, Bronx, NY 10472

Cell: (646) 523-7814

bbhagwant210@gmail.com

Date: December 1, 2012

Attn: John Bellochio – Acting Director
Anthony Vandermark - Principal

Re: **The Hackensack Housing Authority**
65 First Street
Hackensack, NJ 07601

We propose to furnish the necessary labor and materials to perform the following cab modernization on the two (2) passenger elevators located at the subject property:

Scope of Work:

Wall panel: Formica (selected by owner) 7054-60 WILD CHERRY over plywood as discussed. Panels will be held with aluminum extrusions and with 4830-07 laminate inserts.

- **Rear wall** will be 3 panels, **side walls** will be 2 panels each, and **front panels** will be 1 panel, for a total of 8 panels in each elevator.

Handrail: One 3/8" x 2" Stainless Steel handrails on rear wall.

Base: 2" Stainless Steel base below panel.

Drop Ceiling: Stainless steel #4 Satin finish and will hang 2" from top ceiling.

Lights: 6 LED lights with Stainless Steel protective lens.

Floor: Fritztile (selected by owner, samples will be provided if needed).

Door: Stainless Steel #4 Satin Finish

Also I will include:

- Pad buttons
- Corner mirror

The price per cab will be \$6,550.00 plus \$2,000.00 for both the ceiling AND door. The total per cab will be \$8,550.00.

Please note: I will beat any competitor's price by 10%.

Sincerely,
Roy Elevator

Terms and Conditions:

- This quote is binding for forty-five (45) days and will be subject to review after this date.
- Roy Elevator will not be held responsible for any item or feature not included in this written estimate.
- All work performed and all materials used shall be in strict accordance with code requirements.
- Roy Elevator guarantees all materials and workmanship for a period of six (6) months.
- We will include removal of the existing cab materials and carting.
- Our proposal does not include for any filing fees, necessary permits or sign-offs incurred due to lack of filing. These permits and sign-offs are mandatory to the building department and must be obtained.
- Roy Elevator will not be held responsible for any modifications to the elevator equipment in order to comply with balancing requirements due to any net weight change.
- Roy Elevator will not be held responsible for establishing proper clearances between car jambs and hoist way jambs and doors.
- Emergency lighting is not included in this proposal.
- Electrical disconnection of control panel may be required and you may have to require a quote from your Maintenance Company.
- Door must be removed by the elevator Maintenance Company; they may charge a fee.
- We will not begin work until we receive a PO and a signed proposal.
- We require uninterrupted use of the elevator.
- Price is based on performing the work on one elevator at a time.

Payment Terms:

Payment provisions are: 50% at signing, with the balance due upon completion of job.

We trust that the above meets with your request for pricing and we look forward to working with you on this project.

Sincerely,

Roy Elevator

utilized to acquire or upgrade non-proprietary hardware or to acquire or update non-proprietary software;

(ee) The management or operation of an airport owned by the contracting unit pursuant to R.S.40:8-1 et seq.;

(ff) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission;

(gg) A contract for the provision of water supply services or wastewater treatment services entered into pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15);

(hh) The purchase of electricity generated from a power production facility that is fueled by methane gas extracted from a landfill in the county of the contracting unit.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof or any other state or subdivision thereof.

✱ (3) Bids have been advertised pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) no bids have been received on both occasions in response to the advertisement, or (b) the governing body has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent goods or services, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4); and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4), shall be stated in the resolution awarding such contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such goods or services.

RESOLUTION #2012-26
(Adoption of Non-Smoking Policy)

WHEREAS, The Housing Authority of the City of Hackensack would like to implement as non-smoking policy at its elderly public housing sites; and

WHEREAS, the U.S. Department of Housing & Urban Development has issued HUD Notice PIH 2009-21 outlining the requirements for implementing non-smoking policies; and

WHEREAS, the Housing Authority has solicited comments from its' residents which have been reviewed and considered as part of the Housing Authority's Plan amendment in order to effectuate this change; and

WHEREAS, the Housing Authority recognizes the potential health related risks from inhaling secondhand smoke; NOW THEREFORE

BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of Hackensack that a non-smoking policy is hereby adopted at its four elderly public housing complexes and it plan amended accordingly.

BE IT FURTHER RESOLVED that this policy shall become effective February 1st, 2013.

Hackensack Housing Authority**County of Bergen****State of New Jersey****Notice of Contract Awards**

The Housing Authority of the City of Hackensack, New Jersey has awarded several contracts, without competitive bidding, as a professional service pursuant to New Jersey Local Public Contract Law. The contracts are available for public inspection in the office of the Authority, 65 First Street, Hackensack, New Jersey:

Awarded to:	Tozour Energy 3606 Horizon Drive King of Prussia, Pa. 19406
Services:	Energy Audit
Fee:	\$25,120.00
Time:	Until Completion
Awarded to:	William Katchen, CPA Anderson Avenue Cliffside Park, NJ
Services:	Accounting
Fee:	\$36,000.00
Time:	FYE 9/30/2013
Awarded to:	Nowell Amoroso Klein Bierman 155 Polify Rd Hackensack, NJ
Services:	Legal
Fee:	\$36,000.00
Time:	FYE 9/30/2013
Awarded to:	Polcari & Co. 2034 Hamburg Turnpike Wayne, NJ
Services:	Auditing
Fee:	\$5,900.00
Time:	FYE 9/30/2012

Awarded to: Scirocco Insurance
777 Terrace Avenue
Hasbrouck Hts., NJ
Services: Risk Manager
Fee: 6% of the annual assessment
Time: FYE 9/30/2013

October 2, 2012

JOHN BELLOCCHIO
ACTING EXECUTIVE DIRECTOR

Instructions: Please publish this advertisement once. All
invoices should be sent to:
Hackensack Housing Authority
65 First Street
Hackensack, New Jersey 07601

7.2

Housing Authority City of Hackensack

65 FIRST STREET, HACKENSACK, NEW JERSEY 07601

TEL 201-342-4280

FAX 201-342-5044

TTY/TTD 800-545-1833 EXT. 844

October 3, 2012

MEMORANDUM

To: Personnel Committee
(Commissioners McCall, Stassi & D'Arminio)

From: William Snyder, Consultant

Re: Job Description

I have enclosed a copy of the "draft" job description for the position of Operations Manager as per the direction of the Board at last month's meeting. This is also being transmitted to the entire Board for their review and approval prior to advertising in accordance with the Personnel Policy. A resolution will be on the October agenda approving the job description and authorizing advertising for candidates.

Please feel free to contact me if you have any questions regarding this matter.

Enclose.
Xc: file

HACKENSACK HOUSING AUTHORITY

Job Description

Job Title: Operations Manager
Department: Administration
Reports To: Executive Director

Summary Assists the Executive Director in managing the daily operations of providing low-income public housing at the various sites owned and managed by the Hackensack Housing Authority.

Essential Duties and Responsibilities include the following. Other duties may be assigned.

Assists in developing and implementing plans for the maintenance of the housing project, including recommending policy changes.

Reviews occupancy reports to ensure that applications, selection of tenants and assignment of dwelling units are in accordance with the public housing rules and regulations (including PIC reports).

Conducts surveys of local rental rates and participates in setting the flat rental rate.

Conducts analyses of maintenance costs to determine areas where cost reductions can be effected.

Assists in planning long range schedule of major repairs on units such as re-roofing or painting exterior of buildings.

Studies occupancy and turnover rates and accommodation requirements to ensure full occupancy of all projects with a quick turnover rate (less than 30 days).

Promotes harmonious relations among tenants, housing project personnel, and persons of the community.

Assists in directing work activities of office and clerical staff in processing applications, collecting of rents and accounting for monies collected.

Works with the project managers in assigning building and grounds maintenance personnel to specific duties.

Coordinates and assists in ensuring that the annual UPCS inspections are being performed at all buildings.

Assists in recommending capital improvements at the various sites and works with the project architect to ensure that all work is accomplished on-time and in accordance with industry standards.

Manages the office staff in the absence of the Executive Director to ensure that a professionally motivated, customer friendly environment is being maintained.

Must attend the monthly Board of Commissioner meetings and report on the status of all on-going modernization projects including the status of the obligations and expenditures.

Other work as delegated by the Executive Director.

Supervisory Responsibilities

Manages two subordinate supervisors who supervise a total of seven employees at AMP1 and AMP 2. Assists the Executive Director in directing, coordinating and evaluating these units. Also supervises seven non-supervisory office employees. Carries out supervisory responsibilities in accordance with the organization's personnel policy and applicable laws. Assist the Executive Director in interviewing, hiring, training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems.

Competencies

To perform the job successfully, an individual should demonstrate the following competencies :

Analytical - Synthesizes complex or diverse information; Collects and researches data; Uses intuition and experience to complement data; Designs work flows and procedures.

Design - Generates creative solutions; Translates concepts and information into images; Uses feedback to modify designs; Applies design principles; Demonstrates attention to detail.

Problem Solving - Identifies and resolves problems in a timely manner; Gathers and analyzes information skillfully; Develops alternative solutions; Works well in group problem solving situations; Uses reason even when dealing with emotional topics.

Project Management - Coordinates projects; Communicates changes and progress; Completes projects on time and budget; Manages project team activities.

Customer Service - Responds promptly to customer needs; Solicits customer feedback to improve service ; Responds to requests for service and assistance; Meets commitments.

Interpersonal Skills - Focuses on solving conflict, not blaming; Maintains confidentiality; Listens to others without interrupting; Keeps emotions under control; Remains open to others' ideas and tries new things.

Oral Communication - Speaks clearly and persuasively in positive or negative situations; Listens and gets clarification; Responds well to questions; Demonstrates group presentation skills; Participates in meetings.

Written Communication - Writes clearly and informatively; Edits work for spelling and grammar; Varies writing style to meet needs; Presents numerical data effectively; Able to read and interpret written information.

Teamwork - Exhibits objectivity and openness to others' views; Gives and welcomes feedback; Contributes to building a positive team spirit; Puts success of team above own interests; Able to build morale and group commitments to goals and objectives; Supports everyone's efforts to succeed.

Visionary Leadership - Displays passion and optimism; Inspires respect and trust; Mobilize others to fulfill the vision; Provides vision and inspiration to peers and subordinates.

Change Management - Communicates changes effectively; Builds commitment and overcomes resistance; Prepares and supports those affected by change; Monitors transition and evaluates results.

Leadership - Exhibits confidence in self and others; Inspires and motivates others to perform well; Effectively influences actions and opinions of others; Accepts feedback from others; Gives appropriate recognition to others.

Managing People - Takes responsibility for subordinates' activities; Makes self available to staff; Provides regular performance feedback; Develops subordinates' skills and encourages growth; Solicits and applies customer feedback (internal and external); Fosters quality focus in others; Improves processes, products and services.; Continually works to improve supervisory skills.

Quality Management - Looks for ways to improve and promote quality; Demonstrates accuracy and thoroughness.

Business Acumen - Understands business implications of decisions; Aligns work with strategic goals.

Cost Consciousness - Works within approved budget; Develops and implements cost saving measures; Conserves organizational resources.

Diversity - Demonstrates knowledge of EEO policy; Shows respect and sensitivity for cultural differences; Educates others on the value of diversity; Promotes a harassment-free environment; Builds a diverse workforce.

Ethics - Treats people with respect; Keeps commitments; Inspires the trust of others; Works with integrity and ethically; Upholds organizational values.

Organizational Support - Follows policies and procedures; Completes administrative tasks correctly and on time; Supports organization's goals and values; Benefits organization through outside activities; Supports affirmative action and respects diversity.

Strategic Thinking - Develops strategies to achieve organizational goals; Understands organization's strengths & weaknesses; Analyzes market and competition; Identifies external threats and opportunities; Adapts strategy to changing conditions.

Judgement - Exhibits sound and accurate judgment; Includes appropriate people in decision-making process; Makes timely decisions.

Motivation - Sets and achieves challenging goals; Demonstrates persistence and overcomes obstacles; Measures self against standard of excellence; Takes calculated risks to accomplish goals.

Planning/Organizing - Prioritizes and plans work activities; Uses time efficiently; Plans for additional resources; Sets goals and objectives; Organizes or schedules other people and their tasks; Develops realistic action plans.

Professionalism - Approaches others in a tactful manner; Reacts well under pressure; Treats others with respect and consideration regardless of their status or position; Accepts responsibility for own actions; Follows through on commitments.

Quality - Demonstrates accuracy and thoroughness; Looks for ways to improve and promote quality; Applies feedback to improve performance; Monitors own work to ensure quality.

Quantity - Completes work in timely manner; Works quickly.

Safety and Security - Observes safety and security procedures; Determines appropriate action beyond guidelines; Reports potentially unsafe conditions ; Uses equipment and materials properly.

Adaptability - Adapts to changes in the work environment; Manages competing demands; Changes approach or method to best fit the situation; Able to deal with frequent change, delays, or unexpected events.

Attendance/Punctuality - Is consistently at work and on time; Ensures work responsibilities are covered when absent; Arrives at meetings and appointments on time.

Dependability - Follows instructions, responds to management direction; Takes responsibility for own actions; Keeps commitments; Commits to long hours of work when necessary to reach goals.; Completes tasks on time or notifies appropriate person with an alternate plan.

Initiative - Volunteers readily; Undertakes self-development activities; Seeks increased responsibilities; Takes independent actions and calculated risks; Looks for and takes advantage of opportunities; Asks for and offers help when needed.

Innovation - Displays original thinking and creativity; Meets challenges with resourcefulness; Generates suggestions for improving work; Develops innovative approaches and ideas; Presents ideas and information in a manner that gets others' attention.

Qualifications To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Education and/or Experience

Bachelor's degree (BA/BS) from a four-year college or university with one to two years related experience and/or training.

Language Skills

Ability to read and interpret documents such as safety rules, operating and maintenance instructions, blueprints, specifications and procedure manuals. Ability to write routine reports and correspondence. Ability to speak effectively before groups of residents or employees of organization.

Mathematical Skills

Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, area, circumference, and volume. Ability to apply concepts of basic algebra and geometry.

Reasoning Ability

Ability to apply common sense understanding to carry out instructions furnished in written, oral, or diagram form. Ability to deal with problems involving several concrete variables in standardized situations.

Computer Skills

To perform this job successfully, an individual should have knowledge of Microsoft Excel Spreadsheet software and Microsoft Word Word Processing software.

Certificates, Licenses, Registrations

Valid Driver's license

Other Skills and Abilities

Should have a good knowledge of construction techniques and procedures.

Other Qualifications

Must be able to travel between project sites in order to perform inspections and to review on-going construction work.

Physical Demands The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this Job, the employee is regularly required to talk or hear. The employee is frequently required to stand; walk; sit; use hands to finger, handle, or feel; reach with hands and arms; climb or balance and stoop, kneel, crouch, or crawl. The employee is occasionally required to taste or smell. The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception and ability to adjust focus.

Work Environment The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this Job, the employee is occasionally exposed to wet and/or humid conditions; moving mechanical parts and high, precarious places. The noise level in the work environment is usually moderate.

7.3

William Snyder

From: Julissa Capellan [JulissaC@Hackensackhousing.org]
Sent: Tuesday, September 04, 2012 9:47 AM
To: williams@hackensackhousing.org
Subject: FW: opra request--please confirm receipt

From: Rosanna Romero [mailto:Rosannar@Hackensackhousing.org]
Sent: Tuesday, September 04, 2012 8:52 AM
To: 'Julissa Capellan'
Subject: RE: opra request--please confirm receipt

From: Akin, Stephanie [mailto:Akin@northjersey.com]
Sent: Friday, August 31, 2012 3:27 PM
To: rosannar@hackensackhousing.org
Cc: Nostrand, Tim
Subject: opra request--please confirm receipt

August 31, 2012

To the Custodian of Records:

This is a request for information pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law right of citizens of the state to obtain access to public documents. South Jersey Publishing Co. v. New Jersey Expressway Auth., 124 N.J. 478, 487-89 (1991).

Please provide copies of the following government records:

- Vouchers or other documents showing all fees paid by your government entity to individuals and/or firms providing legal services, identifying both the recipients of the payments and the legal services rendered. Years requested: 2011 and 2012, to date.
- Copies of contracts between your government entity and vendors providing service relating to any and all types of insurance, including but not limited to brokers, sub-brokers, co-brokers, third-party administrators, agents, finders and companies providing coverage. Years requested: 2011 and 2012.
- Copies of all other contracts currently in force between your government entity and outside vendors, including but not limited to those for professional services and for repair and maintenance of buildings and other infrastructure.
- Copies or check registers showing all payments made by your government entity since 2005.
- Payroll, showing all elements of compensation, including but not limited to overtime, paid to all employees of your government entity, both full and part time. Relatedly, we also seek records showing banked compensatory, sick and vacation time. Years requested: 2011 and 2012.

If there are no records responsive to this request, please notify me, in writing, of this fact. If, however, there are portions of a record(s) which must be redacted, please identify the record that has been redacted and the legal basis for your contention that the redacted portion(s) is exempt from disclosure. If a record(s), in its entirety, is exempt from disclosure under OPRA, kindly notify me, in writing, of the exemption under OPRA which you are relying.

If the cost of copies for this request does not exceed \$25, proceed without further approval and send me an invoice with the records. Otherwise, please advise me of the costs before filling the request so that we can discuss arrangements.

Thank you for your attention to this matter and for your assistance. If you have any questions, please feel free to

9/4/2012

contact me at 201-937-5518.

Sincerely,

Stephanie Akin

Stephanie Akin

Reporter

The Record

(201)-937-5518/ fax: 201-457-2520

akin@northjersey.com

9/4/2012

September 7, 2012

IMPORTANT NOTICE

To: All Housing Authority Residents

From: John Bellocchio, Acting Executive Director

Re: Non-Smoking Policy

Please be advised that the Housing Authority previously adopted a non-smoking policy in all common areas of the buildings and in apartments for new residents. The Housing Authority has been receiving complaints regarding smoke which is traveling between apartments through the ventilation system. This condition has the potential for causing an unsafe and unhealthy condition for our other residents. Therefore, the Housing Authority is considering revising its policy regarding smoking in apartments.

This notice is being distributed to all of our residents in order to solicit your comments regarding the following change to our policy:

Lease agreement: Section 9M: "Tenants, family members or guests are not allowed to smoke cigarettes, cigars or any other tobacco related product in their apartment or building common areas. Failure to comply with this requirement will be considered a serious violation of the material terms of the lease and will be grounds for eviction in the event that the HHA determines that such abuse interferes with the health, safety or peaceful enjoyment of the premises by other residents."

This proposed change will apply to all residents in our elderly high-rise projects (65 First Street, 60 Kansas Street, 175 West Railroad Ave. and 164 Beech Street). Upon adoption of this policy, all residents would be prohibited from smoking anywhere in these buildings (including their apartments). All comments must be in writing and are due at the Housing Authority office by October 26th, 2012. The Board of Commissioners will consider adopting this policy change once all comments have been received, reviewed and considered.

HACKENSACK HOUSING AUTHORITY
 SEPTEMBER,12,2012
 FUNDS AVAILABLE FOR CAPITAL PROJECTS

WORK ITEMS PRESENTLY UNDER CONTRACT AND
 NOT YET COMPLETED

1) Common Area Upgrades at Oratam Court-V&K Contractors	\$38,369
Total Contract Price + Additions + \$207,380-Bal.	\$38,369
2) Entrance System at Oratam Court	\$15,800
SUBTOTAL	\$54,169

NEXT WORK ITEMS TO BE DONE (WITH ESTIMATED COSTS)

3) Upgrade Elevator Cars (5 cars) (est.)	\$25,000
SUBTOTAL	\$25,000

GRAND TOTAL \$79,169

MONIES AVAILABLE FOR CAPITAL PROJECTS AS OF 9/12/2012

1) 2011 and 2012 Capital Fund Programs	\$126,000 *
--	-------------

* This figure was determined after meeting with Bill Katchen on 9/12/2012

NOTES:

- 1) After deducting the \$79,169 from the \$126,000 monies available the Hackensack HA has \$46,831 for additional work items. Some of the possible work items are 1) new locks and 2) patch/repair/recoat and stripe parking lots.
- 2) One main priority is replacement of the roofs at Oratam Court. At this time the HA is considering using funds from their 2013 CFP for this work item.

7.6

Housing Authority City of Hackensack

65 FIRST STREET, HACKENSACK, NEW JERSEY 07601

TEL 201-342-4280
FAX 201-342-5044
TTY/TTD 800-545-1833 EXT. 844

September 17, 2012

Victor J. Herlinsky, Esq.
Nowell Amoroso Klein Bierman, PA
155 Polifly Road
Hackensack, New Jersey 07601

Re: Contract for Energy Audit

Dear Mr. Herlinsky:

The Housing Authority of the City of Hackensack has solicited for proposals in order to enter into an Energy Performance Contract (EPC). We have completed our review of the proposals received and have determined that we would like to proceed with the first step in the process. A copy of the contract, with Tozour Energy Services, has been attached for your review and comment. This contract was awarded at the 9/15 meeting of the Board of Commissioners. We do not want to execute the contract until you have reviewed and approved it.

The first step in the process is the development of an investment grade energy (IGA) audit. The attached contract relates to this phase and is in the amount of \$25,120.00. The IGA will contain a list of energy conservation measures (ECMs) that we will consider and approve prior to entering into the Energy Performance Contract (EPC). If we are not satisfied with the ECMs, we will not proceed to the next step.

I have the following concerns relating to the attached contract:

- 1) We should own the completed audit and be able to utilize it for our own purposes including proceeding on our own. The "Proprietary and Confidential Information" section should specify that the IGA is owned by the Housing Authority,
- 2) There should be no financial obligation to Tozour Energy beyond the cost of the audit.
- 3) The Investment grade energy audit must comply with both HUD requirements and the State of New Jersey.
- 4) The contract should not be transferable to another vendor.

You may feel free to contact me if you have any questions concerning the enclosed contract.

With best regards, I remain

Very truly yours,

JOHN BELLOCCHIO
Acting Executive Director

Enclose.
Xc: file

ENERGY PERFORMANCE CONTRACT September 12, 2012

THIS AGREEMENT, effective September 12, 2012 by and between HACKENSACK HOUSING AUTHORITY ("Owner" or "HHA"), with principal offices located at 65 1st Street, Hackensack, NJ and Tozour Energy Systems, Inc. ("TES"), an S Corporation incorporated in Pennsylvania with principal offices located at 3606 Horizon Drive, King of Prussia, PA 19046. Hackensack and TES are generically and collectively referred to herein as "Party" and the "Parties".

WHEREAS, Owner wishes to implement an Energy Performance Contract and in connection therewith, requires the services of a Energy Services Company (ESCO) to develop and submit Investment Grade Audits for *Oratam Court, Ostrowski Family Highrise, Barasalona Court, Harry Berkie Gardens, Windall Tower and Dizenzo Court*.

WHEREAS, TES represents that it is qualified as an ESCO capable of and willing to perform such energy services; and or good and valuable consideration, Owner and TES agree, with the intent to be legally bound, as follows:

ARTICLE 1. DEFINITIONS

In addition to other definitions specified in this Contract (as defined below), the following definitions are hereby incorporated in, and made a part of, the Contract by this reference.

- a. "Contract" - The Contract ("Contract") consists of this written agreement between Owner and TES. The Contract represents the entire and integrated agreements between Owner and TES, and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written Modification (as defined below).
- b. "Modification" - For the purpose of this Contract, a Modification is: (a) a written amendment to the Contract signed by Owner and TES; (b) a Change Order (as defined below) approved by Owner in writing; or (c) a written order for a minor change in the Work (as defined below) issued by the Owner in writing.
- c. "Contract Amount" - The cost of the Work (as defined below) to be paid to TES pursuant to this Contract, as adjusted as set forth herein, is collectively referred to herein as the "Contract Amount."

ARTICLE 2. WORK OF THE CONTRACT

- 2.1 TES and/or any of its employees, affiliates, subcontractors and/or agents shall fully execute the Work as described in the Contract, except to the extent specifically indicated in the Contract to be the responsibility of others. All Work performed by TES and/or its subcontractors shall be compliant with all applicable laws and regulations. In order to prevent shut-downs that will impact operations, TES will ensure there will be no single point of failure in any of the equipment/components during the performance of the Work. All Work completed by TES and/or its employees, affiliates, subcontractors and/or agents shall be performed in a

professional, timely manner, and such Work shall not interfere with the use and enjoyment of the property by the Owner, its employees, subcontractors, guests and/or invitees, and in no event shall otherwise interfere with the educational program provided at any of the Owner's facilities.

ARTICLE 3. SCOPE OF WORK

3.1 Scope of Work

Tozour Energy Services (TES) shall perform an Investment Grade Audit (IGA) for Hackensack Housing Authority (HHA). In order to implement an Energy Performance Contract (EPC), TES will develop an IGA that consists of one or more energy conservation measures. The plan shall:

- Describe the energy conservation measures that will comprise the program;
- Estimate the greenhouse gas reductions resulting from those energy savings;
- Identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;
- Include an assessment of risks involved in the successful implementation of the plan;
- Identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;
- Include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings. Construction Costs, energy Savings and Incentives will be +/- 15% estimates;
- Identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled;
- If developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.
- Submit Pay for Performance Applications
- Evaluate compliance with HUD operating subsidy requirements found in 24 FCR 990 (Exhibit A)
- Evaluate compliance with HUD energy performance requirements found in 24 FCR 965 (Exhibit B)

3.2 Methodology

- **Investment Grade Audit (IGA)**

The IGA provides the required documentation to define the following:

- Project Description
- Existing Conditions and Initial Benchmark Report
- Conceptual Design Development

- Energy Conservation Measures (ECMs)

The final agreed-upon scope of work will be the submitted and approved Investment Grade Audit by the HHA and TES.

TES tailors an investment grade audit (IGA) for each facility to meet the HHA's goals. Our field and staff engineers and technicians analyze your key energy consuming equipment and systems to determine the following:

- Create a *SmartSelect* ECM evaluator for each facility showing by individual ECM:
 - Cost
 - Savings
 - Incentives
 - Impact on commodities (kWh, kW, Natural Gas Therms, Steam, Water, etc.)
 - Environmental Impact
- The ECM *SmartSelect* Evaluator will enable HHA to insert and remove ECMs from the project and in real time show the impact both as a project and by facility to:
 - Cost
 - Savings
 - Incentives
 - Commodities (kWh, kW, Natural Gas Therms, Steam, Water, etc.)
 - Environmental
 - Energy Use Index
 - Energy Cost Index
- Cash Flow Pro forma showing with the ability to modify
 - Annual Savings
 - Annual Maintenance Impact
 - Annual Debt Requirement
 - Incentive Amounts and expected time frame of receipt
 - Annual Cash Flow
 - Cumulative Cash Flow
 - Internal Rate of Return
 - Net Present Value
- The Cash Flow Pro forma will enable HHA to modify and see the project impact of
 - Interest Rates
 - Financing Term
 - Multiple lines of Financing
- Project Schedule
- Project Magnitude Report

3.3 Deliverables

The IGA shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented to realize and maximize energy savings and energy efficiency.

In addition to the foregoing, In accordance with the September 15th, 2012 award, TES will be responsible for implementing the IGA once it is developed and approved, pursuant to a written contract which the parties hereto agree to negotiate in good faith.

ARTICLE 4. DATE OF COMMENCEMENT

- 4.1 The date of commencement of the Work shall be one (1) business day after TES receives a signed Contract from the Owner, unless otherwise specified and/or agreed by the Owner and TES.

ARTICLE 5. CONTRACT AMOUNT

- 5.1 The Owner shall pay (or cause to be paid) TES the Contract Amount in current funds in consideration of TES' performance of the Work as set forth in this Contract. This "break fee" price will be \$25,120 if the Owner decides NOT to implement with TES any proposed energy performance project that meets the 15-year self-funding requirements.

ARTICLE 6. CHANGES IN THE WORK

- 6.1 Work outside of the scope listed in the ECM descriptions set forth in Article 3 herein will be performed in accordance with the terms and conditions set forth herein. All additional work will require TES to issue a written proposal that will require the Owner's written acceptance before such work begins.

ARTICLE 7. DISPUTE RESOLUTION

- 7.1 All disputes shall be submitted to mediation prior to being submitted to a Court for adjudication. Except as otherwise provided herein, each Party shall pay its own costs incurred in connection with the mediation and any subsequent litigation. In the event that mediation is unsuccessful, either Party may commence a formal action in connection with the dispute in the New Jersey Superior Court, Monmouth Vicinage.

ARTICLE 8. PURCHASE ORDERS/CHANGE ORDERS AND ACKNOWLEDGEMENTS

- 8.1 TES will receive a purchase order for this Contract. No Work of any kind may be started without a written Owner purchase order and an accompanying acknowledgement copy.
- 8.2 An acknowledgement copy will accompany a purchase order or change order. The acknowledgement is to be signed by an authorized representative of TES no longer than five (5) business days after receipt and returned promptly to Owner. A signed acknowledgement is TES'

agreement to the specifications and terms and conditions of the specific purchase order or change order.

8.3 TES may request changes to specifications or other terms contained in purchase orders. Approval by Owner of any such request will be communicated to TES by the issuance of a written change order to the original purchase order. Additionally, Owner may at any time during the progress of the Work or services hereunder require additions, alterations, reductions, or deviations from the services described in the Plans & Specifications as long as it does not impact the energy savings. No change will be considered as an addition, alteration, reduction, or deviation from the products and services described in the specifications unless made pursuant to a written change order issued by Owner. TES will be entitled to compensation for services provided to Owner as set forth herein.

8.4 To request a change order, TES will submit a proposal to Owner that will include specific information regarding increases or decreases in the Contract Amount, changes in delivery dates and/or details, or changes in production and manufacturing schedules. Owner will, within ten (10) calendar days of receipt of the proposal, either:

- A. Accept the proposal, in which event Owner will issue a written change order directing TES to perform the change;
- B. Accept some, but not all of the proposal, and issue a change order for the accepted change(s); or,
- C. Reject the proposed change, in which event TES will proceed with the original services as described in the specifications.

ARTICLE 9. PROPRIETARY AND CONFIDENTIAL INFORMATION AND PROPERTY

9.1 "Proprietary and Confidential Information and Property" includes, but is not limited to, any trade secret materials, any information marked, labeled or identified orally or in writing by Owner to TES as "Confidential HHA" or by TES to Owner as "Confidential TES", any financial information; any proprietary or unpublished technologies, any respective information concerning research, development, design details and specifications, engineering, technology, computer programs (including source code), formulae, invention, techniques, processes, technical information, procurement requirements, purchasing, manufacturing, key personnel, suppliers, policies or operational methods, plans for future developments, business forecasts, sales and merchandising, methodologies, software programs, algorithms, or product concepts; and any product development or marketing plans; client or Owner lists.

9.2 Except as specifically permitted by this Contract, the Parties acknowledge and agree that any unauthorized use, reproduction or disclosure of Proprietary and Confidential Information and Property could result in irreparable injury to HHA or TES and further agrees that there is no adequate remedy at law for any breach of the obligations of the Parties hereunder, and upon any such breach or any threat thereof, the Party whose Proprietary and Confidential Information and Property is being or is threatened to be used, reproduced or disclosed without

authorization hereunder will be entitled to appropriate relief, including immediate injunctive relief, monetary damages and reasonable attorneys' fees resulting from a breach of the terms of this Article, as well as any other rights and remedies that may be available by law.

- 9.3 The Parties will limit access to and possession of Proprietary and Confidential Information and Property to personnel whose responsibilities under this Contract reasonably require such access or possession.
- 9.4 The Parties agree to use Proprietary and Confidential Information and Property solely for the purposes stated herein. Any other use will require the prior written consent of the Parties.
- 9.5 The Parties will not disclose Proprietary and Confidential Information and Property to any third parties. Upon request, all copies of Proprietary and Confidential Information and Property to the Party who originally made it available.
- 9.6 The Parties forever hold and cause its respective personnel to hold Owner Proprietary and Confidential Information and Property in strict confidence unless otherwise permitted or directed in writing.
- 9.7 The Parties may not alter, decompile, disassemble, reverse engineer, or otherwise modify any Proprietary and Confidential Information and Property received hereunder (except as authorized or directed in writing in connection with performing the Services hereunder).
- 9.8 All Proprietary and Confidential Information and Property is and will remain the property of the Party who produced or disclosed it. Nothing herein will be construed as granting or conferring any right by license or otherwise in Proprietary and Confidential Information and Property.
- 9.9 Proprietary and Confidential Information and Property will not include information previously known by the Parties or later lawfully obtained without obligations of confidentiality; information in the public domain; or, information later independently developed.

ARTICLE 10. TERMINATION OF THE CONTRACT

- 10.1 Nothing contained in this Contract shall limit the right of the Owner to recover any and all costs and damages resulting from TES' failure to perform the Work in a satisfactory manner.
- 10.2 Without prejudice to any other remedy, the Owner may terminate this Contract if TES and/or any of its subcontractors: (i) disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; (ii) refuses or fails to supply enough properly skilled workers or proper materials; (iii) fails to make payments to subcontractors and material and equipment suppliers for materials or labor in accordance with the respective agreements between TES and its subcontractors; (iv) fails to maintain or produce any records required by the Contracts to be so maintained or produced; (v) fails to cooperate with the Owner where such cooperation is necessary for the implementation of the Contract; (vi) fails to obtain and properly maintain the level of insurance coverage outlined herein; (vii) assigns or transfers its obligations, privileges or rights under the Contract without the prior, written consent of the Owner; (viii) makes any misrepresentation or conceals any material fact; (ix) commences or has commenced against it

any action under the United States Bankruptcy Code or any state or federal insolvency law, the commencement of which, in the Owner's judgment, may effectively impair the ability of TES to perform its obligations under the Contract; or (x) violates or breaches the Contract or any provision or material term thereof. For all such causes of termination except those contained in subsections (viii) and (ix), the TES may avoid termination if, within seven (7) days of receipt of a written notice of termination, it commences correction of such default, neglect or violation, with diligence and promptness, fully curing same within the time prescribed by the Owner within the notice of termination. Failure to do so may result in termination of this Contract.

- 10.3 Any such termination shall be effected by delivery of a notice of termination specifying the extent to which the Work under the Contract is terminated and the date upon which such termination becomes effective.
- 10.4 Upon termination by the Owner, the Owner may, without prejudice to any other rights or remedies of the Owner, complete the Work that was required to be performed by TES by whatever methods the Owner may deem appropriate.
- 10.5 In the event this Contract is terminated for cause, the Owner reserves the right not to make any further payments to TES and upon a termination for cause, TES shall furnish to the Owner, at the Owner's expense, such copies of documents and materials as may be reasonably required by the Owner.
- 10.6 No action by the Owner pursuant to this section shall operate to waive or release any claims that the Owner may have against TES under this Contract.
- 10.7 In the event of a termination of the Contract by the Owner, TES does hereby assign, transfer and set over to the Owner all of TES' right, title and interest in, and TES' rights and remedies under, any and all of the licenses, permits and agreements by and between TES and all subcontractors, boards, agencies or departments (governmental or otherwise), relating directly or indirectly to the Work being performed under this Contract.

ARTICLE 11. MISCELLANEOUS PROVISIONS

- 11.1 The Owner's Designated Representative is:

~~William F. Snyder~~ John Bellocchio
Acting Executive Director
65 First Street, Hackensack, NJ

- 11.2 TES' Designated Representative is:

Josh Costell, LEED AP, CEM
Executive Vice President and General Manager
Tozour Energy Services
3606 Horizon Drive, King of Prussia, PA 19406

- 11.3 TES' Designated Representatives, as identified above, are authorized to act on TES' behalf with respect to the Project.
- 11.4 Neither the Owner's nor TES' Designated Representative shall be changed without providing ten (10) days prior written notice to the other Party.
- 11.5 All insurance shall be procured and maintained by TES at its own expense. Prior to commencing any Work, and on an annual basis, if applicable, TES shall deliver to Owner a Certificate of Insurance evidencing the insurance coverage required pursuant to this Article, together with an endorsement adding Owner, its engineers and agents as an Additional Insured there under. Additional insured coverage shall apply as primary and non-contributory insurance with respect to any other insurance afforded to Owner. All coverage shall be placed with an insurance company duly admitted in the State of New Jersey and shall be reasonably acceptable to Owner. TES' insurance carriers must maintain an A.M. Best rating of "A-" or better. Coverage shall be afforded to the Additional Insured whether or not a claim is in litigation. Certificates of Insurance shall provide that the applicable insurance policy shall not be subject to material alteration, cancellation, or non-renewal without sixty (60) days' advance written notice to Owner. The insurance policy shall remain in effect until the Work, including TES' warranty obligations under this Contract, is completed, and the applicable statutes of limitation and/or repose have lapsed. If Owner so requests, it shall be allowed to examine the insurance policies and endorsements. Failure to maintain insurance as required, or provide Owner with evidence of same, shall be deemed a material breach of this Contract, and Owner shall have the right to terminate this Contract or pay for insurance required under this Contract and charge TES for such costs and related expenses. The foregoing insurance requirements are subject to reasonable modification pursuant to the requirements of Owner, Owner's lender and/or their insurance carrier(s). Notwithstanding anything to the contrary, neither Party shall be liable to the other for any special, incidental or consequential damages.
- 11.6 The Work shall be performed at the risk of TES and its employees, agents and subcontractors exclusively. TES, on behalf of itself and its subcontractors, agrees to defend (at TES' sole expense), indemnify and hold harmless Owner, and its affiliated companies, partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury or death, damage to property, demands, damages, causes of action, suits, losses, judgments, obligations and any liabilities of every nature, including contractual liability, costs and expenses (including, without limitation, investigative and repair costs, attorneys' fees and costs, and consultant fees and costs; but excluding consequential damages) (collectively "Claims"), which arise or are in any way connected with the work performed, materials furnished or services provided under this Contract by TES, its employees, agents and/or subcontractors. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of TES, its employees, agents and/or subcontractors, whether active or passive. TES shall not be obligated to indemnify and defend Owner for claims found to be due to the willful misconduct of the Indemnified Parties. TES' indemnification and defense obligations hereunder shall extend to Claims occurring after this Contract is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions

against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable laws. Owner is not waiving, nor shall it be deemed to have waived, by reason of this paragraph, any defense which it may have with respect to such Claims.

- 11.7 To the extent that any provisions contained in any Exhibits attached hereto, and part of, this Contract, conflict with the provisions contained in the main body of this Contract, the provisions contained in the main body of this Contract will control and supersede.
- 11.8 TES is authorized to use Owner as a reference. However, any other use of Owner's name promotionally or otherwise in connection with TES' business or the subject matter of this Contract is prohibited without the prior written consent of Owner. TES agrees to submit proofs of any promotional materials to the Owner for review and written approval prior to going into production.
- 11.9 This Contract does not include a trademark license. Except as allowed by law for limited informational purposes, Owner grants no rights to use any of its trademarks or service marks, for any purpose, without the prior and explicit written permission of Owner. Under no circumstances does Owner grant the right to use its corporate logos or signature in connection with the products or services that are the subject matter of this Contract or any related products or services.
- 11.10 This Contract shall be binding upon and inure to the benefit of TES and Owner and their respective heirs, successors, representatives, executors, administrators, transferees and assigns.
- 11.11 This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. An executed copy of this Contract transmitted by facsimile shall have the same effect as an executed original duly delivered.
- 11.12 TES and its subcontractors must comply with any and all Federal, State and local laws and regulations in effect or hereinafter promulgated that apply to performance of the Work by TES and/or its subcontractors. Each and every provision required by law to be inserted into the Contract shall be deemed to have been inserted therein. If any such provision has been omitted or has not been correctly inserted, the Contract shall be amended, upon application of either Party, to provide for such insertion or correction. If the Owner determines that TES and/or any of its subcontractors has violated or failed to comply with applicable Federal, State or local laws or regulations with respect to their performance under the Contract, the Owner may withhold payments for such performance and take such action that it deems appropriate until TES and/or its subcontractors have complied with such laws or has remedied such violation or non-compliance to the satisfaction of the Owner. TES and its subcontractors' compliance with the legal requirements set forth in this Contract as well as any other applicable laws, regulations or codes is mandatory and cannot be waived by the Owner.
- 11.13 Nothing in the Contract shall be construed to be a waiver by the Owner of any warranty, expressed or implied, or any remedies at law or equity, except as specifically and expressly stated in a writing executed by the Owner.

- 11.14 This Contract, and any and all disputes and/or litigation arising therefrom or related thereto, shall be governed by the applicable laws, regulations and rules of the State of New Jersey, without reference to conflict-of-laws principles.
- 11.15 In the event that any provision of this Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.
- 11.16 In the event that any provision of this Contract should be breached by any Party and thereafter waived by any Party, such waiver shall be limited to the particular breach so waived by any Party and shall not be deemed to waive any other breach. Any consent by the Owner to a delay in TES' performance of any obligation shall apply only to the particular transaction to which it relates, and it shall not apply to any other obligation or transaction. Any delay in the Owner's enforcement of any remedy in the event of a breach by TES of any term or condition of the Contract or any delay in the Owner's exercise of any right under the Contract shall not be construed as a waiver.

IN WITNESS WHEREOF, the undersigned parties have executed this Contract to be effective on the date first written above.

TOZOUR ENERGY SYSTEMS, INC.

By: _____
Date: _____
Name: Josh Costell
Title: Executive Vice President and General Manager

Hackensack Housing Authority

By: _____
Date: _____
Name: _____
Title: _____

EXHIBIT A

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the apparent reasons for the deficiencies, and recommendations for improvement.

(c) *PHA corrective action plan.* Upon receipt of the HUD written report on its on-site review, the PHA must write a corrective action plan and submit it to HUD for approval. The corrective action plan must:

- (1) Specify goals to be achieved;
- (2) Identify obstacles to goal achievement and ways to eliminate or avoid them;
- (3) Identify resources that will be used or sought to achieve goals;
- (4) Identify an PHA staff person with lead responsibility for completing each goal;
- (5) Identify key tasks to reach each goal;

(6) Specify time frames for achievement of each goal, including intermediate time frames to complete each key task; and

(7) Provide for regular evaluation of progress toward improvement.

(8) Be signed by the PHA board of commissioners chairperson and by the PHA executive director. If the PHA is a unit of local government or a state, the corrective action plan must be signed by the Section 8 program director and by the chief executive officer of the unit of government or his or her designee.

(d) *Monitoring.* The PHA and HUD must monitor the PHA's implementation of its corrective action plan to ensure performance targets are met.

(e) *Use of administrative fee reserve prohibited.* Any PHA assigned an overall performance rating of troubled may not use any part of the administrative fee reserve for other housing purposes (see 24 CFR 982.155(b)).

(f) *Upgrading poor performance rating.* HUD shall change an PHA's overall performance rating from troubled to standard or high performer if HUD determines that a change in the rating is warranted because of improved PHA performance and an improved SEMAP score.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

[83 FR 48555, Sept. 10, 1998, as amended at 68 FR 37672, June 24, 2003]

§ 985.108 SEMAP records.

HUD shall maintain SEMAP files, including certifications, notifications, appeals, corrective action plans, and related correspondence for at least 3 years.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

§ 985.109 Default under the Annual Contributions Contract (ACC).

HUD may determine that an PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC.

Subpart C—Physical Assessment Component [Reserved]

PART 990—THE PUBLIC HOUSING OPERATING FUND PROGRAM

Subpart A—Purpose, Applicability, Formula, and Definitions

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990.190 Other formula expenses (add-ons).

Subpart D—Calculating Formula Income

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Subpart I—Operating Subsidy for Properties Managed by Resident Management Corporations (RMCs)

- 990.295 Resident Management Corporation operating subsidy.
- 990.300 Preparation of operating budget.
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Subpart J—Financial Management Systems, Monitoring, and Reporting

- 990.310 Purpose—General policy on financial management, monitoring, and reporting.
- 990.315 Submission and approval of operating budgets.
- 990.320 Audits.
- 990.325 Record retention requirements.

AUTHORITY: 42 U.S.C. 1437g; 42 U.S.C. 3535(d).

SOURCE: 70 FR 54997, Sept. 19, 2005, unless otherwise noted.

Subpart A—Purpose, Applicability, Formula, and Definitions

§ 990.100 Purpose.

This part implements section 9(f) of the United States Housing Act of 1937 (1937 Act), (42 U.S.C. 1437g). Section 9(f) establishes an Operating Fund for the purposes of making assistance available to public housing agencies (PHAs) for the operation and management of public housing. In the case of unsubsidized housing, the total expenses of operating rental housing should be covered by the operating income, which primarily consists of rental income and, to some degree, investment and non-rental income. In the case of public housing, the Operating Fund provides operating subsidy to assist PHAs to serve low, very low, and extremely low-income families. This part describes the policies and procedures for Operating Fund formula calculations and management under the Operating Fund Program.

§ 990.105 Applicability.

(a) *Applicability of this part.* (1) With the exception of subpart I of this part, this part is applicable to all PHA rental units under an Annual Contributions Contract (ACC). This includes PHAs that have not received operating subsidy previously, but are eligible for operating subsidy under the Operating Fund Formula.

(2) This part is applicable to all rental units managed by a resident management corporation (RMC), including a direct-funded RMC.

(b) *Inapplicability of this part.* (1) This part is not applicable to Indian Housing, section 5(h) and section 32 homeownership projects, the Housing Choice Voucher Program, the section 23 Leased Housing Program, or the section 8 Housing Assistance Payments Programs.

(2) With the exception of subpart J of this part, this part is not applicable to the Mutual Help Program or the Turnkey III Homeownership Opportunity Program.

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§ 990.110 Operating fund formula.

(a) *General formula.* (1) The amount of annual contributions (operating subsidy) each PHA is eligible to receive under this part shall be determined by a formula.

(2) In general, operating subsidy shall be the difference between formula expense and formula income. If a PHA's formula expense is greater than its formula income, then the PHA is eligible for an operating subsidy.

(3) Formula expense is an estimate of a PHA's operating expense and is determined by the following three components: Project Expense Level (PEL), Utility Expense Level (UEL), and other formula expenses (add-ons). Formula expense and its three components are further described in subpart C of this part. Formula income is an estimate for a PHA's non-operating subsidy revenue and is further described in subpart D of this part.

(4) Certain portions of the operating fund formula (*e.g.*, PEL) are calculated in terms of per unit per month (PUM) amounts and are converted into whole dollars by multiplying the PUM amount by the number of eligible unit months (EUMs). EUMs are further described in subpart B of this part.

(b) *Specific formula.* (1) A PHA's formula amount shall be the sum of the three formula expense components calculated as follows: {(PEL multiplied by EUM) plus (UEL multiplied by EUM) plus add-ons} minus (formula income multiplied by EUM).

(2) A PHA whose formula amount is equal to or less than zero is still eligible to receive operating subsidy equal to its most recent actual audit cost for its Operating Fund Program.

(3) Operating subsidy payments will be limited to the availability of funds as described in § 990.210(c).

(c) *Non-codified formula elements.* This part defines the major components of the Operating Fund Formula and describes the relationships of these various components. However, this part does not codify certain secondary elements that will be used in the revised Operating Fund Formula. HUD will more appropriately provide this information in non-codified guidance, such as a Handbook, FEDERAL REGISTER no-

tice, or other non-regulatory means that HUD determines appropriate.

§ 990.115 Definitions.

The following definitions apply to the Operating Fund program:

1937 Act means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

Annual contributions contract (ACC) is a contract prescribed by HUD for loans and contributions, which may be in the form of operating subsidy, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of its public housing projects.

Asset management is a management model that emphasizes project-based management, as well as long-term and strategic planning.

Current consumption level is the amount of each utility consumed at a project during the 12-month period that ended the June 30th prior to the beginning of the applicable funding period.

Eligible unit months (EUM) are the actual number of PHA units in eligible categories expressed in months for a specified time frame and for which a PHA receives operating subsidy.

Formula amount is the amount of operating subsidy a PHA is eligible to receive, expressed in whole dollars, as determined by the Operating Fund Formula.

Formula expense is an estimate of a PHA's operating expense used in the Operating Fund Formula.

Formula income is an estimate of a PHA's non-operating subsidy revenue used in the Operating Fund Formula.

Funding period is the calendar year for which HUD will distribute operating subsidy according to the Operating Fund Formula.

Operating Fund is the account/program authorized by section 9 of the 1937 Act for making operating subsidy available to PHAs for the operation and management of public housing.

Operating Fund Formula (or Formula) means the data and calculations used under this part to determine a PHA's amount of operating subsidy for a given period.

Operating subsidy is the amount of annual contributions for operations a PHA receives each funding period under section 9 of the 1937 Act as determined by the Operating Fund Formula in this part.

Other operating costs (add-ons) means PHA expenses that are recognized as formula expenses but are not included either in the project expense level or in the utility expense level.

Payable consumption level is the amount for all utilities consumed at a project that the Formula recognizes in the computation of a PHA's utility expense level at that project.

Per unit per month (PUM) describes a dollar amount on a monthly basis per unit, such as Project Expense Level, Utility Expense Level, and formula income.

Project means each PHA project under an ACC to which the Operating Fund Formula is applicable. However, for purposes of asset management, as described in subpart H of this part, projects may be as identified under the ACC or may be a reasonable grouping of projects or portions of a project or projects under the ACC.

Project-based management is the provision of property management services that is tailored to the unique needs of each property, given the resources available to that property.

Project expense level (PEL) is the amount of estimated expenses for each project (excluding utilities and add-ons) expressed as a PUM cost.

Project units means all dwelling units in all of a PHA's projects under an ACC.

Rolling base consumption level (RBCL) is the average of the yearly consumption levels for the 36-month period ending on the June 30th that is 18 months prior to the beginning of the applicable funding period.

Transition funding is the timing and amount by which a PHA will realize increases and reductions in operating subsidy based on the new funding levels of the Operating Fund Formula.

Unit months are the total number of project units in a PHA's inventory expressed in months for a specified time frame.

Utilities means electricity, gas, heating fuel, water, and sewerage service.

Utilities expense level (UEL) is a product of the utility rate multiplied by the payable consumption level multiplied by the utilities inflation factor expressed as a PUM dollar amount.

Utility rate (rate) means the actual average rate for any given utility for the most recent 12-month period that ended the June 30th prior to the beginning of the applicable funding period.

Yearly consumption level is the actual amount of each utility consumed at a project during a 12-month period ending June 30th.

§ 990.116 Environmental review requirements.

The environmental review procedures of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and the implementing regulations at 24 CFR parts 50 and 58 are applicable to the Operating Fund Program.

Subpart B—Eligibility for Operating Subsidy; Computation of Eligible Unit Months

§ 990.120 Unit months.

(a) Some of the components of HUD's Operating Fund Formula are based on a measure known as unit months. Unit months represent a PHA's public housing inventory during a specified period of time. The unit months eligible for operating subsidy in a 12-month period are equal to the number of months that the units are in an operating subsidy-eligible category, adjusted for changes in inventory (e.g., units added or removed), as described below.

(b) A PHA is eligible to receive operating subsidy for a unit on the date it is both placed under the ACC and occupied. The date a unit is eligible for operating subsidy does not change the Date of Full Availability (DOFA) or the date of the End of Initial Operating Period (EIOP), nor does this provision place a project into management status.

§ 990.125 Eligible units.

A PHA is eligible to receive operating subsidy for public housing units under an ACC for:

(a) Occupied dwelling units as defined in § 990.140;

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(b) A dwelling unit with an approved vacancy (as defined in § 990.145); and

(c) A limited number of vacancies (as defined in § 990.150).

§ 990.130 Ineligible units.

(a) Vacant units that do not fall within the definition of § 990.145 or § 990.150 are not eligible for operating subsidy under this part.

(b) Units that are eligible to receive an asset-repositioning fee, as described in § 990.190(h), are not eligible to receive operating subsidy under this subpart.

§ 990.135 Eligible unit months (EUMs).

(a) A PHA's total number of EUMs will be calculated for the 12-month period from July 1st to June 30th that is prior to the first day of the applicable funding period, and will consist of eligible units as defined in § 990.140, § 990.145, or § 990.150.

(b)(1) The determination of whether a public housing unit satisfies the requirements of § 990.140, § 990.145, or § 990.150 for any unit month shall be based on the unit's status as of either the first or last day of the month, as determined by the PHA.

(2) HUD reserves the right to determine the status of any and all public housing units based on information in its information systems.

(c) The PHA shall maintain and, at HUD's request, shall make available to HUD, specific documentation of the status of all units, including, but not limited to, a listing of the units, street addresses or physical address, and project/management control numbers.

(d) Any unit months that do not meet the requirements of this subpart are not eligible for operating subsidy, and will not be subsidized by the Operating Fund.

§ 990.140 Occupied dwelling units.

A PHA is eligible to receive operating subsidy for public housing units for each unit month that those units are under an ACC and occupied by a public housing-eligible family under lease.

§ 990.145 Dwelling units with approved vacancies.

(a) A PHA is eligible to receive operating subsidy for vacant public housing units for each unit month the units are under an ACC and meet one of the following HUD-approved vacancies:

(1) *Units undergoing modernization.* Vacancies resulting from project modernization or unit modernization (such as work necessary to reoccupy vacant units) provided that one of the following conditions is met:

(i) The unit is undergoing modernization (i.e., the modernization contract has been awarded or force account work has started) and must be vacant to perform the work, and the construction is on schedule according to a HUD-approved PHA Annual Plan; or

(ii) The unit must be vacant to perform the work and the treatment of the vacant unit is included in a HUD-approved PHA Annual Plan, but the time period for placing the vacant unit under construction has not yet expired. The PHA shall place the vacant unit under construction within two federal fiscal years (FFYs) after the FFY in which the capital funds are approved.

(2) *Special use units.* Units approved and used for resident services, resident organization offices, and related activities, such as self-sufficiency and anti-crime initiatives.

(b) On a project-by-project basis, subject to prior HUD approval and for the time period agreed to by HUD, a PHA shall receive operating subsidy for the units affected by the following events that are outside the control of the PHA:

(1) *Litigation.* Units that are vacant due to litigation, such as a court order or settlement agreement that is legally enforceable; units that are vacant in order to meet regulatory and statutory requirements to avoid potential litigation (as covered in a HUD-approved PHA Annual Plan); and units under voluntary compliance agreements with HUD or other voluntary compliance agreements acceptable to HUD (e.g., units that are being held vacant as part of a court-order, HUD-approved desegregation plan, or voluntary compliance agreement requiring modifications to the units to make them accessible pursuant to 24 CFR part 8).

(2) *Disasters.* Units that are vacant due to a federally declared, state-declared, or other declared disaster.

(3) *Casualty losses.* Damaged units that remain vacant due to delays in settling insurance claims.

(c) A PHA may appeal to HUD to receive operating subsidy for units that are vacant due to changing market conditions (see subpart G of this part—Appeals).

§ 990.150 Limited vacancies.

(a) *Operating subsidy for a limited number of vacancies.* HUD shall pay operating subsidy for a limited number of vacant units under an ACC if the annualized vacancy rate is less than or equal to:

(1) Three percent of the PHA's total unit inventory (not to exceed 100 percent of the unit months under an ACC) for the period July 1, 2004, to June 30, 2005, and

(2) Three percent of the total units on a project-by-project basis based on the definition of a project under subpart H of this part, beginning July 1, 2005.

(b) *Exception for PHAs with 100 or fewer units.* Notwithstanding paragraph (a) of this section, a PHA with 100 or fewer units will be paid operating subsidy for up to five vacant units not to exceed 100 percent of the unit months under an ACC. For example, a PHA with an inventory of 100 units and four vacancies during its fiscal year will be eligible for operating subsidy for all 100 units. A PHA with an inventory of 50 units with seven vacancies during its fiscal year will be eligible for operating subsidy for 48 units.

§ 990.155 Addition and deletion of units.

(a) *Changes in public housing unit inventory.* To generate a change to its formula amount within each one-year funding period, PHAs shall periodically (e.g., quarterly) report the following information to HUD, during the funding period:

(1) New units that were added to the ACC, and occupied by a public housing-eligible family during the prior reporting period for the one-year funding period, but have not been included in the previous EUMs' data; and

(2) Projects, or entire buildings in a project, that are eligible to receive an asset repositioning fee in accordance with the provisions in § 990.190(h).

(b) *Revised EUM calculation.* (1) For new units, the revised calculation shall assume that all such units will be fully occupied for the balance of that funding period. The actual occupancy/vacancy status of these units will be included to calculate the PHA's operating subsidy in the subsequent funding period after these units have one full year of a reporting cycle.

(2) Projects, or entire buildings in a project, that are eligible to receive an asset repositioning fee in accordance with § 990.190(h) are not to be included in the calculation of EUMs. Funding for these units is provided under the conditions described in § 990.190(h).

Subpart C—Calculating Formula Expenses

§ 990.160 Overview of calculating formula expenses.

(a) *General.* Formula expenses represent the costs of services and materials needed by a well-run PHA to sustain the project. These costs include items such as administration, maintenance, and utilities. HUD also determines a PHA's formula expenses at a project level. HUD uses the following three factors to determine the overall formula expense level for each project:

(1) The project expense level (PEL) (calculated in accordance with § 990.165);

(2) The utilities expense level (UEL) (calculated in accordance with §§ 990.170, 990.175, 990.180, and 990.185); and

(3) Other formula expenses (add-ons) (calculated in accordance with § 990.190).

(b) *PEL, UEL, and Add-ons.* Each project of a PHA has a unique PEL and UEL. The PEL for each project is based on ten characteristics and certain adjustments described in § 990.165. The PEL represents the normal expenses of operating public housing projects, such as maintenance and administration costs. The UEL for each project represents utility expenses. Utility expense levels are based on an incentive

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system aimed at reducing utility expenses. Both the PEL and UEL are expressed in PUM costs. The expenses not included in these expense levels and which are unique to PHAs are titled "other formula expenses (add-ons)" and are expressed in a dollar amount.

(c) *Calculating project formula expense.* The formula expense of any one project is the sum of the project's PEL and the UEL, multiplied by the total EUMs specific to the project, plus the add-ons.

§ 990.165 Computation of project expense level (PEL).

(a) *Computation of PEL.* The PEL is calculated in terms of PUM cost and represents the costs associated with the project, except for utility and add-on costs. Costs associated with the PEL are administration, management fees, maintenance, protective services, leasing, occupancy, staffing, and other expenses, such as project insurance. HUD will calculate the PEL using regression analysis and benchmarking for the actual costs of Federal Housing Administration (FHA) projects to estimate costs for public housing projects. HUD will use the ten variables described in paragraph (b) of this section and their associated coefficient (i.e., values that are expressed in percentage terms) to produce a PEL.

(b) *Variables.* The ten variables are:

- (1) Size of project (number of units);
- (2) Age of property (Date of Full Availability (DOFA));
- (3) Bedroom mix;
- (4) Building type;
- (5) Occupancy type (family or senior);
- (6) Location (an indicator of the type of community in which a property is located; location types include rural, city central metropolitan, and non-city central metropolitan (suburban) areas);
- (7) Neighborhood poverty rate;
- (8) Percent of households assisted;
- (9) Ownership type (profit, non-profit, or limited dividend); and
- (10) Geographic.

(c) *Cost adjustments.* HUD will apply four adjustments to the PEL. The adjustments are:

- (1) Application of a \$200 PUM floor for any senior property and a \$215 PUM floor for any family property;

(2) Application of a \$420 PUM ceiling for any property except for New York City Housing Authority projects, which have a \$480 PUM ceiling;

(3) Application of a four percent reduction for any PEL calculated over \$325 PUM, with the reduction limited so that a PEL will not be reduced to less than \$325; and

(4) The reduction of audit costs as reported for FFY 2003 in a PUM amount.

(d) *Annual inflation factor.* The PEL for each project shall be adjusted annually, beginning in 2005, by the local inflation factor. The local inflation factor shall be the HUD-determined weighted average percentage increase in local government wages and salaries for the area in which the PHA is located, and non-wage expenses.

(e) *Calculating a PEL.* To calculate a specific PEL for a given property, the sum of the coefficients for nine variables (all variables except ownership type) shall be added to a formula constant. The exponent of that sum shall be multiplied by a percentage to reflect the non-profit ownership type, which will produce an unadjusted PEL. For the calculation of the initial PEL, the cost adjustments described in paragraphs (c)(1), (c)(2), and (c)(3) of this section will be applied. After these initial adjustments are applied, the audit adjustment described in paragraph (c)(4) of this section will be applied to arrive at the PEL in year 2000 dollars. After the PEL in year 2000 dollars is created, the annual inflation factor as described in paragraph (d) of this section will be applied cumulatively to this number through 2004 to yield an initial PEL in terms of current dollars.

(f) *Calculation of the PEL for Moving to Work PHAs.* PHAs participating in the Moving to Work (MTW) Demonstration authorized under section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996) shall receive an operating subsidy as provided in Attachment A of their MTW Agreements executed prior to November 18, 2005. PHAs with an MTW Agreement will continue to have the right to request extensions of or modifications to their MTW Agreements.

(g) *Calculation of the PELs for mixed-finance developments.* If, prior to November 18, 2005, a PHA has either a mixed-finance arrangement that has closed or has filed documents in accordance with 24 CFR 941.606 for a mixed-finance transaction, then the project covered by the mixed-finance transaction will receive funding based on the higher of its former Allowable Expense Level or the new computed PEL.

(h) *Calculation of PELs when data are inadequate or unavailable.* When sufficient data are unavailable for the calculation of a PEL, HUD may calculate a PEL using an alternative methodology. The characteristics may be used from similarly situated properties.

(i) *Review of PEL methodology by advisory committee.* In 2009, HUD will convene a meeting with representation of appropriate stakeholders, to review the methodology to evaluate the PEL based on actual cost data. The meeting shall be convened in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix) (FACA). HUD may determine appropriate funding levels for each project to be effective in FY 2011 after following appropriate rulemaking procedures.

§ 990.170 Computation of utilities expense level (UEL): Overview.

(a) *General.* The UEL for each PHA is based on its consumption for each utility, the applicable rates for each utility, and an applicable inflation factor. The UEL for a given funding period is the product of the utility rate multiplied by the payable consumption level multiplied by the inflation factor. The UEL is expressed in terms of PUM costs.

(b) *Utility rate.* The utility rate for each type of utility will be the actual average rate from the most recent 12-month period that ended June 30th prior to the beginning of the applicable funding period. The rate will be calculated by dividing the actual utility cost by the actual utility consumption, with consideration for pass-through costs (e.g., state and local utility taxes, tariffs) for the time period specified in this paragraph.

(c) *Payable consumption level.* The payable consumption level is based on

the current consumption level adjusted by a utility consumption incentive. The incentive shall be computed by comparing current consumption levels of each utility to the rolling base consumption level. If the comparison reflects a decrease in the consumption of a utility, the PHA shall retain 75 percent of this decrease. Alternately, if the comparison reflects an increase in the consumption of a utility, the PHA shall absorb 75 percent of this increase.

(d) *Inflation factor for utilities.* The UEL shall be adjusted annually by an inflation/deflation factor based upon the fuels and utilities component of the United States Department of Labor, Bureau of Labor Statistics (BLS) Consumer Price Index for All Urban Consumers (CPI-U). The annual adjustment to the UEL shall reflect the most recently published and localized data available from BLS at the time the annual adjustment is calculated.

(e) *Increases in tenant utility allowances.* Increases in tenant utility allowances, as a component of the formula income, as described in § 990.195, shall result in a commensurate increase of operating subsidy. Decreases in such utility allowances shall result in a commensurate decrease in operating subsidy.

(f) *Records and reporting.* (1) Appropriate utility records, satisfactory to HUD, shall be developed and maintained, so that consumption and rate data can be determined.

(2) All records shall be kept by utility and by project for each 12-month period ending June 30th.

(3) HUD will notify each PHA when HUD has the automated systems capacity to receive such information. Each PHA then will be obligated to provide consumption and cost data to HUD for all utilities for each project.

(4) If a PHA has not maintained or cannot recapture utility data from its records for a particular utility, the PHA shall compute the UEL by:

(i) Using actual consumption data for the last complete year(s) of available data or data of comparable project(s) that have comparable utility delivery systems and occupancy, in accordance with a method prescribed by HUD; or

(ii) Requesting field office approval to use actual PUM utility expenses for

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its UEL in accordance with a method prescribed by HUD when the PHA cannot obtain necessary data to calculate the UEL in accordance with paragraph (f)(4)(i) of this section.

§ 990.175 Utilities expense level: Computation of the current consumption level.

The current consumption level shall be the actual amount of each utility consumed during the 12-month period ending June 30th that is 6 months prior to the first day of the applicable funding period.

§ 990.180 Utilities expense level: Computation of the rolling base consumption level.

(a) *General.* (1) The rolling base consumption level (RBCL) shall be equal to the average of yearly consumption levels for the 36-month period ending on the June 30th that is 18 months prior to the first day of the applicable funding period.

(2) The yearly consumption level is the actual amount of each utility consumed during a 12-month period ending June 30th. For example, for the funding period January 1, 2006, through December 31, 2006, the RBCL will be the average of the following yearly consumption levels:

(i) Year 1 = July 1, 2001, through June 30, 2002.

(ii) Year 2 = July 1, 2002, through June 30, 2003.

(iii) Year 3 = July 1, 2003, through June 30, 2004.

NOTE TO PARAGRAPH (a)(2): In this example, the current year's consumption level will be July 1, 2004, through June 30, 2005.

(b) *Distortions to rolling base consumption level.* The PHA shall have its RBCL determined so as not to distort the rolling base period in accordance with a method prescribed by HUD if:

(1) A project has not been in operation during at least 12 months of the rolling base period;

(2) A project enters or exits management after the rolling base period and prior to the end of the applicable funding period; or

(3) A project has experienced a conversion from one energy source to another, switched from PHA-supplied to resident-purchased utilities during or

after the rolling base period, or for any other reason that would cause the RBCL not to be comparable to the current year's consumption level.

(c) *Financial incentives.* The three-year rolling base for all relevant utilities will be adjusted to reflect any financial incentives to the PHA to reduce consumption as described in § 990.185.

§ 990.185 Utilities expense level: Incentives for energy conservation/rate reduction.

(a) *General/consumption reduction.* If a PHA undertakes energy conservation measures that are financed by an entity other than HUD, the PHA may qualify for the incentives available under this section. For a PHA to qualify for these incentives, the PHA must enter into a contract to finance the energy conservation measures, and must obtain HUD approval. Such approval shall be based on a determination that payments under a contract can be funded from reasonably anticipated energy cost savings. The contract period shall not exceed 20 years. The energy conservation measures may include, but are not limited to: Physical improvements financed by a loan from a bank, utility, or governmental entity; management of costs under the performance contract; or a shared savings agreement with a private energy service company. All such contracts shall be known as energy performance contracts. PHAs may extend an executed energy performance contract with a term of less than 20 years to a term of not more than 20 years, to permit additional energy conservation improvements without the procurement of energy performance contractors. The PHA must obtain HUD approval to extend the term of an executed energy performance contract.

(1) *Frozen rolling base.* (i) If a PHA undertakes energy conservation measures that are approved by HUD, the RBCL for the project and the utilities involved may be frozen during the contract period. Before the RBCL is frozen, it must be adjusted to reflect any energy savings resulting from the use of any HUD funding. The RBCL also may be adjusted to reflect systems repaired to meet applicable building and

safety codes as well as to reflect adjustments for occupancy rates increased by rehabilitation. The RBCL shall be frozen at the level calculated for the year during which the conservation measures initially shall be implemented.

(ii) The PHA operating subsidy eligibility shall reflect the retention of 100 percent of the savings from decreased consumption until the term of the financing agreement is complete. The PHA must use at least 75 percent of the cost savings to pay off the debt, *e.g.*, pay off the contractor or bank loan. If less than 75 percent of the cost savings is used for debt payment, however, HUD shall retain the difference between the actual percentage of cost savings used to pay off the debt and 75 percent of the cost savings. If at least 75 percent of the cost savings is paid to the contractor or bank, the PHA may use the full amount of the remaining cost savings for any eligible operating expense.

(iii) The annual three-year rolling base procedures for computing the RBCL shall be reactivated after the PHA satisfies the conditions of the contract. The three years of consumption data to be used in calculating the RBCL after the end of the contract period shall be the yearly consumption levels for the final three years of the contract.

(2) PHAs undertaking energy conservation measures that are financed by an entity other than HUD may include resident-paid utilities under the consumption reduction incentive, using the following methodology:

(i) The PHA reviews and updates all utility allowances to ascertain that residents are receiving the proper allowances before energy savings measures are begun;

(ii) The PHA makes future calculations of rental income for purposes of the calculation of operating subsidy eligibility based on these baseline allowances. In effect, HUD will freeze the baseline allowances for the duration of the contract;

(iii) After implementation of the energy conservation measures, the PHA updates the utility allowances in accordance with provisions in 24 CFR part 965, subpart E. The new allowance

should be lower than baseline allowances;

(iv) The PHA uses at least 75 percent of the savings for paying the cost of the improvement (the PHA will be permitted to retain 100 percent of the difference between the baseline allowances and revised allowances);

(v) After the completion of the contract period, the PHA begins using the revised allowances in calculating its operating subsidy eligibility; and

(vi) The PHA may exclude from its calculation of rental income the increased rental income due to the difference between the baseline allowances and the revised allowances of the projects involved, for the duration of the contract period.

(3) *Subsidy add-on.* (i) If a PHA qualifies for this incentive (*i.e.*, the subsidy add-on, in accordance with the provisions of paragraph (a) of this section), then the PHA is eligible for additional operating subsidy each year of the contract to amortize the cost of the loan for the energy conservation measures and other direct costs related to the energy project under the contract during the term of the contract subject to the provisions of this paragraph (a)(3) of this section. The PHA's operating subsidy for the current funding year will continue to be calculated in accordance with paragraphs (a), (b), and (c) of § 990.170 (*i.e.*, the rolling base is not frozen). The PHA will be able to retain part of the cost savings in accordance with § 990.170(c).

(ii) The actual cost of energy (of the type affected by the energy conservation measure) after implementation of the energy conservation measure will be subtracted from the expected energy cost, to produce the energy cost savings for the year.

(iii) If the cost savings for any year during the contract period are less than the amount of operating subsidy to be made available under this paragraph to pay for the energy conservation measure in that year, the deficiency will be offset against the PHA's operating subsidy eligibility for the PHA's next fiscal year.

(iv) If energy cost savings are less than the amount necessary to meet amortization payments specified in a

contract, the contract term may be extended (up to the 20-year limit) if HUD determines that the shortfall is the result of changed circumstances, rather than a miscalculation or misrepresentation of projected energy savings by the contractor or PHA. The contract term may be extended only to accommodate payment to the contractor and associated direct costs.

(b) *Rate reduction.* If a PHA takes action beyond normal public participation in rate-making proceedings, such as well-head purchase of natural gas, administrative appeals, or legal action to reduce the rate it pays for utilities, then the PHA will be permitted to retain one-half the annual savings realized from these actions.

(c) *Utility benchmarking.* HUD will pursue benchmarking utility consumption at the project level as part of the transition to asset management. HUD intends to establish benchmarks by collecting utility consumption and cost information on a project-by-project basis. In 2009, after conducting a feasibility study, HUD will convene a meeting with representation of appropriate stakeholders to review utility benchmarking options so that HUD may determine whether or how to implement utility benchmarking to be effective in FY 2011. The meeting shall be convened in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix) (FACA). The HUD study shall take into account typical levels of utilities consumption at public housing developments based upon factors such as building and unit type and size, temperature zones, age and construction of building, and other relevant factors.

[70 FR 54997, Sept. 19, 2005, as amended at 73 FR 61352, Oct. 16, 2008]

§ 990.190 Other formula expenses (add-ons).

In addition to calculating operating subsidy based on the PEL and UEL, a PHA's eligible formula expenses shall be increased by add-ons. The allowed add-ons are:

(a) *Self-sufficiency.* A PHA may request operating subsidy for the reasonable cost of program coordinator(s) and associated costs in accordance with

HUD's self-sufficiency program regulations and notices.

(b) *Energy loan amortization.* A PHA may qualify for operating subsidy for payments of principal and interest cost for energy conservation measures described in § 990.185(a)(3).

(c) *Payments in lieu of taxes (PILOT).* Each PHA will receive an amount for PILOT in accordance with section 6(d) of the 1937 Act, based on its cooperation agreement or its latest actual PILOT payment.

(d) *Cost of independent audits.* A PHA is eligible to receive operating subsidy equal to its most recent actual audit costs for the Operating Fund Program when an audit is required by the Single Audit Act (31 U.S.C. 7501-7507) (see 24 CFR part 85) or when a PHA elects to prepare and submit such an audit to HUD. For the purpose of this rule, the most recent actual audit costs include the associated costs of an audit for the Operating Fund Program only. A PHA whose operating subsidy is determined to be zero based on the formula is still eligible to receive operating subsidy equal to its most recent actual audit costs. The most recent actual audit costs are used as a proxy to cover the cost of the next audit. If a PHA does not have a recent actual audit cost, the PHA working with HUD may establish an audit cost. A PHA that requests funding for an audit shall complete an audit. The results of the audit shall be transmitted in a time and manner prescribed by HUD.

(e) *Funding for resident participation activities.* Each PHA's operating subsidy calculation shall include \$25 per occupied unit per year for resident participation activities, including, but not limited to, those described in 24 CFR part 964. For purposes of this section, a unit is eligible to receive resident participation funding if it is occupied by a public housing resident or it is occupied by a PHA employee, or a police officer or other security personnel who is not otherwise eligible for public housing. In any fiscal year, if appropriations are not sufficient to meet all funding requirements under this part, then the resident participation component of the formula will be adjusted accordingly.

(f) *Asset management fee.* Each PHA with at least 250 units shall receive a \$4 PUM asset management fee. PHAs with fewer than 250 units that elect to transition to asset management shall receive an asset management fee of \$2 PUM. PHAs with fewer than 250 units that elect to have their entire portfolio treated and considered as a single project as described in §990.260(b) or PHAs with only one project will not be eligible for an asset management fee. For all PHAs eligible to receive the asset management fee, the fee will be based on the total number of ACC units. PHAs that are not in compliance with asset management as described in subpart H of this part by FY 2011 will forfeit this fee.

(g) *Information technology fee.* Each PHA's operating subsidy calculation shall include \$2 PUM for costs attributable to information technology. For all PHAs, this fee will be based on the total number of ACC units.

(h) *Asset repositioning fee.* (1) A PHA that transitions projects or entire buildings of a project out of its inventory is eligible for an asset-repositioning fee. This fee supplements the costs associated with administration and management of demolition or disposition, tenant relocation, and minimum protection and service associated with such efforts. The asset-repositioning fee is not intended for individual units within a multi-unit building undergoing similar activities.

(2) Projects covered by applications approved for demolition or disposition shall be eligible for an asset repositioning fee on the first day of the next quarter six months after the date the first unit becomes vacant after the relocation date included in the approved relocation plan. When this condition is met, the project and all associated units are no longer considered an EUM as described in §990.155. Each PHA is responsible for accurately applying and maintaining supporting documentation on the start date of this transition period or is subject to forfeiture of this add-on.

(3) Units categorized for demolition and which are eligible for an asset repositioning fee are eligible for operating subsidy at the rate of 75 percent PEL per unit for the first twelve

months, 50 percent PEL per unit for the next twelve months, and 25 percent PEL per unit for the next twelve months.

(4) Units categorized for disposition and which are eligible for an asset repositioning fee are eligible for operating subsidy at the rate of 75 percent PEL per unit for the first twelve months and 50 percent PEL per unit for the next twelve months.

(5) The following is an example of how eligibility for an asset-repositioning fee is determined:

(i) A PHA has HUD's approval to demolish (or dispose of) a 100-unit project from its 1,000 unit inventory. On January 12th, in conjunction with the PHA's approved Relocation Plan, a unit in that project becomes vacant. Accordingly, the demolition/disposition-approved project is eligible for an asset-repositioning fee on October 1st. (This date is calculated as follows: January 12th + six months = July 12th. The first day of the next quarter is October 1st.)

(ii) Although payment of the asset-repositioning fee will not begin until October 1st, the PHA will receive its full operating subsidy based on the 1,000 units through September 30th. On October 1st the PHA will begin to receive the 36-month asset-repositioning fee in accordance with paragraph (h)(3) of this section for the 100 units approved for demolition. (Asset repositioning fee requirements for projects approved for disposition are found in paragraph (h)(4) of this section.) On October 1st, the PHA's units will be 900.

(i) *Costs attributable to changes in Federal law, regulation, or economy.* In the event that HUD determines that enactment of a Federal law or revision in HUD or other Federal regulations has caused or will cause a significant change in expenditures of a continuing nature above the PEL and UEL, HUD may, at HUD's sole discretion, decide to prescribe a procedure under which the PHA may apply for or may receive an adjustment in operating subsidy.

Subpart D—Calculating Formula Income

§ 990.195 Calculation of formula income.

(a) *General.* For the purpose of the formula, formula income is equal to the amount of rent charged to tenants divided by the respective unit months leased, and is therefore expressed as a PUM. Formula income will be derived from a PHA's year-end financial information. The financial information used in the formula income computation will be the audited information provided by the PHA through HUD's information systems. The information will be calculated using the following PHA fiscal year-end information:

- (1) April 1, 2003, through March 31, 2004;
- (2) July 1, 2003, through June 30, 2004;
- (3) October 1, 2003, through September 30, 2004; and
- (4) January 1, 2004, through December 31, 2004.

(b) *Calculation of formula income.* To calculate formula income in whole dollars, the PUM amount will be multiplied by the EUMs as described in subpart B of this part.

(c) *Frozen at 2004 level.* After a PHA's formula income is calculated as described in paragraph (a) of this section, it will not be recalculated or inflated for fiscal years 2007 through 2009, unless a PHA can show a severe local economic hardship that is impacting the PHA's ability to maintain some semblance of its formula income (see subpart G of this part—Appeals). A PHA's formula income may be recalculated if the PHA appeals to HUD for an adjustment in its formula.

(d) *Calculation of formula income when data are inadequate or unavailable.* When audited data are unavailable in HUD's information systems for the calculation of formula income, HUD may use an alternative methodology, including, but not limited to, certifications, hard copy reports, and communications with the respective PHAs.

(e) *Inapplicability of 24 CFR 85.25.* Formula income is not subject to the provisions regarding program income in 24 CFR 85.25.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

Subpart E—Determination and Payment of Operating Subsidy

§ 990.200 Determination of formula amount.

(a) *General.* The amount of operating subsidy that a PHA is eligible for is the difference between its formula expenses (as calculated under subpart C of this part) and its formula income (as calculated under subpart D of this part).

(b) *Use of HUD databases to calculate formula amount.* HUD shall utilize its databases to make the formula calculations. HUD's databases are intended to be employed to provide information on all primary factors in determining the operating subsidy amount. Each PHA is responsible for supplying accurate information on the status of each of its units in HUD's databases.

(c) *PHA responsibility to submit timely data.* PHAs shall submit data used in the formula on a regular and timely basis to ensure accurate calculation under the formula. If a PHA fails to provide accurate data, HUD will make a determination as to the PHA's inventory, occupancy, and financial information using available or verified data, which may result in a lower operating subsidy. HUD has the right to adjust any or all formula amounts based on clerical, mathematical, and information system errors that affect any of the data elements used in the calculation of the formula.

§ 990.205 Fungibility of operating subsidy between projects.

(a) *General.* Operating subsidy shall remain fully fungible between ACC projects until operating subsidy is calculated by HUD at a project level. After subsidy is calculated at a project level, operating subsidy can be transferred as the PHA determines during the PHA's fiscal year to another ACC project(s) if a project's financial information, as described more fully in § 990.280, produces excess cash flow, and only in the amount up to those excess cash flows.

(b) Notwithstanding the provisions of paragraph (a) of this section and subject to all of the other provisions of this part, the New York City Housing Authority's Development Grant

Project Amendment Number 180, dated July 13, 1995, to Consolidated Annual Contributions Contract NY-333, remains in effect.

§ 990.210 Payment of operating subsidy.

(a) *Payments of operating subsidy under the formula.* HUD shall make monthly payments equal to $\frac{1}{2}$ of a PHA's total annual operating subsidy under the formula by electronic funds transfers through HUD's automated disbursement system. HUD shall establish thresholds that permit PHAs to request monthly installments. Requests by PHAs that exceed these thresholds will be subject to HUD review. HUD approvals of requests that exceed these thresholds are limited to PHAs that have an unanticipated and immediate need for disbursement.

(b) *Payments procedure.* In the event that the amount of operating subsidy has not been determined by HUD as of the beginning of the funding period, operating subsidy shall be provided monthly, quarterly, or annually based on the amount of the PHA's previous year's formula or another amount that HUD may determine to be appropriate.

(c) *Availability of funds.* In the event that insufficient funds are available, HUD shall have discretion to revise, on a pro rata basis, the amounts of operating subsidy to be paid to PHAs.

§ 990.215 Payments of operating subsidy conditioned upon reexamination of income of families in occupancy.

(a) *General.* Each PHA is required to reexamine the income of each family in accordance with the provisions of the ACC, the 1937 Act, and HUD regulations. Income reexaminations shall be performed annually, except as provided in the 1937 Act, in HUD regulations, or in the MTW agreements. A PHA must be in compliance with all reexamination requirements in order to be eligible to receive full operating subsidy. A PHA's calculations of rent and utility allowances shall be accurate and timely.

(b) *A PHA in compliance.* A PHA shall submit a certification that states that the PHA is in compliance with the annual income reexamination require-

ments and its rent and utility allowance calculations have been or will be adjusted in accordance with current HUD requirements and regulations.

(c) *A PHA not in compliance.* Any PHA not in compliance with annual income reexamination requirements at the time of the submission of the calculation of operating subsidy shall furnish to the responsible HUD field office a copy of the procedures it is using to achieve compliance and a statement of the number of families that have undergone reexamination during the 12 months preceding the current funding cycle. If, on the basis of this submission or any other information, HUD determines that the PHA is not substantially in compliance with all of the annual income reexamination requirements, HUD shall withhold payments to which the PHA may be entitled under this part. Payment may be withheld in an amount equal to HUD's estimate of the loss of rental income to the PHA resulting from its failure to comply with the requirements.

Subpart F—Transition Policy and Transition Funding

§ 990.220 Purpose.

This policy is aimed at assisting all PHAs in transitioning to the new funding levels as determined by the formula set forth in this rule. PHAs will be subject to a transition funding policy that will either increase or reduce their total operating subsidy for a given year.

§ 990.225 Transition determination.

The determination of the amount and period of the transition funding shall be based on the difference in subsidy levels between the formula set forth in this part and the formula in effect prior to implementation of the formula set forth in this part. The difference in subsidy levels will be calculated using FY 2004 data. When actual data are not available for one of the formula components needed to calculate the formula of this part for FY 2004, HUD will use alternate data as a substitute (e.g., unit months available for eligible unit months, etc.) If the difference between these formulas indicates that a PHA

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shall have its operating subsidy reduced as a result of this formula, the PHA will be subject to a transition policy as indicated in § 990.230. If the difference between these formulas indicates that a PHA will have its operating subsidy increased as a result of this formula, the PHA will be subject to the transition policy as indicated in § 990.235.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

§ 990.230 PHAs that will experience a subsidy reduction.

(a) For PHAs that will experience a reduction in their operating subsidy, as determined in § 990.225, such reductions will have a limit of:

(1) 5 percent of the difference between the two funding levels in the first year of implementation of the formula contained in this part;

(2) 24 percent of the difference between the two funding levels in the second year of implementation of the formula contained in this part;

(3) 43 percent of the difference between the two levels in the third year of implementation of the formula contained in this part;

(4) 62 percent of the difference between the two levels in the fourth year of implementation of the formula contained in this part; and

(5) 81 percent of the difference between the two levels in the fifth year of implementation of the formula contained in this part.

(b) The full amount of the reduction in the operating subsidy level shall be realized in the sixth year of implementation of the formula contained in this part.

(c) For example, a PHA has a subsidy reduction from \$1 million, under the formula in effect prior to implementation of the formula contained in this part, to \$900,000, under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million - \$900,000 = \$100,000). In the first year, the subsidy reduction would be limited to \$5,000 (5 percent of the difference). Thus, the PHA would receive an operating subsidy amount pursuant to this rule plus a transition-funding amount of \$95,000 (the \$100,000 difference between the two subsidy amounts minus the \$5,000 reduction limit).

(d) If a PHA can demonstrate a successful conversion to the asset management requirements of subpart H of this part, as determined under paragraph (f) of this section, HUD will discontinue the reduction at the PHA's next subsidy calculation following such demonstration, as reflected in the schedule in paragraph (e) of this section, notwithstanding § 990.290(c).

(e) The schedule for successful demonstration of conversion to asset management for discontinuation of PHA subsidy reduction is reflected in the table below:

STOP-LOSS DEMONSTRATION TIME LINE AND EFFECTIVE DATES

Demonstration date by	Applications due	Reduction stopped at	Reduction effective for
September 30, 2007	October 15, 2007	5 percent of the PUM difference.	Calendar Year 2007 and thereafter.
April 1, 2008	April 15, 2008	24 percent of the PUM difference.	Calendar Year 2008 and thereafter.
October 1, 2008	October 15, 2008	43 percent of the PUM difference.	Calendar Year 2009 and thereafter.
October 1, 2009	October 15, 2009	62 percent of the PUM difference.	Calendar Year 2010 and thereafter.
October 1, 2010	October 15, 2010	81 percent of the PUM difference.	Calendar Year 2011 and thereafter.

(f)(1) For purposes of this section, compliance with the asset management requirements of subpart H of this part will be based on an independent assessment conducted by a HUD-approved professional familiar with property

management practices in the region or state in which the PHA is located.

(2) A PHA must select from a list of HUD-approved professionals to conduct the independent assessment. The professional review and recommendation

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will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination of compliance with the asset management requirements of subpart H of this part.

(3) Upon completion of the independent assessment, the assessor shall conduct an exit conference with the PHA. In response to the exit conference, the PHA may submit a management response and other pertinent information (including, but not limited to, an additional assessment procured at the PHAs' own expense) within ten working days of the exit conference to be included in the report submitted to HUD.

(4) In the event that HUD is unable to produce a list of independent assessors on a timely basis, the PHA may submit its own demonstration of a successful conversion to asset management directly to HUD for determination of compliance.

(5) The Assistant Secretary for Public and Indian Housing (or designee) shall consider all information submitted and respond with a final determination of compliance within 60 days of the independent assessor's report being submitted to HUD.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005, as amended at 72 FR 45874, Aug. 15, 2007]

§ 990.235 PHAs that will experience a subsidy increase.

(a) For PHAs that will experience a gain in their operating subsidy, as determined in § 990.225, such increases will have a limit of 50 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part.

(b) The full amount of the increase in the operating subsidy level shall be realized in the second year following implementation of the formula contained in this part.

(c) For example, a PHA's subsidy increased from \$900,000 under the formula in effect prior to implementation of the formula contained in this part to \$1 million under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million - \$900,000 = \$100,000). In the

first year, the subsidy increase would be limited to \$50,000 (50 percent of the difference). Thus, in this example the PHA will receive the operating subsidy amount of this rule minus a transition-funding amount of \$50,000 (the \$100,000 difference between the two subsidy amounts minus the \$50,000 transition amount).

(d) The schedule for a PHA whose subsidy would be increased is reflected in the table below.

Funding period	Increase limited to
Year 1	50 percent of the difference.
Year 2	Full increase reached.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

Subpart G—Appeals

§ 990.240 General.

(a) PHAs will be provided opportunities for appeals. HUD will provide up to a two percent hold-back of the Operating Fund appropriation for FY 2006 and FY 2007. HUD will use the hold-back amount to fund appeals that are filed during each of these fiscal years. Hold-back funds not utilized will be added back to the formula within each of the affected fiscal years.

(b) Appeals are voluntary and must cover an entire portfolio, not single projects. However, the Assistant Secretary for Public and Indian Housing (or designee) has the discretion to accept appeals of less than an entire portfolio for PHAs with greater than 5,000 public housing units.

§ 990.245 Types of appeals.

(a) *Streamlined appeal.* This appeal would demonstrate that the application of a specific Operating Fund formula component has a blatant and objective flaw.

(b) *Appeal of formula income for economic hardship.* After a PHA's formula income has been frozen, the PHA can appeal to have its formula income adjusted to reflect a severe local economic hardship that is impacting the PHA's ability to maintain rental and other revenue.

(c) *Appeal for specific local conditions.* This appeal would be based on demonstrations that the model's predictions are not reliable because of specific local conditions. To be eligible, the affected PHA must demonstrate a variance of ten percent or greater in its PEL.

(d) *Appeal for changing market conditions.* A PHA may appeal to receive operating subsidy for vacant units due to changing market conditions, after a PHA has taken aggressive marketing and outreach measures to rent these units. For example, a PHA could appeal if it is located in an area experiencing population loss or economic dislocations that faces a lack of demand for housing in the foreseeable future.

(e) *Appeal to substitute actual project cost data.* A PHA may appeal its PEL if it can produce actual project cost data derived from actual asset management, as outlined in subpart H of this part, for a period of at least two years.

§ 990.250 Requirements for certain appeals.

(a) Appeals under § 990.245 (a) and (c) must be submitted once annually. Appeals under § 990.245 (a) and (c) must be submitted for new projects entering a PHA's inventory within one year of the applicable Date of Full Availability (DOFA).

(b) Appeals under § 990.245 (c) and (e) are subject to the following requirements:

(1) The PHA is required to acquire an independent cost assessment of its projects;

(2) The cost of services for the independent cost assessment is to be paid by the appellant PHA;

(3) The assessment is to be reviewed by a professional familiar with property management practices and costs in the region or state in which the appealing PHA is located. This professional is to be procured by HUD. The professional review and recommendation will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination; and

(4) If the appeal is granted, the PHA agrees to be bound to the independent cost assessment regardless of new funding levels.

Subpart H—Asset Management

§ 990.255 Overview.

(a) PHAs shall manage their properties according to an asset management model, consistent with the management norms in the broader multifamily management industry. PHAs shall also implement project-based management, project-based budgeting, and project-based accounting, which are essential components of asset management. The goals of asset management are to:

(1) Improve the operational efficiency and effectiveness of managing public housing assets;

(2) Better preserve and protect each asset;

(3) Provide appropriate mechanisms for monitoring performance at the property level; and

(4) Facilitate future investment and reinvestment in public housing by public and private sector entities.

(b) HUD recognizes that appropriate changes in its regulatory and monitoring programs may be needed to support PHAs to undertake the goals identified in paragraph (a) of this section.

§ 990.260 Applicability.

(a) PHAs that own and operate 250 or more dwelling rental units under title I of the 1937 Act, including units managed by a third-party entity (for example, a resident management corporation) but excluding section 8 units, are required to operate using an asset management model consistent with this subpart.

(b) PHAs that own and operate fewer than 250 dwelling rental units may treat their entire portfolio as a single project. However, if a PHA selects this option, it will not receive the add-on for the asset management fee described in § 990.190(f).

§ 990.265 Identification of projects.

For purposes of this subpart, project means a public housing building or set of buildings grouped for the purpose of management. A project may be as identified under the ACC or may be a reasonable grouping of projects or portions of a project under the ACC. HUD shall retain the right to disapprove of a PHA's designation of a project. PHAs

may group up to 250 scattered-site dwelling rental units into a single project.

§ 990.270 Asset management.

As owners, PHAs have asset management responsibilities that are above and beyond property management activities. These responsibilities include decision-making on topics such as long-term capital planning and allocation, the setting of ceiling or flat rents, review of financial information and physical stock, property management performance, long-term viability of properties, property repositioning and replacement strategies, risk management responsibilities pertaining to regulatory compliance, and those decisions otherwise consistent with the PHA's ACC responsibilities, as appropriate.

§ 990.275 Project-based management (PBM).

PBM is the provision of property-based management services that is tailored to the unique needs of each property, given the resources available to that property. These property management services include, but are not limited to, marketing, leasing, resident services, routine and preventive maintenance, lease enforcement, protective services, and other tasks associated with the day-to-day operation of rental housing at the project level. Under PBM, these property management services are arranged, coordinated, or overseen by management personnel who have been assigned responsibility for the day-to-day operation of that property and who are charged with direct oversight of operations of that property. Property management services may be arranged or provided centrally; however, in those cases in which property management services are arranged or provided centrally, the arrangement or provision of these services must be done in the best interests of the property, considering such factors as cost and responsiveness.

§ 990.280 Project-based budgeting and accounting.

(a) All PHAs covered by this subpart shall develop and maintain a system of budgeting and accounting for each

project in a manner that allows for analysis of the actual revenues and expenses associated with each property. Project-based budgeting and accounting will be applied to all programs and revenue sources that support projects under an ACC (*e.g.*, the Operating Fund, the Capital Fund, etc.).

(b)(1) Financial information to be budgeted and accounted for at a project level shall include all data needed to complete project-based financial statements in accordance with Accounting Principles Generally Accepted in the United States of America (GAAP), including revenues, expenses, assets, liabilities, and equity data. The PHA shall also maintain all records to support those financial transactions. At the time of conversion to project-based accounting, a PHA shall apportion its assets, liabilities, and equity to its respective projects and HUD-accepted central office cost centers.

(2) Provided that the PHA complies with GAAP and other associated laws and regulations pertaining to financial management (*e.g.*, OMB Circulars), it shall have the maximum amount of responsibility and flexibility in implementing project-based accounting.

(3) Project-specific operating income shall include, but is not limited to, such items as project-specific operating subsidy, dwelling and non-dwelling rental income, excess utilities income, and other PHA or HUD-identified income that is project-specific for management purposes.

(4) Project-specific operating expenses shall include, but are not limited to, direct administrative costs, utilities costs, maintenance costs, tenant services, protective services, general expenses, non-routine or capital expenses, and other PHA or HUD-identified costs which are project-specific for management purposes. Project-specific operating costs also shall include a property management fee charged to each project that is used to fund operations of the central office. Amounts that can be charged to each project for the property management fee must be reasonable. If the PHA contracts with a private management company to manage a project, the PHA may use the difference between the property management fee paid to the private

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management company and the fee that is reasonable to fund operations of the central office and other eligible purposes.

(5) If the project has excess cash flow available after meeting all reasonable operating needs of the property, the PHA may use this excess cash flow for the following purposes:

(i) Fungibility between projects as provided for in § 990.205.

(ii) Charging each project a reasonable asset management fee that may also be used to fund operations of the central office. However, this asset management fee may be charged only if the PHA performs all asset management activities described in this subpart (including project-based management, budgeting, and accounting). Asset management fees are considered a direct expense.

(iii) Other eligible purposes.

(c) In addition to project-specific records, PHAs may establish central office cost centers to account for non-project specific costs (*e.g.*, human resources, Executive Director's office, etc.). These costs shall be funded from the property-management fees received from each property, and from the asset management fees to the extent these are available.

(d) In the case where a PHA chooses to centralize functions that directly support a project (*e.g.*, central maintenance), it must charge each project using a fee-for-service approach. Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable.

§ 990.285 Records and reports.

(a) Each PHA shall maintain project-based budgets and fiscal year-end financial statements prepared in accordance with GAAP and shall make these budgets and financial statements available for review upon request by interested members of the public.

(b) Each PHA shall distribute the project-based budgets and year-end financial statements to the Chairman and to each member of the PHA Board of Commissioners, and to such other state and local public officials as HUD may specify.

(c) Some or all of the project-based budgets and financial statements and

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information shall be required to be submitted to HUD in a manner and time prescribed by HUD.

§ 990.290 Compliance with asset management requirements.

(a) A PHA is considered in compliance with asset management requirements if it can demonstrate substantially, as described in paragraph (b) of this section, that it is managing according to this subpart.

(b) Demonstration of compliance with asset management will be based on an independent assessment.

(1) The assessment is to be conducted by a professional familiar with property management practices and costs in the region or state in which the PHA is located. This professional is to be procured by HUD.

(2) The professional review and recommendation will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination of compliance to asset management.

(c) Upon HUD's determination of successful compliance with asset management, PHAs will then be funded based on this information pursuant to § 990.165(i).

(d) PHAs must be in compliance with the project-based accounting and budgeting requirements in this subpart by FY 2007. PHAs must be in compliance with the remainder of the components of asset management by FY 2011.

Subpart I—Operating Subsidy for Properties Managed by Resident Management Corporations (RMCs)

§ 990.295 Resident Management Corporation operating subsidy.

(a) *General.* This part applies to all projects managed by a Resident Management Corporation (RMC), including a direct funded RMC.

(b) *Operating subsidy.* Subject to paragraphs (c) and (d) of this section, the amount of operating subsidy that a PHA or HUD provides a project managed by an RMC shall not be reduced during the three-year period beginning on the date the RMC first assumes management responsibility for the project.

(c) *Change factors.* The operating subsidy for an RMC-managed project shall reflect changes in inflation, utility rates, and consumption, as well as changes in the number of units in the resident managed project.

(d) *Exclusion of increased income.* Any increased income directly generated by activities by the RMC or facilities operated by the RMC shall be excluded from the calculation of the operating subsidy.

(e) *Exclusion of technical assistance.* Any technical assistance the PHA provides to the RMC will not be included for purposes of determining the amount of funds provided to a project under paragraph (b) of this section.

(f) The following conditions may not affect the amounts to be provided under this part to a project managed by an RMC:

(1) *Income reduction.* Any reduction in the subsidy or total income of a PHA that occurs as a result of fraud, waste, or mismanagement by the PHA; and

(2) *Change in total income.* Any change in the total income of a PHA that occurs as a result of project-specific characteristics when these characteristics are not shared by the project managed by the RMC.

(g) *Other project income.* In addition to the operating subsidy calculated in accordance with this part and the amount of income derived from the project (from sources such as rents and charges), the management contract between the PHA and the RMC may specify that income be provided to the project from other legally available sources of PHA income.

§ 990.300 Preparation of operating budget.

(a) The RMC and the PHA must submit operating budgets and calculations of operating subsidy to HUD for approval in accordance with § 990.200. The budget will reflect all project expenditures and will identify the expenditures related to the responsibilities of the RMC and the expenditures that are related to the functions that the PHA will continue to perform.

(b) For each project or part of a project that is operating in accordance with the ACC amendment relating to this subpart and in accordance with a

contract vesting maintenance responsibilities in the RMC, the PHA will transfer into a sub-account of the operating reserve of the PHA an operating reserve for the RMC project. When all maintenance responsibilities for a resident-managed project are the responsibility of the RMC, the amount of the reserve made available to a project under this subpart will be the per-unit cost amount available to the PHA operating reserve, excluding all inventories, prepaids, and receivables at the end of the PHA fiscal year preceding implementation, multiplied by the number of units in the project operated. When some, but not all, maintenance responsibilities are vested in the RMC, the management contract between the PHA and RMC may provide for an appropriately reduced portion of the operating reserve to be transferred into the RMC's sub-account.

(c) The RMC's use of the operating reserve is subject to all administrative procedures applicable to the conventionally owned public housing program. Any expenditure of funds from the reserve must be for eligible expenditures that are incorporated into an operating budget subject to approval by HUD.

(d) Investment of funds held in the reserve will be in accordance with HUD regulations and guidance.

§ 990.305 Retention of excess revenues.

(a) Any income generated by an RMC that exceeds the income estimated for the income categories specified in the RMC's management contract must be excluded in subsequent years in calculating:

(1) The operating subsidy provided to a PHA under this part; and

(2) The funds the PHA provides to the RMC.

(b) The RMC's management contract must specify the amount of income that is expected to be derived from the project (from sources such as rents and charges) and the amount of income to be provided to the project from the other sources of income of the PHA (such as operating subsidy under this part, interest income, administrative fees, and rents). These income estimates must be calculated consistent

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with HUD's administrative instructions. Income estimates may provide for adjustment of anticipated project income between the RMC and the PHA, based upon the management and other project-associated responsibilities (if any) that are to be retained by the PHA under the management contract.

(c) Any revenues retained by an RMC under this section may be used only for purposes of improving the maintenance and operation of the project, establishing business enterprises that employ residents of public housing, or acquiring additional dwelling units for lower income families. Units acquired by the RMC will not be eligible for payment of operating subsidy.

Subpart J—Financial Management Systems, Monitoring, and Reporting

§ 990.310 Purpose—General policy on financial management, monitoring and reporting.

All PHA financial management systems, reporting, and monitoring of program performance and financial reporting shall be in compliance with the requirements of 24 CFR 85.20, 85.40, and 85.41. Certain HUD requirements provide exceptions for additional specialized procedures that are determined by HUD to be necessary for the proper management of the program in accordance with the requirements of the 1937 Act and the ACC between each PHA and HUD.

§ 990.315 Submission and approval of operating budgets.

(a) Required documentation:

(1) Prior to the beginning of its fiscal year, a PHA shall prepare an operating budget in a manner prescribed by HUD. The PHA's Board of Commissioners shall review and approve the budget by resolution. Each fiscal year, the PHA shall submit to HUD, in a time and manner prescribed by HUD, the approved Board resolution.

(2) HUD may direct the PHA to submit its complete operating budget with detailed supporting information and the Board resolution if the PHA has breached the ACC contract, or for other reasons, which, in HUD's determination, threaten the PHA's future

serviceability, efficiency, economy, or stability. When the PHA no longer is operating in a manner that threatens the future serviceability, efficiency, economy, or stability of the housing it operates, HUD will notify the PHA that it no longer is required to submit a complete operating budget with detailed supporting information to HUD for review and approval.

(b) If HUD finds that an operating budget is incomplete, inaccurate, includes illegal or ineligible expenditures, contains mathematical errors or errors in the application of accounting procedures, or is otherwise unacceptable, HUD may, at any time, require the PHA to submit additional or revised information regarding the budget or revised budget.

§ 990.320 Audits.

All PHAs that receive financial assistance under this part shall submit an acceptable audit and comply with the audit requirements in 24 CFR 85.26.

§ 990.325 Record retention requirements.

The PHA shall retain all documents related to all financial management and activities funded under the Operating Fund for a period of five fiscal years after the fiscal year in which the funds were received.

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

Subpart A—General

Sec.

- 1000.1 What is the applicability and scope of these regulations?
- 1000.2 What are the guiding principles in the implementation of NAHASDA?
- 1000.4 What are the objectives of NAHASDA?
- 1000.6 What is the nature of the IHBG program?
- 1000.8 May provisions of these regulations be waived?
- 1000.10 What definitions apply in these regulations?
- 1000.12 What nondiscrimination requirements are applicable?
- 1000.14 What relocation and real property acquisition policies are applicable?
- 1000.16 What labor standards are applicable?
- 1000.18 What environmental review requirements apply?

EXHIBIT B

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plan, adopted in accordance with 24 CFR part 903.

(b) *Notice to residents.* The public housing agency must provide residents with at least 30 days advance notice for nominations and elections. The notice should include a description of the election procedures, eligibility requirements, and dates of nominations and elections. Any election procedures devised by the public housing agency must facilitate fair elections.

§964.425 Small public housing agencies.

(a) *General.* The requirements of this subpart do not apply to any public housing agency that:

(1) Has less than 300 public housing units (or has no public housing units);

(2) Has provided reasonable notice to the resident advisory board of the opportunity for residents to serve on the governing board;

(3) Has not been notified of the intention of any resident to participate on the governing board within a reasonable time (which shall not be less than 30 days) of the resident advisory board receiving the notice described in paragraph (a)(3) of this section; and

(4) Repeats the requirements of paragraphs (a)(2) and (a)(3) of this section at least once every year.

(b) *Public housing agencies that only administer Section 8 assistance.* A public housing agency that has no public housing units, but administers Section 8 tenant-based assistance, is eligible for the exception described in paragraph (a) of this section, regardless of the number of Section 8 vouchers it administers.

(c) *Failure to meet requirements for exception.* A public housing agency that is otherwise eligible for the exception described in paragraphs (a) and (b) of this section, but does not meet the three conditions described in paragraphs (a)(2) through (a)(4) of this section, must comply with the requirements of this subpart.

§964.430 Nondiscrimination.

(a) *Membership status—(1) General.* A resident board member is a full member of the governing board.

(2) *Resident participation must include matters regarding Federal public housing*

and Section 8 tenant-based assistance. A resident board member must be allowed to take part in decisions related to the administration, operation, and management of Federal public housing programs and Section 8 tenant-based rental assistance programs. This rule does not extend to matters that:

(i) Exclusively relate to other types of housing assistance (such as State financed housing assistance); or

(ii) Do not involve housing assistance (as may occur where the city or county governing body also serves as the PHA board).

(3) *Public housing agency may expand scope of resident participation.* A public housing agency may choose to expand the scope of resident member involvement to matters not required under paragraph (a)(2) of this section.

(b) *Residence status.* A governing board may not prohibit any person from serving on the governing board because that person is a resident of a public housing project or is assisted under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) *Conflict of interest.* A governing board may not exclude any resident board member from participating in any matter before the governing board on the grounds that the resident board member's lease with the public housing agency, or the resident board member's status as a public housing resident or recipient of Section 8 tenant-based assistance, either results or may result in a conflict of interest, unless the matter is clearly applicable to the resident board member only in a personal capacity and applies uniquely to that member and not generally to residents or to a subcategory of residents.

PART 965—PHA-OWNED OR LEASED PROJECTS—GENERAL PROVISIONS

Subpart A—Preemption of State Prevailing Wage Requirements

Sec.

965.101 Preemption of State prevailing wage requirements.

Subpart B—Required Insurance Coverage

965.201 Purpose and applicability.

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- 965.205 Qualified PHA-owned insurance entity.
- 965.215 Lead-based paint liability insurance coverage.

Subpart C—Energy Audits and Energy Conservation Measures

- 965.301 Purpose and applicability.
- 965.302 Requirements for energy audits.
- 965.303 [Reserved].
- 965.304 Order of funding.
- 965.305 Funding.
- 965.306 Energy conservation equipment and practices.
- 965.307 Compliance schedule.
- 965.308 Energy performance contracts.

Subpart D—Individual Metering of Utilities for Existing PHA-Owned Projects

- 965.401 Individually metered utilities.
- 965.402 Benefit/cost analysis.
- 965.403 Funding.
- 965.404 Order of conversion.
- 965.405 Actions affecting residents.
- 965.406 Benefit/cost analysis for similar projects.
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Subpart E—Resident Allowances for Utilities

- 965.501 Applicability.
- 965.502 Establishment of utility allowances by PHAs.
- 965.503 Categories for establishment of allowances.
- 965.504 Period for which allowances are established.
- 965.505 Standards for allowances for utilities.
- 965.506 Surcharges for excess consumption of PHA-furnished utilities.
- 965.507 Review and revision of allowances.
- 965.508 Individual relief.

Subpart F—Physical Condition Standards and Physical Inspection Requirements

- 965.601 Physical condition standards; physical inspection requirements.

Subpart G [Reserved]

Subpart H—Lead-Based Paint Poisoning Prevention

- 965.701 Lead-based paint poisoning prevention.

Subpart I—Fire Safety

- 965.800 Applicability.
- 965.805 Smoke detectors.

AUTHORITY: 42 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821-4846.

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Subpart A—Preemption of State Prevailing Wage Requirements

§ 965.101 Preemption of State prevailing wage requirements.

(a) A prevailing wage rate including basic hourly rate and any fringe benefits) determined under State law shall be inapplicable to a contract or PHA-performed work item for the development, maintenance, and modernization of a project whenever:

(1) The contract or work item: (i) Is otherwise subject to State law requiring the payment of wage rates determined by a State or local government or agency to be prevailing and (ii) is assisted with funds for low-income public housing under the U.S. Housing Act of 1937, as amended; and

(2) The wage rate determined under State law to be prevailing with respect to an employee in any trade or position employed in the development, maintenance, and modernization of a project exceeds whichever of the following Federal wage rates is applicable:

(i) The wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a *et seq.*) to be prevailing in the locality with respect to such trade;

(ii) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the Department of Labor or a DOL-recognized State Apprenticeship Agency;

(iii) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program; or

(iv) The wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

(v) For the purpose of ascertaining whether a wage rate determined under State law for a trade or position exceeds the Federal wage rate: (A) Where a rate determined by the Secretary of Labor or an apprentice or trainee wage rate based thereon is applicable, the total wage rate determined under State

law, including fringe benefits (if any) and basic hourly rate, shall be compared to the total wage rate determined by the Secretary of Labor or apprentice or trainee wage rate; and (B) where a rate determined by the Secretary of HUD is applicable, any fringe benefits determined under State law shall be excluded from the comparison with the rate determined by the Secretary of HUD.

(b) Whenever paragraph (a)(1) of this section is applicable:

(1) Any solicitation of bids or proposals issued by the PHA and any contract executed by the PHA for development, maintenance, and modernization of the project shall include a statement that any prevailing wage rate (including basic hourly rate and any fringe benefits) determined under State law to be prevailing with respect to an employee in any trade or position employed under the contract is inapplicable to the contract and shall not be enforced against the contractor or any subcontractor with respect to employees engaged under the contract whenever either of the following occurs:

(i) Such nonfederal prevailing wage rate exceeds: (A) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a *et seq.*) to be prevailing in the locality with respect to such trade; (B) an applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the Department of Labor or a DOL-recognized State Apprenticeship Agency or (C) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program; or

(ii) Such nonfederal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

Failure to include this statement may constitute grounds for requiring resolicitation of the bid or proposal;

(2) The PHA itself shall not be required to pay the basic hourly rate or any fringe benefits comprising a prevailing wage rate determined under State law and described in paragraph (a)(2) of this section to any of its own employees who may be engaged in the

work item for development, maintenance, and modernization of the project; and

(3) Neither the basic hourly rate nor any fringe benefits comprising a prevailing wage rate determined under State law and described in paragraph (a)(2) shall be enforced against the PHA or any of its contractors or subcontractors with respect to employees engaged in the contract or PHA-performed work item for development, maintenance, and modernization of the project.

(c) Nothing in this section shall affect the applicability of any wage rate established in a collective bargaining agreement with a PHA or its contractors or subcontractors where such wage rate equals or exceeds the applicable Federal wage rate referred to in paragraph (a)(2) of this section, nor does this section impose a ceiling on wage rates a PHA or its contractors or subcontractors may choose to pay independent of State law.

(d) The provisions of this section shall be applicable to work performed under any prime contract entered into as a result of a solicitation of bids or proposals issued on or after October 6, 1988 and to any work performed by employees of a PHA on or after October 6, 1988, but not to work or contracts administered by Indian Housing Authorities (for which, see part 905 of this chapter).

[53 FR 30217, Aug. 10, 1988, as amended at 57 FR 28358, June 24, 1992; 61 FR 8736, Mar. 5, 1996]

Subpart B—Required Insurance Coverage

SOURCE: 58 FR 51957, Oct. 5, 1993, unless otherwise noted.

§ 965.201 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to implement policies concerning insurance coverage required under the Annual Contributions Contract (ACC) between the U.S. Department of Housing and Urban Development (HUD) and a Public Housing Agency (PHA).

(b) *Applicability.* The provisions of this subpart apply to all housing owned

by PHAs, including Turnkey III housing. However, these provisions do not apply to Section 23 and Section 10(c) PHA-leased projects or to Section 8 Housing Assistance Payments Program projects.

§ 965.205 Qualified PHA-owned insurance entity.

(a) *Contractual requirements for insurance coverage.* The Annual Contributions Contract (ACC) between PHAs and the U.S. Department of Housing and Urban Development requires that PHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs. The insurance coverage is required to be obtained under procedures that provide "for open and competitive bidding." The HUD Appropriations Act for Fiscal Year 1992 provided that a PHA could purchase insurance coverage without regard to competitive selection procedures when it purchases it from a non-profit insurance entity owned and controlled by PHAs approved by HUD in accordance with standards established by regulation. This section specifies the standards.

(b) *Method of selecting insurance coverage.* While 24 CFR part 85 requires that grantees solicit full and open competition for their procurements, the HUD Appropriations Act for Fiscal Year 1992 provides an exception to this requirement. PHAs are authorized to obtain any line of insurance from a nonprofit insurance entity that is owned and controlled by PHAs and approved by HUD in accordance with this section, without regard to competitive selection procedures. Procurement of insurance from other entities is subject to competitive selection procedures.

(c) *Approval of a nonprofit insurance entity.* Under the following conditions, HUD will approve a nonprofit self-funded insurance entity created by PHAs that limits participation to PHAs (and to nonprofit entities associated with PHAs that engage in activities or perform functions only for housing authorities or housing authority residents):

(1) *An insurance company (including a risk retention group).* (i) The insurance company is licensed or authorized to do

business in the State by the State Insurance Commissioner and has submitted documentation of this approval to HUD; and

(ii) The insurance company has not been suspended from providing insurance coverage in the State or been suspended or debarred from doing business with the federal government. The insurance company is obligated to send to HUD a copy of any action taken by the authorizing official to withdraw the license or authorization.

(2) *An entity not organized as an insurance company.* (i) The entity has competent underwriting staff (hired directly or engaged by contract with a third party), as evidenced by professionals with an average of at least five years of experience in large risk (exceeding \$100,000 in annual premiums) commercial underwriting or at least five years of experience in the underwriting of risks for public entity risk pools. This standard may be satisfied by submission of evidence of competent underwriting staff, including copies of resumes of underwriting staff for the entity;

(ii) The entity has efficient and qualified management (hired directly or engaged by contract with a third party), as evidenced by the report submitted to HUD in accordance with paragraph (d)(3) of this section and by having at least one senior staff person who has a minimum of five years of experience;

(A) At the management level of Vice President of a property/casualty insurance entity;

(B) As a senior branch manager of a branch office with annual property/casualty premiums exceeding \$5 million; or

(C) As a senior manager of a public entity risk pool. Documentation for this standard must include copies of resumes of key management personnel responsible for oversight and for the day-to-day operation of the entity;

(iii) The entity maintains internal controls and cost containment measures, as evidenced by an annual budget;

(iv) The entity maintains sound investments consistent with the State

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insurance commissioner's requirements for licensed insurance companies, or other State statutory requirements controlling investments of public entities, in the State in which the entity is organized, investing only in assets that qualify as "admitted assets";

(v) The entity maintains adequate surplus and reserves for undischarged liabilities of all types, as evidenced by a current audited financial statement and an actuarial review conducted in accordance with paragraph (d) of this section; and

(vi) Upon application for initial approval, the entity has proper organizational documentation, as evidenced by copies of the articles of incorporation, by-laws, business plans, copies of contracts with third party administrators, and an opinion from legal counsel that establishment of the entity conforms with all legal requirements under Federal and State law. Any material changes made to these documents after initial approval must be submitted for review and approval before becoming effective.

(d) *Professional evaluations of performance.* Audits and actuarial reviews are required to be prepared and submitted annually to the HUD Office of Public and Indian Housing, for review and appropriate action, by nonprofit insurance entities that are not insurance companies approved under paragraph (c)(1) of this section. In addition, an evaluation of other management factors is required to be performed by an insurance professional every three years. For fiscal years ending on or after December 31, 1993, the initial audit, actuarial review, and insurance management review required for a nonprofit insurance entity must be submitted to HUD within 90 days after the entity's fiscal year.

(1) The annual financial statement prepared in accordance with generally accepted accounting principles (including any supplementary data required under GASB 10) is to be audited by an independent auditor (see 24 CFR part 44), in accordance with generally accepted auditing standards. The independent auditor shall express an opinion on whether the entity's financial statement is presented fairly in accord-

ance with generally accepted accounting principles. A copy of this audit must be submitted to HUD.

(2) The actuarial review must be done consistent with requirements established by the National Association of Insurance Commissioners and must be conducted by an independent property/casualty actuary who is an Associate or Fellow of a recognized professional actuarial organization, such as the Casualty Actuary Society. The report issued, a copy of which must be submitted to HUD, must include an opinion on any over or under reserving and the adequacy of the reserves maintained for the open claims and for incurred but unreported claims.

(3) A review must be conducted, a copy of which must be submitted to HUD, by an independent insurance consulting firm that has at least one person on staff who has received the professional designation of chartered property/casualty underwriter (CPCU), associate in risk management (ARM), or associate in claims (AIC), of the following:

(i) Efficiency of any Third Party Administrator;

(ii) Timeliness of the claim payments and reserving practices; and

(iii) The adequacy of reinsurance coverage.

(e) *Revocation of approval of a nonprofit insurance entity.* HUD may revoke its approval of a nonprofit insurance entity under this section when it no longer meets the requirements of this section. The nonprofit insurance entity will be notified in writing of the proposed revocation of its approval, the reasons for the action, and the manner and time in which to request a hearing to challenge the determination. The procedure to be followed is specified in 24 CFR part 26, subpart A.

[41 FR 20276, May 17, 1976, as amended at 61 FR 7969, Feb. 29, 1996; 61 FR 50219, Sept. 24, 1996]

§ 965.215 Lead-based paint liability insurance coverage.

(a) *General.* The purpose of this section is to specify what HUD deems reasonable insurance coverage with respect to the hazards associated with lead-based paint activities that the PHA undertakes, in accordance with

the PHA's ACC with HUD. The insurance coverage does not relieve the PHA of its responsibility for assuring that lead-based paint activities are conducted in a responsible manner.

(b) *Insurance coverage requirements.* When the PHA undertakes lead-based paint activities, it must assure that it has reasonable insurance coverage for itself for potential personal injury liability associated with those activities. If the work is being done by PHA employees, the PHA must obtain a liability insurance policy directly to protect the PHA. If the work is being done by a contractor, the PHA must obtain, from the insurer of the contractor performing this type of work in accordance with a contract, a certificate of insurance providing evidence of such insurance and naming the PHA as an additional insured; or obtain such insurance directly. Insurance must remain in effect during the entire period of lead-based paint activity and must comply with the following requirements:

(1) *Named insured.* If purchased by the PHA, the policy shall name the PHA as insured. If purchased by an independent contractor, the policy shall name the contractor as insured and the PHA as an additional insured, in connection with performing work under the PHA's contract pertaining to lead-based paint activities. If the PHA has executed a contract with a Resident Management Corporation (RMC) to manage a building/project on behalf of the PHA, the RMC shall be an additional insured under the policy in connection with the PHA's contract related to lead-based paint activities. (The duties of the RMC are similar to those of a real estate management firm.)

(2) *Coverage limits.* The minimum limit of liability shall be \$500,000 per occurrence written, with a combined single limit for bodily injury and property damage.

(3) *Deductible.* A deductible, if any, may not exceed \$5,000 per occurrence.

(4) *Supplementary payments.* Payments for such supplementary costs as the costs of defending against a claim must be in addition to, and not as a reduction of, the limit of liability. However, it will be permissible for the pol-

icy to have a limit on the amount payable for defense costs. If a limit is applicable, it must not be less than \$250,000 per claim prior to such costs being deducted from the limit of liability.

(5) *Occurrence form policy.* The form used must be an "occurrence" form, or a "claims made" form that contains an extended reporting period of at least five years. (Under an occurrence form, coverage applies to any loss regardless of when the claim is made.)

(6) *Aggregate limit.* If the policy contains an aggregate limit, the minimum acceptable limit is \$1,000,000.

(7) *Cancellation.* In the event of cancellation, at least 30 days' advance notice is to be given to the insured and any additional insured.

(c) *Exception to requirements.* Insurance already purchased by the PHA or contractor and enforced on the day this section is effective which provides coverage for lead-based paint activities shall be considered as meeting the requirements of this section until the expiration of the policy. This section is not applicable to architects, engineers or consultants who do not physically perform lead-based paint activities.

(d) *Insurance for the existence of lead-based paint hazards.* A PHA may also purchase special liability insurance against the existence of lead-based paint hazards, although it is not a required coverage. A PHA may purchase this coverage if, in the opinion of the PHA, the policy meets the PHA's requirements, the premium is reasonable and the policy is obtained in accordance with applicable procurement standards. (See part 85 of this title and §965.205 of this title.) If this coverage is purchased, the premium must be paid from funds available under the Performance Funding System or from reserves.

[59 FR 31930, June 21, 1994, as amended at 64 FR 50228, Sept. 15, 1999]

Subpart C—Energy Audits and Energy Conservation Measures

SOURCE: 61 FR 7969, Feb. 29, 1996, unless otherwise noted.

§ 965.301**§ 965.301 Purpose and applicability.**

(a) *Purpose.* The purpose of this subpart C is to implement HUD policies in support of national energy conservation goals by requiring PHAs to conduct energy audits and undertake certain cost-effective energy conservation measures.

(b) *Applicability.* The provisions of this subpart apply to all PHAs with PHA-owned housing, but they do not apply to Indian Housing Authorities. (For similar provisions applicable to Indian housing, see part 950 of this chapter.) No PHA-leased project or Section 8 Housing Assistance Payments Program project, including a PHA-owned Section 8 project, is covered by this subpart.

§ 965.302 Requirements for energy audits.

All PHAs shall complete an energy audit for each PHA-owned project under management, not less than once every five years. Standards for energy audits shall be equivalent to State standards for energy audits. Energy audits shall analyze all of the energy conservation measures, and the payback period for these measures, that are pertinent to the type of buildings and equipment operated by the PHA.

§ 965.303 [Reserved]**§ 965.304 Order of funding.**

Within the funds available to a PHA, energy conservation measures should be accomplished with the shortest payback periods funded first. A PHA may make adjustments to this funding order because of insufficient funds to accomplish high-cost energy conservation measures (ECM) or where an ECM with a longer pay-back period can be more efficiently installed in conjunction with other planned modernization. A PHA may not install individual utility meters that measure the energy or fuel used for space heating in dwelling units that need substantial weatherization, when installation of meters would result in economic hardship for residents. In these cases, the ECMs related to weatherization shall be accomplished before the installation of individual utility meters.

§ 965.305 Funding.

(a) The cost of accomplishing cost-effective energy conservation measures, including the cost of performing energy audits, shall be funded from operating funds of the PHA to the extent feasible. When sufficient operating funds are not available for this purpose, such costs are eligible for inclusion in a modernization program, for funding from any available development funds in the case of projects still in development, or for other available funds that HUD may designate to be used for energy conservation.

(b) If a PHA finances energy conservation measures from sources other than modernization or operating reserves, such as a loan from a utility entity or a guaranteed savings agreement with a private energy service company, HUD may agree to provide adjustments in its calculation of the PHA's operating subsidy eligibility under the PFS for the project and utility involved based on a determination that payments can be funded from the reasonably anticipated energy cost savings (See § 990.107(g) of this chapter).

§ 965.306 Energy conservation equipment and practices.

In purchasing original or, when needed, replacement equipment, PHAs shall acquire only equipment that meets or exceeds the minimum efficiency requirements established by the U.S. Department of Energy. In the operation of their facilities, PHAs shall follow operating practices directed to maximum energy conservation.

§ 965.307 Compliance schedule.

All energy conservation measures determined by energy audits to be cost effective shall be accomplished as funds are available.

§ 965.308 Energy performance contracts.

(a) *Method of procurement.* Energy performance contracting shall be conducted using one of the following methods of procurement:

(1) Competitive proposals (see 24 CFR 85.36(d)(3)). In identifying the evaluation factors and their relative importance, as required by § 85.36(d)(3)(i) of this title, the solicitation shall state

that technical factors are significantly more important than price (of the energy audit); or

(2) If the services are available only from a single source, noncompetitive proposals (see 24 CFR 85.36(d)(4)(i)(A)).

(b) *HUD Review*. Solicitations for energy performance contracting shall be submitted to the HUD Field Office for review and approval prior to issuance. Energy performance contracts shall be submitted to the HUD Field Office for review and approval before award.

Subpart D—Individual Metering of Utilities for Existing PHA-Owned Projects

SOURCE: 61 FR 7970, Feb. 29, 1996, unless otherwise noted.

§ 965.401 Individually metered utilities.

(a) All utility service shall be individually metered to residents, either through provision of retail service to the residents by the utility supplier or through the use of checkmeters, unless:

(1) Individual metering is impractical, such as in the case of a central heating system in an apartment building;

(2) Change from a mastermetering system to individual meters would not be financially justified based upon a benefit/cost analysis; or

(3) Checkmetering is not permissible under State or local law, or under the policies of the particular utility supplier or public service commission.

(b) If checkmetering is not permissible, retail service shall be considered. Where checkmetering is permissible, the type of individual metering offering the most savings to the PHA shall be selected.

§ 965.402 Benefit/cost analysis.

(a) A benefit/cost analysis shall be made to determine whether a change from a mastermetering system to individual meters will be cost effective, except as otherwise provided in § 965.405.

(b) Proposed installation of checkmeters shall be justified on the basis that the cost of debt service (interest and amortization) of the estimated installation costs plus the oper-

ating costs of the checkmeters will be more than offset by reduction in future utilities expenditures to the PHA under the mastermeter system.

(c) Proposed conversion to retail service shall be justified on the basis of net savings to the PHA. This determination involves making a comparison between the reduction in utility expense obtained through eliminating the expense to the PHA for PHA-supplied utilities and the resultant allowance for resident-supplied utilities, based on the cost of utility service to the residents after conversion.

§ 965.403 Funding.

The cost to change mastermeter systems to individual metering of resident consumption, including the costs of benefit/cost analysis and complete installation of checkmeters, shall be funded from operating funds of the PHA to the extent feasible. When sufficient operating funds are not available for this purpose, such costs are eligible for inclusion in a modernization project or for funding from any available development funds.

§ 965.404 Order of conversion.

Conversions to individually metered utility service shall be accomplished in the following order when a PHA has projects of two or more of the designated categories, unless the PHA has a justifiable reason to do otherwise, which shall be documented in its files.

(a) In projects for which retail service is provided by the utility supplier and the PHA is paying all the individual utility bills, no benefit/cost analysis is necessary, and residents shall be billed directly after the PHA adopts revised payment schedules providing appropriate allowances for resident-supplied utilities.

(b) In projects for which checkmeters have been installed but are not being utilized as the basis for determining utility charges to the residents, no benefit/cost analysis is necessary. The checkmeters shall be used as the basis for utility charges, and residents shall be surcharged for excess utility use.

(c) Projects for which meter loops have been installed for utilization of checkmeters shall be analyzed both for

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the installation of checkmeters and for conversion to retail service.

(d) Low- or medium-rise family units with a mastermeter system should be analyzed for both checkmetering and conversion to retail service, because of their large potential for energy savings.

(e) Low- or medium-rise housing for the elderly should next be analyzed for both checkmetering and conversion to retail service, since the potential for energy saving is less than for family units.

(f) Electric service under mastermeters for high-rise buildings, including projects for the elderly, should be analyzed for both use of retail service and of checkmeters.

§ 965.405 Actions affecting residents.

(a) Before making any conversion to retail service, the PHA shall adopt revised payment schedules, providing appropriate allowances for the resident-supplied utilities resulting from the conversion.

(b) Before implementing any modifications to utility services arrangements with the residents or charges with respect thereto, the PHA shall make the requisite changes in resident dwelling leases in accordance with 24 CFR part 966.

(c) PHAs must work closely with resident organizations, to the extent practicable, in making plans for conversion of utility service to individual metering, explaining the national policy objectives of energy conservation, the changes in charges and rent structure that will result, and the goals of achieving an equitable structure that will be advantageous to residents who conserve energy.

(d) A transition period of at least six months shall be provided in the case of initiation of checkmeters, during which residents will be advised of the charges but during which no surcharge will be made based on the readings. This trial period will afford residents ample notice of the effects the checkmetering system will have on their individual utility charges and also afford a test period for the adequacy of the utility allowances established.

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(e) During and after the transition period, PHAs shall advise and assist residents with high utility consumption on methods for reducing their usage. This advice and assistance may include counseling, installation of new energy conserving equipment or appliances, and corrective maintenance.

§ 965.406 Benefit/cost analysis for similar projects.

PHAs with more than one project of similar design and utilities service may prepare a benefit/cost analysis for a representative project. A finding that a change in metering is not cost effective for the representative project is sufficient reason for the PHA not to perform a benefit/cost analysis on the remaining similar projects.

§ 965.407 Reevaluations of mastermeter systems.

Because of changes in the cost of utility services and the periodic changes in utility regulations, PHAs with mastermeter systems are required to reevaluate mastermeter systems without checkmeters by making benefit/cost analyses at least every 5 years. These analyses may be omitted under the conditions specified in § 965.406.

Subpart E—Resident Allowances for Utilities

SOURCE: 61 FR 7971, Feb. 29, 1996, unless otherwise noted.

§ 965.501 Applicability.

(a) This subpart E applies to public housing, including the Turnkey III Homeownership Opportunities program. This subpart E also applies to units assisted under sections 10(c) and 23 of the U. S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) as in effect before amendment by the Housing and Community Development Act of 1974 (12 U.S.C. 1706e) and to which 24 CFR part 900 is not applicable. This subpart E does not apply to Indian housing projects (see 24 CFR part 950).

(b) In rental units for which utilities are furnished by the PHA but there are no checkmeters to measure the actual utilities consumption of the individual units, residents shall be subject to

charges for consumption by resident-owned major appliances, or for optional functions of PHA-furnished equipment, in accordance with § 965.502(e) and 965.506(b), but no utility allowance will be established.

§ 965.502 Establishment of utility allowances by PHAs.

(a) PHAs shall establish allowances for PHA-furnished utilities for all checkmeters and allowances for resident-purchased utilities for all utilities purchased directly by residents from the utilities suppliers.

(b) The PHA shall maintain a record that documents the basis on which allowances and scheduled surcharges, and revisions thereof, are established and revised. Such record shall be available for inspection by residents.

(c) The PHA shall give notice to all residents of proposed allowances, scheduled surcharges, and revisions thereof. Such notice shall be given, in the manner provided in the lease or homebuyer agreement, not less than 60 days before the proposed effective date of the allowances or scheduled surcharges or revisions; shall describe with reasonable particularity the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances or scheduled surcharges; shall notify residents of the place where the PHA's record maintained in accordance with paragraph (b) of this section is available for inspection; and shall provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances or scheduled surcharges or revisions. Such written comments shall be retained by the PHA and shall be available for inspection by residents.

(d) Schedules of allowances and scheduled surcharges shall not be subject to approval by HUD before becoming effective, but will be reviewed in the course of audits or reviews of PHA operations.

(e) The PHA's determinations of allowances, scheduled surcharges, and re-

visions thereof shall be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

§ 965.503 Categories for establishment of allowances.

Separate allowances shall be established for each utility and for each category of dwelling units determined by the PHA to be reasonably comparable as to factors affecting utility usage.

§ 965.504 Period for which allowances are established.

(a) *PHA-furnished utilities.* Allowances will normally be established on a quarterly basis; however, residents may be surcharged on a monthly basis. The allowances established may provide for seasonal variations.

(b) *Resident-purchased utilities.* Monthly allowances shall be established. The allowances established may provide for seasonal variations.

§ 965.505 Standards for allowances for utilities.

(a) The objective of a PHA in designing methods of establishing utility allowances for each dwelling unit category and unit size shall be to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

(b) Allowances for both PHA-furnished and resident-purchased utilities shall be designed to include such reasonable consumption for major equipment or for utility functions furnished by the PHA for all residents (e.g., heating furnace, hot water heater), for essential equipment whether or not furnished by the PHA (e.g., range and refrigerator), and for minor items of equipment (such as toasters and radios) furnished by residents.

(c) The complexity and elaborateness of the methods chosen by the PHA, in its discretion, to achieve the foregoing objective will depend upon the nature of the housing stock, data available to the PHA and the extent of the administrative resources reasonably available to the PHA to be devoted to the collection of such data, the formulation of

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methods of calculation, and actual calculation and monitoring of the allowances.

(d) In establishing allowances, the PHA shall take into account relevant factors affecting consumption requirements, including:

(1) The equipment and functions intended to be covered by the allowance for which the utility will be used. For instance, natural gas may be used for cooking, heating domestic water, or space heating, or any combination of the three;

(2) The climatic location of the housing projects;

(3) The size of the dwelling units and the number of occupants per dwelling unit;

(4) Type of construction and design of the housing project;

(5) The energy efficiency of PHA-supplied appliances and equipment;

(6) The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total resident payment;

(7) The physical condition, including insulation and weatherization, of the housing project;

(8) Temperature levels intended to be maintained in the unit during the day and at night, and in cold and warm weather; and

(9) Temperature of domestic hot water.

(e) If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or checkmeters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning, the PHA shall not include air conditioning in the utility allowances. For systems that offer residents the option to choose air conditioning but cannot be checkmetered, residents are to be surcharged in accordance with §965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and

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these systems should be avoided whenever possible.

§965.506 Surcharges for excess consumption of PHA-furnished utilities.

(a) For dwelling units subject to allowances for PHA-furnished utilities where checkmeters have been installed, the PHA shall establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated blocks of excess consumption, and shall be based on the PHA's average utility rate. The basis for calculating such surcharges shall be described in the PHA's schedule of allowances. Changes in the dollar amounts of surcharges based directly on changes in the PHA's average utility rate shall not be subject to the advance notice requirements of this section.

(b) For dwelling units served by PHA-furnished utilities where checkmeters have not been installed, the PHA shall establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. Such surcharge schedules shall state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges shall be made and the amounts of such charges, which shall be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

§965.507 Review and revision of allowances.

(a) *Annual review.* The PHA shall review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to the standards stated in §965.505, shall establish revised allowances. The review shall include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a

significant change in reasonable consumption requirements and changes in utility rates.

(b) *Revision as a result of rate changes.* The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based. Adjustments to resident payments as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes shall not be subject to the 60 day notice requirement of § 965.502(c).

§ 965.508 Individual relief.

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the PHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as the PHA shall deem appropriate. The PHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time the PHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of the PHA representative with whom initial contact may be made by residents), and the PHA's criteria for granting such relief, shall be included in each notice to residents given in accordance with § 965.502(c) and in the information given to new residents upon admission.

Subpart F—Physical Condition Standards and Physical Inspection Requirements

§ 965.601 Physical condition standards; physical inspection requirements.

Housing owned or leased by a PHA, and public housing owned by another

entity approved by HUD, must be maintained in accordance with the physical condition standards in 24 CFR part 5, subpart G. For each PHA, HUD will perform an independent physical inspection of a statistically valid sample of such housing based upon the physical condition standards in 24 CFR part 5, subpart G.

[63 FR 46590, Sept. 1, 1998]

Subpart G [Reserved]

Subpart H—Lead-Based Paint Poisoning Prevention

§ 965.701 Lead-based paint poisoning prevention.

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, L, and R of this title apply to this program.

[64 FR 50229, Sept. 15, 1999]

Subpart I—Fire Safety

SOURCE: 57 FR 33853, July 30, 1992, unless otherwise noted.

§ 965.800 Applicability.

This subpart applies to all PHA-owned or -leased housing, including Mutual Help and Turnkey III.

§ 965.805 Smoke detectors.

(a) *Performance requirement.* (1) After October 30, 1992, each unit covered by this subpart must be equipped with at least one battery-operated or hard-wired smoke detector, or such greater number as may be required by state or local codes, in working condition, on each level of the unit. In units occupied by hearing-impaired residents, smoke detectors must be hard-wired.

(2) After October 30, 1992, the public areas of all housing covered by this subpart must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors to serve as adequate warning of fire. Public areas include, but are not limited to, laundry

rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(b) *Acceptability criteria.* (1) The smoke detector for each individual unit must be located, to the extent practicable, in a hallway adjacent to the bedroom or bedrooms. In units occupied by hearing-impaired residents, hard-wired smoke detectors must be connected to an alarm system designed for hearing-impaired persons and installed in the bedroom or bedrooms occupied by the hearing-impaired residents. Individual units that are jointly occupied by both hearing and hearing-impaired residents must be equipped with both audible and visual types of alarm devices.

(2) If needed, battery-operated smoke detectors, except in units occupied by hearing-impaired residents, may be installed as a temporary measure where no detectors are present in a unit. Temporary battery-operated smoke detectors must be replaced with hard-wired electric smoke detectors in the normal course of a PHA's planned CIAP or CGP program to meet the required HUD Modernization Standards or state or local codes, whichever standard is stricter. Smoke detectors for units occupied by hearing-impaired residents must be installed in accordance with the acceptability criteria in paragraph (b)(1) of this section.

(c) *Funding.* PHAs shall use operating funds to provide battery-operated smoke detectors in units that do not have any smoke detector in place. If operating funds or reserves are insufficient to accomplish this, PHAs may apply for emergency CIAP funding. The PHAs may apply for CIAP or CGP funds to replace battery-operated smoke detectors with hard-wired smoke detectors in the normal course of a planned modernization program.

PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

Subpart A—Dwelling Leases, Procedures and Requirements

Sec.

- 966.1 Purpose and applicability.
- 966.2 Definitions.
- 966.3 Tenants' opportunity for comment.
- 966.4 Lease requirements.

- 966.5 Posting of policies, rules and regulations.
- 966.6 Prohibited lease provisions.
- 966.7 Accommodation of persons with disabilities.

Subpart B—Grievance Procedures and Requirements

- 966.50 Purpose and scope.
- 966.51 Applicability.
- 966.52 Requirements.
- 966.53 Definitions.
- 966.54 Informal settlement of grievance.
- 966.55 Procedures to obtain a hearing.
- 966.56 Procedures governing the hearing.
- 966.57 Decision of the hearing officer or hearing panel.

AUTHORITY: 42 U.S.C. 1437d and 3535(d).

Subpart A—Dwelling Leases, Procedures and Requirements

SOURCE: 40 FR 33402, Aug. 7, 1975, unless otherwise noted. Redesignated at 49 FR 6714, Feb. 23, 1984.

§ 966.1 Purpose and applicability.

(a) This part is applicable to public housing.

(b) Subpart A of this part prescribes the provisions that must be incorporated in leases for public housing dwelling units.

(c) Subpart B of this part prescribes public housing grievance hearing requirements.

[66 FR 28802, May 24, 2001]

§ 966.2 Definitions.

The following terms are defined in part 5, subpart A of this title: *1937 Act*, *covered person*, *drug*, *drug-related criminal activity*, *federally assisted housing*, *guest*, *household*, *HUD*, *other person under the tenant's control*, *public housing*, *premises*, *public housing agency*, *Section 8*, *violent criminal activity*.

[66 FR 28802, May 24, 2001]

§ 966.3 Tenants' opportunity for comment.

Each PHA shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the lease form used by the PHA, and providing an opportunity to present written comments. Subject to requirements of this rule, comments submitted shall be considered by the

REQUEST FOR PROPOSALS

SPRINKLER SYSTEM, TESTING, INSPECTION & MAINTENANCE

Proposals Due by: October 5th, 2012 at 10:00 AM

Hackensack Housing Authority
65 First Street
Hackensack, New Jersey 07601
201 342-4280

REQUEST FOR PROPOSALS

The Housing Authority of the City of Hackensack, New Jersey will accept sealed proposals for testing and inspection of sprinkler systems at all Housing Authority properties. The services will be for a two year period. It is the Housing Authority's desire to retain and employ a duly qualified, licensed contractor. All services must be in accordance with the existing laws, rules, orders, directives and regulations governing these services.

The services that are requested will be as follows and will encompass all of the of the Housing Authority's properties (6 locations. The services shall include all labor and materials (as noted) necessary to test, inspect and maintain all sprinkler systems. The following services shall be provided:

- 1) 60 Kansas Street-complete fire pump test with the test header in the pump room. Test all tampers & flow switches on all floors (10) using a hose flowing into a rolling barrel.
- 2) 175 West Railroad-complete fire pump test using roof hydrants. Test wet system with flow switches for the 1st floor.
- 3) 164 Beech Street-test wet system with all tampers & flow switches by using a hose to the utility sink.
- 4) 230 Central Avenue-test wet system with all tampers & flow switches by using a hose to the utility sink.

- 5) 65-1st Street-complete fire pump test using roof hydrant.
Check all flow & tamper switches on all floors (13)
using a hose into a rolling barrel.
- 6) Newman & Railroad (8 buildings)-test all wet systems and
related components.
- 7) Display current inspection tags on tested system and
provide relevant paperwork to the Housing Authority per
code.
- 8) All work to be completed in one phase between the hours
of 8:00 AM to 3:30 PM, Monday to Friday.
- 9) Replacement of defective equipment shall be included at
an additional cost. Must be able to respond to all emergency
calls within 4 hours of being notified by the Housing Authority
(all emergency calls will be billed at the approved hourly rate,
plus parts and labor).

Qualifications:

- 1) Must be licensed by all applicable entities governing these
services in the State of New Jersey.
- 2) Should have proven previous experience in maintaining
comparable fire suppression systems.
- 3) Must be an approvable by the U.S. Department of Housing and
Urban Development to provide these services.

Submission:

All persons interested in submitting a bid for the Housing Authority's testing, inspection and maintenance should submit a lump sum price for the basic contract and hourly rates for all other work. The proposal must be sealed and include the following:

- 1) Cost breakdown.
- 2) Copy of the vendor's insurance certificate.
- 3) Listing of references and current customers (with comparable equipment).
- 4) Copies of all relevant licenses.
- 5) NJ Business Registration Form
- 6) Evidence that the firm is licensed in the State of New Jersey;
- 7) An insurance certificate
- 8) Non-Collusive Affidavit
- 9) Certification that the neither the firm nor any of the principals have been suspended or debarred from participation in HUD Programs.

The proposal should be in a sealed envelope that is clearly marked: "Bid for Sprinkler System Testing & Inspection." Proposals should be delivered to the Housing Authority of the City of Hackensack, 65 First Street, Hackensack, New Jersey on or before October 5, 2012, by 10:00 AM. The buildings and equipment are available for inspection between the hours of 8:30 AM to 4:00 PM, Monday to Friday.

The Housing Authority reserves the right to reject any and all bids received for these services. It also reserves the right to terminate the vendor, for convenience, at any time during the term of the contract.

JOHN BELLOCCHIO

Executive Director

Date: 9/5/12

PROPOSAL FOR SPRINKLER SYSTEM INSPECTION, TESTING & MAINTENANCE

Hackensack Housing Authority
65 First Street
Hackensack, New Jersey
(201) 342-4280

Submitted by:

Company Name: _____

Address: _____

Telephone Number: _____

Contact Person: _____

*Price for annual testing & inspection Service:

2012 \$ _____

2013 \$ _____

**Hourly Rate for other work: \$ _____

*Price Includes all work outlined in the attached Request for Proposals #1 to #8.

**Price for all work outside the scope of testing & inspection (item #9 in the RFP)

Term: 24 Months

Date: _____

Contractor's Signature

The Housing Authority reserves the right to reject any and all bids received in response to its R.F.P. The bid must contain all of the attachments as stated in the "Proposal Submission" section of the R.F.P.

Legal Advertisement

REQUEST FOR PROPOSALS

The Housing Authority of the City of Hackensack, New Jersey will accept proposals for the following services:

"Sprinkler System Inspection, Testing & Maintenance"

It is the Housing Authority's desire to retain a duly qualified, competent and capable contractor to inspect, test and maintain the Housing Authority fire suppression systems. All services must be in accordance with the existing laws, rules, orders, codes, directives and regulations governing these services.

All persons interested in submitting proposals for the sprinkler system testing, inspection and maintenance should contact the Housing Authority of the City of Hackensack in order to receive a copy of the formal Request for Proposals. The RFP specifies the scope of the services and the requirements for submitting proposals.

All proposals must be submitted to the office of the Housing Authority of the City of Hackensack, 65 First Street, Hackensack, New Jersey on or before October 5th, 2012 by 10:00 AM. The buildings are available for inspection between the hours of 9:00 AM to 4:00 PM, Monday to Friday.

The Housing Authority reserves the right to reject any and all proposals received for this work. It also reserves the right to terminate the vendor, for convenience, at any time during the term of the contract.

JOHN BELLOCCHIO
Executive Director

Housing Authority City of Hackensack

65 FIRST STREET, HACKENSACK, NEW JERSEY 07601

7.8
TEL 201-342-4280

FAX 201-342-5044

TTY/TTD 800-545-1833 EXT. 844

November 15, 2012

Maria C. Chipelo
Relationship Associates II
Government & Institutional Banking
Wells Fargo Bank
190 River Road, 3rd Floor
Summit, New Jersey 07901

Re: **Tenant Security Accounts**

Dear Ms. Chipelo:

We received an email on this date indicating that Wells Fargo Bank would be charging a service fee on our tenants' security deposit accounts. Please be advised that we are immediately closing all accounts at Wells Fargo Bank. All funds will be transferred to Mariners Bank at the Hackensack Branch.

You should also be aware that we never received any correspondence from Wells Fargo Bank indicating that these excessive fees were going to be charged to our residents. As such, I am herewith requesting a copy of the letter that was allegedly sent to our Authority. I am also requesting that all fees charged be immediately refunded back to our tenants.

We would also like an itemization, by resident, of the total amount being transferred to Mariners Bank. The Housing Authority reserves the right to pursue legal action for any fees collected in violation of state stature. Our attorney is currently reviewing the applicable provision of the law regarding your imposition of these service fees. We also do not feel that it is fair and reasonable to institute a service fee without evidence that we were properly notified about the fee.

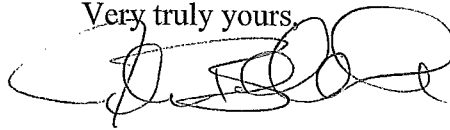
For your information, all security deposit funds belong to our individual residents per state law. As such, the \$1,115.09 that you debited against our master acct (#0050) was withdrawn against individual tenants that moved out of our buildings. We are being told that the bank cannot provide a statement itemizing the prorated fees being charged to each resident. Therefore, we are unable to refund some of our security deposits. I can assure you that this is a violation of the state laws governing security deposits. We will

need a new statement indicating the prorated service fees that you are charging to each resident. You cannot charge the Housing Authority any fees against these accounts since it is not our money.

I strongly believe that the bank's position on these service fees is misguided and may also violate state law. We will pursue this matter in greater detail with our attorney. I am also requesting that Northeast Legal Services intervene on behalf of our low-income residents since it is their money that you have taken.

I am authorizing Karen Whalen (Mariners Bank) and Susan Porco (Hackensack Housing Authority) as my representatives to immediately effectuate the transfer of our accounts. They will contact you shortly in order to effectuate the transfer.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John Bellocchio', with a large, stylized flourish extending to the right.

JOHN BELLOCCHIO
Acting Executive Director

Enclose.

Xc: V. Herlinsky, Esq.
Northeast Legal Services
file

7.9

Housing Authority City of Hackensack

65 FIRST STREET, HACKENSACK, NEW JERSEY 07601

TEL 201-342-4280
FAX 201-342-5044
TTY/TTD 800-545-1833 EXT. 844

November 19, 2012

Claude Potter
Business Manager
County of Bergen
Department of Human Resources
One Bergen County Plaza, 2nd Floor
Hackensack, New Jersey 07601-7076

Re: 2013 Budget-40 Passaic Street

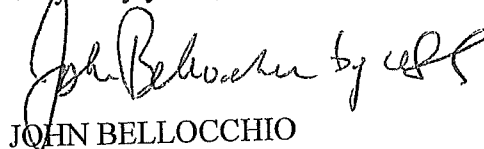
Dear Ms. Potter:

I am herewith submitting our proposed budget for the fiscal year 1/1/13 through 12/31/13 as per your request. The budget for 40 Passaic Street has been basically flat for the past several years with no increase. We have increased the 2013 budget by approximately 1% based upon our estimate of what it will cost to manage the maintenance at this facility in the upcoming year.

Please don't hesitate to contact me if you have any questions regarding this budget.

With best regards, I remain

Very truly yours,



JOHN BELLOCCHIO
Acting Executive Director

Enclose.
Xc: agenda
file

AGENCY: Housing Authority City of Hackensack
 ADDRESS: 65 First Street, Hackensack, NJ
 DIRECTOR: John Bellocchio
 CONTRACT # 201 342-4280

COUNTY OF BERGEN
 DEPARTMENT OF HUMAN SERVICES
 ANNES B: CONTRACT EXPENSE DETAIL
 PAGE 1 OF 9

☒ BUDGET PREPARATION
☐ BUDGET MODIFICATION
☐ EXPENDITURE REPORT
 PERIOD COVERED 1/1/2013 TO 12/31/2013
 () Quarterly () Final

BUDGET CATEGORY	(1) TOTAL	(2) 40 Passaic Street Management and Security 2013	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
A. PERSONNEL	\$236,000	\$236,000		\$0	\$0	\$0	\$0	\$0	\$0	\$0
B. CONSULTANTS/PROFESSIONAL FEES	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0
C. MATERIALS & SUPPLIES	\$5,500	\$5,500		\$0	\$0	\$0	\$0	\$0	\$0	\$0
D. FACILITY COST	\$16,750	\$16,750		\$0	\$0	\$0	\$0	\$0	\$0	\$0
E. SPECIFIC ASSISTANCE TO CLIENT	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0
F. OTHERS	\$100,930	\$100,930		\$0	\$0	\$0	\$0	\$0	\$0	\$0
G. GENERAL & ADMINISTRATION COST ALLOCATION	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0
H. TOTAL OPERATING COSTS	\$359,180	\$359,180		\$0	\$0	\$0	\$0	\$0	\$0	\$0
I. FURNITURE AND EQUIPMENT	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0
J. TOTAL COST	\$359,180	\$359,180		\$0	\$0	\$0	\$0	\$0	\$0	\$0
K. LESS: REVENUE/OTHER FUNDING	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0
L. NET COST	\$359,180	\$359,180		\$0	\$0	\$0	\$0	\$0	\$0	\$0
M. PROFIT										
N. REIMBURSEABLE CEILING	\$0	\$0								

PREPARED BY: William F. Snyder DATE: 12/20/2011

☒ BUDGET PREPARATION
☐ BUDGET MODIFICATION
☐ EXPENDITURE REPORT
 PERIOD COVERED 1/1/2013 TO 12/31/2013

[illegible]

COUNTY OF BERGEN
DEPARTMENT OF HUMAN SERVICES
ANNEX B: CONTRACT EXPENSE DETAIL

☒ BUDGET PREPARATION
☐ BUDGET MODIFICATION
☐ EXPENDITURE REPORT
PERIOD COVERED 1/1/2013 TO 12/31/2013

[illegible]

AGENCY: Housing Authority City of Hackensack
CONTRACT # 201 342-4280

COUNTY OF BERGEN
DEPARTMENT OF HUMAN SERVICES
ANNEX B: CONTRACT EXPENSE DETAIL
B: CONSULTANTS AND PROFESSIONAL FEES
PAGE 4 OF 9

[x] BUDGET PREPARATION
[] BUDGET MODIFICATION
[] EXPENDITURE REPORT
PERIOD COVERED 1/1/2012 TO 12/31/2012

[illegible]

AGENCY: Housing Authority City of Hackensack
CONTRACT # 201 342-4280

DEPARTMENT OF HUMAN SERVICES
ANNEX B: CONTRACT EXPENSE DETAIL
C. MATERIALS AND SUPPLIES
PAGE 5 OF 9

[X] BUDGET PREPARATION
[] BUDGET MODIFICATION
[] EXPENDITURE REPORT
PERIOD COVERED 1/1/2012 TO 12/31/20

C. BUDGET CATEGORY: MATERIAL & SUPPLIES

[illegible]

[x] BUDGET PREPARATION
[] BUDGET MODIFICATION
[] EXPENDITURE REPORT
PERIOD COVERED 1/1/201

[illegible]

[x] BUDGET PREPARATION
[] BUDGET MODIFICATION
[] EXPENDITURE REPORT
PERIOD COVERED: 1/1/2012 TO 12/31/2011

[illegible]

COUNTY OF BERGEN
DEPARTMENT OF HUMAN SERVICES
ANNEX B: CONTRACT EXPENSE DETAIL

[x] BUDGET PREPARATION
[] BUDGET MODIFICATION
[] EXPENDITURE REPORT
PERIOD COVERED 1/1/201

[illegible]

7, 10

Annual Notice of Meetings

**Hackensack Housing Authority
65 First Street
Hackensack, New Jersey 07601**

In accordance with the Open Public Meetings Act, Chapter 231, Laws of 1975, annual notice of the schedule of regular meetings of the Housing Authority of the City of Hackensack, County of Bergen, State of New Jersey for the year 2013 is hereby provided:

1/10/13	6:00 PM
2/14/13	6:00 PM
3/14/13	6:00 PM
4/11/13	6:00 PM
5/9/13	6:00 PM
6/13/13	6:00 PM
7/11/13	6:00 PM
9/12/13	6:00 PM
10/10/13	6:00 PM
12/12/13	4:00 PM

All meeting are held at 65 First Street (meeting room), Hackensack, New Jersey.

JOHN BELLOCCHIO
Acting Executive Director

INSTRUCTIONS: Publish this notice in the official newspaper of general circulation and post on the official bulletin board.

Date: 11/26/12

* * * Communication Result Report (Nov. 26. 2012 10:10AM) * * *

1) Hackensack Housing Authority
2)

Date/Time: Nov. 26. 2012 10:09AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
9185 Memory TX	2014571466	P. 2	OK	

Reason for error
 E. 1) Hang up or line fail
 E. 3) No answer
 E. 5) Exceeded max. E-mail size

E. 2) Busy
 E. 4) No facsimile connection

Housing Authority City of Hackensack

65 FIRST STREET HACKENSACK, NEW JERSEY 07601

TEL (201) 842-4280

FAX (201) 842-5044

TTY/TTD 800-545-1833 Ext. 844

FACSIMILE TRANSMISSIONTO: Debbie Heck City of Hackensack City ClerkFROM: John F. BelloschioRE: Annual Meeting Notice for 2013DATE: November 26, 2012NUMBER OF PAGES: 2
(INCLUDING COVER SHEET)NOTES: _____

Julissa Capellan

From: LEGALADS - SL-CLASSIFIED [legalads@STARLEDGER.COM]
Sent: Monday, November 26, 2012 9:46 AM
To: Julissa Capellan
Subject: Your Emailed Legal



Welcome to the Star Ledger Legal email confirmation system.

Your email has been received by the Star Ledger.

If you have any questions please call 973-392-4108.

Thank you for using the Star Ledger, Everything Jersey

CONFIDENTIALITY NOTICE: This e-mail may contain information that is privileged, confidential or otherwise protected from disclosure. If you are not the intended recipient of this e-mail, please notify the sender immediately by return e-mail, purge it and do not disseminate or copy it.

Julissa Capellan

From: NJMG Classified Public Notices [PublicNotices@northjersey.com]
Sent: Monday, November 26, 2012 9:48 AM
To: Julissa Capellan
Subject: E-mail Received

Thank you for submitting your public notice to North Jersey Media Group. Your email has been successfully received.

Questions? Call us at (973) 569-7417 from 8:30 a.m. to 5:00 p.m. Monday – Friday.

View public notices online at NorthJersey.com/Legals.

[Become a subscriber of The Record today!](#)

Julissa Capellan

From: Szymanski, Joanne [Szymanski@northjersey.com]
To: Julissa Capellan
Sent: Monday, November 26, 2012 9:53 AM
Subject: Read: Legal Advertisement

Your message

To: NJMG Classified Public Notices
Subject: Legal Advertisement
Sent: Mon, 26 Nov 2012 09:41:41 -0500

was read on Mon, 26 Nov 2012 09:53:20 -0500

TABULATION OF COMMENTS
Non-Smoking Policy

Residents in Favor

5

Residents Opposed

1

Copies attached



U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Healthy Homes and Lead Hazard Control

SPECIAL ATTENTION OF:

Regional Directors; State and Area
Coordinators; Public Housing Hub
Directors; Program Center Coordinators;
Troubled Agency Recovery Center Directors;
Special Applications Center Director;
Public Housing Agencies;
Resident Management Corporations;
Healthy Homes Representatives

NOTICE: PIH-2009- 21 (HA)

Issued: July 17, 2009

Expires: July 31, 2010

Cross Reference:
24 CFR 903.7(b)(3)
24 CFR 903.7(e)(1)

Subject: Non-Smoking Policies in Public Housing

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was recently addressed by the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed by the President on June 22, 2009. Because Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the Department is encouraging PHAs to adopt non-smoking policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. Smoking is also an important source of fires and fire-related deaths and injuries. Currently, there is no Departmental guidance on smoking in public housing.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, which is also known as environmental tobacco smoke (ETS), is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by nonsmokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. The 2006 Surgeon General's report on secondhand smoke identifies hundreds of chemicals in it that are known to be toxic. The report (*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) is located at www.cdc.gov/tobacco/data_statistics/sgr/index.htm. Secondhand smoke causes almost 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and another 22,000 to 69,000 from heart disease.

Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke according to the U.S. Environmental Protection Agency (EPA)
www.epa.gov/smokefree/healtheffects.html.

There are over 1.2 million residents who reside in public housing. Residents between the ages of 0-17 represent 39 percent of public housing residents. Elderly residents over the age of 62 represent 15 percent of public housing residents. That accounts for at least 54 percent of public housing residents that could be at increased risk to the adverse effects of cigarette smoking. There are also a considerable number of residents with chronic diseases such as asthma and cardiovascular disease who are particularly vulnerable to the effects of ETS. Secondhand smoke lingers in the air hours after cigarettes have been extinguished and can migrate between units in multifamily buildings.

Based on data from the U.S. Fire Administration (USFA) of the Department of Homeland Security, there were an estimated 18,700 smoking-material fires in homes in 2006. These fires caused 700 civilian deaths (other than firefighters'), and 1,320 civilian injuries, and \$496 million in direct property damage www.nfpa.org/assets/files/PDF/OS.Smoking.pdf. In multifamily buildings, smoking is the leading cause of fire deaths: 26 percent of fire deaths in 2005 www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf.

4. **Policy Discretion**. PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law. Some PHAs have established smoke-free buildings. Some PHAs have continued to allow current residents who smoke to continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. Some PHAs are prohibiting smoking for new residents. According to a state-funded anti-smoking group, the Smoke-Free Environment Law Project of the Center for Social Gerontology, there are over 112 PHAs and housing commissions across the country that have implemented non-smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their projects.

5. **PHA Plans**. PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all projects and buildings in their housing inventory in which non-smoking policies are being implemented.

6. **Indoor Air Quality (IAQ)**. According to the U.S. Green Building Council (USGBC), toxin-free building materials used in green buildings help combat indoor air pollution. Good IAQ includes minimizing indoor pollutants. As discussed above, ETS is known to be an indoor air pollutant; as a result it would be difficult for a PHA to achieve good IAQ in its buildings if residents are allowed to smoke, especially indoors. During construction or renovation of projects, PHAs should consider actions such as installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Since 65 percent of the public housing inventory was built prior to 1970, it would be hard for a PHA to implement retrofits that could improve IAQ significantly, unless renovation was scheduled. Also, if a PHA does conduct renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. A non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without the retrofit costs.

7. **Maintenance.** It is well known that turnover costs are increased when apartments are vacated by smokers. Additional paint to cover smoke stains, cleaning of the ducts, replacing stained window blinds, or replacing carpets that have been damaged by cigarettes can increase the cost to make a unit occupant ready. View the Sanford Maine Housing Authority case study at <http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3ESave+Your+Building>.

8. **Smoking Cessation National Support.** Because tobacco smoking is an addictive behavior, PHAs that implement non-smoking policies should provide residents with information on local smoking cessation resources and programs. Local and state health departments are sources of information on smoking cessation; see the American Lung Association's (ALA's) Web page on State Tobacco Cessation Coverage www.lungusa2.org/cessation2 for information on cessation programs, both public and private, in all States and the District of Columbia. The National Cancer Institute's Smoking Quit Line can be called toll-free at 877-44U-QUIT (877-448-7848). Hearing- or speech-challenged individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. PHAs that implement non-smoking policies should similarly be persistent in their efforts to support smoking cessation programs for residents, adapting their efforts as needed to local conditions.

9. **Further Information.** For further information related to this notice, please contact Dina Elani, Director, Office of Public Housing Management and Occupancy Division at (202) 402-2071.

/s/

Sandra B. Henriquez
Assistant Secretary for Public and Indian
Housing

/s/

Jon L. Gant,
Director, Office of Healthy Homes and
Lead Hazard Control

Housing Authority City of Hackensack

65 FIRST STREET HACKENSACK, NEW JERSEY 07601

TEL. (201) 342-4280

FAX (201) 342-5044

TTY/TTD 800-545-1833 Ext. 844

September 7, 2012

IMPORTANT NOTICE

To: All Housing Authority Residents

From: John Bellocchio, Acting Executive Director

Re: Non-Smoking Policy

Please be advised that the Housing Authority previously adopted a non-smoking policy in all common areas of the building and in apartments for new residents. The Housing Authority has been receiving complaints regarding smoke which is traveling between apartments through the ventilation system. This condition has the potential for causing an unsafe and unhealthy condition for our other residents. Therefore, the Housing Authority is considering revising its policy regarding smoking in apartments.

This notice is being distributed to all of our residents in order to solicit your comments regarding the following change to our policy:

Lease agreement: Section 9M: "Tenants, family members or guests are not allowed to smoke cigarettes, cigars or any other tobacco related product in their apartment or building common areas. Failure to comply with the requirement will be considered a serious violation of the material terms of the lease and will be grounds for eviction in the event the HHA determines that such abuse interferes with the health, safety or peaceful enjoyment of the premises by other residents."

This proposed change will apply to all residents in our elderly high-rise projects (65 First Street, 60 Kansas Street, 175 West Railroad Ave, and 164 Beech Street). Upon adoption of this policy, all residents would be prohibited from smoking anywhere in these buildings (including their apartments). All comments must be in writing and are due at the Housing Authority office by October 26th, 2012. The Board of Commissioners will consider adopting this policy change once all comments have been received, reviewed and considered.

Bill
for Comment

NOTICE OF NON-SMOKING POLICY

TO: ALL TENANTS

PLEASE BE ADVISED EFFECTIVE FEBRUARY 1, 2013, NO SMOKING WILL BE PERMITTED INSIDE ANY CITY OF HACKENSACK HOUSING AUTHORITY BUILDINGS. THIS MEANS NEITHER YOU NOR ANY MEMBER OF YOUR HOUSEHOLD, VISITOR, GUEST, INVITEE, OR ANY OTHER PERSON SHALL BE PERMITTED TO SMOKE INSIDE ANY APARTMENT, LOBBY, STAIRWELL, HALLWAY, COMMON AREA, OR ANY OTHER LOCATION INSIDE THE BUILDINGS. **ALL CITY OF HACKENSACK HOUSING AUTHORITY BUILDINGS SHALL BE ENTIRELY SMOKE-FREE STARTING FEBRUARY 1, 2013.**

ALL TENANT LEASES WILL BE AMENDED TO INCLUDE A NO-SMOKING PROVISION.

AFTER THE NON-SMOKING POLICY TAKES EFFECT, TENANTS FOUND TO BE IN VIOLATION OF THE NO-SMOKING POLICY WILL BE DEEMED IN BREACH OF THEIR LEASE AGREEMENT AND WILL BE SUBJECT TO EVICTION, CHARGES, AND DAMAGES.

PLEASE NOTE THAT SMOKING IS DEFINED AS, BUT NOT LIMITED TO, INHALING, EXHALING, BURNING OR CARRYING ANY LIGHTED CIGAR, CIGARETTE, HOOKAH, OR ANY OTHER TOBACCO PRODUCT IN ANY MANNER OR IN ANY FORM.

10-1-2012

To: Whom it may concern

From: Luz Castillo

Thank you for considering the
tenants health by prohibiting
the smoking in the building
and surrounding areas.

I agree with prohibiting smoking
at 60 Kansas St. Hackensack, NJ
07601, Apt 2K.

Luz Castillo

Luz Castillo

To Housing Authority City
of HACKENSACK, N.J.

Dear Sir, I Am Very
happy that the proposal
to NON SMOKING, will be
Adopted by the housing
authority. to all Residents
Family members or guests.
I'm sure that this will
help MANY people to have
better Health.

Sincerely,
Philip Comp
Resident FROM the
KANSAS Street Building.
apt. 7C

10-21-2012

To: Board of Commissioners:

I live at 65 First St. Hackensack, NJ. My letter is in support of the Non-Smoking Policy that you are trying to get passed for Housing. I live underneath & down the hall from smokers - the stench that comes from 2nd hand smoke is the most horrible smell there is. There are days & nights we cannot breath in my Apartment because of it. The Housing Authority gave me a Air purifier for my Apartment but it does not always help because the smoke (cigarette) is always so strong. I hope that you will pass this policy and help out the Senior Citizens in this building that do not SMOKE. You have to live here and breath this smoke to even understand what I am
OVER

Many other non-smokers go thru
each day 24 hrs a day.

Please pass the policy for the
Health & well being of your non-
smoking ~~ten~~ residents.

Thank you
&

God Bless
Mr. Jones 7A
65 Furif St.
Hackensack, N.J.

So Whom it may
Concern.

I think Good for
you people, for hearing
~~out~~ our cry here about
the Smoking. Couse these
people here ~~are~~ killing
me with the Cigarette &
those Cigar. Please I have
to rise or inhale now cause of
the smoke cigarette, cause
the smoke in the hallway.
They don't care about us who
don't smoke. Please help.
Us, at 65 First St. Please

Thank you
Isabella Liller
Apt 8-B-

Sept. 19, 2012

To whom it may concern:

I am very happy that the smoking
will be eliminated from the building.
It took a long time to happen,
We will be breathing easier now.

Respectfully,

Maria Carrasquillo

Maria Carrasquillo - Apt. 2E
65 First St.

August 3,

John,

Thank you again for the machine you got for my Apartment - It has helped some but this guy in 8A never stops smoking day or night, the night is the worse even with the machine there is still ~~lots~~ a ~~of smoke in~~ very heavy presents of cigarette smoke. I hope you and the Housing Lawyer can do & say something to this man in 8A - He's not the only smoker here but he's the worst and it affect me because he's over top of me, and the smoke creeps more in my home than anyone else's, Please do what you can besides the machine to try & solve this problem for me. My great granddaughter has spent sometime with me but I have to send her to her grandmother (Aunt Jane) some nights because the smell is so bad. The

Machine helps sometime - but I
wish the man could be more
from over top of me or I can
another Apartment here - the same
as I have or something on the C or
T line. I prefer what I have, but I
have to think how this smoke smell is
affecting my health. Thank you again
for what you have done but I hope
you & the law can do more.

Thank you for
your help
Mary Jones 7A

P.S. You can check the Apartment
anytime to see & smell what I'm
talking about.